

RESOLUTION NO. 2014-24

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL, CALIFORNIA,
APPROVING THE FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF BELL AND THE BELL POLICE OFFICERS' ASSOCIATION FOR
THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2015**

WHEREAS, the City of Bell ("City") and the Bell Police Officers' Association ("BPOA") entered into a collective bargaining agreement entitled "Memorandum of Understanding the City of Bell and the Bell Police Officers Association July 1, 2013-June 30, 2015" ("BPOA MOU 2013-2015") approved by City Council on or about February 26, 2014; and

WHEREAS, the City sought to institute changes to payroll and overtime calculations consistent with its understanding of the BPOA MOU 2013-2015 and with the labor negotiations that led up to that labor agreement; and

WHEREAS, the BPOA objected to any changes in payroll and overtime calculations unless specifically called out in the BPOA MOU 2013-2015; and

WHEREAS, the City labor representatives and BPOA labor representatives meet and conferred on the issues on April 1, 2014, including but not limited to: (1) the use of paid leave time in the calculation of hours worked for the purposes of eligibility for overtime, (2) the definition and calculation of shift differential pay, and (3) employee vacation leave cash out options; and

WHEREAS, the Fair Labor Standards Act ("FLSA") does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, unless overtime is worked on such days, but permissively allows employers and employees to contract for such benefits and to count paid leave as hours worked for purposes of calculating overtime; and

WHEREAS, the City and BPOA desire to continue the existing long time practice of counting vacation time, sick time, and compensatory time off as "hours worked" for the purposes of calculating overtime for BPOA represented employees under the FLSA; and

WHEREAS, the BPOA MOU 2013-2015 does not directly address counting vacation time, sick time, and compensatory time off as "hours worked" for the purposes of calculating overtime for BPOA represented employees under the FLSA; and

WHEREAS, the City and the BPOA also wish to clarify that BPOA MOU 2013-2015 Section 14 Shift Differential Pay is to be calculated on an employee's base salary only; and

WHEREAS, the City and the BPOA further wish to have City Council provide the City Manager the authority to cash out BPOA represented employees, at the City Manager's sole discretion, the excess vacation leave time held in the separate excess vacation leave bank described in BPOA MOU 2013-2015 Article IX Section 2; and

WHEREAS, it is therefore necessary to amend the BPOA MOU 2013-2015 at Article III, Section 7 "Overtime Pay," Article III, Section 14 "Shift Differential Pay," and Article IX, Section 2 "Vacation Leave Accrual Employees Hired After January 1, 1997" to accomplish the above goals.

WHEREAS, pursuant to Government Code Section 3505.1, upon reaching an agreement by the City's and BPOA's authorized representatives, the City Council of the City must approve the terms of any memorandum of understanding or any amendment thereto; and

WHEREAS, the parties have come to an agreement on the terms of the First Amendment to the BPOA MOU 2013-2015, which First Amendment is attached hereto as Exhibit "A"; and

WHEREAS, the BPOA ratified the First Amendment on May 15, 2014 by a vote of its membership and the BPOA representatives have executed the attached First Amendment; and

WHEREAS, the City Council desires to approve the First Amendment.

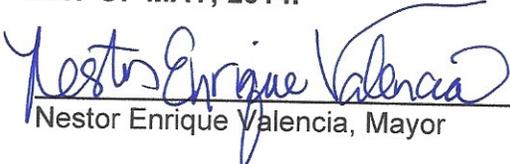
NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated by reference herein.

SECTION 2. The City Council hereby approves the First Amendment to BPOA MOU 2013-2015.

SECTION 3. The Acting City Clerk shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED THIS 28th DAY OF MAY, 2014.



Nestor Enrique Valencia, Mayor

APPROVED AS TO FORM:



David J. Aleshire, City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Janet Martinez, Acting City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Bell City Council at its regular meeting held on the 28th day of May, 2014, by the following vote:

AYES: Councilmembers Alvarez, Quintana, Saleh, Vice Mayor Romero, and Mayor Valencia

NOES:

ABSENT:

ABSTAIN:



Janet Martinez, Acting City Clerk

EXHIBIT "A"

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
BELL AND THE BELL POLICE OFFICERS' ASSOCIATION FOR THE PERIOD OF JULY 1,
2013 THROUGH JUNE 30, 2015

[ON FOLLOWING PAGES]

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF BELL AND THE BELL POLICE OFFICERS' ASSOCIATION
JULY 1, 2013 - JUNE 30, 2015**

This First Amendment to the Memorandum of Understanding between the City of Bell and the Bell Police Officers' Association July 1, 2013 - June 30, 2015 ("BPOA MOU 2013-2015") is made and entered into by and between the City of Bell, a municipal corporation ("City"), and the Bell Police Officers Association ("BPOA").

