



Human Resources and Development COUNTY OF TULARE AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

EDDIE VALERO
District Four

DENNIS TOWNSEND
District Five

AGENDA DATE: January 15, 2019

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Rhonda Sjostrom PHONE: 636-4900

SUBJECT: Side Letter of Agreement with the Tulare County Professional Firefighters Association, Bargaining Unit 23.

REQUEST(S):

That the Board of Supervisors:

Approve a side letter agreement with the Tulare County Professional Firefighters Association (TCPFA) Bargaining Unit 23 regarding language changes to the TCPFA Memorandum of Understanding to comply with the U.S. Supreme Court decision of *Janus v. AFSCME* and Senate Bill 866.

SUMMARY:

On June 27, 2018 the U.S. Supreme Court issued a decision on *Janus v. AFSCME* that deemed collecting agency fees unconstitutional for agency shop unions. In addition, Governor Brown signed into law that day Senate Bill 866 that amends and creates new State law regulating: (1) how public employers and employee organizations manage organization membership dues deductions; (2) how public employers communicate with employees about their rights to join or support, or refrain from joining or supporting, employee organizations; and (3) making the location of employee orientations confidential.

It is the County's intent to remain compliant with Federal and State law as outlined in *Janus*, and Senate Bill 866.

FISCAL IMPACT/FINANCING:

Adoption of this agreement does not result in increased cost to the County.

SUBJECT: Side Letter of Agreement with the Tulare County Professional Firefighters Association, Bargaining Unit 23.

DATE: January 15, 2019

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Organizational Performance: Continuously improve organizational effectiveness and fiscal stability. Provide for the stability of county operations through periods of economic fluctuations, changing priorities and service demands

ADMINISTRATIVE SIGN-OFF:

A handwritten signature in blue ink, reading "Rhonda Sjostrom", is written over a horizontal line.

Rhonda Sjostrom
Human Resources Director

cc: Auditor -Controller
County Counsel
County Administrative Office (2)
County Fire Department
TCPFA

Attachment(s) Side Letter Agreement between Tulare County and TCPFA Bargaining Unit 23.

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF A SIDE LETTER OF AGREEMENT WITH THE COUNTY AND TULARE COUNTY PROFESSIONAL FIREFIGHTERS ASSOCIATION)))))	Resolution No. _____ Agreement No. _____
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UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JANUARY 15, 2019
BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

That the Board of Supervisors:
Approve a side letter agreement with the Tulare County Professional Firefighters
Association (TCPFA) regarding language changes to the TCPFA Memorandum of
Understanding Unit 23 to comply with the U.S. Supreme Court decision of *Janus v.*
AFSCME and Senate Bill 866.

**Side Letter of Understanding
Between Tulare County
and the
TULARE COUNTY PROFESSIONAL FIREFIGHTERS ASSOCIATION**

This side letter is to confirm that the County of Tulare and the Tulare County Professional Firefighters Association (TCPFA) for Unit 23 met and conferred on the U.S. Supreme Court issued decision on *Janus v. AFSCME* that deemed collecting agency fees unconstitutional for agency shop unions. In addition, Governor Brown signed into law that day Senate Bill 866 that amends and creates new State law regulating: (1) how public employers and employee organizations manage organization membership dues deductions; (2) how public employers communicate with employees about their rights to join or support, or refrain from joining or supporting, employee organizations; and (3) making the location of employee orientations confidential.

It is the County's intent to remain compliant with Federal and State law as outlined in *Janus*, and Senate Bill 866.

3.6 DUES AND OTHER DEDUCTIONS

~~The Union has the sole and exclusive right to have employee organization membership dues service fees deducted for employees covered by this Agreement.~~

The Union may have the regular dues of its bargaining unit members deducted from their paychecks under the following procedures:

The Union is solely responsible for distributing to, and collecting from, employees the dues deduction authorization forms. It is the employee's responsibility to submit requests to start or stop dues deductions directly to the Union and not to the County. The Union is responsible for maintaining the dues deduction forms from individual employees. Copies of an individual employee's dues deduction authorization need not be provided to the County unless a dispute arises about the existence or terms of the authorization. Questions regarding Union membership, dues amounts, and payroll deductions must be directed to the Union and not the County.

The Union will provide to the County an updated, certified dues deduction list of bargaining unit members on a bi-annual basis, who have provided written authorization for regular dues deductions. The County will deduct dues for only those employees who are in the bargaining unit in accordance with such certified list. The Union will immediately notify the County of any change to an employee's dues deduction, including starting and stopping dues deductions, or validly cancelling or revoking a dues deduction authorization, and will provide the County within five (5) one-business days of the Union being advised, an updated, certified dues deduction list only noting any specific changes from the last list provided to the County. The County shall not be obligated to put into effect any new, changed or discontinued deduction until a certified list of employees who have provided the Union with deduction authorization forms is submitted to the Payroll department in sufficient time to permit normal processing of the change or deduction. The County will implement the change(s) in the pay period following the County's receipt of such notification. ~~The Union will pay the County's standard administrative fees for payroll deductions. Following the County's deductions of these administrative fees,~~ The County will transmit the balance of funds to the Union as soon as practicable after such deduction is made.

