

SEIU Local 721
Orange County
Cemetery District

Groundskeeping Unit

Memorandum of Understanding

**July 1, 2016,
through
June 30, 2019**



MEMORANDUM
OF
UNDERSTANDING

GROUNDKEEPING UNIT

July 1, 2016 to June 30, 2019

BETWEEN
ORANGE COUNTY CEMETERY DISTRICT
AND
SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL 721 CTW-CLC

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TERM OF AGREEMENT

This Memorandum of Understanding sets forth the terms of agreement reached between the Orange County Cemetery District and the Service Employees International Union, Local 721, CTW-CLC, as the Exclusively Recognized Employee Organization for the Grounds keeping Unit for the period beginning July 1, 2016 through June 30, 2019. Unless otherwise indicated herein, all provisions shall become effective July 1, 2016.

RECOGNITION

Pursuant to the Employee Relations Resolution of the Orange County Cemetery District and Section 3541.1 of the Government Code, the Service Employees International Union Local 721, CTW-CLC, is the Exclusively Recognized Employee Organization for those classes in the Orange County Cemetery District Grounds keeping Unit.

DEFINITIONS

The following terms as used in this Memorandum of Understanding shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

BOARD: Shall mean Board of Trustees of the Orange County Cemetery District.

CONTINUOUS SERVICE: Shall mean employment in a regular position which has not been interrupted by resignation, discharge or retirement. Leaves of Absence shall not be credited toward continuous service.

DISTRICT: Shall mean the Orange County Cemetery District.

EMERGENCY: Shall mean an unforeseen circumstance requiring immediate action, a sudden unexpected happening, an unforeseen occurrence or condition, a pressing necessity.

EMPLOYEE: Shall mean a person employed by the District and covered by the terms of this Memorandum of Understanding, except where the natural construction of this Memorandum of Understanding indicates otherwise.

FULL-TIME EMPLOYEE: Shall mean an employee employed in a regular position whose normally assigned work hours equal those of a full work week or work period as described hereinafter.

PART-TIME EMPLOYEE: Shall mean an employee employed in a regular position whose normally assigned work hours do not equal those required of a full-time employee.

PERSONAL EMERGENCY: Shall mean an event or circumstance of a serious nature which is beyond an employee's control and which necessitates the employee's absence from duty, including, but not limited to, those events and circumstances which require the employee's prompt attention to avoid possible financial loss to, or damage to the health of either the employee or a member of his or her immediate family.

PRACTICABLE: Shall mean economically or operationally feasible; reasonably able to accomplish.

REGULAR EMPLOYEE: Shall mean an employee who is not on probation and is employed in a regular position.

REGULAR POSITION: Shall mean a position established on a permanent year-round basis requiring work on a regular schedule unless otherwise authorized by the Board.

ARTICLE I

WORK PERIOD, WORK SHIFTS, OVERTIME AND PREMIUM PAY

Section 1. Work Period

- A. The official work period for employees shall be as follows:

The official work period for full-time employees shall be forty (40) hours and shall begin on each Friday and end with the following Thursday. Work ordered and performed in excess of forty (40) hours of time worked and annual leave which is planned, scheduled and pre-approved, including holiday pay in a work period shall be overtime. Unplanned annual leave will not count towards the calculation of overtime.

- B. No employee shall be permitted to work more than sixteen (16) consecutive hours except in an emergency situation.

Section 2. Work Shifts

- A. The District agrees to give employees advance notice of a work shift change whenever practicable.
- B. The District shall discuss with the Union any proposed changes in existing work shifts before such changes are put into effect.
- C. This section shall not prevent an employee or group of employees from requesting a modified work shift.

Section 3. Overtime

A. Notification of Employees

If in the judgment of the District, work beyond the normal workday, workweek or work period is required, the District will notify any employee who may be asked to perform such overtime of the apparent need for such overtime as soon as practicable prior to when the overtime is expected to begin.

B. Payment for Overtime

1. Overtime shall be compensated at one and one-half (1½) times the regular rate.
2. Overtime may be converted to compensatory time or paid for at the option of the District. Consideration shall be given to effectuating the wishes of employees. Employees with existing compensatory time balances of eighty (80) hours shall be paid for all overtime work performed in excess of that amount.
3. Time worked as overtime shall not be used to earn fringe benefits or to serve out probation or merit increase periods. Compensatory time off may be used as part

of the established workweek to earn fringe benefits and to serve out probationary and merit increase periods.

4. An employee separating from District services for reasons other than paid retirement shall be paid for accumulated compensatory time in a lump sum payment.

Section 4. Weekend and Holiday Services

A. Notification of Employees

If the District has arranged for any services, which will take place on Saturday, Sunday or on a holiday, the District will notify employees of the proposed services. Employees, who are assigned to the Interment Crew for the preceding week, will be those employees that are assigned to perform the weekend or holiday service. If an employee assigned to the interment crew is not available for the weekend service, a supervisor will coordinate the selection of another employee. Services that require more than two (2) employees will be assigned additional employees as needed by the supervisor.

District staff will attempt to minimize the number of weekend services to three services per day and arrange for services to be a minimum of one (1) hour apart or to a maximum of two (2) hours apart. Additional services will be at the Cemetery Manager's discretion, based on type of service and workload.

B. Compensation for Weekend and Holiday Services

1. Employee will be compensated based on the number and type of services that will take place on the weekend. The compensation will be as follows:

One Service – Two employees, four hours each

Two Services – Two employees, six hours each

Three Services – Three employees, eight hours each

2. In the event that scheduled services for the day require more hours than indicated above compensation, employees will get paid for actual hours worked.
3. In the case of multiple burials for one service, Cemetery Manager will work with staff to determine the number of employees and compensation. If there is only one service involving a niche, with no set-up, the Cemetery Manager may only assign one employee to the service.
4. Additional employees may be added at supervisor's discretion due to large services or other circumstances. Part-time employees may be assigned to weekend services when full-time employees are not available.

5. Employee will be compensated at one and one-half (1½) times the regular rate.
6. Overtime may be converted to compensatory time or paid for at the option of the District. Consideration shall be given to effectuating the wishes of employees. Employees with existing compensatory time balances of eighty (80) hours shall be paid for all overtime work performed in excess of that amount.
7. Time worked as overtime shall not be used to earn fringe benefits or to serve out probation or merit increase periods. Compensatory time off may be used as part of the established workweek to earn fringe benefits and to serve out probationary and merit increase periods.
8. An employee separating from District services for reasons other than paid retirement shall be paid for accumulated compensatory time in a lump sum payment.

Section 5. Rest Periods and Cleanup Time

- A. Employees shall be allowed one (1) rest period of fifteen (15) minutes during each four (4) consecutive hours of work.

Such rest periods shall be scheduled in accordance with the requirements of the District, but in no case shall rest periods be scheduled within one (1) hour of the beginning or the ending of a work shift or lunch period. The District may designate the location or locations at which rest periods may be taken.

Section 6. Premium Pay

A. Call-Back Pay

1. When an employee returns to work because of a District request made after the employee has completed his or her normal work shift and left the work station, the employee shall be credited with two (2) hours work plus any hours of work in excess of two (2) hours in which the employee is continuously engaged in work for which he or she was called back.
2. Call-back shall be paid at one and one-half (1½) times the regular rate.
3. Call-back pay shall apply only when an employee is required to physically return to work (e.g., leave home or another off-duty location) in order to perform required duties.

B. Special Skills Pay

When in the judgment of the District, an employee is required on a regular basis to perform duties outside of their normal classification, they will receive additional compensation as authorized by the District.

ARTICLE II

PAY PRACTICES

Section 1. Compensation for Employees

Employees shall receive compensation at the biweekly or hourly rate for the range and step or flat rate assigned to the class in which they are employed.

Section 2. Pay for New Employees

- A. A new employee shall be paid at the recruiting step of the salary range in effect for the particular class or position in which the new employee is hired except as provided in Section 2.B below.
- B. Upon recommendation of the General Manager, a particular position may be filled by appointment at any step within the range.
- C. Such appointments shall be made only when the General Manager makes a determination that there is a direct benefit to the District from such appointment and makes a determination that the applicant's previous training and experience enables him or her to make a greater contribution than a less experienced employee.

