

SIDE LETTER AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
International Union of Operating Engineers, Local 3 (OE#3)

**Shift Differential for Employees Assigned to a Twelve (12) Hour Shift at the
Regional Wastewater Facility**

The City and OE#3 acknowledge that the 2018 – 2019 OE#3 Memorandum of Agreement (MOA) has the following language regarding shift differential:

5.3 Shift Differential. Eligible employees, as defined herein, regularly assigned to work a swing shift, shall be paid a shift differential of \$1.55 per hour for each eligible hour, as defined herein, to the nearest fifteen (15) minutes, of work performed. Eligible employees, as defined herein, regularly assigned to work a graveyard shift shall be paid a shift differential of \$1.75 per hour, as defined herein, to the nearest fifteen (15) minutes of work performed.

5.3.1 Eligibility and Application. To be eligible for payment of Shift Differential, an employee must be assigned to an on-going, regular shift of eight (8) hours or more which is regularly scheduled to start between the hours of:

- 2:00 p.m. and 11:59 p.m. (i.e. swing shift), or
- 12:00 midnight and 5:59 a.m. (i.e. graveyard shift)

If the employee's shift starts within the time period defined above and the employee works a minimum of two (2) hours within that time period, the employee shall be compensated with shift differential for the entire shift.

If the employee's shift starts within the time period defined above and the employee works less than two (2) hours within that time period, the employee shall be compensated with shift differential for the number of hours of work actually performed within that time period.

The City and OE#3 also acknowledge that OE#3-represented employees at the Regional Wastewater Facility (RWF) currently work one of the following twelve (12) hour shifts:

- 6:00 a.m. to 6:00 p.m.
- 6:00 p.m. to 6:00 a.m.

Employees at the RWF in classifications represented by OE#3 have been coding shift differential differently than what is specified in Articles 5.3 and 5.3.1 of the OE#3 MOA, above. This ongoing practice led employees at the RWF in classifications represented by OE#3, and whose on-going, regular shift of eight (8) hours or more is a regularly scheduled day shift of 6:00am to 6:00pm, to code shift differential for hours worked between the hours of 2:00pm and 6:00pm, regardless of when their shift started.

In light of the above, the City and OE#3 agree to continue the current practice where employees at the RWF in classifications represented by OE#3 whose on-going, regular shift of eight (8) hours or more is a regularly scheduled day shift of 6:00am to 6:00pm shall be eligible for a Shift

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November 6, 2018

Differential of \$1.55 per hour for each hour, to the nearest fifteen (15) minutes, actually worked by the employee between the hours of 2:00pm and 6:00pm.

The City and OE#3 agree that this side letter agreement shall remain in effect through the remainder of the 2018 – 2019 OE#3 MOA, and shall expire on **September 30, 2019**. Upon the expiration of this side letter agreement on September 30, 2019, Article 5.3 and 5.3.1 of the OE#3 MOA shall solely govern an OE#3-represented employee's eligibility for shift differential (including, but not limited to, to be eligible for the shift differential under Article 5.3.1, an employee's "on-going, regular shift of eight (8) hours or more" must be "regularly scheduled to start between 2:00 p.m. and 11:59 p.m."), unless alternative language is negotiated during successor negotiations. The City and OE#3 also agree that the overall issue of shift differential shall be discussed as part of negotiations on a successor agreement to the 2018 – 2019 OE#3 MOA; this shall not obligate either party to agree, or be construed as an agreement, to modify anything related to overtime and/or shift differential in any successor agreement to the 2018 – 2019 OE#3 MOA. However, without extension of this side letter agreement, payment of shift differential for hours worked between the hours of 2:00pm and 6:00pm to employees at the RWF in classifications represented by OE#3 whose on-going, regular shift of eight (8) hours or more is a regularly scheduled day shift of 6:00am to 6:00pm shall end automatically upon the expiration of this side letter agreement on September 30, 2019.

This side letter agreement shall become effective on the first full pay period after this agreement has been signed by all parties below.

FOR THE CITY:

FOR THE UNION:



Jennifer Schembri
Director of Employee Relations
Acting Director of Human Resources



Date



Mary Blanco
Business Representative
OE#3



Date