

**CMCEA BARGAINING PROPOSAL
TRANSPARENCY, DISCLOSURE AND ACCOUNTABILITY**

September 12, 2013

1. In order to promote transparency, accountability, and full disclosure in connection with consideration of any contract which impacts or may impact, directly or indirectly, work performed by a member of CMCEA and/or classifications represented CMCEA; and
2. In order to ensure the integrity and preservation of the merit system; and
3. In order to discourage improper and illegal outside influence over the City decision-making process and the establishment of City policy impacting CMCEA-represented employees;

CMCEA proposes the following addition to the Memorandum of Understanding between CMCEA and the City of Costa Mesa:

ARTICLE XXVII TRANSPARENCY, ACCOUNTABILITY AND FULL DISCLOSURE

1. Purpose

In order to promote transparency, accountability, and full disclosure of attempts to influence City officials making decisions regarding any contract which impacts or may impact, directly or indirectly, work performed by a member of CMCEA and/or a classification represented by CMCEA, the disclosure to CMCEA of certain communications and receipt of campaign contributions by City officials shall be required.

2. Definitions

A. “City elected official” means any person who is a member of the City Council, whether elected or appointed.

B. “City official” means a City elected official and any City officer or employee whose duties are not primarily clerical or manual.

C. “Ex parte communication” means any direct communication between an interested person and a City elected official attempting to influence administrative, legislative, or quasi-judicial action that is not public testimony or made part of the public record. The following communications are not ex parte communications:

1. Any communication between a staff member acting in his or her official capacity as a City employee and any City elected official or interested person;
2. Any communication limited solely to procedural issues; or

3. Any communication which occurs on the record during an official proceeding of a state or local agency that involves a City elected official who also serves as an official of that agency.

D. "Influencing official action" means promoting, supporting, influencing, modifying, opposing, or delaying any contract which impacts or may impact, directly or indirectly, work performed by a member of CMCEA and/or a classification represented by CMCEA, by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

E. "Interested person" means:

1. Any person who engages in promoting, supporting, influencing, modifying, opposing or delaying any contract which impacts or may impact, directly or indirectly, work performed by a member of CMCEA and/or a classification represented by CMCEA;

2. Any person with a financial interest in any contract which impacts or may impact, directly or indirectly, work performed by a member of CMCEA and/or a classification represented by CMCEA; or

3. Any person who acts as an agent or representative of any person listed in 1. or 2. above.

F. "Public testimony" means an appearance at a public meeting of the City Council, any sub-committee of the City Council, or any City department.

3. Disclosure of Ex Parte Communications and Campaign Contributions

A City elected official shall disclose the identity of the interested person for all ex parte communications regarding matters described in Section 2 pending before the City Council and all campaign contributions received from the interested person as follows:

A. For ex parte communications and campaign contributions that occur prior to the day that the agenda is posted for the next board meeting, the City elected official shall notify the City Clerk of the agenda item, identity of the interested person who engaged in the ex parte communication, and any campaign contributions made to the City elected official by the interested person, and that information shall be transmitted promptly upon receipt by e-mail to CMCEA.

B. For ex parte communications and campaign contributions that occur on the day the agenda is posted and through the day of the City Council meeting, the City elected official shall verbally notify the City Clerk and the public of the identity of the interested person and/or the amount of the campaign contribution prior to the agenda item being addressed by the City Council during the public meeting of the City Council.

C. The City Council shall adopt a standard disclosure form or forms for reporting ex parte communications and campaign contributions to CMCEA which shall include, but not be limited to, all of the following information:

1. The date, time, and location of the communication and/or contribution;
2. The identity of the persons initiating and receiving the communication and/or contribution; and
3. A description of the content of the communication, including without limitation the complete text of any document that was part of the communication, and/or the amount of the contribution.

4. Enforcement

Any violation of this Article shall, in addition to such other remedies hereunder as may be available, render any contract entered into with any third party contractor subsequent to such violation void and ineffective.

5. Severability

The provisions of this Article are severable. If any provision of this Article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.