Section 3. Merit Increase Within Range

- A. Employees will become eligible to receive merit increases commencing on the date of ratification of this Memorandum of Understanding, based on their merit increase eligibility date, except as provided in Section 3.F below.
- B. The General Manager shall have the final discretion to award a salary increase based on merit. In each case, the General Manager will review the recommendation from the Cemetery Manager and discuss the merit based on the Cemetery Manager's rating of the employee's performance.
- C. A new or reemployed employee in a regular position shall have a merit increase eligibility date which shall be the first day of the pay period following the completion of the first twenty-six (26) weeks of service within that class. The granting of an Official Leave of Absence (other than a Military Leave) or the imposition of a suspension shall cause the merit increase eligibility date to be extended a number of calendar days equal to the Official Leave or suspension. The extended merit increase eligibility date will be effective the first day of the pay period after said date. Subsequent merit increase eligibility dates shall be the first day of the pay period following the completion of fifty-two (52) week intervals subject to the same postponement for Official Leaves of Absence or suspensions.

- D. Merit increases: Employees receiving 300 point and above on his or her annual performance evaluation will receive a one-step increase. Employees receiving 375-449 points may receive a two-step increase. Employees receiving 450 points and above may receive a three-step increase.
- E. If, in the General Manager's judgment, the employee's performance does not merit a salary increase on the merit increase eligibility date and a deferral of decision accompanied by an intensive effort at improved performance might be productive, the General Manager shall complete the structured merit rating and defer a decision regarding the merit increase any number of pay periods, but not to exceed thirteen (13) pay periods. The employee may be reevaluated at any time, but in any event shall be reevaluated on the structured merit rating prior to the end of the thirteenth pay period. The employee's merit increase eligibility date shall not be changed by such deferral.
- F. Should an employee's merit increase eligibility date be overlooked through an error and upon discovery of the error the employee is granted a merit increase, the employee shall be compensated for the additional salary the employee would have received dating from the employee's merit increase eligibility date.
- G. Employees who are scheduled to receive their 2016 performance evaluation after July 1, 2016, and who qualify for a merit increase through that evaluation, shall receive the merit increase retroactive to the first pay period of the fiscal year 2016-2017. Starting in 2017, all employees shall receive their performance evaluation on or around the same date to be determined. The employees' merit increase eligibility date shall be the first pay period of the new fiscal year. Employees who receive their performance evaluation after the end of the fiscal year for reasons not described in Section 3.C above or other similar circumstances involving leave of absence or imposition of a suspension, and who qualify for a merit increase through that evaluation, shall receive the merit increase retroactive to the first pay period of the new fiscal year.

Section 4. Salary on Promotion

A regular or probationary employee who is promoted to a position in a class with a higher salary range shall receive the recruiting salary for the higher class or such higher amounts as would be the closest to a two (2) step increase on the range over the salary received prior to the promotion not to exceed the top step of the range. A new merit increase eligibility date shall be established which shall be the first day of the pay period following completion of the first twenty-six (26) weeks of service in the new class.

Section 5. Salary on Reduction

- A. When a probationary employee is reduced to a class not previously occupied by the employee, the employee shall receive the recruiting step for the lower class and shall receive a new merit increase eligibility date.

- B. When a regular employee is reduced to a position in a lower class by demotion for reasons of unsatisfactory performance, the employee's salary shall be reduced to a step on the salary range which would be the closest amount to a two (2) step reduction or the employee shall receive the maximum step of the salary range of the new class, whichever is lower. The employee's merit increase eligibility date shall be the first day of the pay period following completion of fifty-two (52) weeks of service in the new class, unless the employee thereby is placed at the recruiting step of the new salary range, in which case the employee's merit increase eligibility date shall be the first day of the pay period following the completion of twenty-six (26) weeks of service in the new class.
- C. When a regular employee in good standing is reduced to a position in a lower class for physical disability or reasons other than unsatisfactory performance, the employee shall receive the highest salary in the new range that does not exceed the employee's rate of pay immediately prior to reduction and shall retain his or her merit increase eligibility date.
- D. When a promotional probationary employee is reduced to a class the employee occupied in good standing, the employee shall have the step status and merit increase eligibility date he or she would have achieved if the employee had remained in the lower class.

ARTICLE III

GENERAL PERSONNEL PROVISIONS

Section 1. Probation

A. New Probation

Full-Time Employees

A new or reemployed employee employed in a regular position, shall be placed on a new probation for twenty-six (26) weeks from the date of appointment ending with the first day of the pay period following completion of said period.

Part-Time Employees

A new or reemployed employee employed in a part-time regular position shall be placed on probation for one thousand forty (1040) paid hours exclusive of overtime, ending with the first day of the pay period following completion of said period.

B. Promotional Probation

A full or part-time employee who is promoted, except on a temporary promotion, shall serve a promotional probation period of twenty-six (26) weeks from the date of promotion ending with the first day of the pay period following completion of said period.

C. Failure of Probation

1. New Probation

An employee on new probation may be released at the sole discretion of the District any time without right of appeal or hearing.

2. Promotional Probation

- a. An employee on promotional probation may be failed at any time without right of appeal or hearing.
- b. An employee who fails promotional probation shall receive a performance evaluation stating the reason for failure of promotional probation.
- c. When an employee fails his or her promotional probation, the employee shall have the right to return to his or her former class. When an employee is returned to his or her former class under the provisions of this Section,

the employee shall serve the remainder of any uncompleted probationary period in the former class.

D. General Provisions

The granting of an Official or Military Leave of Absence shall cause the employee's probation period to be extended by the length of the Official Leave or by the length of the Military Leave in excess of fifteen (15) calendar days. If the employee is on probation, the extended probation period resulting from the Official or Military Leave of Absence shall end with the first day of the pay period after said extended date. An employee who is suspended shall have his or her probation extended by the length of the suspension, with the extended probation period ending with the first day of the pay period after said extended date.

Section 2. Performance Evaluations

- A. The District shall maintain a system of employee performance ratings designed to give a fair evaluation of the quantity and quality of work performed by an employee. Such ratings shall be prepared and recorded in the employee's personnel file for all regular employees at least once each year; and in addition, for employees on probationary status, at least once near the middle of the probation period.
- B. The District shall discuss with the employee the specific ratings prior to such ratings being made part of the employee's personnel file.
- C. When a performance evaluation is recorded in the personnel file of an employee, a copy of such evaluation, together with any attachment relating thereto, shall be given to the employee.

Section 3. Contents of Personnel File

- A. An employee shall have the right to inspect and review the contents of his or her personnel file at reasonable intervals.
- B. Adverse statements prepared by the District shall not be included in an employee's official personnel file unless a copy is provided to the employee and the employee signs for a copy. If the employee refuses to sign for a copy, a third party witness must sign and date the document verifying such refusal.
- C. Letters of reference and reports concerning criminal investigations are excluded from A and B above.
- D. An employee has the right to respond in writing to any adverse statements contained in her or her official personnel file, such reply to become a part of such employee's official personnel file. Any such response must be received by the General Manager no later than

10 business days after the employee receives his/her copy of the information contained in the personnel file.

ARTICLE IV

LEAVE PROVISIONS

Section 1. Annual Leave

The Annual Leave provisions will apply to all District employees and shall become effective upon completion of the required programming changes. Upon adoption of the Annual Leave Plan, employees' employed as of December 4, 2007, shall have his or her currently accumulated vacation and sick combined and placed in the annual leave bank. Annual leave may thereafter be used for vacation, sick time and bereavement purposes.

A. Accumulation of Annual Leave after December 4, 2007

1. During the first three (3) years of employment, a regular or limited term employee shall earn approximately six (6) hours and nine (9) minutes of annual leave during each eighty (80) hour pay period (approximately 20 days per year).
2. After an employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours, approximately three (3) years, the employee shall earn approximately eight (8) hours and nineteen (19) minutes of annual leave during each eighty (80) hour pay period (approximately 27 days per year).
3. Commencing with the pay period following that in which an employee completes ten (10) years of continuous fulltime District service, an employee in a regular or limited position shall earn nine (9) hours and fifty-one (51) minutes of annual leave during each eighty (80) hour pay period (approximately 32 days per year).

Annual Leave Chart:

Years 1-3	160 hours (20 days)
Years 4-10	216 hours (27 days)
Years 11-	256 hours (32 days)

4. Annual leave earned shall be added to the employee's annual leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period during which the employee terminates District service.
5. For all employees, the amount of annual leave an employee may accrue shall not exceed fifty-two (52) times the employee's bi-weekly accrual rate. Employees that have balances above the fifty-two (52) times the employee's bi-weekly accrual rate as of the date of the ratification of this MOU, shall elect to either be paid the excess leave balance in a one-time lump sum payment based on the employees current hourly rate, or keep the excess leave balance. Such employees

have until January 24, 2014 to inform the District of their decision to either receive the one-time lump sum payment or keep the excess leave balance. If the District has not received notice of the employee's decision by the said date, the employee shall receive the one-time lump sum payment and will forego the opportunity to keep the excess leave balance. If the employee elects to keep the excess leave balance, the employee shall not accrue any additional leave until the employee's leave balance falls below fifty-two (52) times the employee's bi-weekly accrual rate, and the employee shall not accrue leave above fifty-two (52) times the employee's biweekly accrual rate.

