

**MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY**

**MEMORANDUM OF UNDERSTANDING**

**WITH**

**SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU)  
LOCAL 1021**

**July 1, 2016 to June 30, 2019**

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MEMORANDUM OF UNDERSTANDING

WITH

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021

PREAMBLE - We, the undersigned, duly appointed representatives of the Management of Emeryville Services Authority (MESA) a political subdivision of the State of California, hereinafter referred to as "City", and Service Employees International Union, Local 1021, a recognized employee organization, hereinafter referred to as "Union", having met and negotiated in good faith, under the authority of the Meyers-Milias Brown Act, do hereby jointly prepare the following written Memorandum of Understanding.

It is therefore agreed as follows:

Section 1 - General Provisions

1.1 Recognition

The Union is formally acknowledged as the Recognized Employee Organization representing the employees occupying those positions set forth in Salaries and Classification, Appendix A, attached to and hereby made a part of this Memorandum of Understanding, as well as any new classifications which may be assigned to this representation unit by the City Manager. Changes, modifications, additions and/or deletions to the representation unit shall only be made pursuant to the provisions of the Employer-Employee Organization Relations Resolutions of the MESA.

Appeals from a determination of the Employee Relations Officer may be processed pursuant to Section 10. Grievance Procedure of this Memorandum of Understanding in lieu of the Appeal Procedure set forth in the Employer-Employee Relations Resolution.

1.2 Discrimination Prohibited

The MESA and Union agree that they shall not discriminate, as defined by law, in any way on account of race, creed, religion, sex, sexual orientation, national origin, political affiliation, disability, or age. The MESA agrees that there shall be no discrimination, interference, restraint or coercion by the MESA or any of its agents or employees, on behalf of or against any of its employees because of membership in the Union.

1.3 Union Security

Agency Shop

As a condition of continuing employment, employees shall become and remain members of the Union or shall pay to the Union a service fee in lieu thereof. Such service fee shall be established by the Union and shall not exceed that portion of the Union's dues and initiation fees (hereinafter collectively termed "service fee") paid by members of the Union as are expended by the Union in fulfilling its responsibilities for representing members of the Representation Unit in the negotiation and administration of the Memorandum of Understanding. The Union shall comply with the rules governing the establishment of agency shop fees as set forth in the California Government Code Section 3502.5 and in the U.S. Supreme Court's decision in March, 1986 in Chicago Teachers Union vs. Hudson.

### Implementation

Upon initial employment, the MESA shall deliver to each new employee a copy of this Memorandum of Understanding and a notice advising that the MESA has entered into an Agency Shop Agreement with the Union and that all employees subject to the Memorandum of Understanding must either join the Union, pay a service fee to the Union, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Union dues or a service fee, or a charitable contribution equal to the service fee.

The employee shall have five (5) working days from the delivery of his/her authorization form, to fully execute the authorization of his/her choice and return said form to the Finance Department.

If the form is not completed properly and returned within five (5) working days, the MESA Finance Director shall commence and continue a payroll deduction of service fees from the regular monthly pay warrants of such employee. Initiation fees shall be deducted in no more than four (4) equal installments in successive pay periods, beginning with the first full pay period.

The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over union dues and service fees.

### Hold Harmless

The Union shall indemnify, defend, and hold harmless the MESA, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the MESA be required to pay from its own funds Union dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.

#### 1.4 Bulletin Board Space

The MESA shall provide reasonable space on bulletin boards for official Union notices at each central work area.

#### 1.5 Meeting Space

The MESA shall reasonably make available conference rooms and other meeting areas for the purpose of holding Union meetings during off-duty time periods subject to space and security considerations. The Union shall provide timely advance notice of such meetings.

#### 1.6 Union Access to Work Locations

Union officers and representatives shall be granted reasonable access to employee work locations to contact members concerning business within the scope of representation. Union representatives shall reasonably notify the employee's department head or supervisor of their presence and exercise care not to interfere with the performance of duties assigned to the employee. Union members may use the City electronic mail system limited to minimal and



incidental use related to notification of meetings.

1.7 Distribution of Information

- (a) Union representatives shall be allowed a reasonable amount of time, not to exceed one (1) hour, to orient the new employee regarding the Union. Release time for such orientation must be approved by an employee's immediate supervisor.
- (b) Union representatives shall be notified within thirty (30) days of any hiring date or separating date of an employee subject to this Agreement, their department, classification and, if known at the time to the Human Resources Department, the new employee's immediate supervisor.

Section 2 - Direct Pay for Services

2.1 Initial Salary

The initial salary of an employee of the MESA shall be the salary attached to the lowest rate of the salary schedule established for the classification to which the employee is appointed; provided, however, that the appointing authority may appoint a new employee at any step in the applicable salary schedule for the classification involved if there has been unusual difficulty in recruiting competent employees at the lowest rate of said salary schedule or the higher rate is commensurate with the education and experience of the appointee.

2.2 Minimum Salary Increase When Promoted

Whenever an employee is promoted to a position in a classification with a higher salary range maximum, the employee shall receive the step in the new range that is higher than the current pay, provided the new step placement represents at least a 5% increase over the employee's then-current base pay. The appointing authority, with discretion and for good cause, may provide for compensation at any step in the applicable salary schedule for the classification involved if the employee has demonstrated outstanding achievement in the public service.

2.3 Salary Steps

Advancement within the salary range specified for an employee's classification shall be on the basis of one year's satisfactory service, as evidenced by a performance evaluation, and shall be effective on the first anniversary date of appointment to such classification. An employee who has demonstrated outstanding achievement in the public service may receive a step increase at a shorter interval than set forth above.

Section 3 - Hours and Overtime

3.1 Work Week

The normal schedule of work hours is as follows:

Employee Work Schedule

- 1) Eight (8) hours per day  
Five (5) days per week
- 2) Seven (7) hours per day,  
five (5) days per week.

Overtime

- Hours in excess of forty (40)  
hours per week or eight (8)  
hours per day.
- Over thirty-five (35) hours per  
week or seven (7) hours per day.

- |    |  |  |
|----|--|--|
| 3) | Eight (8) hours per day,<br>Five (5) day per week,<br>28 days per work period. | Over 171 hours in 28-day work<br>period. |
| 4) | A flex time schedule<br>approved by the<br>City Manager in writing.            | Over the prescribed hours<br>week/day    |

The MESA may allow interested employees the option of establishing flexible schedules if recommended by the Department Head and approved City Manager. Flexible schedules shall include but not be limited to job sharing, four (4) day workweeks, flexible starting times.

### 3.2 Overtime Work

All work performed in excess of, an employee's normal workday or in excess of an employee's normal workweek shall be considered overtime work. Overtime work may be required of any employee in order to meet special or unusual needs of service beneficial to the MESA and community. Time spent in any of the leaves listed in Section 4 – Leave of Absence will not count as time worked toward determining an employee's entitlement to overtime compensation.

Arrangements of overtime work shall rest solely with the Department Head or the designated representative. The MESA may require employees to work more than their regularly scheduled workday or workweek.

### 3.3 Compensation for Overtime Work

Employees performing compensable overtime work shall be paid at the rate of time and one-half (1-1/2) of the employee's straight-time hourly rate of pay. Any overtime work performed in excess of seven (7) hours of overtime in a day or on the seventh (7th) consecutive day of work in a seven (7) day period shall be paid at double (2x) the regular rate of pay.

An employee, with his/her supervisor's approval, may elect to receive compensatory time off in lieu of overtime pay. If an employee elects to receive compensatory time in lieu of overtime pay, such request will not be unreasonably denied; provided, however, no employee shall be permitted to accumulate more than 120 hours of compensatory time at any time.

Accrued compensatory time may be used, with supervisory approval, when requested by the employee provided twenty-four (24) hours advance notice is given by the employee involved.

### 3.4 Assignment of Overtime

The MESA will provide at least twelve (12) hours advance notice of available overtime work whenever possible.

Overtime will be assigned on a rotational basis among qualified employees who perform the same type of work during the normal workday.

Each department shall permit inspection of its overtime records by the Union.

### 3.5 Minimum Overtime Guarantee

An employee eligible to receive payment for overtime who is called back to work on a day off, or who is called back to work after his/her regular working day has been completed and has left the employment site, shall be paid a minimum of two and a half (2.5) hours at time and

one-half of the employee's regular hourly rate of pay. An employee who is required to make a job-related court appearance, on a scheduled day off shall be compensated for a minimum of four (4) hours at the overtime rate.

### 3.6 Acting Pay

Employees may be assigned to perform the duties of a higher classification on an "acting" basis when a vacancy exists in such higher paid classification for a period in excess of one (1) working day. An "acting" assignment shall only be made by a Department Head and employees shall be provided with a written notice assigning them to the higher classification on an acting basis.

Employees assigned by the Department Head to perform the duties of a higher classification on an "acting" basis, shall receive "acting" pay for each full day of assignment in such higher classification. In the event the employee works more than forty (40) consecutive hours in the higher classification, the employee shall be paid "acting" pay for the entire period worked in the higher classification. Acting pay shall be at that step of the classification in which the employee is acting, which shall result in at least a five percent (5%) increase.

### 3.7 Meal Periods and Rest Periods

Employees, except dispatchers, shall be assigned to a one-half (1/2) hour or a one (1) hour unpaid meal period each day within a two (2) hour period at the midpoint of each shift, and a fifteen (15) minute paid rest period during the first half of the work shift, and another fifteen (15) minute paid rest period during the second half of the work shift. Work break periods may not be used for time off at the beginning or end of an employee's shift.

### 3.8 Dispatchers Rest Periods

Dispatchers will be eligible to suspend their duties for a lunch period not to exceed thirty (30) minutes subject to the direction of their Watch Sergeant. In the event of an interrupted lunch break, and if staffing permits, the Dispatcher affected may resume his/her lunch break.

- 1) No lunch period will be scheduled at the beginning or end of a tour of duty except in special situations and then only with permission of the Watch Sergeant.
- 2) No lunch period will be granted to Dispatchers working less than five (5) hours.
- 3) Lunch periods shall be subject to supervision and direction of the Watch Sergeant and shall be scheduled so as to provide uninterrupted service to the public

### 3.9 Stand-by pay.

1) The MESA may assign Crew Leaders and Maintenance Workers to mandatory stand-by status in one week increments on a rotating basis in the order of least to most senior. Maintenance Workers are required to have at least one (1) year of experience in the classification and be deemed by management to be qualified for stand-by assignments. If an employee is absent from work during his or her turn in the rotation for assigned standby status, the Public Works Supervisor may assign any Maintenance Worker or Crew Chief to assume the stand-by responsibility during the absence. In making such assignment to cover absences, the Public Works Supervisor will make reasonable efforts to solicit a volunteer to cover the absence or holiday period rotation. If there is no volunteer, he or she shall distribute the assignments so as to avoid giving any non-volunteering employee an excessive share of such assignments.

2) The normal standby week rotation will be Monday through Sunday, inclusive. The

Public Works Supervisor may deviate from this rotation pattern and staffing levels or may assign in an emergency (e.g., storm conditions) without notice or with thirty (30) days advance written notice if, in his or her judgment, such deviation would best serve the MESA's operational needs.

- 3) While on stand-by status, the affected employee will be assigned a City truck for the stand-by week and shall carry a City-provided pager, cell phone or other such communication device at all times.
- 4) A Maintenance Worker assigned to the rotation who is required to report to work from standby status will be compensated for time worked at the third step of the Crew Leader wage range at the appropriate overtime rate if applicable.
- 5) Employees shall refrain from using alcohol or non-prescribed controlled substances while on stand-by status, and remain able to report to work within one (1) hour, if called to report for duty. If the employee's residence is more than one (1) hour away from his or her normal City report location, the MESA will extend this one (1) hour period by a reasonable period as determined by the MESA to accommodate the additional necessary travel time. An employee on stand-by status may otherwise freely use such time for his or her personal activities. When the employee reports to work, stand-by status ends and the City shall thereafter compensate the employee at his or her base hourly rate or, if applicable, the overtime rate of one and one-half (1½) times his or her regular rate of pay, for all hours worked after such call until he or she is authorized to terminate the work for which he or she was called to report. For each hour period spent on stand-by status the employee shall receive five dollars (\$5.00). Time in stand-by status is not time worked for pay purposes.
- 6) In the event there is an unexpected absence on a weekend or holiday, the employee assigned to work standby may be required to report to work, depending on operation and service needs.

