

**MEMORANDUM OF UNDERSTANDING**

*between*

**CITY OF SAN RAFAEL**

*and*

**SEIU Local 1021 – Child Care Unit**

***November 1, 2019 through October 31, 2021***

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**LIST OF EXHIBITS**

Exhibit A      Salary Schedule for November 1, 2019 – October 31, 2021

# MEMORANDUM OF UNDERSTANDING

between the

CITY OF SAN RAFAEL and

SEIU LOCAL 1021 – CHILD CARE

This Memorandum of Understanding is entered into pursuant to the provisions of Section 3500, et seq. of the Government Code of the State of California.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in said representation unit, and have freely exchanged information, opinions and proposals and have reached agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding shall be presented to the City Council of the City of San Rafael as the joint recommendation of the undersigned parties for salary and employee benefit adjustments for the period commencing November 1, 2019 and ending October 31, 2021.

## **1 GENERAL PROVISIONS**

### **1.1 INTRODUCTION**

#### *1.1.1 Scope of Agreement*

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City of San Rafael (herein-after called "CITY") and the Service Employees International Union (SEIU) Local 1021 (herein-after called "UNION") and shall apply to all employees of the City working in the classifications and bargaining unit set forth herein.

#### *1.1.2 Term of MOU*

This agreement shall be in effect from November 1, 2019 through October 31, 2021.

### **1.2 RECOGNITION**

#### *1.2.1 Bargaining Unit*

The City hereby recognizes the Union as bargaining representative for the purpose of establishing salaries, hours, fringe benefits and working conditions for all employees within the Child Care Bargaining Unit (see Exhibit A attached)

#### *1.2.2 Classification Specification*

The City and the Union agree that the classification specifications developed as a part of this meet and confer process, and dated January 1988, accurately describe the job classes covered by this Memorandum of Understanding.

#### *1.2.3 Notice to Employees*

Whenever a person is hired in any of the job classifications set forth herein, the City shall notify such person that the Union is the recognized bargaining representative for employees in that classification.

#### *1.2.4 Orientation Letters New Employees*

The City shall make available up to 30 minutes, at a mutually agreeable time, during the initial thirty (30) days of employment for new employee orientation by the Union. The City and the Union intent that time (i.e., up to 30 minutes) will occur at employee orientation whenever possible. The City shall

approve at least one hour of release time to the Union's designee to travel to and meet with the new employee(s). The City will provide the Union at least ten (10) days' advanced notice of all employee orientations conducted by the City unless a shorter time is required due to an urgent need critical to the City's operations and that urgent need was not reasonably foreseeable. The City shall provide the Union with the employee name, job title, department, work location, work, home and personal cell phone numbers, home address and personal email address on file with the City for all employees within the bargaining unit every 120 days and a report listing this same information within 30 days of the date of hire for any newly hired unit employees.

### **1.3 NON-DISCRIMINATION**

#### **1.3.1 *In General***

The parties to this contract agree that they shall not, in any manner, discriminate against any person whatsoever because of race, color, age, religion, ancestry, national origin, sex, sexual orientation, perceived sexual orientation, gender, gender expression, gender identity, marital status, medical condition (cancer-related or gender characteristics), genetic information (including family medical history) or physical or mental disability. Any employee alleging such discrimination should use the internal administrative process explained in the City of San Rafael's Policy Against Harassment, Discrimination and Retaliation to redress the situation. Such employees shall be entitled to Union representation but are not entitled to seek redress using the grievance procedure of this MOU.

#### **1.3.2 *Union Discrimination***

No member, official, or representative of the Union shall, in any way suffer any type of discrimination in connection with continued employment, promotion, or otherwise by virtue of membership in or representation of the Union.

### **1.4 INSPECTION OF MEMORANDUM OF UNDERSTANDING**

Both the City and the Union agree to keep duplicate originals of this Memorandum on file in a readily accessible location available for inspection by any employee or member of the public upon request.

### **1.5 EXISTING LAWS, REGULATIONS & POLICIES**

This agreement is subject to all applicable laws of the State of California, ordinances, regulations, and policies of the City of San Rafael.