RECITALS:

WHEREAS, the City and the BPOA entered into the BPOA MOU 2013-2015 which was approved by City Council on or about February 21, 2014; and

WHEREAS, the City sought to institute changes to payroll and overtime calculations consistent with its understanding of the BPOA MOU 2013-2015 and with the labor negotiations that led up to that labor agreement; and

WHEREAS, the BPOA objected to any changes in payroll and overtime calculations unless specifically called out in the BPOA MOU 2013-2015; and

WHEREAS, the City labor representatives and BPOA labor representatives meet and conferred on the issues on April 1, 2014, including but not limited to: (1) the use of paid leave time in the calculation of hours worked for the purposes of eligibility for overtime, (2) the definition and calculation of shift differential pay, and (3) employee vacation leave cash out options; and

WHEREAS, the Fair Labor Standards Act ("FLSA") does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, unless overtime is worked on such days, but permissively allows employers and employees to contract for such benefits and to count paid leave as hours worked for purposes of calculating overtime; and

WHEREAS, the City and BPOA desire to continue the existing long time practice of counting vacation time, sick time, and compensatory time off as "hours worked" for the purposes of calculating overtime for BPOA represented employees under the FLSA; and

WHEREAS, the BPOA MOU does not directly address counting vacation time, sick time, and compensatory time off as "hours worked" for the purposes of calculating overtime for BPOA represented employees under the FLSA; and

WHEREAS, the City and the BPOA also wish to clarify that BPOA MOU Section 14 Shift Differential Pay is to be calculated on an employee's base salary only; and

WHEREAS, the City and the BPOA further wish to have City Council provide the City Manager the authority to cash out BPOA represented employees, at the City Manager's sole discretion, the excess vacation leave time held in the separate excess vacation leave bank described in BPOA MOU Article IX Section 2; and

WHEREAS, it is therefore necessary to amend the BPOA MOU at Article III, Section 7 "Overtime Pay," Article III, Section 14 "Shift Differential Pay," and Article IX, Section 2 "Vacation Leave Accrual Employees Hired After January 1, 1997" to accomplish the above goals as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Article III Section 7 of the MOU titled "Overtime Pay" is hereby stricken and replaced its entirety with the language as follows:

"Section 7. Overtime Pay. The City will pay overtime for all hours worked in excess of eighty (80) in a fourteen (14) day work period. Paid absences, such as sick leave, vacation time, and compensatory time, shall count as hours worked for purposes of eligibility for overtime compensation. Each employee shall be compensated in cash at the pay rate of one and one half (1 ½) times the aggregate pay of such employee for each hour of overtime (aggregate pay shall represent the base salary plus special compensation such as bilingual and/or education pay), or with the agreement of the Chief of Police in compensatory time off, at the rate of one and one half (1 ½) hours for each hour of overtime."

2. Article III Section 14 of the MOU titled "Shift Differential Pay" is hereby stricken and replaced its entirety with the language as follows:

"Section 14. Shift Differential Pay. Represented employees with a regular work shift that requires working six (6) or more hours between the times of 2:00 p.m. and 6:00 a.m. shall receive a three percent (3%) shift differential pay for those hours actually worked between 2:00 p.m. and 6:00 a.m. Employees who work during the times of 2:00 p.m. and 6:00 a.m. on an overtime basis are not eligible to receive shift differential pay. Shift differential pay shall only apply to all actual hours worked, not merely scheduled hours. Shift differential pay is calculated on base salary only."

3. Article IX Section 2 of the MOU titled "Vacation Leave Accrual Employees Hired After January 1, 1997" is hereby stricken and replaced its entirety with the language as follows:

"Section 2. Vacation Leave Accrual Employees Hired After January 1, 1997. Notwithstanding the Civil Service Rules and Regulations, represented employees shall not accrue or carry over from calendar year more than three-hundred sixty (360) hours. The parties have agreed that any amount of time that was mistakenly allowed to accrue in excess of three-hundred (360) hours as of December 31, 2012 was set aside on a one-time basis in a separate leave bank. However, the parties agree that no leave may be accrued over three-hundred sixty (360) hours as of December 31, 2012, unless approved by the City Council. The accrued vacation in the separate leave bank will be allowed to be used during employment like any other vacation leave bank and/or cashed out upon separation. In addition,

the City Manager can elect to cash out the vacation hours in the separate leave bank at any time at his sole discretion, including upon written request of an employee.”

The representatives of the City and of the BPOA have jointly prepared this First Amendment to the BPOA MOU 2013-2015, which has been ratified by the BPOA and is jointly presented to City Council of the City of Bell for determination pursuant to Government Code section 3505.1. Except as expressly provided for in this First Amendment, all other provisions of the BPOA MOU 2013-2015 shall remain in full force and effect. The parties also acknowledge that this First Amendment shall not be in full force and effect until adopted by resolution by the City Council of the City of Bell. Subject to the foregoing and in witness whereof, this First Amendment is hereby executed by the authorized representatives of the City and the Bell Police Officers' Association and entered into as of this 16th day of May, 2014.

CITY OF BELL

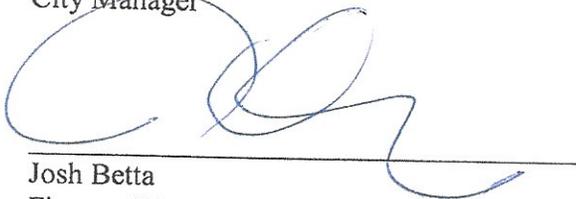
BELL POLICE OFFICERS'
ASSOCIATION



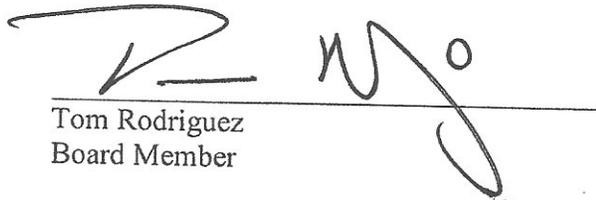
Doug Willmore
City Manager



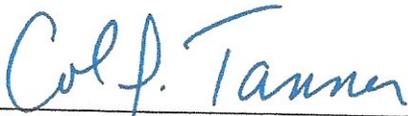
Gilbert Jara
President



Josh Betta
Finance Director



Tom Rodriguez
Board Member



Colin J. Tanner, Esq.
City Lead Negotiator