B. Use of Annual Leave for Illness, Injury or Bereavement

1. Annual leave may be applied towards:
 - a. An employee's personal injury or illness, medical and dental office appointments, exposure to a contagious disease, an absence due to an air pollution alert, or any approved absence due to unforeseen and uncharacteristic working conditions which may be hazardous to the employee's health.
 - b. Absence because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family provided that such absence shall be limited to a maximum of three (3) working days for each occurrence. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, domestic partner, child, step-child, grandparent, legal ward or legal guardian.
 - c. Upon request, regular or probationary employees shall receive necessary time off with pay to arrange for or attend a funeral of a member of their immediate family. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, domestic partner, child, step-child, grandparent, grandchild, legal ward or legal guardian.
2. Once an employee has submitted, and has an approved request for time off for medical or dental appointment, every effort will be made to honor the approval. Should a significant operational issue area after approval has been granted, the District will make every reasonable effort to provide coverage before notifying employee of the need to change the appointment.
3. Any use of unscheduled leave requires that the employee call his/her supervisor before 9:00 am on the day the unscheduled leave is going to occur. The employee shall leave a voicemail, email or text message for his/her supervisor if he/she is unable to speak with the supervisor. Failure to do so will result in an unpaid day of work. If the unscheduled leave extends beyond one day, the employee is

required to call in every day thereafter to report his/her absence. The General Manager has the discretion to make an exception to this rule in the event of an emergency.

4. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls. Such evidence may be required when the employee has been under the care of a physician or when there is reasonable expectation of abuse of annual leave for illness or injury.
5. Annual leave shall not be applied to absences that occur on a District holiday.

C. Use of Annual Leave for Pre-Scheduled Vacation

1. Approved annual leave to be used as vacation shall be scheduled by the District. The District shall schedule on a seniority basis.
2. All annual leave scheduling shall be done by the District with due regard to the needs of the District work schedule. When circumstances require, the District may reject an employee's request for annual leave vacation scheduling.
3. Holiday which falls during an employee's annual leave (vacation) period shall not be charged against the employee's annual leave balance.

D. Annual Leave Payoff Provisions

1. During the fiscal year, an employee may request to be paid for accrued annual leave once, up to forty (40) hours. However the employee must have used eighty (80) hours of leave in the previous year and have a remaining balance equal to twenty-six (26) times the bi-weekly accrual rate for all employees in order to qualify for the payoff.
2. An employee separating or retiring from the District shall be paid in a lump sum payment for all unused annual leave balance.
3. Years of service as used herein shall be the equivalent of full-time continuous service hours in a regular position. Partial years of service will be prorated.

Section 2. Official Leave

Upon request, a regular or probationary employee may be granted an Official Leave of Absence Without Pay. Such Leave, if granted, shall not exceed one (1) year. Such Leave may be authorized only after all compensatory and annual leave accruals have been applied toward payment of the absence.

Section 3. Official Leave for Non-Occupational Disability

- A. A regular or probationary employee shall be granted upon request an Official Leave of Absence Without Pay for up to six (6) months for a non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
 - 1. A medical statement covering diagnosis, prognosis, expected date of return and period of disability shall be submitted with the Leave request.
 - 2. Such Leave shall begin after all accrued compensatory and annual leave has been applied toward the absence.
 - 3. The employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more.
- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3, above.
- C. An employee shall not be entitled to more than one (1) such Leave pursuant to this Section per twelve (12) month period.
- D. When an employee ceases to be eligible for health insurance coverage because of extended absence due to illness or injury, the District will continue to pay for health insurance premiums for a period of thirty (30) days after coverage ceases. Employees requesting an extension of their health insurance benefits must provide certification from a physician that the injury or disability is long-term and presently precludes the employee from returning to any employment with the District.

Section 4. Absences Caused by Illness, Injury or Pregnancy

An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to illness, injury or pregnancy shall not be permitted to resume work until, and unless, the employee obtains a medical clearance from a physician designated by the District.

Section 5. Jury Duty Leave

A regular or probationary employee who is called for jury duty or for examination for jury duty must notify his/her supervisor as soon as possible after receiving notice of both possible and actual jury service. The employee shall be compensated at the employee's regular rate of pay for those hours of absence due to the jury duty which occur during the employee's regularly scheduled working hours provided the employee deposits the employee's fees for such hours of jury duty, exclusive of mileage, with the District. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by the employee. Any hours worked beyond the regularly scheduled workday shall be subject to the workweek and overtime provisions (Article I). An employee may request a change in regularly scheduled working hours

to a Monday through Friday day shift for the duration of such jury duty. Such requests shall be granted if practicable.

Section 6. Witness Leave

A regular or probationary employee who is called to answer a subpoena as a witness for court appearances related to District business during the employee's work hours, except where the employee is a litigant, shall be compensated at his or her regular rate of pay for all hours of absence from work due to answering the subpoena provided the employee shows proof of such subpoena and deposits witness fees received for such hours, exclusive of mileage, with the District. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

Section 7. Parenthood Leave

- A. A regular or probationary employee shall be granted, upon request, Parenthood Leave Without Pay of up to six (6) months in connection with the birth or placement for legal adoption of a child provided the employee meets the following conditions:
 - 1. The employee requesting the Leave has submitted a request to his/her supervisor to take the leave at least 30 days in advance of the Leave.
 - 2. The requested Leave is commenced within six (6) months before or after the date of birth or placement for legal adoption of the child.
 - 3. Sufficient documentation of such birth or placement for legal adoption is submitted with the request for Leave.
 - 5. Such employee has completed new probation.
 - 6. All accrued annual leave and compensatory time has been applied toward the absence.
- B. Employees shall not be eligible for more than one (1) such Leave within any twelve (12) month period.
- C. Annual Leave may be applied toward any portion of the absence which qualifies provided the employee has furnished the District with a certificate signed by a licensed physician stating the nature of the medical condition and period of disability.
- D. Parenthood Leave shall not be credited toward continuous service.

Section 8. Workers' Compensation Leave

- A. When an injury is determined to be job related in accordance with Article IX, a regular or probationary employee shall be placed on Workers' Compensation Leave. If such

determination cannot readily be made and all Annual Leave has been applied to the absence, the employee shall be placed on Official Leave until a final determination is made.

B. Workers' Compensation Leave shall continue until the employee:

1. is determined to be physically able to return to work and such medical determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
2. is determined to be physically able to return to work with medical restrictions which the District can accept and such determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
3. accepts employment outside the District; or
4. accepts employment in another District position; or
5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
6. is retired pursuant to Government Code provisions.

C. If practicable, an employee on Workers' Compensation Leave will give notice two (2) weeks prior to the date he or she wants to return to work. If an employee does not give two (2) weeks notice prior to the date he or she wants to return to work, the District shall not be required to return the employee to work until such notice is given. However, the District may waive the notice or reduce the notice period at its discretion.

D. Supplemental Pay

Employees receiving workers' compensation benefits may use annual leave to supplement their income so that with the addition of the annual leave to any benefits received shall equal the amount the employee would have earned had he or she not been on leave. Employees may only use annual leave to supplement the amount received if they have eighty (80) or more hours of leave and then may not use hours if the leave amount falls below eighty (80) hours.

Section 9. Catastrophic Leave

- A. Employees who have a debilitating illness or injury which is expected to incapacitate the employee for an extended period of time shall be entitled to catastrophic leave.
- B. When requested by an affected employee, the District will establish a Catastrophic Leave bank into which employees who choose to donate annual leave may do so. These hours may be used by the requesting employee to receive leave bank allocations due to the

exhaustion of his or her own annual leave as a direct result of a catastrophic medical condition.

- C. Employees wishing to make a Catastrophic Leave donation must inform the General Manager and all requests for allocations from the leave bank are subject to approval by the General Manager.
- D. The maximum allocation to be made from the leave bank is 1,040 hours per individual per year.
- E. Donated time will be converted based on the receiving employee's rate of pay.
- F. Donations must be made in whole hour increments, and are irrevocable.