### **1.6 STRIKES & LOCKOUTS**

During the term of this Memorandum, the City agrees that it will not lock out employees, and the Union agrees that it will not agree to, encourage or approve any strike or slowdown growing out of any dispute relating to the terms of this Agreement. The Union will take whatever lawful steps are necessary to prevent any interruption of work in violation of this Agreement, recognizing with the City that all matters of controversy within the scope of this Agreement shall be settled by established procedures set forth in the City's charter, ordinances, and regulations, and may be amended from time to time.

### **1.7 SEVERABILITY**

If any article, paragraph or section of this Memorandum shall be held to be invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with or any enforcement of any provision hereof be restrained by such tribunal, the remainder of this Memorandum shall not be affected thereby, and the parties shall, if possible, enter into meet-and-confer sessions for the sole purpose of arriving at a mutually satisfactory replacement for such article, paragraph or section.

## **1.8 PREVAILING RIGHTS**

All matters within the scope of meeting and conferring which have previously been adopted through rules, regulation, ordinance or resolution, which are not specifically superseded by this Memorandum of Understanding, shall remain in full force and effect throughout the term of this Agreement.

## **1.9 FULL UNDERSTANDING, MODIFICATION, WAIVER**

### *1.9.1 Understanding*

The parties jointly represent to the City Council that this Memorandum of Understanding set forth the full and entire understanding of the parties regarding the matters set forth herein.

### *1.9.2 Waiver & Modification*

Except as specifically otherwise provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right and agrees that the other shall not be required to meet and confer with respect to any subject or matter covered herein, nor as to wages or fringe benefits during the period of the term of this Memorandum.

The foregoing shall not preclude the parties hereto from meeting and conferring at any time during the term of this Agreement with respect to any subject matter within the scope of meeting and conferring by mutual agreement.

## **2 MMBA**

### **2.1 UNION RIGHTS**

#### *2.1.1 Union Stewards Designation*

The Union shall, by written notice to the City Manager, designate certain members as Employee Representatives. Employee Representatives shall be permitted reasonable time for Union activities including grievance representation. In all cases, the Representative shall secure permission from the Representative's supervisor before leaving a work assignment. Such permission shall not be unreasonably withheld.

Employee Representatives for salary discussions shall be in accordance with Meyers-Milias-Brown (MMB) Act.

#### *2.1.2 Bulletin Boards*

Authorized representatives of the Union shall be allowed to post Union notices on specified bulletin boards maintained on City premises.

### **2.2 DUES DEDUCTION**

#### *2.2.1 Collection of Dues*

(a) The City agrees, upon written consent of the employee involved, to deduct voluntary Union dues, COPE, or other Union sponsored programs selected by members, as established by the Union, from the salaries of its members. Dues and other voluntary contributions will be for a specified amount and will be made based on the information provided by the Union of employees in the Child Care Unit certified by the Union as having affirmatively authorized dues and other voluntary union deductions. The authorization of dues and other voluntary deductions will be made by the City based on the information provided by the Union.

(b) Voluntary deductions for dues, COPE, or other Union-sponsored programs shall start the pay period after the City receives written notification of the authorization from the Union. The sums to be withheld shall be remitted by the City, without delay, along with a list of employees and their respective

dues and voluntary deductions. The Union bears responsibility for allocating dues and voluntary deductions.

(c) Requests to authorize voluntary dues/other deduction(s), the specific amount of each such deduction(s), or requests to change status or amount of such deductions, shall be directed to the Union rather than the City. The City shall rely on the Union's explanation in a written certified list, submitted by a representative of the Union who has authority to bind the Union regarding whether an authorization/change in deduction(s) has been requested by the employee.

(d) The City shall not request the Union to provide a copy of any member employee's authorization unless a dispute arises about the existence or terms of the authorization. To the extent required by the Government Code, or otherwise required by law, the City will rely on the information provided by the Union in processing dues deductions for Union employees. The Union is responsible for providing the City with timely information regarding changes to member employees' dues deductions.

(e) Dues deductions, once initiated, will continue until the employee's authorization is revoked in writing by the employee. An employee may only revoke a dues deduction authorization by delivering to the Union a written notice of revocation to the Union. The authorization or cancellation of dues and other deductions will be made by the City based on the information provided by the Union.