At any time during the term of this agreement, either party may request to discuss possible modifications of the stand-by procedure to mitigate negative effects for employees or operations. The parties may amend the procedure by mutual written agreement of the Union and the City Manager.

### 3.10 Shift Differential

For represented employees in the Police Department, when a unit member's work shift arc between the hours of 1750 (5:50 p.m.) and 0550 (5:50 a.m.), that represented employee shall receive a shift differential of four percent (4%) in addition to the base wage rate of pay.

## Section 4 - Leave of Absence

### 4.1 Status Report of Accrued Leave

The MESA agrees to regularly provide an official record of the current accrued leave on each employee's paycheck stub. Verification of an employee's official accrued leave record will be provided upon receipt of a reasonable request for such verification by the MESA.

### 4.2 Vacation Leave

#### A. Accrual

An employee shall accrue vacation leave from the date of the employee's regular appointment by the MESA, each month at the rates enumerated below up to the accumulation maximum. For the purpose of determining the amount of vacation entitlement, an employment year is defined as the period of one year from the

anniversary date of such appointment by the MESA.

Employees hired prior to July 1, 1999:

From date of appointment to regular employment through the completion of ten (10) years of service: Fifteen (15) days of vacation per year, (1-1/4 days/month); beginning with the commencement of the eleventh year of service - twenty (20) days vacation per year (1-2/3 days/month); beginning with the commencement of the twenty-first year of service - twenty-five (25) days vacation per year (2.08 days/month).

Employees hired beginning July 1, 1999: 0 – 4 years of service, 10 days vacation per year (.83 days/month); 5 - 10 years of service, 15 days vacation per year (1.25 days/month); 11 - 20 years of service, 20 days vacation per year (1.66 days/month); 21 plus years of service, 25 days vacation per year (2.08 days/month).

B. Minimum Usage

An employee may take vacation leave in increments of not less than one-half (1/2) day.

C. Interruption of Leave

In the event that a holiday occurs during a period of authorized vacation leave, the workday which is the holiday shall be charged as a holiday and not as a day of vacation. In the event that an employee is seriously ill during that employee's scheduled vacation, the full workdays on which such illness occurs shall not be charged to vacation leave, provided that a doctor's certificate or report of treatment is submitted and approved. It is expressly understood that the use of sick leave during vacation is reserved for serious illnesses, such as those which confine an employee to bed, and that the vacation period is not automatically lengthened by its use. Vacation leave not used due to the use of sick leave in an authorized vacation period shall be rescheduled for use at a later date, in accordance with established procedure.

D. General

- a) If it becomes necessary to call an employee back to work from a scheduled vacation, the employee shall be credited with the unused vacation hours and shall have the opportunity to take such remaining vacation leave at a time of the employee's choosing with the Department Head's approval.
- b) If an employee leaves the MESA's employment and has unused vacation time, compensation shall be given at the hourly rate times the hours of unused vacation.
- c) An employee may elect to take all or part of earned vacation, or may carry over to the next service year all or part of earned vacation. No employee will be allowed to maintain a balance of unused vacation leave in excess of twice his/her yearly allowance for the forthcoming year. It shall be the responsibility of each employee to insure the full use of vacation leave credits received by scheduling the necessary time off each year. An employee who reaches the accumulation maximum will cease to accrue further vacation until his or her balance drops below the maximum.

E. Part-Time Employees

All Permanent part-time employees shall receive vacation and sick leave computed at 50% of the accrual provided to full-time employees. Any permanent part-time employee working above the 50% threshold shall accrue prorated vacation and sick leave hours based on the full-time equivalent status of the position held. For example,



an employee in a budgeted 75% full-time equivalent position would be eligible to accrue vacation and sick leave at 75% of a full-time employee's accrual level with the same years of service.

F. Vacation Requests

Requests by a represented employee for vacation leave shall be subject to management approval. Management will consider the time sensitivity of the request, operational needs and staffing considerations in an effort to provide a timely response.

4.3 Sick Leave Accrual.

Sick leave shall be accrued monthly for all eligible full-time employees at the rate of one and one quarter (1-1/4) days per month.

Employees may be granted sick leave in minimum units of one (1) hour, provided that such time has been earned. Department Heads may grant usage in increments of no less than one-half (1/2) hour.

4.4 Family Sick Leave

- (a) Definition of Immediate Family. Immediate family is defined as employee's parents, step-parents, spouse, domestic partner, children, step-children, brother, sister, step-brother, step-sister, half-brother, half-sister, foster child, ward of the court, grandparents, step-grandparents, legal guardian, grandchildren, parents of employee's spouse, any person living in employee's household as a family member.
- (b) Entitlement. An employee may use accrued sick leave for illness in the immediate family. At the MESA's request, the employee will provide satisfactory evidence of the facts justifying such absence.

4.5 Sick Leave Buy-Back

- (a) Upon retirement from the MESA for service or disability, a full-time employee may convert accrued but unused sick leave to additional service credit as provided in the MESA's contract with the Public Employees' Retirement System; or
- (b) For represented employees hired before January 1, 2014, they shall receive payment for that portion of sick leave earned but unused at the time of separation up to a maximum of one hundred twenty (120) days at the rate of sixty percent (60%) of their then current salary, provided the employee separates from the MESA in good standing. Good standing is defined as retirement or in the case of resignation, the employee has provided at least two (2) weeks notice prior to separation (as provided in Section 12.3).
- (c) For represented employees hired on or after January 1, 2014, payment of sick leave will be granted to employees with at least ten (10) years of continuous service and shall receive payment for that portion of sick leave earned but unused at the time of separation up to a maximum of one hundred twenty (120) days at the rate of thirty percent (30%) of their then current salary, provided the employee separates from the MESA in good standing. Good standing is defined as retirement or in the case of resignation, the employee has provided at least two (2) weeks notice prior to separation (as provided in Section 12.3).

4.6 Serious Illness/Injury

An employee who suffers a non-job-related illness or injury may be required to undergo a

medical examination to determine fitness for employment prior to return to work. The necessity for such medical examinations shall be determined by the Human Resources Director on an individual basis. Such medical examinations shall be conducted by a physician selected by the MESA. The City shall be responsible for the cost of such examinations.

4.7 Catastrophic Injury/Illness Time Bank

Upon approval of the City Manager or his designated representative, use of Catastrophic Leave from the City of Emeryville/MESA Catastrophic Leave Bank may be available for the benefit of a non-probationary MESA or City employee suffering from a catastrophic illness or injury either to their self, their spouse, domestic partner, parent or dependent child. Employees may donate earned vacation and/or compensatory time on a voluntary basis to another City employee or MESA employee. The donation and the use of Catastrophic Leave shall be subject to the conditions listed below.

- (a) The employee requesting Catastrophic Leave must have exhausted all other leave balances available to the employee including earned vacation, earned sick leave and accrued compensatory time before qualifying for catastrophic leave. The employee shall specify in their application the number of leave hours they are requesting. If those are exhausted, the employee may file a new application for a specified number of additional hours.
- (b) Catastrophic Leave may only be used for a qualifying "medical emergency" as provided under applicable federal and state law. As described in U.S. I.R.S. Revenue Ruling 90-29 (1990-1 C.B. 11, 1990 I.R.B. 5) a "medical emergency" is defined as a medical condition of the employee or a family member of the employee that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee because the employee will have exhausted all paid leave. A family member of the employee includes a spouse, domestic partner, parent or dependent child. State and federal income tax on the value of leave donated shall be deducted from the receiving employee's pay at the time of payment to the employee.
- (c) The donation of leave hours shall not be reversible. In the event all hours donated are not used for the catastrophic illness or injury, the balance will remain in the Catastrophic Leave Bank for subsequent use by eligible MESA or City employees with a qualifying catastrophic emergency.
- (d) All hours donated to a recipient shall be treated as sick leave and subject to the provisions in this Memorandum of Understanding regarding the use and payment of same.
- (e) Donated leave time shall be changed to its cash value and then credited to the City's Catastrophic Leave Bank. Funds in the Bank will then be available to an eligible recipient in equivalent hours at the recipient's straight time hourly rate of pay.
- (f) Donating employees may not reduce their balance of earned vacation below eighty (80) hours by reason of such donations.

4.8 Funeral Leave

In the event of a death in the immediate family of a permanent or probationary employee, he/she shall be granted upon request, such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed three (3) regularly scheduled work days. This provision does not apply if the death occurs while the employee is on unpaid leave of absence or layoff.



Additional funeral leave for travel purposes not to exceed two (2) work days may be granted, and such leave is paid with no deductions from the employee's leave bank. Any additional time required may be allowed by the Department Head's discretion, and such leave must be taken from accumulated vacation or compensatory time leave banks.

For the purposes of this Section the immediate family shall be restricted to father, mother, brother, sister, spouse, child, step-child, foster child, ward of the court, legal guardian, grandparents, grandchildren, mother-in-law, father-in-law, domestic partners of unit members who have filed a Declaration of Domestic Partnership in accordance with established City policy, and parents and children of domestic partners, and any person living in the employee's household as a family member. At the request of the MESA, the employee shall furnish a death certificate and proof of relationship.

#### 4.9 Workers' Compensation

For employee injury or disability falling within the provisions of the State Workers' Compensation Disability Act, disability compensation at the rate allowed under said Act shall be the basic remuneration during the employees' period of disability. In the case of full-time and part-time employees other than temporary and provisional employees, additional compensation equal to the difference between said employees' regular pay and the disability compensation allowance shall be granted for a period not to exceed forty-five (45) calendar days for any one period of incapacity.

The number of hours each day for which a part-time employee is compensated pursuant to the provisions of this Section shall be equivalent to the average daily number of hours worked by the employee during the fifty-two (52) week period or entire period of employment whichever is less immediately preceding his absence because of industrial disability.

Payment under this provision shall be integrated with any benefit which said employee may receive under the Labor Code of the State of California awarded as the result of the same injury. If, after the period of entitlement, the employee is still disabled, the employee may supplement any benefits paid under the Labor Code with accumulated sick leave and vacation to the extent necessary to make up the difference between the amount of said award and the normal weekly base pay for each week of continuing disability.

The MESA reserves the right to determine medical fitness for employment prior to the employee being returned to work. Such evaluations shall include a determination that the employee may safely return to work without the likelihood of further injury or illness to the employee. All such evaluations and determinations shall be consistent with workers' compensation law.

If an employee engages in alternate employment during the period of temporary disability the MESA shall receive a credit against workers' compensation payments made to the employee during said period of temporary disability.

#### 4.10 Jury Duty Leave

Employees who have been summoned for and/or selected to serve on a jury shall receive their regular rate of compensation during such absence from work; provided that any jury fees received by an employee shall be remitted to the City.

#### 4.11 Subpoenaed Court Appearance Leave

Leave of absence shall be granted to an employee who has been served a subpoena to appear in a court case related to his or her employment with the MESA. The length of the leave

granted shall be for the number of days in attendance in court as certified by the clerk or other authorized officer of the court. The employee shall receive full pay during the leave period provided that the witness fee for such leave is assigned to and the subpoena and court certification is filed with the MESA. The witness fee assigned to the MESA does not include reimbursement to the employee for expenses.

#### 4.12 Family Leave

The MESA shall comply with the provisions of the State and Federal Family Leave Acts as required under the law. In that these two pieces of legislation are conflicted, the MESA will establish a Family Leave Policy that incorporates the governing provisions of the statutes. This policy will be incorporated into the MESA Personnel Rules as it applies to all bargaining units.

#### 4.13 Parental Leave

- A. Pregnant employees shall be allowed to continue working as long as they are physically capable of performing the duties of their jobs. Absence from work due to pregnancy related disabilities, shall be treated the same as absence from work due to any other physical disability.

Any pregnancy related disability occurring outside the employees' paid leave period shall be treated the same as any other physical disability and the employee shall be entitled to use any accumulated sick leave during this time. In addition, the employee may utilize any accrued vacation leave, or compensatory time off for any portion of the unpaid leave.