Section 10. Absence Without Authorization

- A. Absence without authorization for three (3) consecutive working days shall be considered an automatic resignation.
- B. When an employee has been absent without authorization and the District plans to invoke the provisions of 10.A., above, at least ten (10) calendar days prior to accepting and entering an automatic resignation, the District shall send written notice to the employee's last known address by certified mail with return receipt requested, and shall deposit such notice in the United States mail with postage fully prepaid. Notice is complete upon mailing. Such written notice shall contain:
 - 1. a statement of the District's intention to accept and enter the employee's automatic resignation and its effective date;
 - 2. a statement of the reasons for considering the employee to have automatically resigned.
 - 3. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
 - 4. a statement of the employee's right to representation;
 - 5. a copy of the automatic resignation provisions which apply to the employee;
 - 6. a statement that if the employee fails to respond to the written notice before the effective date of the automatic resignation, the District will accept the employee's automatic resignation.
- C. An automatic resignation shall not be accepted and entered if the employee 1) responds to the notice before the effective date, 2) provides an explanation satisfactory to the District as to the cause of the unauthorized absence and the reasons for failing to obtain an

authorized leave, and submits any pertinent documentation to substantiate such reasons, and 3) found by the District to be ready, able and willing to resume the full duties of his or her position.

- D. An employee who is permitted to continue his or her employment pursuant to B. and/or C., above, shall not be paid for the period of his or her unauthorized absence and shall be treated as if on a Leave of Absence for purposes of continuity of employment and other appropriate benefits, unless the Department determines it is appropriate to use sick leave, compensatory time, vacation or other paid leave to cover the absence.
- E. Notwithstanding any other provision of this section, the District may rescind an automatic resignation.
- F. Employees separated pursuant to this section are not covered by the rights set forth in Article VIII, DISCIPLINARY ACTION.

ARTICLE V

Family and Medical Leave Act

The District provides (A) unpaid family care and medical leave for up to 12 weeks per 12-month period in accordance with California law and the federal Family and Medical Leave Act; (B) pregnancy disability leave for up to four months in accordance with the Pregnancy Disability Leave Act; (C) disability leave as required to reasonably accommodate employees with a qualified disability under the Americans with Disabilities Act (“ADA”) and the California Fair Employment and Housing Act (“FEHA”) or with a workplace injury; and (D) leave for other legally required absences as set forth below. Employees having any questions regarding this policy should contact the Human Resources Manager.

Section 1. Eligibility

To be eligible for family care and medical leave, an employee must (1) have worked for the District for at least 12 months prior to the date on which the leave is to commence; and (2) have worked at least 1,250 hours in the 12 months preceding commencement of the leave.

Section 2. Permissible Uses of Family Care and Medical Leave

Family care leave may be requested for (a) the birth or adoption of an employee’s child; (b) the placement of a foster child with the employee; or (c) the serious health condition of an employee’s child, spouse, registered domestic partner or parent; or (d) leave may be requested for an employee’s own serious health condition. A “serious health condition” is one that requires either in-patient care in a medical facility or continuing treatment or supervision by a health care provider.

Section 3. Substitution of Paid Leave for Family Care and Medical Leave

Employees may elect to substitute annual leave for other types of family care leave or for leave due to his or her own serious health condition.

Section 4. Amount of Leave

Provided all the conditions of this policy are met, an employee may take a maximum of 12 weeks of family care and medical leave in a rolling 12-month period measured backwards from the date the employee’s leave commences. Parents who are both employed by the District may take a maximum combined total of 12 weeks of family care leave in a 12-month period for the birth, adoption, or foster care of their child.

Family care or medical leave may be taken intermittently or on a reduced schedule. If leave is taken intermittently or on a reduced schedule, the District retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee’s leave schedule.

Section 5. Leave’s Effect on Benefits

During an employee's family care or medical leave, for up to a maximum of 12 weeks in a 12-month period, the District shall continue to pay for the employee's participation in the District's group health plans, and retirement plans, and supplemental unemployment benefit plans, to the same extent and under the same terms and conditions as would apply had the employee not taken leave. If the employee fails to return from the leave for a reason other than the recurrence or continuation of the health condition that brought about the leave or other circumstances beyond the employee's control, the District can recover any health premiums paid by the District on the employee's behalf during any unpaid periods of the leave. Employees on family care and medical leave accrue employment benefits, such as sick leave, vacation benefits, or seniority only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

Section 6. Procedure for Requesting Family Care and Medical Leave

A. Notice Requirements

1. Employees should notify the District of their request for family care or medical leave as soon as they are aware of the need for such leave. For foreseeable events, if possible, the employee must provide 30 calendar days' advance notice to the District of the need for family care or medical leave. For events that are unforeseeable 30 days in advance, but are not emergencies, the employee must notify the District as soon as he or she learns of the need for the leave, ordinarily no later than 1 to 2 working days after the employee learns of the need for the leave. If the leave is requested in connection with a planned, non-emergency medical treatment, the employee may be requested to reschedule the treatment so as to minimize disruption of the District's business. If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the District reserves the right to delay the taking of the leave until at least 30 days after the date the employee provides notice of the need for family care or medical leave.
2. All requests for family care or medical leave should include the anticipated date(s) and duration of the leave. Any requests for extensions of a family care or medical leave must be received at least five working days before the date on which the employee was originally scheduled to return to work and must include the revised anticipated date(s) and duration of the family care or medical leave.

B. Medical Certification

1. In connection with an employee's request for medical leave for an employee's own serious health condition or for family care leave to care for a child, spouse, or parent with a serious health condition, the District shall have the right to request medical certification from a health care provider supporting the employee's request. For foreseeable leaves, employees must provide the required medical certification before the leave begins. When this is not

possible, employees must provide the required certification within 15 calendar days after the District's request for certification, unless it is not practicable under the circumstances to do so, despite the employee's good faith efforts. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave. The District may also request that an extension of the leave also be supported by an updated medical certification.

2. The medical certification for a child, spouse, or parent with a serious health condition shall include (a) the date on which the serious health condition commenced; (b) the probable duration of the condition; (c) the health care provider's estimate of the amount of time needed for family care; (d) the health care provider's assurance that the health care condition warrants the participation of the employee to provide family care; and (e) in the case of intermittent or reduced schedule leave where medically necessary, the probable duration of such a schedule.
3. The medical certification for leave for the employee's own serious health condition shall include (a) the date on which the serious health condition commenced; (b) the probable duration of the condition; (c) a statement that, due to the serious health condition, the employee is unable to perform the functions of his or her position; and (d) in the case of intermittent leave or reduced schedule leave where medically necessary, the probable duration of such a schedule. In addition, the certification may, at the employee's option, identify the nature of the serious health condition involved. The District may also require the employee to obtain a second opinion from a doctor of the District's choosing at the District's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the District may require a third opinion, also at the District's expense, performed by a mutually agreeable doctor who will make a final determination.
4. If and when the employee is able to return to work, the District will require the employee to provide a current medical certification that he or she is able to return to work. Failure to provide such certification will result in denial of reinstatement.

Section 7. Leave's Effect on Reinstatement

- A. Employees returning from family care or medical leave are entitled to reinstatement to the same or comparable position consistent with applicable law. The District retains the right to deny reinstatement to key employees, who are among the highest paid ten percent (10%) of the District's employees and whose reinstatement would cause substantial and grievous economic injury to the District's operations.

ARTICLE VI

HOLIDAYS

Section 1. Holidays Observed

A. District employees shall observe the following holidays:

- 2016: New Year's Day
 Martin Luther King, Jr. Birthday
 Lincoln's Birthday
 Presidents' Day
 Memorial Day
 Independence Day
 Labor Day
 Veterans Day
 Thanksgiving Day
 Day after Thanksgiving
 Christmas Day
 One Floating Holiday (per Section 3.F. of this article)
- 2017: New Year's Day
 Martin Luther King, Jr. Birthday
 Lincoln's Birthday
 Presidents' Day
 Memorial Day
 Independence Day
 Labor Day
 Veterans Day
 Thanksgiving Day
 Day after Thanksgiving
 Christmas Day
 One Floating Holiday (per Section 3.F. of this article)
- 2018: New Year's Day
 Martin Luther King, Jr. Birthday
 Lincoln's Birthday
 Presidents' Day
 Memorial Day
 Independence Day
 Labor Day
 Veterans Day
 Thanksgiving Day
 Day after Thanksgiving
 Christmas Day
 One Floating Holiday (per Section 3.F. of this article)
- 2019: New Year's Day
 Martin Luther King, Jr. Birthday
 Lincoln's Birthday

Presidents' Day
Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day
One Floating Holiday (per Section 3.F. of this article)

- B. When a holiday falls on a Sunday, the next day shall be observed as the holiday.
- C. When Christmas Day or New Year's Day falls on a Saturday, the Friday immediately preceding each day shall be observed as the holiday.

Section 2. Eligibility for Holiday Pay

- A. An employee must be paid for all or a portion of both the regularly scheduled working assignment immediately prior to a holiday and the regularly scheduled working assignment immediately after that holiday in order to receive Holiday pay. With District approval, compensatory time earned for working on a holiday or for a holiday falling on a regularly scheduled day off may be taken on the first scheduled working day after the holiday.
- B. A new employee whose first working day is the day after a holiday shall not be paid for that holiday.
- C. An employee who is terminating employment for reasons other than paid District retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
- D. Only employees in regular positions shall be eligible for holiday pay.