(f) The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues or service fees check-off 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 for 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 have priority over Union dues.

(g) The Union will indemnify, defend, and hold harmless the City, its officials, representatives, and agents from and against any liability arising from any claims, demands, or other action relating to the City's compliance with this Section 2.2.1.

(h) The Union alone may grieve the City's failure to timely transmit the appropriate amount of voluntary union deductions. However, any other dispute regarding this section of the MOU is not subject to the grievance procedures contained in this MOU between the parties, including whether the employee authorized the deduction, the amount of the deduction, or whether the employee tried to revoke the authorization.

### *2.2.2 Dues Collection during Separation from Employment*

The provisions specified above (Section 2.2.1.) shall not apply during periods of separation from the representation Unit by any such employee but shall reapply to such employee commencing with the next full pay period following the return of the employee to the representation Unit. The term separation includes transfer out of the Unit, layoff, and leave without pay absences with a duration of more than five (5) working days.

## **2.3 MANAGEMENT RIGHTS**

The City reserves, retains, and is vested with, solely and excessively, all rights of management which have not been expressly abridged by specific provision of this Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of this Memorandum of Understanding. The sole and exclusive rights of management, as they are not abridged by this Agreement or by law, shall include, but not be limited to, the following rights:

1. To manage the City generally and to determine the issues of policy;
2. To determine the existence of facts which are the basis of the management decision;



3. To determine the necessity of any organization or any service or activity conducted by the City and expand or diminish services;
4. To determine the nature, manner, means, technology and extent of services to be provided to the public;
5. Methods of financing;
6. Types of equipment or technology to be used;
7. To determine and/or change the facilities, methods, technology, means and size of the work force by which the City operations are to be conducted;
8. To determine and change the number of locations, re-locations and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right (after effect bargaining) to contract for or subcontract any work or operation of the City;
9. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments;
10. To relieve employees from duties for lack of work or other legitimate reasons;
11. To discharge, suspend, demote or otherwise discipline employees for proper cause in accordance with the provisions and procedures set forth in City Personnel Rules and Regulations and this MOU;
12. To determine job classifications and to reclassify employees;
13. To hire, transfer, promote and demote employees in accordance with this Memorandum of Understanding and the City's Rules and Regulations;
14. To determine policies, procedures and standards for selection, training and promotion of employees;
15. To establish and modify employee and organizational performance and productivity standards and programs including but not limited to, quality and quantity standards; and to require compliance therewith;
16. To maintain order and efficiency in its facilities and operations;
17. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with this Agreement;
18. To take any and all necessary action to carry out the mission of the City in emergencies.

The City and the Union agree and understand that if, in the exercise of any of the rights set forth above, the effect of said exercise of rights by the City impacts an area within the scope of representation as set forth in the Meyers/Milias/Brown Act, case law interpreting said acts, and/or Federal law, the City shall have the duty to meet and confer with the Union regarding the impact of its decision/exercise of rights.

#### **2.4 COMMENCEMENT OF NEGOTIATIONS**

It is mutually agreed to begin the Meet and Confer process no later than three (3) months before the expiration date of this MOU, regarding the terms and conditions applicable to successor MOUs. The process will be initiated by the Union through the submittal of potential meeting dates.

### **3 COMPENSATION**

#### **3.1 GENERAL WAGE INCREASE**

Effective the first full pay period in November 2019 or the pay period in which the ratified MOU is first read in open session, whichever is later, the City will increase base wages for all employees by 2%.

Effective the first full pay period in November 2020, the City will increase base wages for all employees by 2%.

#### **3.2 ONE-TIME EXPEDITED BARGAINING PAYMENT**

The following one-time payment is limited to the two (2) years cited in this agreement and is not scheduled to recur in the future:

- Effective the first full pay period including November 1, 2019 or the pay period in which the ratified MOU is first read in open session, whichever is later, each employee in the bargaining unit will receive a one-time expedited payment of \$2,000.
- Effective the first full pay period including November 1, 2020, each employee in the bargaining unit will receive a one-time expedited payment of \$2,000.

These two (2) payments will not contribute to employees' pensions and are subject to normal payroll taxation. The one-time money payments for part-time employees will be prorated based on the full-time equivalent of the position.