- B. Benefits Credits. Credit toward all benefits dependent upon length of service, such as seniority and pension credits, shall be accrued during the first four (4) months of parental leave and retained thereafter.
- C. Life and Health Insurance Coverage. The MESA agrees to maintain life and health insurance coverage during parental leave for four (4) months subject to any regular participation requirement of the employee. Thereafter the MESA agrees to continue coverage for the employee at the employee's expense.
- D. Reinstatement. An employee returning from parental leave shall be reinstated in his or her former position at the salary he or she would have received had their employment with the MESA been continuous, exclusive of step increases.
- E. Maternity, Paternity and Adoption Leave. An employee shall have five (5) days off with pay for maternity, paternity or adoption leave. An employee may utilize any accrued vacation leave or compensatory time off for any additional time off for maternity, paternity or adoption leave.

#### 4.14 Leave of Absence Without Pay

A permanent, full-time or permanent part-time employee may be granted a leave of absence without pay of up to one (1) year, upon approval by the MESA, with no loss of seniority or benefits accrued prior to said leave.

- 4.15 Union Leave. The City will grant three (3) members of the bargaining unit designated by the Union release from duty with pay for up to eight (8) hours on no more than one (1) calendar day each fiscal year to attend labor relations training or attend to union business away from City premises. In either case, such activities must be directly related to City of Emeryville contract negotiations or contract administration but shall not be used to participate in

preparation of litigation of any kind against the City, its Councilors, agents, officers, employees, or contractors. The designated employee must give the City at least ten (10) working days advance written notice of the desired work time off to the City Human Resources Director and the employee's immediate supervisor, or leave will not be allowed. The City may deny or cancel such leave in an emergency or conditions of anticipated severe short-staffing.

#### 4.16 Donor Activities

The MESA may grant the use of an employee's sick leave in the event of the following activities:

- (1) Organ donation - A represented employee may use thirty (30) working days of sick leave in any one year period for the purpose of donating his or her organ to another person.
- (2) Bone marrow donation - A represented employee may use seven (7) working days of sick leave for the purpose of donating his or her bone marrow to another person.

#### Section 5. Contracting Out

The MESA retains the right to determine if any of the work performed by members of the representation unit shall be performed by outside contract or intra-City transfer of work and to implement such action subject only to the terms of the following paragraph.

The MESA will provide the Union with forty-five (45) working days advance notice if a decision to sub-contract or transfer outside the bargaining unit work presently performed exclusively and traditionally by MESA employees will result in the layoff of any such employee(s). Such notice will include a brief statement of the reasons for the sub-contract. Within this forty-five (45) days following notice from MESA of a decision to sub-contract that will result in a layoff, the Union may request to meet with MESA to discuss alternatives to the sub-contract. Such meeting shall be scheduled by the City in consultation with the Union and shall occur within seven (7) days after the request for the meeting is delivered to the City.

#### Section 6 - Employee Rights

##### 6.1 Personnel Files

- (1) Employees shall be provided with copies of any disciplinary action before it is placed in the employee's personnel file. The employee shall have an opportunity to respond in writing to such disciplinary action and have his/her written response attached thereto.
- (2) Material in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the employee involved.
- (3) An employee, upon reasonable notice to his/her supervisor, shall have the right without loss of pay to examine and/or obtain copies of any material from his/her personnel file with the exception of material that includes ratings, reports, or records which were obtained prior to the employment of the employee involved. The employee's personnel file shall be available for examination by the Union Field Representative as authorized by the employee. Employees covered by this Agreement wishing to review their personnel file shall call the Personnel Office in advance and schedule an appointment to inspect their personnel files. This right will be exercised reasonably.

- (4) All personnel files shall be kept confidential.
- (5) The official personnel file and the official grievance file shall be maintained separately.

Employees or their designated representative may request a review of material contained in their personnel files for possible deletion. Formal letters of reprimand and/or formal counseling memorandum, which did not involve criminal violations will, upon written request of the employee, be removed from the employee's official personnel file if there have been no other disciplinary actions for a two (2) year period. Materials which would be removed upon an employee's request that are more than two (2) years old, based on the employee's continuous service for such two (2) year period, will not be used or relied upon to take or support disciplinary action.

- 6.2 Each new employee shall receive upon employment a copy of the Collective Bargaining Agreement to be provided by the Union at Union orientation.

### Section 7 - Employee Evaluation Procedures

The following procedures shall be strictly adhered to:

#### 7.1 Evaluation by First Level Manager

The first level manager shall evaluate the employee by means of a performance evaluation.

#### 7.2 Period of Probation

- a. Entry Level Probationary Period. The probationary period of an employee filling a new in the competitive service of the City/MESA shall be of nine (9) months in duration, except that, in the case of a probationary employee requiring further consideration, the MESA may at its option extend the probationary period by three (3) months. In such event, the MESA agrees to notify the Union of the fact that the period of probation for a person filling an entry level has been extended.
- b. Entry Level Probationary Period, Police and Child Development Department Employees. The probationary period of an employee filling a new position in the competitive service of the City/MESA in the Police Department and those hired into the Teacher classification in the Emeryville Child Development Center shall be of twelve (12) months duration, except that, in the case of a probationary employee requiring further consideration, the MESA may, at its option, extend the probationary period by three (3) months. In such event, the MESA agrees to notify the Union of the fact that the period of probation for a person filling an entry level has been extended.
- c. Promotional Probationary Period. All employees promoted to a position in the classified service shall serve a probationary period of six (6) months. Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he/she was promoted unless the employee is discharged in the manner provided in this Memorandum of Understanding.

#### 7.3 Performance Evaluation

The MESA agrees that represented employees are entitled to a Performance Evaluation which describes individual performance. The report shall define the standards of acceptable service, serve as a means of recognizing good work, describe deficiencies, if any, and what steps the employee may take to achieve fully effective performance.

Probationary Employees. A new employee shall receive a Performance Evaluation

within ten (10) days after the end of the fifth, eight and, in the case of 12 month probationary employees, eleventh months of service.

Evaluations for employees in Police classifications will cover performance during a calendar year rather than anniversary year, and the evaluations will have an annual due date of January 31<sup>st</sup>.

7.4 Forms

The reports shall be completed on forms prescribed by the MESA.

7.5 Presentation of Report to Employee

Management shall make every effort to provide timely employee performance evaluations. Human Resources will notify departments of upcoming employee anniversary dates. Such notice will be provided on a monthly basis prior to the last week in the month preceding employee anniversary dates. If an evaluation is untimely and recommends a merit increase, such increase shall be retroactive to the employee's anniversary date.

Upon completing the performance evaluation report, the evaluator shall present it to the employee and discuss it with him/her. The employee shall then sign the report in order to indicate his or her receipt and he or she shall receive a signed copy.

If an evaluation is not presented to the employee within sixty (60) days of the employee's anniversary date, and the employee has not been disciplined within the last six (6) months of the year being evaluated, such employee will be deemed to have had "satisfactory" performance for the year being evaluated and any appropriate merit increase will be paid retroactively to the employee's anniversary date. The evaluation for an employee who has been disciplined within the last six (6) months of the year being evaluated will be completed within ninety (90) days of the employee's anniversary date.

7.6 Petition for Reevaluation

Six (6) months after receiving a below satisfactory evaluation in any category, the employee may petition their Department Head or designee to reevaluate them. If improvement has been shown, an updated evaluation will be completed and placed in the employee's personnel file.

Section 8 - Posting and Filling of Temporary Vacancies

8.1 A temporary vacancy exists when either of the following circumstances occurs:

- (a) An employee in a permanent position is absent due to illness, injury, or leave of absence; or
- (b) During the interim when a vacant permanent position is being evaluated for a reclassification.

8.2 MESA/City retains the right to determine whether a temporary vacancy will be filled or not and may fill the temporary vacancy from any resources such as temporary agency personnel except under the following conditions:

Whenever it is determined by the MESA/City that a vacancy of thirty (30) days or longer is to be filled on a temporary basis, the department with the temporary vacancy to be filled will post the vacancy for application by the employees within that department. Members of the bargaining unit assigned to permanent positions within the department where the temporary vacancy to be filled exists, and members assigned to permanent positions in another



department who have obtained their department head's approval to apply for the temporary vacancy, will be considered before the department makes a temporary assignment from any other source.

A member assigned to a permanent position in another department than the department where the temporary vacancy exists will be advised by his/her department head of the reason(s) when his/her request for approval to apply for such temporary vacancy is denied. Such reasons may include but are not limited to the following: employee performance concerns, an employee's probationary status, the lack of available backup, a skills scarcity, or the need to retain a critical job function within the department. The department head's decision to approve or not approve such request to apply for a temporary assignment shall be final and not subject to further appeal through the grievance procedure.

All applicants must meet the minimum requirements for the temporary vacancy. Such temporary vacancy will be posted for seven (7) calendar days; interviews will be conducted with all eligible employees within the next following seven (7) calendar days; and applicants will be notified within the next following seven (7) calendar days. If no unit member is selected to fill the temporary vacancy, MESA/City may continue to use non-bargaining unit temporary personnel to fill the vacancy for longer than fifty-one (51) days.

In the case of vacancies occurring under 8.1.b above, the maximum a temporary employee can be assigned shall be six (6) months.

### 8.3 Filling Permanent Promotional Vacancies

When it is determined by the City that a vacancy will be filled on a permanent basis, the Human Resources Director shall certify the eligibility list to the hiring department for employment consideration. Members of the bargaining unit who are on the certified eligibility list will be interviewed before any other candidates on the certified eligibility lists are interviewed.

If there are three (3) or fewer eligible and available persons on an eligibility list for certification to the hiring department, the Human Resources Director may use discretion by calling for a new examination in order to secure a sufficient number of persons eligible for certification.

### 8.4 Classification Studies/Job Audits

Classification study/job Audit requests shall be submitted to Department Heads. The Department Head shall review, comment on and forward such requests to Human Resources for consideration and discussion. The Union shall receive written notification of determination from Human Resources.

## Section 9 - Health and Safety

### 9.1 Health and Safety Standard

The MESA and the Union will make every effort to maintain adequate and satisfactory health and safety standards. No employee shall be required to perform work with unsafe equipment or in situations which are injurious to his/her health or safety. The MESA shall conform to and comply with all health, safety and sanitation guidelines. A Safety and Training Committee consisting of five (5) persons (including one representative from each Bargaining Unit) will meet at regularly scheduled intervals and shall hold safety meetings and inspections to recommend improvements consistent with OSHA and to recommend training programs to the City Manager. The Human Resources Director shall serve as staff to the Committee. Each

bargaining unit shall designate one alternate member. Members of the Safety Committee shall be allowed reasonable release time to attend safety committee meetings.

## 9.2 Safety Committee

The Safety Committee shall be formed with a Union member from each of the below listed sites to review health, safety, sanitation and working conditions. The committee shall make recommendations to the appointed administrator who shall chair the Safety Committee meetings.

Sites: City Administration Offices, Public Works Corporation Yard, Police Department, Child Development Center.

The members of the Committee shall be allowed reasonable release time to attend safety committee meetings.

## 9.3 Heating, Ventilation and Air Conditioning

The MESA will make reasonable efforts to maintain building heating, lighting, ventilation and air conditioning systems in proper working order.

## 9.4 Employees with Chronic Illnesses

1. No employee shall be terminated, suspended with or without pay, solely because he/she has a chronic, serious or life threatening illness. The MESA may lawfully justify dismissal only when the disability 1) substantially interferes with the person's ability to perform their job after the MESA has made a reasonable accommodation for the disability, or 2) the employee would pose a reasonable probability of substantial harm to others.
2. No employee shall be required to be tested for the HIV antibody.
3. The MESA/Union shall follow the City's Exposure Control Plan, which is required by OSHA standards, for all City employees that may be expected, on a routine or collateral basis, to be exposed to blood born pathogens or other infectious materials (OPIMs). The text of the plan, which covers handling and training, is maintained in the Human Resources Department.

## 9.5 Video Display Terminals

The MESA shall endeavor to provide safe and healthy working conditions for employees using video display terminals (VDT's). The MESA will continue to make a good faith effort to assure safe and healthy working conditions for pregnant employees using VDT's, including provisions of safety equipment, manual performance of the work, and medically recommended restrictions.