Section 3. Holiday Pay

- A. On each of the holidays designated above, each full-time employee, whether scheduled to work or not, shall receive eight (8) hours pay computed at the employee's basic hourly rate.
- B. Compensation for Holidays Falling on Scheduled Days Off

When a holiday falls on a full-time employee's regularly scheduled day off, the employee shall receive eight (8) hours of compensatory time.
- C. Compensation for Work on Holidays

An employee who is required to work on a holiday shall receive pay computed at one and one-half (1½) times the employee's basic hourly rate for the number of hours actually worked.

- D. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation balance.
- E. Full-time employees who are on a pay status during the pay period which includes March 1 each fiscal year shall be credited with two (2) hours of compensatory time at the end of the pay period which includes that date.
- F. In lieu of Admissions Day, full-time regular employees who are on pay status during the pay period which includes September 9 each fiscal year shall be credited with eight (8) hours of compensatory time at the end of the pay period which includes that date. Employees must use the eight (8) hours of accrued compensatory time prior to the end of the fiscal year (June 30) in which it was earned, or lose such accrual. Compensatory time earned under this provision shall not be added to other paid time for the purposes of determining overtime.
- G. Compensatory time earned under the provisions of this Section may be granted as compensatory time off or paid for at the discretion of the District.

ARTICLE VII

DIRECT DEPOSIT AND REIMBURSEMENT PROGRAM

Section 1. Direct Deposit Requirement

The District shall maintain a mandatory requirement for participation in direct deposit for payroll for all employees.

Section 2. Mileage Reimbursement

An employee who is authorized to use a private automobile in the performance of duties shall be paid for each mile driven in the performance of his or her duties during each monthly period. The reimbursement amount is based on whatever the current Internal Revenue Service mileage reimbursement rate is at the time.

ARTICLE VIII

DISCIPLINARY ACTION

Section 1. Definitions

A. Reasonable Cause

“Reasonable cause” or just cause is the legally sufficient reason given by the District to discipline an employee. It is judged by the factors in each case to see whether the consequence imposed is reasonable.

The reasonableness of the action will be evaluated on the good faith attempt made to correct the behavior, the supervisory practices and rules followed, consistency of the discipline, the employee’s work history/past record and whether or not progressive discipline was used. Discipline should be administered in a fair and non-discriminatory manner.

B. Union Representation Rights (Weingarten Decision)

Employees in this unit called into a meeting with District Management or a designee who have a reasonable belief that such meeting could lead to discipline, reprimand or dismissal have the right to union representation by either a shop steward or a union staff representative.

Employees must ask for union representation and be given a reasonable amount of time to obtain union representation. Employees cannot refuse to attend such meetings but can refuse to answer questions that could be used against them.

The District has the right to conduct meetings to discuss the general work environment or job duties. Union representation is not necessary in these situations.

Section 2. Reprimand and Substandard Performance Evaluation

A. No regular or promotional probationary employee shall receive a written reprimand or a substandard performance evaluation except for reasonable cause.

B. A written reprimand or substandard performance evaluation given to a regular or promotional probationary employee may be appealed throughout the grievance/appeal procedure. Such appeal shall be initiated at Step 1 of the grievance/appeal procedure.

Section 3. Emergency Suspensions of Five Days or Less

- A. In suspending a regular or promotional probationary employee for five (5) days or less when it is necessary to remove the employee from the work site immediately because of a potential emergency situation, including but not limited to, situations that may endanger life or property of the employee shall:
1. Whenever practicable, be given an opportunity to respond to the proposed suspension to a designated District representative with the authority to make an effective recommendation on the proposed suspension prior to the suspension becoming effective;
 2. be informed of the employee's right to representation in the response;
 3. be informed of the employee's right to appeal should the proposed suspension become final.
- B. In such emergency suspensions, the procedural requirements of Section 4, below, shall be complied with within ten (10) days following the effective date of the disciplinary action.

Section 4. Pre-Disciplinary Hearing for Suspension, Reduction or Discharge

- A. In suspending a regular or promotional probationary employee in a non-emergency situation or in reducing a regular employee for reasons of unsatisfactory performance or physical disability or in discharging a regular employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, at least ten (10) calendar days prior to the effective date of the proposed action. Such written notice shall contain:
1. a description of the proposed action and its effective date(s);
 2. a statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based;
 3. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
 4. copies of material on which the proposed action is based;
 5. a statement of the employee's right to representation;
 6. a statement of the employee's right to appeal should such proposed action become final.
- B. Prior to the effective date of such suspension, reduction or discharge, an employee will be given an opportunity to respond either orally or in writing, at the employee's option, to a designated District representative with the authority to make an effective recommendation on the proposed disciplinary action.

- C. An employee shall be given reasonable time off without loss of pay to attend a hearing pursuant to this Article.
- D. An employee may represent himself or herself or may be represented.
- E. An employee shall receive written notice either sustaining, modifying or canceling the proposed disciplinary action prior to the effective date of such action except that such written notice may be given after suspensions pursuant to Section 2, above.

Section 5. Suspension

- A. No regular or promotional probationary employee shall be suspended except for reasonable cause.
- B. A written notice of such suspension stating specifically the cause of the suspension shall be given to the employee.
- C. In accordance with provisions of Article IX, an appeal of suspension shall be initiated at Step 3 of the grievance/appeal procedure.

Section 6. Reduction

- A. No regular employee shall be reduced to a position in a lower class for reasons of unsatisfactory performance or physical disability except for reasonable cause.
- B. A written notice of such reduction stating specifically the cause of the reduction shall be given to the employee.
- C. In accordance with provisions of Article IX, an appeal of reduction for reasons of unsatisfactory performance or physical disability shall be initiated at Step 3 of the grievance/appeal procedure.

Section 7. Discharge and Right of Appeal

- A. No regular employee shall be discharged except for reasonable cause. No proposed discharge shall be effected unless approved by the General Manager except for discharges imposed by the Board of Trustees.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. In accordance with the provisions of Article VIII. and IX., a discharge may be appealed directly to the Board of Trustees.

ARTICLE IX

GRIEVANCE PROCEDURE AND DISCIPLINARY APPEALS

Section 1. Scope of Grievances

- A. A grievance may be filed if a management interpretation or application of the provisions of this Memorandum of Understanding is contrary to the terms of this Agreement and adversely affects an employee's wages, hours or conditions of employment.
- B. Specifically excluded from the scope of grievances are:
 - 1. subjects involving the amendment or change of Board of Trustees resolutions, ordinances or minute orders, which do not incorporate the provisions of this MOU;
 - 2. matters which have other means of appeal; including but not limited to: Worker's Compensation Issues, Discrimination complaints, etc.
 - 3. position classification;
 - 4. standard or better performance evaluations.

Section 2. Basic Rules

- A. If an employee does not present a grievance/appeal or does not appeal the decision rendered regarding his or her grievance/appeal within the time limits, the grievance/appeal shall be considered resolved.
- B. If a District representative does not render a decision to the employee within the time limits, the employee may within seven (7) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any District representative that he or she does not have the authority to resolve the grievance/appeal he or she may refer it to the next step in the procedure. No grievance may be resolved without the concurrence of the General Manager.
- D. Upon written consent of the parties (i.e., the representatives of the District and the employee or his or her representative), the time limits at any step in the procedure may be extended.
- E. Every reasonable effort shall be made by the employee and the District to resolve a grievance/appeal at the lowest possible step in the grievance/appeal procedure. The issue of whether such efforts were reasonable or not shall not be subject to the grievance procedure.

- F. No claim shall be granted for retroactive adjustment of any grievance prior to thirty (30) calendar days from the date of filing the written grievance.
- G. In order to encourage frank discussion and compromise in attempting to resolve grievances, the District and Union agree that the grievance files of the respective parties shall be confidential.
- H. All Grievance/Appeal meetings, including those of the Board of Trustees, shall be private.
- I. All grievances must be signed by the grievant when they are initially filed and through each step of the grievance procedure.

Section 3. Employee Representation

- A. An employee may represent himself/herself or may be represented by SEIU, Local 721, in the formal grievance/appeal process.
- B. Authorized grievance/appeal representatives shall be regular employees in the same cemetery as the grievant/appellant. SEIU, Local 721, shall notify the District of the names and titles of the representatives and send such notice to the General Manager quarterly.
- C. Representation at Step 1 and 2 of the grievance procedure shall be limited to one (1) authorized employee grievance/appeal representative employed in the cemetery from which the grievance/appeal is filed. SEIU, Local 721, staff representatives may represent the employee at Step 3 of the grievance/appeal procedure and at a Discharge hearing.