#### **3.3 STEP INCREASES**

Except as provided below, when considering a step increase for Child Care Program employees, he/she must have at least one year of satisfactory service and have worked a minimum of 700 hours during the preceding year and receive a positive evaluation from his/her supervisor. If said employee does not qualify for a step increase after each year of service, he/she will be considered for that increase upon the completion of the minimum 700-hour requirement.

Employees are eligible to advance to Step E on their anniversary date after having spent at least two years at Step D.

#### **3.4 MERIT INCREASES**

Employees at the maximum step of their salary range may be granted a merit performance award of five percent (5%) above and beyond their salary range. A merit performance award may be effective for up to one (1) year. A merit performance award may be withdrawn and is not a disciplinary action and is not appealable.

#### **3.5 SPECIFIED WAGE ADJUSTMENTS / DIFFERENTIALS**

##### *3.5.1 Salary Range Differentials*

A 12.5% salary range differential between top step Instructor II and beginning step of Director and create an 11% salary range differential between top step Instructor I and beginning step of Instructor II.

##### *3.5.2 Split Shift Pay Differential*

Child Care workers covered by this MOU who have a two-hour or more break in shifts during the same day will receive a .5 hour premium pay for that day.

### **3.6 ADDITIONAL PAY**

#### **3.6.1 Educational Reimbursement**

An Educational Reimbursement Program is available to employees for courses that are: job related, assist the employee in meeting State licensing requirements and/or prepare the employee for career advancement in the child care field.

The reimbursement may not exceed 75% for the cost of the course, up to \$300 per fiscal year maximum. The Educational Reimbursement Program also includes an additional reimbursement of up to \$60 per fiscal year for professional membership dues for work-related organizations for employees.

To be eligible to receive reimbursement under this program the employee must:

- a. submit a written request and receive prior approval from the Recreation Supervisor for the Child Care Program;
- b. be regularly scheduled to work 20 hours or more per week;
- c. have completed initial probation before reimbursement is received; and
- d. satisfactorily complete the course.

#### **3.6.2 Bilingual Pay**

Employees in this unit may receive bilingual pay for full fluency in a foreign language and their use of this skill to provide services for the City. Full fluency is defined as a skill level that will allow the employee to fully assist a member of the public who does not speak English by translating for, conversing with, and/or reading or writing written material.

An employee can petition their Department Director for this bilingual pay incentive. The Department Director will review and make a recommendation to the Human Resources Director and City Manager. If approved, the employee will receive an additional \$150 per month above their base salary. Part-time employees will be pro-rated for this incentive based on their full-time equivalency (FTE).

Approval of bilingual pay incentive by the City Manager Includes:

1. Certification by a recognized school of the appropriate skill level and/or demonstrated ability of the proficiency level on the job; and
2. Department Director's recommendation and statement that bilingual skill of the employee can be of value to the Department and to the employee in the completion of their regular work assignments.

The bilingual pay incentive shall be reviewed annually and as long as the employee demonstrates (by work experience or re-testing, as determined by the City of San Rafael), the full fluency skill level, and as long as the Department Director indicates the value of this skill to the Department and the employee in completion of their regular work assignments.

Removal of this bilingual pay incentive would be considered a non-disciplinary action; however, removal of bilingual pay is appealable to the Human Resources Director. The determination of the Human Resources Director is not subject to any appeal/grievance procedure.

## **4 BENEFITS**

### **4.1 EMPLOYEE BENEFITS COMMITTEE**

Both parties agree to continue to utilize the Employee Benefits Committee for ongoing review of benefit programs, cost containment and cost savings options. The Committee shall be made up of representatives of SEIU, SEIU-Child Care, Western Council of Engineers (WCE), PEU Local 1 - Confidential, Police, Police Mid-Management, Fire, Fire Chief Officers, Mid-Management and

Management employees.

## **4.2 HEALTH & WELFARE**

### **4.2.1 Full Flex Cafeteria Plan**

Effective January 1, 2010, the City implemented a full flex cafeteria plan (known as the Flexible Benefits Plan) for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan.