~~The County shall collect Union dues and insurance premiums through payroll deduction. The dues deduction or service fee shall be forwarded to the Union as soon as practicable after such deduction is made. This clause shall continue in effect during the term of this MOU and during the period immediately following the expiration of this MOU while meet and confer toward a successor~~

~~MOU is continuing and impasse has not been declared.~~

In cases where an employee is not paid for a portion of the pay period and her/his salary is insufficient to cover part or all of the withholding of dues, or the statutory withholding obligations exceed the withholding of dues, or the employee is temporarily assigned out of the bargaining unit, there shall be no withholding. In the case of an employee who is receiving long-term leave benefits during a pay period, no deduction shall be made by the County. All legally mandated and statutory tax, required deductions for health care insurance deductions and Section 125 dependent care and medical reimbursement accounts, shall have priority over dues unless the affected employee authorizes otherwise in writing to the Union.

~~The Union shall annually provide to the County a breakdown of fees and dues collection and expenditures within 45 days of the end of the fiscal year.~~

The Union agrees to indemnify, defend and hold harmless the County against all claims, demands, suits or any other action, including costs of such suits and reasonable attorney's fees and/or other forms of liability arising from the implementation of the provisions of this section, including claims for or related to employee authorizations, revocations, deductions made, cancelled, or changed in reliance on the Union's representations and certifications regarding employee dues deduction authorizations.

This section of the MOU is not grievable.

~~The County acknowledges that the Union successfully conducted an election on April 30, 2008 where upon the membership by majority voted in favor of an Agency Shop and the County agrees to establish an Agency Shop for Unit 23. The Union agrees to provide the County with the dollar amount of the dues and service fee approved by the Union.~~

~~As a condition of continued employment, employees in the bargaining unit must either join the Union or pay the Union a Service Fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization. Except as provided herein, this article shall not be applicable in the event dues and/or fees are otherwise authorized not to be collected.~~

~~Each new employee hired into bargaining unit 23 after the effective date of this MOU shall be either: 1) a member of the Union, or 2) a Service Fee Payer, or 3) have a Religious Exemption.~~

~~Service Fee Payers~~

~~New employees will be automatically enrolled as fee payers upon hire.~~

~~Members~~

~~A fee payer may join the Union at any time by completing a membership form and providing such form to the Union and County Payroll. A member of the Union shall be eligible to withdraw from membership in the Union by providing a signed withdrawal statement to the Union and County Payroll. Members shall only be able to withdrawal from membership during the month of February. Upon receipt of such a request, the County shall take the necessary steps to change the employee's deduction from membership dues to non-membership service fees.~~

~~Religious Exemption~~

~~Any employee who is a member of a bona fide religion, body or sect whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to pay an agency fee. Such employees shall pay by means of mandatory payroll deduction an amount equal to the agency fee to a non-religious, non-labor charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. Such organization shall be chosen by the employee from the following list of charitable organizations : 1) National Fallen Firefighters, 2) The Leon S. Peters Burn Center, and 3) American Red Cross.~~

December 27, 2018

~~If the Union challenges the employee's claim for Religious exemption, the deduction to the charity of the employee's choice will commence but will be held in escrow pending resolution of the challenge in accordance with the Union's dispute resolution procedure.~~

~~To qualify for the religious exemption, the employee must provide to the Union, with a copy to the County, an appropriate written statement of objection. The County will implement the change in status within thirty days or usual and customary timeframe unless notified by the Union that it does not accept the requested exemption. The County shall not be made a party to any dispute between the Union and employee pertaining to whether the employee qualifies for the religious exemption.~~

3.11 NEW EMPLOYEE INFORMATION

A factual presentation of the rights and responsibilities of employees shall be presented by the County in each new employee orientation session meeting. This shall include the naming of the certified representative of each bargaining unit. ~~The Union will be given reasonable advanced notice of group orientation meetings.~~

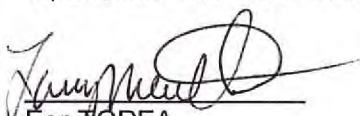
If on file, the Human Resources & Development department will supply TCPFA with the names, job titles, departments, work locations, work numbers, home numbers, and personal cellular telephone numbers, and personal email addresses of each new employee within 30 days of hiring the employee, and once quarterly for all employees in the bargaining unit.

Unless there is a business necessity, TCPFA will be given 10 days' notice of group orientation meetings, and a representative of TCPFA will be invited into the meeting room and introduced by a staff member from HR&D at the conclusion of the formal orientation prior to the dismissal of the group. The HR&D representative will also inform the employees that if their classification is represented by TCPFA, then the representative would like to speak with them after the orientation. After such introduction and announcement, the HR&D representative shall announce that the formal orientation is concluded and that if they are not meeting with a TCPFA representative they are dismissed. The TCPFA representative may then meet with the new TCPFA represented unit employees in the orientation meeting room in a small group or individually for fifteen (15) minutes after the conclusion of the orientation meeting.

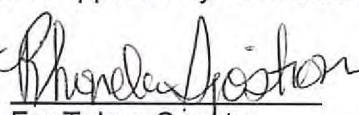
~~The department will supply the Union with the names and work locations of each new employee. The County agrees to include Union informational packets, supplied by the Union, in the new employee information given to employees covered by this agreement on their first day of employment. The Union informational packets must be approved by the Employee Relations Officer prior to distribution. The Employee Relations Officer shall remove from the packets any and all information that is, in his opinion, inflammatory, derogatory or otherwise inappropriate.~~

~~The Union shall be responsible to provide to the County the informational packets in sufficient numbers and in a timely fashion to be distributed on the employee's first day of employment. The County shall have no responsibility regarding these packets if they have not been provided by the Union.~~

This side letter of agreement was reached through the meet and confer process with TCPFA on these topics, this side letter of agreement is subject to approval by the Board of Supervisors.


For TCPFA

12/27/18
Date


For Tulare County
Rhonda Sjostrom

12/27/18
Date