Section 4. Submission of Grievances

- A. Any employee or group of employees shall have the right to present a grievance. No employee or group of employees shall be hindered from or disciplined for exercising this right.
- B. If any two (2) or more employees have essentially the same grievance they may, and if requested by the District must, collectively present and pursue their grievance.
- C. If the grievant is a group of more than three (3) employees, the group shall, at the request of the District, appoint one (1) or two (2) employees to speak for the collective group. To be considered a grievant in a group grievance, employees must affirmatively identify themselves as grievants when the grievance is initially filed.

Section 5. Time Off for Processing Grievances/Appeals

- A. Reasonable time off without loss of pay shall be given to an employee and employee representatives to attend grievance meetings in accordance with Section 7 below.

- B. Before attending grievance meetings, the grievant and employee representative shall obtain permission of his or her supervisor and shall report immediately back to the supervisor when the grievance meeting is completed.
- C. Neither the grievant, nor the grievance representative shall interrupt or leave his or her job to attend a grievance meeting if his or her supervisor determines that such interruption or absence will unduly interfere with the work of the unit in which the grievant or grievance representative is employed. However, an effort will be made to grant such time off as soon as it is feasible to do so.

Section 6. Informal Discussion

If an employee has a problem relating to a work situation, the employee is encouraged to request a meeting with his or her immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively towards settlement.

Section 7. Grievance/Appeal Steps

The grievance/appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein.

Step 1: Immediate Supervisor

An employee may formally submit a grievance to the Cemetery Manager or in his/her absence, the Assistant to the General Manager within fourteen (14) calendar days from the occurrence which gives rise to the problem. Such submission shall be in writing and shall state the nature of the grievance and the suggested solution. Within seven (7) calendar days after receipt of the written grievance, the cemetery manager or designated representative as may be designated by the District shall meet with the grievant. Within seven (7) calendar days thereafter, a written decision shall be given/mailed to the grievant. The District shall, whenever practicable, notify the grievant if more than one management representative shall attend the Step 1 grievance meeting.

Step 2: General Manager

If the grievance/appeal is not settled under Step 1 and it concerns:

- A. An interpretation or an application of this MOU;
- B. a substandard performance evaluation;
- C. deferral or denial of a merit increase; or
- D. a written reprimand;

It may be appealed in writing to the General Manager or designated representative within seven (7) calendar days from the date the written decision was rendered at Step 1. Appeal of a suspension and/or a reduction ordered by the Cemetery Manager may be submitted in writing at Step 2 within ten (10) calendar days after receipt of the notice of suspension and/or reduction. Within fourteen (14) calendar days after receipt of the written grievance/appeal, the General Manager or his or her representative shall meet with the grievant. Within fourteen (14) calendar days thereafter, a written decision shall be given/mailed to the grievant. With the exception of termination of employment, the decision of the General Manager in all other matters shall be final and binding.

Step 3: Arbitration

If a grievance relating to a termination from employment is not resolved under Step 2, an arbitration request may be submitted in writing by SEIU, Local 721 to the General Manager within fourteen (14) calendar days from the date a decision was rendered at Step 2. As soon as practicable thereafter, or as otherwise agreed to by the parties, an arbitrator shall hear the grievance. The cost of an arbitrator shall be shared equally by the District and SEIU, Local 721. The arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree upon an arbitrator, a list of seven arbitrators shall be obtained from the California State Conciliation Service, the American Arbitration Association or some other agreed upon source, and each party shall alternately strike one name from the list until only one name remains.

At the hearing, both the District and SEIU, Local 721 shall have the right to be heard to present evidence. The following rules shall apply:

1. Oral evidence shall be taken only on oath or affirmation.
2. Each party shall have these rights: to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called the witness to testify, and to rebut the evidence against the witness. If the employee does not testify on his or her behalf, the employee may be called and examined as if under cross-examination.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are

now, or hereafter may be, recognized in civil actions, irrelevant and unduly repetitious evidence shall be excluded.

The District shall be allowed to have at least one employee who may be called upon to testify as a witness present at the arbitration hearing at all times.

The decision of the arbitrator shall be advisory to the Board of Trustees, who will in turn, review the recommendation and either accept it or revise it. If the Board of Trustees modifies the recommendation, they shall set forth the reasons for the decision based on the administrative hearing record. The Board of Trustees shall not consider any new evidence. The Board of Trustees decision shall be final.

Section 8. Alternate Discharge Appeal Procedure

An appeal from any discharge may, in the alternative of an arbitrator as set forth in Section 7 above, be presented to the General Manager within ten (10) calendar days from the day the discharge is effective. The General Manager shall arrange to have the Board of Trustees or a mutually agreed upon Hearing Officer hear such appeal. If a mutually agreed upon Hearing Officer is used, he/she shall be appointed and the cost of said Hearing Officer shall be shared equally by the District and the appealing party. The Hearing Officer shall hear testimony, gather evidence, and submit findings to the Board of Trustees. Such Hearing Officer's findings and recommendations are advisory to the Board of Trustees. Any hearing before the Hearing Officer shall be in closed session.

ARTICLE X

LAYOFF PROCEDURE

When the District's work force is reduced, the District shall layoff employee positions in regular positions in an order based on consideration of:

1. employment status,
2. past performance,
3. length of continuous service with the District.

A, Notification of Employees

Written notice of layoff shall be given to an employee or sent by mail to the employee's last known mailing address at least fourteen (14) calendar days prior to the effective date of the layoff. Notices of layoff shall be served on employees personally at work whenever practicable. Notice of such layoffs shall be sent to the Union.

ARTICLE IX

ON-THE-JOB INJURY, WORKER'S COMPENSATION PAY

Section 1. Treatment of Job-Related Injuries

Whenever an employee sustains an injury or disability arising out of and in the course of District employment and requires medical care, the employee shall obtain treatment and applicable benefits according to the provision of the California Labor Code.

Section 2. Workers' Compensation Pay

- A. Whenever an employee is compelled to be absent from duty by reason of injury or disease arising out of and in the course of District employment, the employee shall receive workers' compensation pay.
- B. Before employees are eligible for wages through workers' compensation, employees must be off work for three (3) calendar days. The temporary disability benefits start on the fourth day of disability. This waiting period is waived if your injury requires overnight hospitalization.
- C. The employee shall not accrue annual leave credit during the period in which the employee receives worker's compensation disability benefits.
- D. When an injury is determined to be job-related by the District or by the Workers' Compensation Appeals Board, eighty (80) percent of all annual leave and compensatory time expended since the fourth day of disability shall be restored to the employee's account(s), except that if the injury required the employee's hospitalization or caused disability of more than fourteen (14) days, eighty (80) percent of all annual leave and compensatory time expended since the first day of disability shall be restored to the employee's account(s).
- E. The merit increase eligibility date and probation period of any employee who receives workers' compensation benefits shall be extended by the length of time the employee receives such benefits, except that the first fifteen (15) consecutive calendar days from the date of the injury shall be considered District service for merit increase eligibility and completion of the probation period.
- F. When an employee is no longer entitled to receive workers' compensation pay, the employee may, at his or her option, use annual leave or compensatory time in that order.
- G. Time during which an employee receives worker's compensation temporary disability benefits shall be counted toward the computation of District seniority and determination of annual leave earning rates.

Section 3. Supplemental Pay

- A. Employees receiving workers' compensation benefits may use annual leave to supplement their income so that with the addition of the annual leave to any benefits received shall equal the amount the employee would have earned had he or she not been on leave. Employees may only use annual leave to supplement the amount received if they have eighty or more hours of leave and then may not use hours if the leave amount falls below eighty hours.

Section 4. Exposure to Contagious Diseases

Whenever an employee is compelled by direction of a District designated physician to be absent from duty due to an on-the-job exposure to a contagious disease, the employee shall receive full compensation for a period not to exceed forty (40) working hours for a full-time employee. If the absence extends beyond the applicable period, compensatory time and annual leave may be used, at the employee's option, in that order.

ARTICLE XII

UNION AND EMPLOYEE RIGHTS

Section 1. Employee Rights

The District shall not hinder or discipline an employee for exercising any rights or benefits provided in this Memorandum of Understanding.

Section 2. Payroll Deduction

- A. Membership dues of Union Members in this representation unit shall be deducted by the District from the pay warrants of such members. The District shall promptly transmit the dues so deducted to the Union.
- B. The Union shall notify the District, in writing, as to the amount of dues uniformly required of all members of the Union.

Section 3. Employee Information Listing

Whenever requested by the Union, during the term of this Memorandum of Understanding, the District shall provide the Union with a listing of all current employees in this Unit. Such file shall include employee name, job classification, timekeeping location, salary range, and step.