The monthly flex dollar allowance effective December 15, 2016 is:

For employee only:	\$ 745.00
For employee and one dependent:	\$ 1,056.00
For employee and two or more dependents:	\$ 1,083.00

*NOTE: For part time employee flex dollar allowances, see Section 4.2.3.*

The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health insurance coverage or may be converted to taxable income.

Flex dollar allowances for the Employee +1 and Family level contribution shall increase on the December 15th paycheck of each year up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

Conditional Opt-Out Payment: An employee may elect to waive the City's health insurance coverage and receive \$300 in monthly Opt-Out payment in accordance with the terms of the cafeteria plan and Affordable Care Act, if the employee complies with the following conditions:

- 1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived, have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.
- 2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the employee's tax family lose coverage under the alternative Minimum Essential Coverage Plan.
- 3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if the City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations.

### **4.2.2 Life Insurance**

Effective January 1, 2010, the City shall be responsible for paying premiums for a life insurance and Accidental Death and Dismemberment (AD&D) policy for each employee. The life and AD&D policy

shall provide a \$5,000 life insurance and a \$5,000 AD&D benefit. The City shall also make available a voluntary life insurance program at employee expense.

#### 4.2.3 *Long Term Disability Policy*

Effective January 1, 2010, the City shall be responsible for paying premiums for a Long-Term Disability Policy for each employee that satisfies the eligibility provisions of the long-term disability policy. The Long-Term Disability policy shall provide for salary replacement of 66.67% of an individual's salary up to a maximum disability benefit of \$1,000 per month.

#### 4.2.4 *Retirees Health Insurance*

Employees represented by the Union who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's retiree group health insurance program offered through PEMHCA. The City's contribution towards retiree coverage shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

##### **a. Longevity Payment for Employees hired on or before January 1, 2010**

The City shall make a monthly longevity payment into a Retiree Healthcare Reimbursement Trust (Retiree HRA Trust) on behalf of employees hired before January 1, 2010 and who retire from the City of San Rafael as described in this Section. The City's monthly contribution to the Retiree HRA trust shall not exceed \$543 per month. The City's contribution towards a retiree's Retiree HRA Trust account shall continue for the lifetime of the retiree and retiree's spouse, in accordance with PEMHCA eligibility provisions for coverage.

- b. Employees hired on or after January 1, 2010** and who meet the eligibility requirements for retiree health insurance are eligible to continue in the City's group health insurance program. The City's maximum contribution towards retiree coverage under this subsection, 3.1.5 B, shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner, or dependents upon the employee's retirement from the City in excess of the PEMHCA minimum contribution as required by CalPERS.

The City shall additionally make available a retiree health care trust to enable these employees hired on or after January 1, 2010 to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by annual conversion of 50 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of 75 hours of sick leave after the conversion.

#### 4.2.5 *Pro Rata Benefit Rules*

Employees covered by this Agreement who work less than full time but more than twenty (20) hours per week on a regular basis shall be eligible to receive: a) pro-rated leave benefits; b) a pro-rated share of the monthly dollar contribution made by the city to be used for enrollment in city offered group health, life, and long term disability insurance plans which the employee may be eligible for based upon the regular hours the employee works, and c) pro-rated share shall be equivalent to the part time employee position's ratio of hours worked to full time equivalency.

For those part time employees hired prior to January 1, 2010, the flex dollar allowance shall be pro-rated based off of \$909 per month. For those electing "Employee Only" coverage, the maximum benefit for these part time employees shall be \$650 per month.

#### 4.2.6 *Health and Dependent Care Spending Accounts*

City will offer Flexible Spending Accounts as part of its Section 125 Plan for as long as such a plan is desired by the Union and available under the IRS Code. The Flexible Spending Accounts offered by the City include:

- a. Healthcare Spending Account: Out-of-pocket medical expenses that qualify under the IRS Code, up to the IRS Code limit. Employees are responsible to pay the monthly administrative fee and any increase established by the third party administrator.
- b. Dependent Care Spending Accounts: Dependent care expenses that qualify under the IRS Code, up to the IRS Code limit. Employees are responsible to pay the monthly administrative fee and any increase established by the third party administrator.
- c. Premium Only Plan: Employee's share of medical insurance premiums shall be deducted from employee's pay with pre-tax dollars as long as such deduction is allowable under the applicable IRS Code.