Breaks shall be taken in accordance with Federal and/or State law. The MESA shall advise the Union of any health, safety, and/or ergonomic recommendations developed by the Health and Safety Committee. The MESA agrees to meet with the Union upon request, to review the findings and receive recommendations for modifications in safety regulations.

The safety committee shall make recommendations regarding the safe use and operation of VDT's



9.6 Light Duty

The MESA shall meet and confer with the Union for the sole purpose of developing a light duty policy which shall be incorporated into the Personnel Rules and Regulations.

Section 10 - Grievance Procedure

10.1 DEFINITION

- a. A grievance is defined as, and limited to, a written complaint by an individual employee, group of employees, or the Union regarding any dispute involving an alleged violation of specific provisions of this Memorandum of Understanding (MOU) during the term of this MOU, or disciplinary actions.
- b. Proposals to modify, amend or terminate this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be grievable.
- c. A grievance shall contain a clear and concise statement of the grievance by indicating the issue involved, the relief sought, the date the incident or violation took place and the specific section of the MOU alleged to have been violated. The grievance shall be presented on the agreed upon form which is available on the City/MESA's intranet for downloading.
- d. Group grievances are defined as, and limited to, those grievances which cover more than one employee, and which involve like circumstances and facts for the grievance involved. Grievances which are group grievances must be so designated on the grievance form at Step 1. The grievance must describe the group involved.
- e. Alleged violations of a specific provision of this MOU may be grieved by the Union and shall be so identified as a Union grievance on the grievance form. Such Union grievances shall be signed by the Field Representative or his/her designee and shall contain all information as specified above for any other grievance.
- f. Working days, for the purpose of this section shall be defined as days during which the City of Emeryville/MESA's Administrative Offices are open.

10.2 TIME LIMITS AND THE GRIEVANCE STEPS

Timely submission of a grievance is established only by postmark or by hand delivery. Faxes or e-mails do not establish proof of service or timeliness.

Step I.

- a. The grievance shall be presented in writing, either by the employee or by an authorized union representative to the designated supervisor of the employee within twenty (20) working days after the cause of such grievance occurs or within twenty (20) working days from the date the employee had reason to know of the alleged violation of the MOU that gave rise to the cause of such grievance. Grievances which are not presented within the specified time period shall be deemed to be waived and abandoned.
- b. The designated supervisor shall have twenty (20) working days from date of receipt of grievance in which to respond. The designated supervisor shall issue a response, in writing, to the employee and the employee's representative designated on the original grievance form.
- c. A grievance occasioned by the action (or lack of action) of person(s) other than a

management official in the employee's home department, may be filed at Step 3, as long as said grievance is filed within the time limits specified in Step 1 (a), above.

Step 2.

If the grievance is not satisfactorily resolved at Step 1, the employee or the Union may submit a Step 2 grievance as follows:

- a. The Step 2 grievance shall be submitted in writing either by the employee or by an authorized union representative to the department head or to such representative as he/she may designate. A grievance may only be submitted to this (and each subsequent) step of the Grievance Procedure by giving written notice of the submission within twenty (20) working days of the expiration of the designated time limits of the MESA official responsible for the prior response. Deadlines which fall on a non-working day, will automatically be extended to the next business day.
- b. The department head or a designated representative shall have twenty (20) working days from date of receipt of grievance in which to respond.

Step 3. Head of Human Resources:

- a. A grievance that remains unresolved following the Union's receipt of the Step 2 written response from the Department Head or his/her designated representative, and/or an 'Advanced Level Filing' grievance, shall be submitted to the Head of Human Resources within twenty (20) working days.
- b. The Head of Human Resources shall meet with the grievant, the steward associated with the grievance, the Chief Steward, and/or the Union Representative, limited to three union representatives total, including the grievant.
- c. The Head of Human Resources will have twenty (20) working days in which to provide a written response to any grievance, unless timelines are extended in accordance with this section.

10.3 ARBITRATION

Step 4. Arbitration:

- a. If the grievance remains unresolved at Step 3, either the Union or the MESA may, by written notice to the other party, advance the grievance to an impartial arbitrator within twenty (20) working days of the Step 3 response. The arbitration shall be selected by mutual agreement within twenty (20) working days from the date the grievance is advanced to arbitration. If agreement is not reached, either party may request the names of five (5) impartial arbitrators from the State Mediation and Conciliation Service. Upon receipt of the list, the Head of Human Resources, or designee, and the designated Union Representative, or designee, shall alternately strike names from the list of arbitrators until one arbitrator's name remains, whom shall serve as the arbitrator. This process shall occur within twenty (20) working days. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Union and the MESA. Each party, however, shall bear the cost of its own presentation including, but not limited to, preparation, presentation at hearing, and post hearing briefs, if any.

- b. The MESA and/or the grievant may call witnesses. If an employee covered by this Agreement gives testimony in connection with the grievance procedure during working hours, the employee shall suffer no loss of pay. If the grievant's hearing is scheduled during working hours, the grievant shall suffer no loss of pay in order to present his/her grievance.
  - c. Decisions of arbitrators on matters properly before them shall be final and binding on the parties hereto.
- 10.4 No arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union and unless such dispute falls within the definition of a grievance as set forth in subsection 10.1.
- 10.5 No arbitrator shall have the power to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.
- 10.6 No grievance involving disciplinary action taken against an employee will be entertained unless it is filed in writing with the Head of Human Resources within seven (7) working days of the time at which the affected employee was notified of such action.
- 10.7 Grievances which allege that employees are not being compensated in accordance with the MOU, shall be initially filed in writing with the Head of Human Resources. In no event shall there be any compensation adjustments that are retroactive prior to the date of the occurrence giving rise to the compensation grievance. Any other matters of compensation are not grievable and are to be resolved in the meeting and conferring process. If these matters are not detailed in the Memorandum of Understanding which results from such meeting and conferring process, they shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion.
- 10.8 A steward and one (1) alternate steward shall be appointed by the union in each of the following work areas:

City Administrative Office  
Police Department

Public Works Department  
Community Services Department

- a. If the aggrieved employee desires the assistance of a steward as provided in Steps 1 through 3 of the grievance procedure, or during the Arbitration process, the MESA shall afford said steward-reasonable time off during work hours without loss of compensation or other benefits to investigate and take up said grievance. The grievant-and/or the area steward shall obtain the specific approval of the Department and/or division head or, in the latter's absence, another authorized management official, before leaving their duties, work station or assignment for the purpose of investigating and/or processing a grievance.
- b. An employee may request the presence of a steward during an interview with his or her supervisor which the employee reasonably believes may result in disciplinary action, and where the employee has specifically asked the supervisor whether there is the potential for disciplinary action and has been advised by the supervisor that such potential exists. If at any time during an interview without a steward in attendance, it becomes apparent that disciplinary action may result, either party may adjourn the interview until a steward can be

present. The provisions of this paragraph shall not apply to interviews conducted for the purpose of reviewing an employee's performance evaluation.

- 10.9 Time lines may be extended by mutual agreement of the Union and the Head of Human Resources at any step in this procedure. A request for time line extension and subsequent agreement to a time extension shall be documented in writing by the party requesting the extension.
- 10.10 With the mutual consent of the parties, the services of a mediator may be employed to help mediate the grievance at any step in this procedure.

#### Section 11 - Non-Harassment and Retaliation

- 11.1 No employee shall be subjected to any illegal form of harassment in the course of employment. Prohibited harassment and retaliation are defined in the MESA Administrative Instruction 1119 – Non-Harassment and Retaliation.
- 11.2 Allegations of prohibited harassment and/or retaliation shall be reported promptly to the immediate supervisor, or in accordance with procedures outlined in Administrative Instruction 1119. Should Administrative Instruction 1119 be amended, then the subsequent amendment(s) shall be utilized as the administrative remedy for addressing such complaints.

#### Section 12 - Layoffs & Resignations

- 12.1 Layoffs. Whenever there is a lack of work or a lack of funds requiring reduction in personnel in a department or division of the City government, the required layoffs shall be made in accordance with the following procedures:

- A. Employees shall be laid off in inverse order of their length of service within the affected job classification.
1. Length of service for the purpose of this Section 12.1 shall mean an employee's continuous uninterrupted service within a classification from the effective date of his appointment as a probationary or part-time employee in that classification.
  2. An interruption in length of service within a classification shall occur as a result of any one of the following:
    - a. Discharge for cause
    - b. Voluntary resignation
    - c. Retirement for service or disability
    - d. Absence from work for thirty-six (36) consecutive months because of layoff
    - e. Failure to return from layoff as provided in Section 12.2
    - f. Failure to return from an approved leave of absence upon the date specified for return at the time said approval was granted.

Provisional and acting appointments to a classification shall not be construed as service in such classification unless such provisional or acting appointment was contiguous with appointment to such classification in a probationary or part-time status.

3. Whenever the effective date of appointment to a classification is the same for two or more employees, the original date of hire as a probationary or part-time employee with the MESA shall be used to determine which employee has greater length of service within the classification. The employee with the earlier original date of hire

with the MESA shall be considered to have the greater length of service within the classification in this situation.

In the event two or more employees have exactly the same length of service, the employee whose rank order on the eligibility list for appointment to the current classification was lower shall be laid off first.

- B. Within each affected job classification all provisional, temporary and seasonal employees in that classification shall be laid off before probationary employees and all probationary employees shall be laid off before any regular employees provided; however, that part-time employees whose length of service is less than any probationary or regular employee shall be laid off before such probationary or regular employee. Thereafter, if additional reductions in personnel are required, those employees with the least length of service within the affected classification shall be laid off.
- C. As an alternative to layoff, an employee with regular, probationary or part-time status who is displaced from his classification in accordance with the procedures provided in paragraphs (A) and (B) of this Section shall be allowed to bump to a classification at the same salary level or to a classification at the next lower salary level provided the classification to which he or she bumps is one in which he or she has previously served in a regular, probationary or part-time status and where his or her original date of appointment to said classification, as defined in Section 8 of the Personnel Rules and Regulations, predates that of at least one employee presently serving therein.

As an exception to the foregoing, an employee may bump into a classification in which he or she has previously served and where his or her original date of appointment to that classification predates that of at least one employee presently serving therein and where said classification carries a higher salary level only if such higher salary level resulted solely from the application of an equity salary adjustment.

1. Bumping rights afforded an employee pursuant to this Section shall include access to those classifications in which he or she has previously served but which may since have been re-titled but where, as determined by the MESA, no substantive changes have been made in the duties or qualifications for the classification(s) in question. Such determination by the MESA shall be subject to the grievance procedure of this Memorandum of Understanding.
2. Prior to employees being laid off the MESA shall post an official bulletin board and provide the Union with status registers for all affected classifications within the representation unit. Said lists shall include the names of all present employees who have held these classifications and their appointment dates thereto.
3. An employee eligible to bump into another classification pursuant to this paragraph C shall have five (5) work days after notice of assignment by the City Manager to a position in that classification in which to accept such assignment. If the affected employee fails to accept such assignment within said five (5) work day period, he or she shall be laid off. An employee so assigned shall be placed at a salary step in the range for the classification to which he or she bumps closest to the employee's former rate of pay but which does not exceed the salary step held by the employee in the classification from which he was displaced.
4. In the event an employee bumps to an occupied or vacant position that is "flexibly" staffed as reflected in the Positions and Salaries Resolution, assignment to said position shall be at the level at which the position is staffed at the time of layoff.



- D. When employees are scheduled for layoff by the MESA, the affected employee and the Union will be given at least thirty (30) calendar days notice, except in an emergency. For the purposes of this section only, an emergency is defined as, but not limited to: earthquakes, fire, floods, terrorism, nuclear /radiological incidents, hazardous material incidents, disease, civil disturbances or any other emergency requiring a coordinated multi-agency response. The MESA shall attempt, in so far as is possible, to accomplish any contemplated reduction in personnel by attrition rather than by layoff.
- E. In the event employees are scheduled to be laid off, other employees with greater length of service within the same classification may elect to be laid off in lieu of those employees scheduled for such layoff.