Section 4. Use of Bulletin Boards

Space shall be made available to the Union on District bulletin boards within the representation unit provided such use does not interfere with the needs of the District and material posted is not derogatory to the District or other employee organizations. Notice shall be dated and signed by the authorized representative of the Union responsible for its issuance.

Section 5. Use of District Facilities

The Union may, with the approval of the General Manager, hold meetings of their members on district property during nonworking hours provided request is made to the General Manager as to the specific location and dates of the meeting prior to such meeting.

Section 6. Participation in Committee on Political Education (COPE) Program

Employees may voluntarily elect to have contributions deducted from their paychecks for the SEIU Local 721 Community on Political Education (COPE) Program fund upon notification and verification provided by the Union to the District.

Such deductions shall continue until such authorization is revoked in writing.

The District shall transmit to the Union such deductions once monthly on a check separate from the regular dues deduction, listing the name and amount deducted for each employee.

The Union will abide by all Federal and State laws relating to such contributions and indemnify the District in the event of litigation.

ARTICLE XIII

UNIFORMS

Section 1. Policy

The District will provide uniforms and uniform jackets for regular employees who occupy the following positions:

Groundskeeper
Leadworker

Section 2. Procedure

A. Procurement and Issuance

Uniforms and other apparel items are procured from an authorized vendor and issued to District personnel. Currently, uniforms consist of the following items:

1. Pants (dark blue) – 11 each
2. Shirts (light blue) – 11 each (with an arm patch)
3. Cap (blue) – 1 each
4. Jacket (blue) - 1 each (heavy) (with arm patch)

Jackets are the property of the District and will be returned upon termination of employment.

Boots

In recognition of a work place safety concern and for the convenience of the employees, the District agrees to the following purchase program for work boots:

1. Employees will receive one pair of work boots per year, the cost of which will be borne by the District, that are steel toed and have an arch support for proper foot protection. Employee must purchase boot from District selected vendor. There will be one style of boot selected that will be used by all employees.
2. Employees will wear their boots as part of their District uniform and while traveling to and from work. It is understood that occasional exceptions may be needed. In order to preserve the program, a supervisor should be notified of the reason.
3. Cost of boot will be charged to the District account. District managers will provide an authorization form that will be taken by employee to vendor's location. Vendor will invoice the District for the boots purchased at the end of each month.

B. Wearing of Uniforms

Uniforms are to be worn at all times while on duty. This also includes Saturday, Sunday, and holiday assignments. Wearing of jackets and caps are optional depending upon weather conditions. Shirrtails are to be tucked inside the pants. Coveralls are available at each location.

C. Maintenance

Uniforms will be laundered and maintained by an authorized vendor selected by the District. Employees are to make every effort to keep uniforms free from tears and permanent stains.

D. Restrictions

1. Uniforms are worn only while performing official duties or traveling to and from work.
2. While on duty, visual items and outer garments must conform to the uniform specifications pursuant to Paragraph A, above. Insignias, emblems, patches (except those authorized by the District), pins or adornments may not be affixed to the uniform.

Failure to abide by these uniform procedures will be grounds for disciplinary action.

ARTICLE XIV

INSURANCE

Section 1. Health Plan Premium

- A. The District will pay one hundred (100) percent of the employee's premium or seventy-five (75) percent of the total health plan premium, whichever is greater, for each full-time regular or probationary employee and such employee's dependents.
- B. The District will pay fifty (50) percent of the employee's premium or thirty-seven and one-half (37½) percent of the employee's total health plan premium, whichever is greater, for each part-time regular or probationary employee and for such employee's dependents provided the employee's normal workweek consists of at least twenty (20) hours and the employee pays the balance of the premium. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) hours in a full workweek.
- C. If, at any time through the period of this MOU, the District believes that the same benefits provided under this section may be provided through more economical means, the District reserves the right to provide employees with equivalent benefits through such means. Any change in health plan administrators/providers shall be subject to the meet and confer requirement.

Section 2. Retiree Medical Benefit

A. Implementation

The Retiree Medical Benefit Reimbursement Plan was effective January 1, 2007. The District is currently paying the contribution on behalf of each employee.

B. Retiree Medical Insurance Grant

- 1. Effective August 1, 1993, as amended herein, the District implemented a Retiree Medical Insurance Plan (Plan) for employees who have retired from District service and who meet the eligibility requirements set forth in this section.
- 2. Upon paid District retirement, an eligible retiree shall receive a Plan Grant (Grant). The Grant may be applied only towards the cost of retiree and dependent coverage in a District-offered health insurance plan and/or Medicare premiums as provided below.
 - a. For eligible retirees the Grant shall be an amount based on ten (10) dollars per month for each full year of service in an Eligible Classification up to a maximum of twenty-five (25) years. In each fiscal year, the amount of

such Grant shall be adjusted by the average percentage increase in District health plan premiums no later than the effective dates of such increases, not to exceed five (5) percent per year. Effective on January 1, 2008, the maximum Grant adjustment will be limited to three (3) percent per year. In no case shall the Grant exceed the actual cost of the health insurance and/or Medicare premiums.

- b. For eligible employees retiring after September 26, 2006, the Grant will be adjusted as follows:
 - 1. The Grant will be reduced by seven and one-half percent (7½%) per year for each year of age the employee is less than age 60, based upon the employee's age on his or her retirement date. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement will be deemed the retirement date.
 - 2. The Grant will be increased by seven and one-half (7½%) per year for each year of age the employee is greater than age 60, based upon the employee's retirement date. For the purpose of the Grant increase, no years of age after age 70 will be considered. For the purpose of deferred retirement, the date on which the deferred retiree takes active retirement will be deemed the retirement date.
 - 3. The Grant for all eligible retirees (including retirees on disability) and surviving dependents will be reduced by fifty percent (50%) the first day of the month the retiree or surviving dependent becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B. For retirees and surviving dependents who have attained age 64 on or prior to September 26, 2006, the 50% reduction in the Grant will occur the first day of the month the retiree becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B; however, the reduction will be no sooner than September 26, 2007. For eligible employees retiring after September 26, 2006, the 50% reduction will occur the first day of the month the retiree becomes eligible for both Medicare Part A (without paying a premium) and Medicare Part B. This provision does not apply to a retiree or surviving dependent eligible for the Grant who has attained age 65 on or prior to September 26, 2006 and is eligible for both Medicare Part A (without paying a premium) and Medicare Part B.
- c. All current employees who become eligible for a Grant shall be provided a one (1) time opportunity of at least thirty (30) days to enroll in a District offered health plan. Should a retiree fail to enroll during the aforementioned thirty (30) day period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents

shall forfeit any right to a Grant and enrollment in a District offered health plan.

C. Retiree Medical Plan Lump Sum: Termination: Phase Out

1. An employee who is employed by the District prior to June 23, 2006 and who separates from District service prior to meeting the eligibility requirements for the Grant shall receive a lump sum (Lump Sum benefit) cash payment in accordance with D.2.b. below. The Plan Lump Sum benefit is terminated for all new District employees hired on or after June 23, 2006.
2. An employee who is employed by the District prior to June 23, 2006, who thereafter from the District and who does not qualify for a Grant shall receive a Lump Sum benefit equal to one percent (1%) of his or her final average hourly compensation multiplied by his or her qualified hours of service after August 1, 1993 and prior to June 23, 2006. The final average hourly compensation shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately preceding June 23, 2006.
3. Receipt of the Grant shall permanently revoke any claim to a Lump Sum benefit even if the retiree subsequently terminates participation in a District -offered health plan and/or Grant. Receipt of the Lump Sum benefit shall permanently revoke any claim to the Grant.

D. Eligibility Requirements for Grant

1. Retiree must be actively retired from the Orange County Cemetery District and receiving a monthly retirement allowance from the Orange County Employees Retirement System.
2. Retiree must have retired with at least ten (10) years District service except as provided in D.2.a., b., c., and d.below:
 - a. A retiree who receives a service-connected disability retirement from the District shall be eligible for a Grant equal to either ten (10) years of service or actual years of District service, whichever is greater.
 - b. A retiree with a minimum of five (5) years of District service who receives a non-service connected disability retirement shall be eligible for a Grant based on actual years of District service. An employee with less than five (5) years of District service who receives a non-service connected disability retirement shall not be eligible for a Grant.
 - c. A separated employee who has less than ten (10) years of service or is under normal retirement age and requested a service or non-service connected disability retirement shall not be eligible to receive either the

Grant or Lump Sum benefit until a determination of disability status is made by the Board of Retirement.

