

**SETTLEMENT AGREEMENT AND GENERAL RELEASE**

This SETTLEMENT AGREEMENT AND GENERAL RELEASE ("Agreement") is entered into by and between the City of Los Angeles ("CITY"), on the one hand, and the Association of Los Angeles City Attorneys, on behalf of itself and its members ("ASSOCIATION"), Ann Rosenthal, on behalf of herself and all similarly situated persons ("ROSENTHAL"), Local 501 of the International Union of Operating Engineers, AFL-CIO, on behalf of itself and its members in the Confidential Attorneys Unit (the Unit referred to hereinafter as "UNIT 31"; collectively as "LOCAL 501") (collectively, "the Parties") and Engineers and Architects Association ("EAA") on the other hand.

WITNESSETH:

WHEREAS, the ASSOCIATION and ROSENTHAL filed a lawsuit against the CITY in United States District Court, *The Association of Los Angeles City Attorneys v City of Los Angeles*, (USDC Case No. CV12-4235 MMM(JCx) (hereinafter "the Federal Action") alleging various claims for relief challenging the CITY's unilateral implementation of unpaid furloughs for fiscal years 10-11, 11-12, and 12-13; and

WHEREAS, the Federal Action has been stayed and closed, without prejudice, pursuant to a stipulation by the ASSOCIATION, ROSENTHAL, and the CITY to submit the breach of contract claim to binding arbitration; and

WHEREAS, the ASSOCIATION filed an action against the CITY in Los Angeles County Superior Court, *The Los Angeles City Attorneys Association v City of Los Angeles* (Los Angeles Superior Court Case No. BS135294) (hereinafter "the State Action") challenging the CITY's July 1, 2011 Ordinance No. 181746 which fixed the maximum retiree health subsidy for employees who did not contribute four percent (4%) of salary to offset the cost of providing retiree health benefits ("the Freeze Ordinance"); and

WHEREAS, the Engineers and Architects Association ("EAA") was previously recognized as the exclusive bargaining representative of UNIT 31 members; and

WHEREAS, EAA, in its representational capacity, intervened in the State Action on behalf of the bargaining unit members of UNIT 31; and

WHEREAS, effective June 30, 2013, EAA disclaimed interest as the recognized bargaining representative of UNIT 31 and has not participated in any bargaining sessions regarding a Successor Memorandum of Understanding ("MOU"); and

WHEREAS, effective July 22, 2013, LOCAL 501 was certified as the exclusive bargaining representative of the bargaining unit employees of UNIT 31; and

WHEREAS, the Court in the State Action granted the Writ challenging the CITY's Freeze Ordinance and ruled that the ASSOCIATION and EAA had established that their respective members had a vested benefit to a retiree health subsidy and ordered the CITY to calculate the amount of the retiree health subsidy without regard to the Freeze Ordinance; and

WHEREAS the ASSOCIATION and EAA have filed motions for attorney's fees in the State Action; and

WHEREAS, the CITY has filed an appeal of the State Action; and

WHEREAS the CITY and the ASSOCIATION and UNIT 31 have been in negotiations to reach a successor agreement to the 2007 to 2013 Memorandum of Understanding by and between the City Attorney and the City Administrative Officer and the Los Angeles City Attorneys Association and LOCAL 501 (MOUs 29 and 31); and.

WHEREAS, as to the Federal and State Actions and any other allegations raised by the ASSOCIATION, ROSENTHAL, EAA and LOCAL 501 against the CITY, the execution or performance of any terms in this Agreement will not constitute or be construed as an admission of any liability or wrongdoing, and the CITY has consistently taken the position that it has no liability whatsoever to the ASSOCIATION, ROSENTHAL, EAA and LOCAL 501 and enters into this Agreement solely for the purposes of avoiding the time-consuming and costly prospects of litigation.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and sufficient consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. The ASSOCIATION, ROSENTHAL, EAA and LOCAL 501 acknowledge that the settlement embodied by this Agreement is a compromise of disputed claims and is not an admission of liability.

2. The ASSOCIATION and ROSENTHAL shall file a Notice of Settlement of the Federal Action with the United States District Court within five (5) business days of the full implementation of the MOU as set forth in Article 2 of the 2013-16 MOU. The ASSOCIATION and ROSENTHAL shall file a Notice of Dismissal, with prejudice with the United States District Court within five (5) business days of the full implementation of the 2013-16 MOU as set forth in Article 2 of the 2013-16 MOU.