## 12.2 Rights of Return

As position vacancies occur, employees on layoff and those occupying positions to which they have bumped shall be afforded return rights in the order of their length of service in the classification(s) in which such vacancies occur.

- 1. An employee shall have ten (10) work days from the mailing by certified mail of a notice of return to his address of record on file in the Personnel Department to indicate acceptance of such return and his agreement to report for work as specified in the notice.
- 2. Employees in layoff status shall retain all credited sick leave earned but unused at the time of layoff. An employee on layoff shall not earn vacation leave credit while in layoff status. Upon an employee's return from layoff he shall be credited with proportionate vacation leave for the balance of the calendar year. The amount of such credit shall be based upon his continuous uninterrupted service with the MESA including time spent in layoff status. Use of vacation leave so credited shall be subject to the provisions of Section 4.2(a) of this Memorandum of Understanding.
- 3. Employees who are displaced from their classifications by virtue of layoff shall be placed on a re-employment register for the classification they held at the time the layoff occurred, hereinafter referred to as the "primary" register. They shall also be placed on re-employment registers for classifications previously served in, hereinafter referred to as "secondary" registers. If an employee fails to respond to such notice of return within the prescribed time period or declines to return from layoff to a secondary register classification his name shall be removed from said secondary register and he/she shall no longer be eligible for recall to that classification. If an employee fails to respond to notice of return within the prescribed time period or declines return to his primary register classification he will be considered to have voluntarily resigned his employment with the MESA.
- 4. Full-time employees who have bumped to a part-time position, or who have been recalled from layoff to a part-time position, shall be afforded an opportunity to return to full-time status as position openings become available.
- 5. Employees who request and are granted voluntary demotion to a vacant position in lieu of layoff shall be afforded the same rights of return as employees who have exercised bumping rights.
- 6. An employee who, lieu of layoff, was transferred to another position within the same classification shall be notified of an opening in his/her previous position and shall be afforded an opportunity to apply for reinstatement to that position.

12.3 Resignations

Any employee wishing to leave the employ of the MESA in good standing shall file with the Department Head at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager through the Personnel Director with a statement by the Department Head as to the resigned employee's service performance. In the case of any adverse comments, the employee shall be notified in writing and shall be given the opportunity to respond in writing. Failure of the employee to submit his written resignation as provided herein shall be entered on the service record of the employee and may be cause for denying future employment by the MESA.

12.4 Non-Discrimination in Workforce Reduction.

Layoffs and demotions resulting there from shall be made without regard to an employee's race, color, creed, political beliefs, national origin, religion, sex, age, sexual orientation, or physical or mental handicap to the extent required by law.

12.5 Alternatives to Layoffs

In the interests of employees who may be adversely affected by a general layoff, arising from the need to reduce the work force, the MESA will first solicit volunteers for alternative measures such as, but not limited to, early retirement, demotion, job-sharing, reduced work hours and the like in order to reduce the impact of layoffs on employees.

Section 13 - Miscellaneous

13.1 Education and Training

Employees shall be eligible for reimbursement of tuition and textbook expenses for training that is required by the MESA or for training which is mutually acceptable by the employee and the MESA. Training that the City may determine it will not require but for which the City may, in its discretion, authorize reimbursement under this section includes, but is not limited to, courses or training programs related to:

- a. improving the employee's basic skills (e.g. reading, writing, basic mathematics, problem solving, error reduction, etc.);
- b. improving the employee's knowledge and skills needed to better perform the duties of his or her current position; or
- c. building on the employee's existing knowledge and skill base to prepare the employee for possible advancement or lateral job transitions within the City that are logically connected to the employee's present position.

Nothing in this section is intended to diminish the employee's opportunity to apply for alternative career training support pursuant to the City's general personnel policies.

13.2 Negotiations Process

The MESA will allow release time for three (3) employees of the Union's choosing for the purposes of meeting and conferring on the negotiation of this Memorandum of Understanding, consistent with the continued function of the MESA.

13.3 City Participation in CALPERS - Payment of Employee's PERS Contributions



- (a) The City will provide for the participation of employees in the California Public Employees' Retirement System ("PERS") under the PERS Miscellaneous Employee 2% @ 55 (single highest year of compensation earnable and Level III Survivor Benefits plan) retirement formula plan for eligible employees hired before January 1, 2012.
- (b) Employee hired on or after January 1, 2012, will be enrolled in the 2 @ 60 retirement formula plan (average of highest three years compensation earnable and Level III Survivor Benefits plan).
- (c) Employees enrolled in the above plans (2% @ 55 and 2% @ 60) shall contribute to PERS each pay period seven percent (7%) of "PERSable" compensation toward the PERS employee contribution rate.
- (d) Effective January 1, 2013, newly hired employees that are considered "new members" in accordance with the Public Employee Pension Reform Act (PEPRA) will be enrolled under the PERS Miscellaneous Employee 2% @ 62 retirement formula plan (average of highest three years compensation earnable and Level III Survivor Benefits plan), in accordance with applicable law and PEPRA. Employees enrolled in the 2% @ 62 shall contribute to the PERS each pay period one half the normal cost, which (as of 7/1/16) is six and a half percent (6.5%) of "PERSable" compensation toward the PERS employee contribution rate.

#### 13.4 Use of Personal Autos for MESA Business

Employees who are authorized by their Department Head to drive their personal automobile in the performance of official MESA business, shall be reimbursed for each mile so driven at the Internal Revenue Service published permissible mileage rate. The employee involved shall maintain accurate records of miles driven on official MESA business and submit same to his/her Department Head for reimbursement.

### Section 14 - Health and Welfare

#### 14.1 Medical Benefits

The MESA shall continue to contract with the Public Employees' Retirement System (PERS) for the purpose of providing medical benefits for eligible active employees, eligible retired employees and eligible survivors of retired employees.

The MESA shall pay directly to PERS one hundred and twenty five dollars (\$125) beginning January 1, 2016 on behalf of each eligible full-time active employee who subscribes for coverage in a PERS Medical plan. The City's contribution shall increase each year to the extent required by Government Code Section 22892.

These increased City contributions rates shall remain in effect only as long as required by law.

For the purpose of this section, a dependent is defined as a person who satisfies the definition of dependent in the PERS medical plan in which the employee is enrolled. Such dependents must also be enrolled in and covered by the plan. The eligible employee, retiree, or survivor shall be responsible for making any additional contributions needed to pay for this benefit as agreed upon in this MOU.

#### 14.2 Dental Benefits

The MESA shall purchase dental insurance coverage for employees and their eligible dependents (including domestic partners). The MESA's contribution towards the purchase of this insurance shall not exceed the following amounts per employee per month, nor shall the MESA's contribution towards the purchase of this insurance exceed 100% of the appropriate premium for the dental plan in which such eligible employee is enrolled:

Employee Only	\$ 56.14
Employee + One Dependent	88.40
Employee + Two or more Dependents	129.86

Dental premium rate increases are governed by the provisions of Section 14.5.A. below.

The MESA reserves the right to provide dental care benefits under a plan or through a carrier of its choice. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing dental care benefits for employees; or through a program of self-insurance. The MESA shall offer to meet and confer with the Union regarding such alternate coverage prior to the effective date of such alternate coverage.

#### 14.3 Vision Care

The MESA shall continue to provide vision care for employees and their eligible dependents (including domestic partners) only under Vision Service Plan (VSP), with a Twenty-five Dollar (\$25.00) deductible. The MESA's contribution towards the purchase of this insurance shall not exceed the following amounts per employee per month, nor shall the MESA's contribution toward the purchase of this insurance exceed 100% of the appropriate premium:

Employee Only	\$ 23.04
Employee + One Dependent	23.04
Employee + Two or more Dependents	23.04

Vision premium increases are governed by the provisions of Section 14.5.A below.

The MESA reserves the right to provide vision care benefits under a plan or through a carrier of its choice. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing vision care benefits for employees; or through a program of self-insurance. The MESA shall offer to meet and confer with the Union regarding such alternate coverage prior to the effective date of such alternate coverage.

#### 14.4 Life Insurance

The MESA shall pay the entire cost of providing each regular full-time and permanent part-time, and probationary full-time employee with group term life insurance equal to the individual employee's annual salary, to a maximum of Fifty Thousand Dollars (\$50,000). Such policy to include accidental death and dismemberment coverage, and the right to conversion at the time of termination of employment to a form of permanent coverage without medical restrictions to the extent allowable by the insurance carrier and the law. The payment for such converted coverage shall be the responsibility of the individual electing such coverage. Should the IRS increase the non-taxable insurance amount beyond \$50,000, then maximum level of insurance coverage may be increased to that limit which is non-taxable under the IRS codes and regulations. In any event the MESA will not provide life insurance beyond the amount of the employee's annual salary.

#### 14.5 Flexible Benefits

- A. Premium Contribution Account. The MESA shall establish a Flexible Benefits Account for each full-time active employee in regular or probationary status enrolled in one of the PERS medical insurance plans offered by the MESA.

1. The MESA Contribution. In the event the amount specified in Section 14.1, 14.2, and 14.3 are insufficient to pay 100% of the premiums required of the corresponding benefit plan in which the employee is enrolled, the MESA shall make such supplemental payment into the employee's Flexible Benefit Account as is necessary to equal one hundred percent (100%) of the premium of the medical, dental and vision coverage in which the employee is enrolled for their coverage level, up to a maximum monthly premium for medical, dental and vision of:

<u>Medical Effective</u>	<u>1/1/16</u>
Employee Only	\$661.82
Employee + One Dependent	\$1,323.64
Employee + Two or more Dependents	\$1,720.75

In the event that there are any premium rate increases for the medical plan in excess of the above stated amounts, the MESA agrees to pay 80% of the announced increase in the Kaiser Bay Area premiums, at each respective level, which take effect on January 1, 2017, January 1, 2018 and January 1, 2019.

Permanent Part Time Employees. Represented employees working less than full-time are eligible for MESA-sponsored health care benefits in accordance with the below tiers:

- (a) Tier I – Represented regular part-time employees who are regularly scheduled to work thirty (30) hours or more hours a week but less than full-time (35 or 40 hours, depending on assigned work schedule) will be eligible for health care benefits and flexible benefit contributions on the same basis as regular full-time employees.
- (b) Tier II - Represented regular part-time employees who are regularly scheduled to work at least twenty (20) but less than thirty (30) hours per week will be eligible for the Employer-sponsored health care benefits with the Employer paying flexible benefit contributions up to a maximum of seventy-five percent (75%) of the premium charged for the plan in which the employee is enrolled, up to a maximum of seventy-five percent (75%) of the Bay Area Kaiser premium at the applicable level of plan enrollment (i.e., one party, two party, or family). The balance of the required premium will be paid by the employee by payroll deduction.

	<u>Dental</u>	<u>Vision</u>
Employee Only	\$ 56.14	\$23.04
Employee + One Dependent	88.40	23.04
Employee + Two or more Dependents	129.86	23.04

If there are any premium rate increases for the dental and vision plans amounts, during the term of this agreement, at the request of the MESA/City, the parties will re-open negotiations. Such re-opener negotiations shall be limited to the discussion of how such increase(s) will be shared between the MESA/City and the

employee. Absent an agreement between the parties, the above contributions for dental and vision benefits will remain in effect.

2. Additional Employee Contributions. In the event an employee enrolls in a medical plan for which the premium exceeds the MESA's contribution for medical insurance and Flexible Benefits as provided herein, such additional sum shall be withheld from the employee's salary by MESA on a pre-tax basis.

B. Health Care and Dependent Care Spending Accounts. The MESA agrees to allow employees to designate a specific amount of salary, consistent with applicable public law, to be redirected each month to pay for Health Care and Dependent care costs on a pre-tax basis. The MESA will reimburse such employee on a monthly basis for health care and dependent care from such redirected funds, upon presentation to the designated third party administrator of a claim and receipt for services rendered. Any unused funds will be administered in accordance with applicable Federal law.

C. Changing Elections. Federal law limits the circumstances under which an employee may elect benefits and change an election under the Flexible Benefits Plan.