- d. A separated employee who receives a Lump Sum benefit pursuant to this Section D shall be ineligible for the Grant if, at a later date, the board of Retirement grants a disability retirement.
3. All eligible retirees and enrolled dependents that are age sixty-five (65) or older must be enrolled in Medicare Part B in order to be eligible for the Grant. All eligible retirees and dependents that are entitled to Medicare Part A coverage without a premium must be enrolled in Medicare Part A to be eligible to receive the Grant.
4. Deferred Retirement
 - a. An employee who, upon separation from District service, is eligible for paid retirement and elects deferred retirement must defer participation in the Grant until such time as he or she becomes an active retiree.
 - b. An employee who is not eligible for paid retirement at the time he or she separates from District service shall not become eligible for participation in the Grant.
 - c. For purposes of this Section, a full year of service shall be based upon those regular hours the employee worked for the District as a regular limited-term, and/or probationary employee. Two thousand either (2080) regular hours, exclusive of overtime, shall equal one (1) full year of service.

E. Survivor Benefits

1. A surviving spouse who qualifies for a monthly retirement allowance shall be eligible for fifty (50) percent of the Grant authorized for the retiree.
2. A surviving eligible retiree who qualifies for a monthly retirement allowance who was married to a retiree who was also eligible for a Retiree Medical Insurance Grant shall receive the survivor benefit described in E.1., above or his or her own Retiree Medical Insurance Grant, whichever is greater. Such retiree shall not be eligible for both Retiree Medical Insurance Grants.

Section 3. Trust Fund

1. Effective July 1, 2016, District will contribute \$0.49 for every hour paid for each employee towards a Trust Fund administered by the Service Employees International Union, Local 721. Effective July 1, 2017, the District will contribute \$0.52 for every hour paid for each employee towards a Trust Fund administered by the Service Employees International Union, Local 721. Effective

July 1, 2018, the District will contribute \$0.56 for every hour paid for each employee towards a Trust Fund administered by the Service Employees International Union, Local 721. Benefits provided to employees by Trust Fund include vision, dental, life, and salary continuation insurance.

2. The Trust will provide, upon written request from the employer, a copy of the annual audit performed by an independent CPA, and if the District cannot find the Form 5500 on-line, where it must be filed by law, the Trust will, upon written request, deliver a copy to the employer, with reasonable copying costs to be paid by the employer. The annual audit will contain all information required by Federal Law.
3. Upon request by the General Manager, employees must provide the District with proof of enrollment in vision, dental, life, and salary continuation insurance through the Trust Fund.
4. If, at any time through the period of this MOU, the District believes that the same benefits provided under this section may be provided through more economical means, the District reserves the right to provide employees with equivalent benefits through such means. Any change in health plan administrators/providers shall be subject to the meet and confer requirement.

ARTICLE XV

DEFERRED COMPENSATION

An employee in a regular position may, at his or her request, participate in the District's Deferred Compensation Plan.

ARTICLE XVI

RETIREMENT

Section 1.

Eligible employees of this unit are included in the Orange County Employees Retirement System as determined by their date of entry into eligible District service.

Section 2.

Members' normal and cost-of-living contributions shall be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.

The District has contracted with OCERS to provide all employees the 2% @ 55 retirement formula effective December 2007 on a going forward basis only.

Effective upon the date of ratification of this MOU, employees who are not "new members" shall pay 87.5% of their employee contribution to OCERS, and the District shall pay 12.5% of the employee contribution. Effective July 1, 2017, employees who are not "new members" shall pay 100% of their employee contribution to OCERS, and the District shall no longer pay any of the employee contribution. On a single date, to be determined between the date of ratification of this MOU and July 1, 2017, all employees employed as of the date of ratification of this MOU shall receive a one-time stipend which amounts to 4% of base pay as of June 30, 2016. On a single date, to be determined between July 1, 2017 and July 1, 2018, all employees employed as of the date of ratification of this MOU shall receive a one-time stipend which amounts to 3% of base pay as of June 30, 2016.

Employees with years of service prior to December 2007 will have those years calculated based on the former 1.67% @ 57 retirement formula which will be blended with the new formula for future years upon retirement.

Pursuant to the Public Employees' Pension Reform Act of 2012 (PEPRA), on and after January 1, 2013 "new members," as defined under PEPRA, will be subject to the reform tier benefit formula (Plan U) of 2.5% @ 67 based the average monthly pay rate for the 36 highest paid consecutive months (3 year final compensation) and other PEPRA required terms. In addition, new members will be required to pay one half (1/2) of the total normal cost rate for their pension benefit. That rate is determined by OCERS.

As defined by PEPRA, a "new member" is:

- a) An individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to that date;

- b) An individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and who was a member of another public retirement system prior to that date, but who was not subject to reciprocity, as provided under PEPPRA; or
- c) An individual who was an active member in a retirement system and who, after a break in service of more than six months, returned to active membership in that system with a new employer.

ARTICLE XVII

SEPARABILITY

In the event that any provisions of this Memorandum of Understanding are declared invalid by any court of competent jurisdiction, such decision shall not invalidate the entire Memorandum of Understanding, it being the express understanding of the parties hereto that all other provisions not declared invalid shall remain in full force and effect.

ARTICLE XVIII

SAFETY

Section 1. General Provisions

Recognizing that a safe work environment is of substantial benefit to both the District and employees, the District and Union mutually agree to the following safety program:

- A. No employee shall be required to work under conditions dangerous to the employee's health or safety.
- B. The District and the employees shall make a joint effort to promote a safe place of employment. The District shall make a reasonable effort to provide and maintain a safe place of employment. The Union shall urge all employees to perform their work in a safe manner. Employees shall be alert to unsafe practices, equipment and conditions and report any such unsafe practices, equipment or conditions to their immediate supervisors. Employees shall learn and follow the District's Code of Safe Practices.
- C. Any employee who is directed to perform a task which the employee in good faith feels is unsafe may request an immediate investigation from the Cemetery Manager. During the period that the Cemetery Manager is conducting an investigation, the employee will be assigned to other work at no loss of earnings. If the Cemetery Manager concludes the task complained of is safe, the employee shall perform the work as instructed.
- D. The District shall furnish all equipment which is necessary for employees to perform their job in a safe manner.
- E. The District shall provide first aid kits.

ARTICLE XIX

NONDISCRIMINATION

The District and the Service Employees International Union, Local 721, agrees that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination by reasons of race, color, ancestry, national origin, religious creed, political affiliations, age (over 40), sex, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), marital status, sexual orientation, place of residence, denial of family care leave, membership or non-membership in the Union, or for engaging in or refusing to engage in lawful Union activities.

The parties also agree that no employee shall be subjected to unlawful sexual harassment or harassment in the course of their employment or related Union activities.

ARTICLE XX

SALARIES

Effective July 1, 2016, two merit steps will be added to the highest merit step and the two previous lowest merit steps shall be removed. Accordingly, the new two highest merit steps will be Step 11 and Step 12.

Effective July 1, 2017, one merit step will be added to the highest merit step and the previous lowest merit step shall be removed. Accordingly, the new highest merit step will be Step 12.

Effective July 1, 2018, one merit step will be added to the highest merit step and the previous lowest merit step shall be removed. Accordingly, the new highest merit step will be Step 12.

ARTICLE XXI

MANAGEMENT RIGHTS

The District retains any rights, powers or authority it had prior to the signing of this Agreement, except as those rights are or may during the term of this Agreement be directly or indirectly affected by this Agreement or applicable law. Such rights shall include, by way of example, but not limitation, the right to manage the District and direct the work force, including the right to hire, select, discipline, transfer and assign work. Nothing in this provision shall be construed to restrict grievances concerning this Agreement or to limit or waive the rights of the parties pursuant to law or this Agreement.

MEMORANDUM OF UNDERSTANDING

2016-2019

ORANGE COUNTY CEMETERY DISTRICT

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 721, CTW-CLC

FOR THE

GROUNDKEEPING UNIT

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 721, CTW-CLC



Juan Lopez
Negotiating Team Member




Malachi Rios
Negotiating Team Member



Tony Gallegos
Negotiating Team Member



Andrew Trejo
Negotiating Team Member



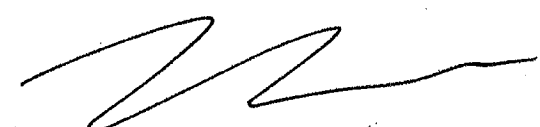
Bob Hunt
Chief Negotiator

9/28/16
Date

ORANGE COUNTY CEMETERY
DISTRICT



Tim Deutsch
General Manager



T. Oliver Yee
Chief Negotiator

10-4-16
Date

Orange County Cemetery District

Groundskeeping Unit

July 1, 2016, through June 30, 2019



SEIU Local 721

1651 E 4th St Ste 120

Santa Ana CA 92701-5143

Questions? Call the Member Connection (877) 721-4YOU

www.seiu721.org

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