3. The ASSOCIATION, ROSENTHAL, EAA and LOCAL 501 warrant and represent that they have not assigned any portion of the damages sought by virtue of the Federal or State Actions to any person, agency or entity, and that they further represent and warrant to the CITY that there is no lien of any kind against any of the damages sought by virtue of the Civil Action.

4. The ASSOCIATION, ROSENTHAL, EAA and LOCAL 501 agree that if it or they, file or initiate a claim that has been released under this Agreement, then the CITY will be entitled to the dismissal of such claim on the basis of this Agreement. The CITY expressly acknowledges and agrees that this provision shall not apply for any claims relating to the Federal Action which may be filed by former Association members who retired between July 1, 2010 and the date of the implementation of the 2013-16 MOU.

5. The CITY shall pay to ASSOCIATION \$325,000 in attorney's fees and costs to be paid within thirty (30) calendar days of the full implementation of the 2013-16 MOU as set forth in Article 2 of the 2013-16 MOU.

6. Within five (5) business days of the full implementation of the MOU as set forth in Article 2 of the 2013-16 MOU, the CITY shall file a Notice of Settlement and a dismissal, with prejudice, of the appeal with the Court of Appeal of the State Action.

7. Within five (5) business days of the full implementation of the MOU as set forth in Article 2 of the 2013-16 MOU, the ASSOCIATION and EAA shall withdraw and dismiss their motions for attorneys' fees in the State Action.

8. The ASSOCIATION, EAA, and LOCAL 501 agree that this Agreement resolves all legal issues raised in the State and Federal Actions. The ASSOCIATION, EAA, and LOCAL 501 further agree that the Judgment in the State Action may not be cited in connection with any issue concerning the rights of ASSOCIATION or LOCAL 501 Unit 31 members to the CITY's retiree medical subsidy program, except as required to enforce this Agreement and the Memorandum of Understanding, or in the event the CITY takes subsequent action that compromises the retiree medical subsidy program.

9. Within five (5) business days of the full implementation of the MOU as set forth in Article 2 of the 2013-16 MOU and the full execution of this Agreement, the ASSOCIATION, EAA, and CITY shall file a joint return to the Los Angeles Superior Court advising the Court as follows: (a) that the parties have reached a settlement of litigation between the parties in conjunction with a new Memorandum of Understanding between the CITY, the ASSOCIATION and LOCAL 501; (b) the Memorandum includes payments by ASSOCIATION and LOCAL 501 Unit 31 members towards retiree health care, CITY agreement to explicitly vest retiree medical benefits; and other terms and conditions of employment for ASSOCIATION and LOCAL 501 Unit 31 members which are to the satisfaction of the ASSOCIATION and LOCAL 501; and (c) the settlement of this case also includes the ASSOCIATION's and EAA's agreement to withdraw their respective motions for attorney's fees.

10. Within forty-five (45) calendar days of the implementation of the MOU as set forth in Article 2 of the 2013-16 MOU and the full execution of this Agreement, the CITY shall make retirees who retired as members of ASSOCIATION or LOCAL 501 Unit 31 after June 30, 2011 and the date of implementation of the MOU as set forth in Article 2 of the 2013-16 MOU, whole with interest (at the annual rate of 7%) for any lost retiree health subsidy resulting from the Los Angeles City Employees' Retirement System's implementation of Ordinance Number 181746. The CITY further agrees to amend Los Angeles Administrative Code ("LAAC") Chapter 10, Article 1, Tier One Provisions to add a new Subsection 4. to LAAC Section 1003(c): stating: "(4) Members subject to other specific MOUs shall contribute by salary deduction to the Retirement Fund an additional one percent (1%) of the member's compensation earnable retroactive to February 9, 2014, and ongoing, and an additional three percent (3%) of the member's compensation earnable commencing on June 29, 2016, and ongoing, for a total additional contribution of four percent (4%) effective June 29, 2016 and ongoing." The CITY further agrees to apply to ASSOCIATION and LOCAL 501's UNIT 31 members subject to Tier 2 benefits, any Tier 2 benefit enhancements subsequently provided to any other bargaining unit.

ASSOCIATION and LOCAL 501 (on behalf of UNIT 31 only) further agree not to initiate or join in any existing or potential legal challenge to the CITY's Tier 2 retirement benefits program.