City shall establish annual enrollment period and each employee must re-enroll annually for either plan noted in a. and/or b. City shall have the authority to implement changes to the 125 Programs to comply with changes in applicable IRS laws without having to go through the meet and confer process.

#### 4.2.7 *Health Insurance Providers*

The City shall have the option, after meeting and consulting with representatives of the Union Stewards' Council, of either contracting with the Public Employees Retirement System (PERS) Health Benefits Division for health insurance or contracting directly with some or all of the providers of health insurance under the PERS program; provided, however, contracting directly with the providers shall not cause any material reduction in insurance benefits from those benefits available under the PERS program.

### **4.3 DENTAL PLAN**

The City will provide a dental insurance program for all full-time and part-time, permanent employees regularly scheduled to work a minimum of 20 hours per week.

All employees enrolled in the dental insurance program will be enrolled in the subgroup that provides \$1,500 maximum benefit for one Dental Expense Period for all covered dental expenses, for all eligible enrollees, except for Orthodontic Treatment which has an aggregate maximum benefit (lifetime) of \$1,000 and is limited to eligible dependent children. The City will pay the full cost of the monthly dental insurance premium for full-time employees, including those with a 35-hour full-time position. For the eligible part-time, permanent employees enrolling in the City's group dental insurance program, the City will pay the first \$70 per month of the actual premium rate for the eligible part-time, permanent employees and the enrolled employee will be responsible through payroll deduction for the balance of the monthly premium. In the event of an increase in the dental insurance premium, the City payment of eligible part-time, permanent employees shall be increased to maintain the same dollar differential between full-time and part-time. The plan shall cover enrollment for eligible employees and their eligible dependents. Refer to the dental insurance policy booklet for eligibility requirements and specific coverage and other benefit limitations.

### **4.4 VISION PLAN**

The City will provide vision care benefits for employee only coverage. Employees may enroll qualified family members and pay the premium costs for such enrollment.

## **4.5 RETIREMENT CONTRIBUTION**

### **4.5.1 Eligibility**

All employees whose full-time equivalency (FTE) is  $\frac{3}{4}$  of a full-time equivalent in their classification shall be eligible members of the Marin County Retirement Association. Employee rates shall be set according to MCERA policy. All other employees (except those noted above) shall be enrolled in the Public Agency Retirement System (PARS) as long as that remains an approved alternative to Social Security.

### **4.5.2 City Paid Employee Retirement (City Paid Member Contribution)**

Bargaining unit, members shall pay the full share of the employee's contribution to the Marin County Retirement System. The employee's share of their contribution shall be paid by the employee through automatic payroll deductions. In accordance with the Marin County Employees Retirement Association (MCERA) and City administrative requirements, all unit employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by MCERA, in addition to the current employee contribution towards pension as determined by MCERA.

The City of San Rafael acknowledges that under its current practice, the employees' share of their retirement contribution is deducted with pre-tax dollars. This practice will continue until changed through the Meet and Confer process or until IRS regulations change.

### **4.5.3 Retirement Plans**

On January 1, 2007, the City shall provide the Marin County Employee Retirement Association 2.7% at 55-retirement program to all eligible miscellaneous members, as defined under the 1937 Act Government Code Section 31676, subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws that govern such plans. This is based on an employee's single highest year of compensation.

Employees hired on or after January 1, 2012, will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. Minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as "new members" of MCERA in accordance with the Public Employees' Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA, through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately preceding the effective date of his or her retirement or some other period designated by the retiring employee. (Sections 4.5.3, 4.5.4, 4.5.5)

### **4.5.4 Member Cost of Living Rates**

Effective January 1, 2007, bargaining unit members who are eligible to participate in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Contribution rates include both the basic and COLA portions (50% of COLA is charged to members as defined in the 1937 Act).

## **4.6 DEFERRED COMPENSATION PLAN**

Child Care Unit employees who are contracted to work 35 hours or more each week are eligible to participate in the City's Deferred Compensation Plan.

## **4.7 STATE DISABILITY INSURANCE (SDI)**

Employees will have the full premium cost for SDI coverage automatically deducted from their paycheck and no City contribution will be made toward participation in the plan.