1. Premium Contribution Account. Unless the individual employee notifies the Director of Finance in writing prior to May 30 each year, that he/she elects to have his/her Flexible Benefits paid into the Deferred Compensation Program, it will automatically be used to pay premium changes for the elected medical insurance program.

Each employee shall be responsible for providing immediate written notification to the Human Resources Director of any change to the number of his/her eligible dependents (as defined by the summary plan documents) which affects the amount of the MESA's payment to the Flexible Benefits Account. Changes to Flexible Benefit payments required because of a change in an employee's number of eligible dependents shall take effect at the start of the first pay period in the month next following the month in which advice from the employee is received by the Human Resources Director. No retroactive increases to the MESA's payment shall be allowed.

2. Health Care and Dependent Care Spending Accounts. To elect to redirect funds into the Health Care and Dependent Care Spending Accounts, the individual employee must obtain and complete an election form and provide it to the Human Resources Director in accordance with MESA's procedures, but no later than November 30 each year for the plan year beginning January 1. The prior year election will not be renewed. If the employee makes no election prior to November 30, then the employee will be deemed not to participate in the Health Care and Dependent Care Spending Accounts.

Each employee shall be responsible for providing written notification to the Human Resources Director of any change in health care or dependent care status within 30 days of the change which affects the amount of the MESA's payment to the Flexible Benefits Account, if any. Changes to Flexible Benefit payments required because of a qualifying change in status shall take effect at the start of the first pay period in the month next following the month in which advice from the employee is received by the Human Resources Director. No retroactive increases to the MESA's payment shall be allowed. A qualifying change in status includes changes as permitted under the MESA Flexible Benefit Plan in accordance with IRS Regulations.

3. The MESA Allowance. The monies in an employee's Flexible Benefits and Health Care and Dependent Care Spending Accounts allocated by MESA shall be used for one of the following purposes only: (a) payment of premium charges for the PERS medical insurance program, the dental plan, and the vision plan in which the employee is enrolled; or (b) payments to an established Health Care and Dependent Care spending account plan.

#### 14.6 Alternate Benefit

Employees shall be allowed an opportunity to select certain options as alternatives to those benefits listed in Section 14.1 of this Memorandum of Understanding under the following terms.

- A. Eligibility. Eligibility for receipt of alternative benefits is restricted to those employees for whom no MESA contribution is made towards premiums for group hospital-medical-surgical insurance because of coverage said employees have from a source other than the MESA. Written proof of said coverage is required by the MESA.
- B. MESA Contribution. The MESA shall contribute one-half (1/2) of the MESA-paid Kaiser Bay Area two-party premium cap per month for alternate benefits for eligible full-time and Tier I permanent part-time employees who select alternate benefits. For Tier II permanent part-time represented employees, the Employer shall contribute one-third (1/3) of the Employer-paid Kaiser Bay Area two-party premium cap per month for alternate benefits.
- C. Available Benefits. Contributions made by the MESA may be applied by the employee to one or both of the following options:
  1. A supplement to the employee's monthly salary. State and Federal taxes will be withheld on any monies applied to this option.
  2. Contribution to the Deferred Compensation Plan currently in effect for MESA employees, as governed by IRS regulations, must be made on an after tax contribution basis.

#### 14.7 Reservation of Rights

The MESA reserves the right to provide medical, dental or vision care benefits under a program other than that offered through the PERS or other existing benefit arrangements at any time during the term of this Memorandum of Understanding. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing medical, dental or vision care benefits for employees; or through a program of self-insurance or through benefit plan options created pursuant to the Patient Protection and Affordable Care Act of 2010.

The MESA shall offer to meet with the Union to discuss the impact of such alternative coverage before the effective date of such coverage.

#### 14.8 Health Care Legislation

If either the State of California or the federal government produces legislation that requires a change in the benefits provided under this MOU, or imposes an employee or an employer contribution requirement toward the cost of such benefits, MESA shall have the right to adjust its contributions so that its total contribution is no greater than is required under this MOU and shall have a duty to provide any benefits lost through such legislation through a supplemental health plan. If the cost of such additional benefits exceed the total MESA contribution required by this MOU, the Parties will reopen negotiations for the purpose of



determining an alternative plan design which conforms with the legislation and any necessary adjustments in contribution levels for both MESA and the employees covered hereunder.

#### 14.9 Retired Employees

The MESA shall contribute \$16.00 each month on behalf of each eligible retired employee. Employees who retired prior to January 1, 1981 are eligible for medical benefits only. Employees who retired between January 1, 1981 and January 1, 1984 inclusive are eligible for Medical and Dental benefits only. Employees who retire subsequent to January 1, 1984 are eligible for maximum medical, dental and vision care benefits in the amounts below:

	<u>Medical</u>	<u>Dental</u>	<u>Vision</u>
Retiree	\$16.00	\$20.00	\$ 5.00
Retiree + One Dependent	16.00	35.00	8.68
Retiree + Two or more Dependents	16.00	46.06	8.68

As required by Government Code Section 22892, the City's contribution toward medical benefits only shall increase as follows:

\$125.00 per month for calendar year 2016.

These increased City contributions rates shall remain in effect only as long as required by law.

Retired employees who qualify for the Federal Government Medicare Benefits are eligible for Medicare Supplemental coverage only and may not elect any other medical insurance benefit. They remain eligible for dental and vision care benefits as provided herein.

#### 14.10 Retiree Supplement Account

The MESA shall establish a Retiree Supplement Benefit Account on behalf of each retiree with eleven (11) or more years of service. The combination of the MESA's minimum employer contribution and Retiree Supplemental Benefit Account shall not exceed the follows:

	<u>Medical</u>	<u>Dental</u>	<u>Vision</u>
Retiree	\$153.00	\$20.00	\$ 5.00
Retiree + One Dependent	286.00	35.00	8.68
Retiree + Two or more Dependents	363.00	46.06	8.68

Additionally, in order to be eligible for this benefit, the employee's effective date of retirement must occur within one hundred twenty (120) days of the effective date of his/her separation from employment with the MESA and he/she must be enrolled in a medical, dental and vision care plan offered by the MESA. The surviving spouse of a retired employee who qualifies to receive these benefits is also entitled to receive the benefits in the event (a) he/she was designated by the employee prior to the employee's retirement, to receive a survivor benefit under the Public Employees' Retirement System (PERS) plan, and (b) he/she is receiving said survivor benefit, and (c) he/she is a member of a medical, dental and vision plan offered by the MESA of Emeryville. In the event a retired employee has designated more than one survivor who satisfy the above criteria, benefit payments made pursuant to this Section shall not exceed the monthly amount recited above for all such eligible survivors of the employee.

Eligible employees are those who retire from the MESA for service or disability and who have been employed continuously by the MESA.

14.11 Long Term Disability

The MESA shall provide and maintain a Long Term Disability plan for all full-time active employees. The premium for such plan shall be paid by the MESA.

14.12 Health and Wellness

- a. Represented employees will be eligible to participate in city-sponsored activities at the Emeryville Center for Community Life at the posted Emeryville City resident rate as established, revised, and implemented from time to time at the discretion of the City Council.
- b. Represented employees will be eligible to enroll their children at the Emeryville Child Development Center at the posted Emeryville City resident rate as established, revised, and implemented from time to time at the discretion of the City Council.
- c. The MESA and SEIU representatives shall participate in a city-wide joint labor-management committee to discuss health and wellness programs for employees. Meetings will be held at mutually agreed upon times and places. Up to two employees may be released from scheduled duty to attend meetings of the committee.

Section 15 Salary

15.1 Rates in Appendix

The base wage rates for bargaining unit members are as set forth in Appendix A of this Memorandum of Understanding. The base rates shown in Appendix A shall increase by three percent (3%) effective on July 1, 2016 (MESA determines the timeline for implementation of retroactive payments); by three percent (3%) on the first day of the first pay period beginning on or after July 1, 2017; and by three percent (3%) on the first day of the first pay period beginning on or after July 1, 2018.

15.2 Police Communications Dispatcher - Training Differential

Employees in the classification of Police Communications Dispatcher, who are assigned in writing by the Department Head to train new employees as a "public safety dispatcher", shall be compensated with a premium pay in the amount of five percent (5%).

1. The premium pay is applied to the employee's current base salary step only. There shall be no "pyramiding" of such premium pay, except that this provision shall be in accordance with the provisions of the Federal Fair Labor Standards Act.
2. Parties agree that the application of this premium pay is not precedent setting and does not relieve any employee in the Representation Unit from assisting in the task of training new employees. This additional compensation to a Police Communications Dispatcher assigned by the Department Head to train a new employee in the duties of a public safety agency dispatcher reflects the complexity and scope of such duties.
3. The MESA agrees that employees are entitled to periodic and timely Performance Evaluations which outline performance and progress in their classification. Accordingly, the parties agree that the MESA may elect to require a Police



Communication Dispatcher acting in the capacity of a trainer to prepare a performance evaluation report on the work of the dispatcher trainee under their direction; such reports will satisfy the performance evaluations required by Section 7.3(a) of this Memorandum of Understanding for probationary employees.

## Section 16. Uniform Allowance

### 16.1 Public Works Maintenance

Public Works Maintenance personnel, initially appointed to the position Three Hundred Dollars (\$300.00) per person per year allowance for the purchase of a uniform. and Two Hundred Fifty Dollars (\$250.00) per year for the purchase of safety shoes. Thereafter on the first pay period in October and March of each year, Public Works Maintenance personnel shall receive three hundred dollars (\$300) and two hundred and fifty dollars (\$250) respectively for purchase of uniforms and shoes.

### 16.2 Police Classifications – Uniform Allowance

The MESA will provide represented employees in the Police Department, initially appointed to their position a Four Hundred Dollar (\$400.00) allowance for the purchase of required articles of uniform. Thereafter on the first pay check in October and March of each year, each represented employee in the Police Department shall receive a uniform maintenance allowance of Four Hundred and Fifty dollars (\$450.00.)

Represented employees in the Police Department are eligible for uniform replacement as provided for in General Order 02 of the Police Department.

- 16.3 The City shall provide, and Building Inspectors and Senior Building Inspectors shall wear, safety shoes required by Cal OSHA and any other safety equipment required by CAL OSHA regulations of individuals that inspect construction sites. The City shall provide Recreation Assistants and Program Coordinators in Recreation with not less than two (2) pair of work pants, two (2) work shirts and one (1) sweatshirt each fiscal year beginning July 1, 2009. In addition the City shall provide Teachers and Program Coordinators in the Child Development Center with one (1) work jacket and two (2) work smocks each fiscal year beginning July 1, 2009.

## Section 17 - Holidays

- 17.1 The following holidays shall be observed by the MESA with respect to all covered employees:

1. New Year's Day (January 1)
2. Martin Luther King Jr. Birthday (3rd Monday in January)
3. Washington's Birthday (3rd Monday in February)
4. Memorial Day (Last Monday in May)
5. Independence Day (July 4)
6. Labor Day (1st Monday in September)
7. Indigenous Peoples' Day (2<sup>nd</sup> Monday in October)
8. Veterans Day (November 11)
9. Thanksgiving Day (4th Thursday in November)
10. Day after Thanksgiving (4th Friday in November)
11. Christmas Day (December 25)
12. Floating Holiday
13. Floating Holiday
14. Floating Holiday

- 17.2 If any holiday falls on a Saturday, the preceding Friday shall be observed as the holiday; and if a holiday falls on a Sunday, the following Monday shall be observed as the holiday.
- 17.3 If a holiday occurs on the employee's first normal day off, the employee shall take the preceding day as the holiday; if however, the holiday occurs on the employee's second consecutive normal day off, the employee shall take the following day as the holiday. If the City determines that, due to operational needs, the foregoing requirements cannot be met, the employee and department head may agree to a substitute day off within thirty (30) days of the day on which the holiday would have otherwise been observed.
- 17.4 An employee who works on a holiday observed by the MESA shall be compensated for such holiday at the rate of time and one-half (1-1/2) the straight-time hourly rate in addition to regular holiday pay.
- In this instance the employee may at the approval of his/her supervisor elect to have any portion of the compensation for holidays worked credited as compensation time.
- 17.5 Floating Holidays. Eligible employees shall be granted three (3) floating holidays each fiscal year on the first day of the first pay period beginning on or after July 1 of the respective year.