11. During the term of the 2013-2016 Memorandum of Understanding, the CITY shall allocate sufficient funds to the budget of the Office of the City Attorney and shall make promotions from DCA III's to DCA IV's as follows:

- a. The City Attorney's Office will promote twenty (20) DCA III(G)s to DCA IV, Step E during Fiscal Year 13-14; ten (10) DCA III(G) s to DCA IV, Step E during Fiscal Year 14-15, and ten (10) DCAIII(G)s to DCA IV, Step E during Fiscal Year 15-16. All promotions described in this subsection shall be made based upon seniority. The seniority will be calculated based on the date of regular appointment to the attorney classification for those individuals who have been at DCA III for at least five years and who are at Step G as of January 1, 2014. For purposes of the seniority based promotions, unit members hired on the same day shall advance concurrently, even if it results in more than the numbers of promotions specified above for any fiscal year. The seniority-based promotions during FY 13-14 will be made within 45 days of the approval of the Successor MOU by the City Council. The seniority-based promotions for FY 14-15 shall be made during the pay period which includes January 15, 2015. The seniority-based promotions for FY 15-16 shall be made during the pay period which includes January 15, 2016.
- b. The City Attorney's Office will also promote up to fifteen (15) attorneys (to any classification represented by the ASSOCIATION and LOCAL 501) during FY 13-14, up to 10 (ten) attorneys (to any classification represented by the ASSOCIATION and LOCAL 501) during FY 14-15, and up to ten (10) attorneys (to any classification represented by the ASSOCIATION and LOCAL 501) during FY 15-16, based on merit, at management's complete discretion. These promotions shall not count toward the promotions required by 11.a. above. However, the combined number of promotions as provided under 11.a. and 11.b shall be no less than 35, 20 and 20 in fiscal years 13-14, 14-15, and 15-16, respectively.
- c. Within 90 days of the approval of the Resolution adopting the 2013-2016 MOU by the City Council, the executive management of the City Attorney's Office will convene a group to discuss and get input on the process for the merit-based promotions. The group will include ASSOCIATION and UNIT 31 Board members and non-Board members and would not be subject to meet and confer requirements. While the executive management of the City Attorney's Office will consider all input and will articulate the process, including the factors, for merit-based promotions, the promotion process, including the factors, will remain at the discretion of the executive management.

12. The ASSOCIATION and LOCAL 501 agree to recommend to their members the 2013-16 MOU. The ASSOCIATION, LOCAL 501 Unit 31 and the CITY understand and agree

that ratification by the members of the ASSOCIATION and LOCAL 501 of the 2013-16 MOU is a material term of this Agreement and failure to ratify shall deem this Agreement null and void. Further, the ASSOCIATION, LOCAL 501, and the CITY agree and understand that approval of the 2013-16 MOU by the City Council is a material term of this Agreement and failure by the City Council to pass a resolution adopting the 2013-16 MOU shall deem this Agreement null and void. The CITY agrees to recommend approval of the Successor MOU to the City Council. The parties further agree that time is of the essence and shall act accordingly.

13. The ASSOCIATION, ROSENTHAL, EAA, LOCAL 501 and the CITY jointly agree as follows:

a. That the foregoing constitutes a settlement and compromise of disputed claims and that neither this Agreement nor any promises are to be construed as an admission on the part of any of the Releasees of any wrongdoing or liability, nor to be admissible as evidence in any proceeding other than for enforcement of the provisions of this Agreement.

b. That this Agreement contains the entire agreement and understanding of the ASSOCIATION, ROSENTHAL, EAA, and LOCAL 501 and the CITY concerning the subjects addressed in this Agreement, except the successor MOU which is not attached, and will supersede and render null and void any and all prior agreements regarding the State or Federal actions between the parties. No modification to this Agreement will be binding unless it is in writing and signed by all the parties.

c. That this Agreement will bind and benefit the ASSOCIATION, ROSENTHAL, EAA, and LOCAL 501 and the CITY, as well as their respective successors and assigns.

d. That this Agreement will be deemed to have been entered into in the State of California and will be construed and interpreted in accordance with the laws of that state.

e. That each Party will bear its own costs and attorneys' fees in connection with the negotiation of this Agreement, except as provided in Section 5 above.

f. That each Party hereby agrees to accept and assume the risk that any fact or legal rule affecting any matter covered by this Agreement may hereafter be found to be other than or different from the facts or law it believes at the time of this Agreement to be true, and agrees that this Agreement will be and will remain effective notwithstanding any such difference in fact or law.

g. That no waiver by any Party of any breach of any term or provision of this Agreement will be construed to as, nor will it be, a waiver of any preceding, concurrent or succeeding breach of the same or any other term or provision of this Agreement. No waiver will be binding unless in writing and signed by the party to be charged or held bound.

h. That this Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity will not be construed for or against any Party based on attribution of drafting to any Party.

i. That this Agreement may be executed in counterparts, each of which will constitute an original, and all of which, taken together will constitute an entire agreement, and that electronic or facsimile copies of any signatures will have the same force and effect as an original signature.

j. In the event that there is a dispute arising from this Agreement, the parties agree that each side will bear its own attorney fees and costs in connection with any proceeding, lawsuit, or the resolution of any such dispute.

k. That this Agreement is binding on the Parties under Code of Civil Procedure Section 664.6 and is admissible in court as set forth in Evidence Code Section 1123.

**THE PARTIES, AND EACH OF THEM, AFFIRM THAT THEY HAVE READ AND UNDERSTAND THE FOREGOING AGREEMENT, AND THAT THEY AFFIX THEIR SIGNATURES HERETO VOLUNTARILY AND WITHOUT COERCION.**

**THE ASSOCIATION OF LOS ANGELES CITY ATTORNEYS, ANN ROSENTHAL, EAA AND LOCAL 501 FURTHER ACKNOWLEDGE THAT THE WAIVERS THEY HAVE EACH MADE AND THE TERMS THEY EACH HAVE AGREED TO HEREIN ARE KNOWING, CONSCIOUS, AND WITH FULL APPRECIATION THAT THEY ARE FOREVER FORECLOSED FROM PURSUING ANY OF THE RIGHTS SO WAIVED.**

SO AGREED.

January 23, 2014

\_\_\_\_\_  
Association of Los Angeles City Attorneys

January 23, 2014

  
\_\_\_\_\_  
Ann Rosenthal

January \_\_, 2014

\_\_\_\_\_  
Ed Curly  
Business Manager, I.U.O.E., Local 501

January \_\_, 2014

\_\_\_\_\_  
Gavin Koon  
Business Representative, I.U.O.E., Local 501

January \_\_, 2014

\_\_\_\_\_  
Wendy K. Genz  
Designated Bargaining Representative for UNIT 31

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SO AGREED.

January \_\_, 2014

\_\_\_\_\_  
Association of Los Angeles City Attorneys

January \_\_, 2014

\_\_\_\_\_  
Ann Rosenthal

January 28, 2014

\_\_\_\_\_  
Ed Curly  
Business Manager, I.U.O.E., Local 501

January 26, 2014

\_\_\_\_\_  
Gavin Koon  
Business Representative, I.U.O.E., Local 501

January 28, 2014

\_\_\_\_\_  
Wendy K. Genz  
Designated Bargaining Representative for UNIT 31

January 29, 2014

  
\_\_\_\_\_  
Engineers and Architects Association

January \_\_, 2014

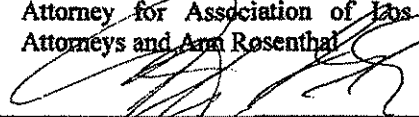
\_\_\_\_\_  
City of Los Angeles

**APPROVED AS TO FORM.**

January \_\_, 2014

By: \_\_\_\_\_  
David E. Mastagni  
Attorney for Association of Los Angeles City  
Attorneys and Ann Rosenthal

January 29, 2014

  
By: \_\_\_\_\_  
Adolfo Garber  
Attorney for EAA

January \_\_, 2014

By: \_\_\_\_\_  
Henry M. Willis  
Attorney for Local 501 for the International Union  
of Operating Engineers, AFL-CIO

January \_\_, 2014

By: \_\_\_\_\_  
Irma Rodriguez Moisa  
Attorney for City of Los Angeles

January \_\_, 2014

By: \_\_\_\_\_  
Art Hartinger  
Attorney for City of Los Angeles

January \_\_, 2014

\_\_\_\_\_  
Engineers and Architects Association

January 24, 2014

*Miguel A. Sotom*  
\_\_\_\_\_  
City of Los Angeles

**APPROVED AS TO FORM.**

January \_\_, 2014

By: \_\_\_\_\_  
David E. Mastagni  
Attorney for Association of Los Angeles City  
Attorneys and Ann Rosenthal

January \_\_, 2014

By: \_\_\_\_\_  
Adolfo Garber  
Attorney for EAA

January 28, 2014

By: *Henry M. Willis*  
\_\_\_\_\_  
Henry M. Willis  
Attorney for Local 501 for the International Union  
of Operating Engineers, AFL-CIO