#### Section 18 - Child Safety and Protection

- 18.1 Child Development Center Labor Management Committee. A committee consisting of three persons each from the MESA and the Union shall be established to meet at mutually agreeable times to discuss the following issues in Child Development:
- Staff schedules including working hours, lunch breaks, and staff meeting schedules
  - Training and development, including mandatory and optional training and educational programs
  - Other issues that the committee agrees are appropriate for discussion and resolution
- 18.2 Child Safety. The parties are committed to child safety and have zero tolerance for child abuse or endangerment. For represented employees in any department who work or interact with minors or children as part of their job duties, any instance of observed, reported or reasonably suspected abuse, endangerment or mistreatment of a child or minor shall result in an investigation during which the employee may be placed on temporary leave with pay. Employees who harm, endanger or otherwise mistreat a child of any age will be subject to disciplinary action up to and including discharge from employment.

Represented employees who work or interact with minors or children shall not abuse children, including, but not limited to, the following:

- i. physical abuse—striking, spanking, shaking, slapping;
- ii. verbal abuse—humiliating, degrading;
- iii. sexual abuse—inappropriate touching or verbal exchange;
- iv. mental abuse—shaming, withholding care, cruelty, threatening;
- v. neglect—withholding food, water, basic care, etc.

No type of abuse will be tolerated; and abusive behavior shall be cause for immediate dismissal.

- 18.3 Mandated Reporting. All employees are expected to comply with Administrative Instruction 1132 Mandated Reporting. Any employee subject to the mandatory report requirement of the California Penal Code, Section 11166.5 reasonably suspects that a child, 18 years or younger, has received a physical injury or injuries which appear to have been inflicted other than accidental means by any person, or that he or she has been sexually abused, such fact will be reported immediately by the observer by

telephone and in writing immediately but in no case longer than thirty-six (36) hours to Child Protective Services (CPS) or the police department in the city of the incident.

If an Employee suspects or has knowledge of child abuse based upon behaviors, physical symptoms or signs, the Employee is required by law to report this immediately to Child Protective Services. Employees are also to report any suspicion of child abuse immediately by sending an "Unusual Incident Report" to Community Care Licensing, as required, with a copy to their direct supervisor. If the direct supervisor is not on duty, the Employee will follow the chain of command up to the next available manager.

In cases where Employees are accused of child abuse the individual will be suspended with pay pending investigation.

#### Section 19 - Employee Assistance Program

In the event an employee is admitted to the Employee Assistance Program, and at the time of such entry has disciplinary action pending which is related to the cause for entry into the Employee Assistance Program, said disciplinary action shall be held in abeyance during the period the employee is satisfactorily participating in the Program. Upon successful completion of the Program, such disciplinary action will be canceled. The provisions of this Section shall be applicable only on the first occasion an employee is admitted to the Employee Assistance program and shall not apply in the event an employee completes or drops out of the Program and applies for re-admittance.

#### Section 20 - Concerted Activities

The Union, its members and representatives agree that it and they will not engage in or authorize any strike, slowdown, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties because of any dispute arising during the term of this Memorandum of Understanding; and neither the Union nor any representative thereof shall engage in job action for the purpose of effecting changes of personnel or operations of management or of employees not covered by this Memorandum of Understanding.

#### Section 21 - Management Rights and Responsibilities

- 21.1 The Union recognizes and agrees that the MESA retains and reserves all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and the Constitution of the State of California and of the United States, limited only by Sections of this Agreement.
- 21.2 The Union recognizes and the MESA agrees that the exercise of the foregoing powers, rights, authority, duties and responsibilities by the adoption of policies, rules, regulations, and practices in furtherance thereof; and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Agreement and then only to the extent such specific and express terms are in conformance to the Constitution and laws of the State of California and of the United States.
- 21.3 The Union recognizes and agrees that the MESA's powers, rights, authority, duties, and responsibilities include the exclusive right to manage, plan, organize, staff, direct, and control; to decrease and increase the workforce, to establish and change standards, to determine solely the extent to which the facilities of any department thereof shall be operated and the outside purchase of products, the right to introduce new or improved methods and facilities; and to otherwise take any action desired to run the entire operation efficiently except as modified by this Agreement.

- 21.4 The Union recognizes and agrees that the MESA retains its right to amend, modify, or suspend policies and practices referred to in this Agreement in case of emergency. Emergency is to be defined as: An act of God, a natural or man-made disaster, or other dire interruption of the MESA's programs. When an emergency is declared the MESA shall immediately notify and consult with the Union.

#### Section 22 - Severability of Provisions

If any section, clause or provision of this Memorandum of Understanding is declared illegal by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Memorandum of Understanding.

Upon such invalidation the parties agree immediately to meet and negotiate substitute provisions for such parts or provisions rendered or declared illegal or an unfair labor practice. If the parties are unable to agree upon substitute provisions the dispute may, at the request of either the MESA or the Union, be referred to the grievance procedure.

Section 23 - Duration

Except as otherwise expressly provided herein, if at all, for the retroactive application of specific contract terms, this Memorandum of Understanding shall take effect upon ratification and signing by the authorized representatives of both parties hereto and shall remain in effect through and including June 30, 2019 and shall continue thereafter, from year to year, unless at least thirty (30) days prior to the first day of July, 2019, or the first day of July of any subsequent year, either party files written notice with the other of its desire to amend, modify, or terminate this Agreement.

Made and entered into this 12 day of October . 2016.

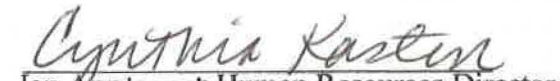
FOR SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 1021  
LOCAL 1021:

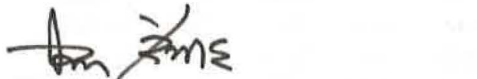
FOR MANAGEMENT OF  
EMERYVILLE SERVICES  
AUTHORITY:


  
Ossee Desmangles, SEIU

  
Carolyn Lehr, City Manager

  
Santos Quintero, Chief Spokesperson


  
Cynthia Kasten  
Interim  
Jan Appleyard, Human Resources Director

  
Miroo Desai, President

  
Darrell Murray,  
Labor Consultant

  
Steven Whittle, SEIU

Approved as to Form:

  
Michael Guina  
City Attorney/Legal Counsel



MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY  
LOCAL 1021 BARGAINING UNIT  
CLASSIFICATIONS AND SALARIES

Effective Date: July 1, 2016

<u>Job Code</u>	<u>JOB CLASSIFICATION</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>Hrs/Wk</u>	<u>Eff.Date</u>
1161	ACCOUNTANT	6,138	6,445	6,767	7,106	7,461	35	7/1/2016
1160	ACCOUNTANT, SENIOR	6,891	7,236	7,597	7,977	8,376	35	7/1/2016
1180	ACCOUNTING TECHNICIAN	5,024	5,276	5,539	5,816	6,107	35	7/1/2016
1410	ADMINISTRATIVE ANALYST *	6,076	6,380	6,699	7,034	7,385	35	7/1/2016
1510	ADMINISTRATIVE ASSISTANT	4,588	4,817	5,058	5,312	5,577	35	7/1/2016
<del>1510</del>	<del>ADMINISTRATIVE SECRETARY</del>	<del>4,588</del>	<del>4,817</del>	<del>5,058</del>	<del>5,312</del>	<del>5,577</del>	<del>35</del>	<del>7/1/2016</del>
1705	ASSISTANT COOK	2,114	2,220	2,331	2,447	2,570	40	7/1/2016
1501	ASSISTANT PLANNER	5,318	5,584	5,863	6,156	6,464	35	7/1/2016
1322	ASSOCIATE CIVIL ENGINEER	7,460	7,833	8,225	8,636	9,067	35	7/1/2016
1535	BUILDING INSPECTOR	6,639	6,971	7,319	7,685	8,069	40	7/1/2016
1507	BUILDING PERMIT TECH./PLAN CHECKER	5,512	5,788	6,077	6,381	6,700	35	7/1/2016
1500	ASSOCIATE PLANNER	6,709	7,045	7,397	7,767	8,156	35	7/1/2016
1453	COMM&ECON DEV COORDR I	5,704	5,989	6,289	6,603	6,934	35	7/1/2016
1450	COMM.&ECON. DEV COORDR II	7,282	7,646	8,028	8,430	8,851	35	7/1/2016
1236	COMMUNITY SERVICES OFFICER	4,940	5,187	5,447	5,719	6,005	40	7/1/2016
1700	COOK	2,406	2,527	2,653	2,786	2,925	40	7/1/2016
1390	CREW LEADER	5,496	5,771	6,059	6,362	6,681	40	7/1/2016
1245	CRIME ANALYST	6,102	6,407	6,727	7,064	7,417	40	7/1/2016
1321	ENGINEER, SENIOR CIVIL	8,024	8,424	8,846	9,288	9,752	35	7/1/2016
1325	ENVIRONMENTAL PROGRAMS ANALYST	5,857	6,149	6,457	6,779	7,118	35	7/1/2016
1326	ENVIRONMENTAL PROGRAMS TECHNICIAN	4,482	4,706	4,941	5,188	5,448	35	7/1/2016
1655	FAMILY SUBSIDY SPECIALIST	4,231	4,442	4,665	4,898	5,143	40	7/1/2016
1370	MAINTENANCE WORKER-GENERAL	4,627	4,859	5,102	5,357	5,625	40	7/1/2016
1710	MEAL HANDLER (Hourly Part-time)	14.82	15.56	16.34	17.16	18.01		7/1/2016
1470	OFFICE ASSISTANT I *	2,954	3,101	3,257	3,420	3,591	35	7/1/2016
1480	OFFICE ASSISTANT I (Hourly Part-Time)	19.48	20.45	21.47	22.54	23.67		7/1/2016
1460	OFFICE ASSISTANT II *	3,705	3,890	4,085	4,289	4,503	35	7/1/2016
1481	OFFICE ASSISTANT II (Hourly Part-Time)	24.43	25.65	26.93	28.28	29.69		7/1/2016
1190	PAYROLL TECHNICAN	5,284	5,549	5,826	6,117	6,423	35	7/1/2016
1505	PLANNING TECHNICIAN	4,761	4,999	5,249	5,512	5,788	35	7/1/2016
1232	POLICE ADMINISTRATIVE SPECIALIST	5,187	5,447	5,719	6,005	6,306	40	7/1/2016
1242	POLICE COMMUNICATIONS DISPATCHER	5,335	5,602	5,882	6,177	6,486	40	7/1/2016
1234	POLICE EVIDENCE TECHNICIAN	5,187	5,447	5,719	6,005	6,306	40	7/1/2016
1241	POLICE RECORDS SPECIALIST	4,940	5,187	5,447	5,719	6,005	40	7/1/2016
1240	POLICE SERVICES TECHNICIAN	4,940	5,187	5,447	5,719	6,005	40	7/1/2016
1605	PROGRAM COORDINATOR	4,570	4,800	5,040	5,291	5,556	40	7/1/2016
1595	RECREATION ASSISTANT	4,062	4,265	4,478	4,702	4,937	40	7/1/2016
1170	SENIOR ACCOUNTING TECHNICIAN	5,284	5,549	5,826	6,117	6,423	35	7/1/2016
1610	SENIOR CENTER CASE MANAGER	5,395	5,665	5,948	6,246	6,558	40	7/1/2016
1537	SENIOR BUILDING INSPECTOR	6,974	7,323	7,689	8,073	8,477	40	7/1/2016
1503	SENIOR PLANNER	7,426	7,797	8,186	8,595	9,025	35	7/1/2016
1685	TEACHER ASSISTANT	2,578	2,707	2,843	2,985	3,134	40	7/1/2016
1675	TEACHER ASSOCIATE	2,843	2,985	3,134	3,291	3,456	40	7/1/2016
1665	TEACHER	3,419	3,590	3,769	3,957	4,155	40	7/1/2016
1695	LEAD TEACHER	4,363	4,581	4,810	5,051	5,303	40	7/1/2016
1660	TEACHER II	3,192	3,352	3,520	3,696	3,880	40	7/1/2016
1670	TEACHER I	2,407	2,528	2,654	2,787	2,926	40	7/1/2016
1690	TEACHER AIDE-SUBSTITUTE (Hourly Part-Time)	14.88	15.62	16.40	-	-		7/1/2016
1680	TEACHER-SUBSTITUTE (Hourly Part-Time)	16.40	17.22	18.08	-	-		7/1/2016

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**APPENDIX**  
**BASE MONTHLY SALARY SCHEDULE**  
**Effective July 1, 2017**

<u>Job Code</u>	<u>JOB CLASSIFICATION</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>Hrs/Wk</u>	<u>Eff.Date</u>
1161	ACCOUNTANT	6,322	6,638	6,970	7,319	7,685	35	7/1/2017
1160	ACCOUNTANT, SENIOR	7,097	7,453	7,825	8,217	8,627	35	7/1/2017
1180	ACCOUNTING TECHNICIAN	5,175	5,434	5,706	5,991	6,290	35	7/1/2017
1410	ADMINISTRATIVE ANALYST *	6,258	6,571	6,900	7,245	7,607	35	7/1/2017
1510	ADMINISTRATIVE SECRETARY	4,725	4,962	5,210	5,471	5,745	35	7/1/2017
1705	ASSISTANT COOK	2,177	2,286	2,401	2,521	2,647	40	7/1/2017
1501	ASSISTANT PLANNER	5,477	5,751	6,039	6,341	6,658	35	7/1/2017
1322	ASSOCIATE CIVIL ENGINEER	7,684	8,068	8,471	8,895	9,339	35	7/1/2017
1535	BUILDING INSPECTOR	6,839	7,180	7,539	7,915	8,311	40	7/1/2017
1507	BUILDING PERMIT TECH./PLAN CHECKER	5,677	5,961	6,259	6,572	6,901	35	7/1/2017
1500	ASSOCIATE PLANNER	6,911	7,257	7,619	8,000	8,400	35	7/1/2017
1453	COMM&ECON DEV COORDR I	5,875	6,169	6,478	6,801	7,142	35	7/1/2017
1450	COMM.&ECON. DEV COORDR II	7,501	7,875	8,269	8,682	9,116	35	7/1/2017
1236	COMMUNITY SERVICES OFFICER	5,088	5,343	5,610	5,890	6,185	40	7/1/2017
1700	COOK	2,478	2,602	2,733	2,870	3,013	40	7/1/2017
1390	CREW LEADER	5,661	5,944	6,241	6,553	6,881	40	7/1/2017
1245	CRIME ANALYST	6,285	6,599	6,929	7,276	7,640	40	7/1/2017
1321	ENGINEER, SENIOR CIVIL	8,264	8,677	9,111	9,566	10,045	35	7/1/2017
1325	ENVIRONMENTAL PROGRAMS ANALYST	6,032	6,334	6,651	6,983	7,332	35	7/1/2017
1326	ENVIRONMENTAL PROGRAMS TECHNICIAN	4,616	4,847	5,089	5,344	5,611	35	7/1/2017
1655	FAMILY SUBSIDY SPECIALIST	4,358	4,576	4,805	5,045	5,297	40	7/1/2017
1370	MAINTENANCE WORKER-GENERAL	4,766	5,004	5,255	5,518	5,794	40	7/1/2017
1710	MEAL HANDLER (Hourly Part-time)	15.26	16.03	16.83	17.67	18.55		7/1/2017
1470	OFFICE ASSISTANT I *	3,043	3,194	3,355	3,522	3,698	35	7/1/2017
1480	OFFICE ASSISTANT I (Hourly Part-Time)	20.06	21.06	22.11	23.22	24.38		7/1/2017
1460	OFFICE ASSISTANT II *	3,816	4,007	4,208	4,418	4,638	35	7/1/2017
1460	OFFICE ASSISTANT II (Hourly Part-Time)	25.16	26.42	27.74	29.13	30.58		7/1/2017
1190	PAYROLL TECHNICAN	5,442	5,715	6,000	6,301	6,616	35	7/1/2017
1505	PLANNING TECHNICIAN	4,903	5,149	5,406	5,677	5,961	35	7/1/2017
1232	POLICE ADMINISTRATIVE SPECIALIST	5,343	5,610	5,890	6,185	6,495	40	7/1/2017
1242	POLICE COMMUNICATIONS DISPATCHER	5,495	5,770	6,059	6,362	6,680	40	7/1/2017
1234	POLICE EVIDENCE TECHNICIAN	5,343	5,610	5,890	6,185	6,495	40	7/1/2017
1241	POLICE RECORDS SPECIALIST	5,088	5,343	5,610	5,890	6,185	40	7/1/2017
1240	POLICE SERVICES TECHNICIAN	5,088	5,343	5,610	5,890	6,185	40	7/1/2017
1605	PROGRAM COORDINATOR	4,358	4,576	4,805	5,045	5,297	40	7/1/2017
1595	RECREATION ASSISTANT	4,184	4,393	4,613	4,843	5,085	40	7/1/2017
1170	SENIOR ACCOUNTING TECHNICIAN	5,442	5,715	6,000	6,301	6,616	35	7/1/2017
1610	SENIOR CENTER CASE MANAGER	5,557	5,835	6,127	6,433	6,755	40	7/1/2017
1537	SENIOR BUILDING INSPECTOR	7,183	7,543	7,920	8,315	8,731	40	7/1/2017
1503	SENIOR PLANNER	7,649	8,031	8,432	8,853	9,296	35	7/1/2017
1685	TEACHER ASSISTANT	2,655	2,788	2,928	3,074	3,228	40	7/1/2017
1675	TEACHER ASSOCIATE	2,928	3,074	3,228	3,390	3,559	40	7/1/2017
1665	TEACHER	3,521	3,697	3,882	4,076	4,280	40	7/1/2017
1695	LEAD TEACHER	4,494	4,719	4,954	5,203	5,463	40	7/1/2017
1660	TEACHER II	3,288	3,452	3,625	3,807	3,996	40	7/1/2017
1670	TEACHER I	2,479	2,603	2,734	2,871	3,014	40	7/1/2017
1690	TEACHER AIDE-SUBSTITUTE (Hourly Part-Time)	15.32	16.08	16.89	-	-		7/1/2017
1680	TEACHER-SUBSTITUTE (Hourly Part-Time)	16.89	17.74	18.62	-	-		7/1/2017

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**APPENDIX**  
**BASE MONTHLY SALARY SCHEDULE**  
Effective July 1, 2018

<b>Job Code</b>	<b>JOB CLASSIFICATION</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>Hrs/Wk</b>	<b>Eff.Date</b>
1161	ACCOUNTANT	6,512	6,837	7,179	7,539	7,916	35	7/1/2018
1160	ACCOUNTANT, SENIOR	7,310	7,676	8,060	8,463	8,886	35	7/1/2018
1180	ACCOUNTING TECHNICIAN	5,330	5,597	5,877	6,171	6,479	35	7/1/2018
1410	ADMINISTRATIVE ANALYST *	6,446	6,768	7,107	7,462	7,835	35	7/1/2018
1510	ADMINISTRATIVE SECRETARY	4,867	5,111	5,366	5,635	5,917	35	7/1/2018
1705	ASSISTANT COOK	2,242	2,355	2,473	2,596	2,726	40	7/1/2018
1501	ASSISTANT PLANNER	5,642	5,924	6,220	6,531	6,858	35	7/1/2018
1322	ASSOCIATE CIVIL ENGINEER	7,915	8,310	8,725	9,161	9,619	35	7/1/2018
1535	BUILDING INSPECTOR	7,044	7,396	7,765	8,153	8,560	40	7/1/2018
1507	BUILDING PERMIT TECH./PLAN CHECKER	5,847	6,140	6,447	6,769	7,108	35	7/1/2018
1500	ASSOCIATE PLANNER	7,118	7,474	7,848	8,240	8,652	35	7/1/2018
1453	COMM&ECON DEV COORDR I	6,052	6,354	6,672	7,005	7,356	35	7/1/2018
1450	COMM.&ECON. DEV COORDR II	7,726	8,111	8,517	8,943	9,390	35	7/1/2018
1236	COMMUNITY SERVICES OFFICER	5,241	5,503	5,778	6,067	6,371	40	7/1/2018
1700	COOK	2,553	2,680	2,815	2,956	3,103	40	7/1/2018
1390	CREW LEADER	5,831	6,123	6,429	6,750	7,087	40	7/1/2018
1245	CRIME ANALYST	6,473	6,797	7,137	7,494	7,869	40	7/1/2018
1321	ENGINEER, SENIOR CIVIL	8,512	8,937	9,384	9,853	10,346	35	7/1/2018
1325	ENVIRONMENTAL PROGRAMS ANALYST	6,213	6,524	6,850	7,192	7,552	35	7/1/2018
1326	ENVIRONMENTAL PROGRAMS TECHNICIAN	4,754	4,993	5,242	5,504	5,779	35	7/1/2018
1655	FAMILY SUBSIDY SPECIALIST	4,489	4,713	4,949	5,196	5,456	40	7/1/2018
1370	MAINTENANCE WORKER-GENERAL	4,909	5,154	5,412	5,683	5,967	40	7/1/2018
1710	MEAL HANDLER (Hourly Part-time)	15.72	16.50	17.33	18.20	19.11		7/1/2018
1470	OFFICE ASSISTANT I *	3,134	3,290	3,455	3,628	3,809	35	7/1/2018
1480	OFFICE ASSISTANT I (Hourly Part-Time)	20.66	21.69	22.78	23.92	25.11		7/1/2018
1460	OFFICE ASSISTANT II *	3,931	4,127	4,334	4,550	4,777	35	7/1/2018
1460	OFFICE ASSISTANT II (Hourly Part-Time)	25.91	27.21	28.57	30.00	31.50		7/1/2018
1190	PAYROLL TECHNICIAN	5,606	5,887	6,180	6,490	6,814	35	7/1/2018
1505	PLANNING TECHNICIAN	5,051	5,303	5,569	5,847	6,140	35	7/1/2018
1232	POLICE ADMINISTRATIVE SPECIALIST	5,503	5,778	6,067	6,371	6,690	40	7/1/2018
1242	POLICE COMMUNICATIONS DISPATCHER	5,660	5,943	6,241	6,553	6,881	40	7/1/2018
1234	POLICE EVIDENCE TECHNICIAN	5,503	5,778	6,067	6,371	6,690	40	7/1/2018
1241	POLICE RECORDS SPECIALIST	5,241	5,503	5,778	6,067	6,371	40	7/1/2018
1240	POLICE SERVICES TECHNICIAN	5,241	5,503	5,778	6,067	6,371	40	7/1/2018
1605	PROGRAM COORDINATOR	4,489	4,713	4,949	5,196	5,456	40	7/1/2018
1595	RECREATION ASSISTANT	4,310	4,525	4,751	4,988	5,237	40	7/1/2018
1170	SENIOR ACCOUNTING TECHNICIAN	5,606	5,887	6,180	6,490	6,814	35	7/1/2018
1610	SENIOR CENTER CASE MANAGER	5,724	6,010	6,310	6,626	6,957	40	7/1/2018
1537	SENIOR BUILDING INSPECTOR	7,399	7,769	8,157	8,565	8,993	40	7/1/2018
1503	SENIOR PLANNER	7,879	8,272	8,685	9,119	9,574	35	7/1/2018
1685	TEACHER ASSISTANT	2,735	2,872	3,016	3,167	3,325	40	7/1/2018
1675	TEACHER ASSOCIATE	3,016	3,167	3,325	3,491	3,666	40	7/1/2018
1665	TEACHER	3,627	3,808	3,998	4,198	4,408	40	7/1/2018
1695	LEAD TEACHER	4,629	4,860	5,103	5,359	5,626	40	7/1/2018
1660	TEACHER II	3,386	3,556	3,734	3,921	4,116	40	7/1/2018
1670	TEACHER I	2,554	2,682	2,816	2,957	3,104	40	7/1/2018
1690	TEACHER AIDE-SUBSTITUTE (Hourly Part-Time)	15.78	16.57	17.40	-	-		7/1/2018
1680	TEACHER-SUBSTITUTE (Hourly Part-Time)	17.40	18.27	19.18	-	-		7/1/2018

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