January 27, 2014

By: *Irma Rodriguez Moisa*  
\_\_\_\_\_  
Irma Rodriguez Moisa  
Attorney for City of Los Angeles

January \_\_, 2014

By: \_\_\_\_\_  
Art Hartinger  
Attorney for City of Los Angeles

January \_\_, 2014

Engineers and Architects Association

January 27, 2014

*Miguel A. Saito*

City of Los Angeles

**APPROVED AS TO FORM.**

January \_\_, 2014

By: \_\_\_\_\_  
David E. Mastagni  
Attorney for Association of Los Angeles City  
Attorneys and Ann Rosenthal

January \_\_, 2014

By: \_\_\_\_\_  
Adolfo Garber  
Attorney for EAA

January \_\_, 2014

By: \_\_\_\_\_  
Henry M. Willis  
Attorney for Local 501 for the International Union  
of Operating Engineers, AFL-CIO

January 27, 2014

By: *Irma Rodriguez Moisa*  
Irma Rodriguez Moisa  
Attorney for City of Los Angeles

January \_\_, 2014

By: *Art Hartinger*  
Art Hartinger  
Attorney for City of Los Angeles

January \_\_, 2014


\_\_\_\_\_  
Engineers and Architects Association

January \_\_, 2014

\_\_\_\_\_  
City of Los Angeles

**APPROVED AS TO FORM.**

January 27, 2014

By:   
\_\_\_\_\_  
David E. Mastagni  
Attorney for Association of Los Angeles City  
Attorneys and Ann Rosenthal

January \_\_, 2014

By: \_\_\_\_\_  
Adolfo Garber  
Attorney for EAA

January \_\_, 2014

By: \_\_\_\_\_  
Henry M. Willis  
Attorney for Local 501 for the International Union  
of Operating Engineers, AFL-CIO

January \_\_, 2014

By: \_\_\_\_\_  
Irma Rodriguez Moisa  
Attorney for City of Los Angeles

January \_\_, 2014

By: \_\_\_\_\_  
Art Hartinger  
Attorney for City of Los Angeles

LETTER OF INTENT


MEMORANDUM OF UNDERSTANDING NO. 29

SETTLEMENT AGREEMENT – PARA. NO. 10

Paragraph No. 10 of the Settlement Agreement and General Release document executed by the parties in January 2014 generally provides for members of Memorandum of Understanding (MOU) Nos. 29 and 31 who retired between June 30, 2011 and the date of City Council adoption of the 2013-2016 MOU Nos. 29 and 31 to be made whole with respect to any lost retiree health subsidy resulting from implementation of Ordinance No. 181746.

This Letter of Intent clarifies that as part of being made “whole” the parties’ intent was for said retirees to be eligible for a medical premium subsidy in the same amount as employees who retired prior to July 1, 2011, the effective date of Ordinance No. 181746, which would consequently entitle them to receive future retiree health subsidy increases beyond the date of City Council adoption of the 2013-2016 MOU Nos. 29 and 31.

For the Los Angeles City Attorneys  
Association:

  
\_\_\_\_\_  
Oscar Winslow, President  
Los Angeles City Attorneys  
Association

Date: 2-24-2014

For the City of Los Angeles:

  
\_\_\_\_\_  
Miguel A. Santana  
City Administrative Officer

Date: 2/24/2014

LETTER OF INTENT

MEMORANDUM OF UNDERSTANDING NO. 31


SETTLEMENT AGREEMENT – PARA. NO. 10

Paragraph No. 10 of the Settlement Agreement and General Release document executed by the parties in January 2014 generally provides for members of Memorandum of Understanding (MOU) Nos. 29 and 31 who retired between June 30, 2011 and the date of City Council adoption of the 2013-2016 MOU Nos. 29 and 31 to be made whole with respect to any lost retiree health subsidy resulting from implementation of Ordinance No. 181746.

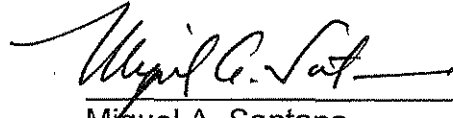
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For the Confidential Attorneys Unit:


For the City of Los Angeles:

  
\_\_\_\_\_  
Wendy Genz, Member and  
Designated Bargaining Representative

Date: 2/24/14

  
\_\_\_\_\_  
Miguel A. Santana  
City Administrative Officer

Date: 2/24/14

  
\_\_\_\_\_  
Gavin Koon, Business Representative  
I.U.O.E., Local 501

Date: 2/24/2014