It is incumbent upon the employee to keep the City advised of their medical status, within HIPAA guidelines, and eligibility for SDI. With this notification, SDI benefits, as determined by the State, shall be integrated with accrued sick and vacation leave in the following manner:

- a. Employee notifies supervisor of disability and need for time off. At the same time employee files for SDI through the State Office.
- b. Supervisor verifies from leave records the employee's accrual balances and projects whether or not employee would, under normal circumstances, be placed in a leave without pay status during the time off period.
- c. Personnel Action Report (PAR) is completed by the supervisor to document request and approval of extended leave.
- d. Human Resources Department, on receipt of the PAR, contacts employee and supervisor to discuss availability of coordination of SDI with leave benefits.
- e. Employee's time off is recorded as sick leave and then, if necessary, vacation leave on time cards submitted by the supervisor to the Payroll Office.
- f. Upon receipt of the SDI payments, the employee must endorse the payments over to the City of San Rafael to receive credit for leave taken.
- g. Based upon the employee's hourly rate of pay, the Payroll Office computes how much used sick and/or vacation leave time the employee will be credited and credits the employee with those hours. NOTE: The employee may not be credited more than they accrued at or during the time of the disability.
- h. The Human Resources Department, after notification from Payroll, notifies the employee when they have used all accrued sick and/or vacation time and when leave without pay status (LWOP) begins. Once the employee is on LWOP, they would keep any SDI payments received and would be fully responsible for the monthly health, dental and life insurance premiums (except during qualifying FMLA/CFRA leave) if they choose to remain in the group plans.

## **5 LEAVES**

### **5.1 SICK LEAVE**

#### **5.1.1 Eligibility**

Sick leave with pay shall be granted to each eligible employee. Sick leave shall not be considered a privilege which an employee may use at employee's discretion but shall be allowed only in case of necessity and actual sickness or disability. The employee is required to notify employee's immediate supervisor or Department Director according to department rules and regulations at the beginning of his/her daily duties. Every employee who is absent from his/her daily duties for two (2) or more consecutive days may be requested by the supervisor to provide a physician's certificate. The inability or refusal by said employee to furnish the requested information, as herein required, shall constitute good and sufficient cause for disciplinary action, including dismissal.



### 5.1.2 *Sick Leave Accrual*

Eligible employees shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment (based on the daily hours an eligible employee has contracted to work).

### 5.1.3 *Use of Sick Leave*

An employee may use accrued sick leave during their probationary period. An employee eligible for sick leave with pay shall be granted such leave for the following reasons:

1. Personal illness or illness within the immediate family (as defined by the CAL-PERS health insurance regulations, including but not limited to the employee's spouse, registered domestic partner, unmarried children, including adopted child, stepchild or recognized natural child who lives with the employee in a regular parent-child relationship, parent, including in-laws, and grandparents), or for any physical incapacity resulting from causes beyond the employee's control; or
2. Enforced quarantine of the employee in accordance with community health regulations; or
3. Medical appointments that cannot be scheduled during non-working hours.

### 5.1.4 *Advance of Sick Leave*

Whenever circumstances require, and with the approval of the City Manager, sick leave may be taken in advance of accrual up to a maximum determined by the City Manager, provided that any employee separated from the service who has been granted sick leave that is unaccrued at the time of such separation shall reimburse the City of all salary paid in connection with such unaccrued leave.

### 5.1.5 *Service Credit for Sick Leave*

Employees retiring from city service, within 120 days of leaving their position (excludes deferred retirements), and who will be receiving an ongoing retirement annuity from the Marin County Employees' Retirement System can receive service credit for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and which they elect to receive in the form of compensation for at the time of retirement pursuant to Section 5.1.6 Compensation for Unused Portion).

Employees hired on or after October 31, 2009 are not eligible to receive employment service credit of any accrued, unused sick leave for retirement purposes.

### 5.1.6 *Compensation for Unused Portion*

Upon termination of employment by retirement (must retire within 120 days of leaving their City position, i.e., age and service eligible for retirement. Minimum 50 years old and 10 years of continuous service) or death, an eligible employee who leaves the City service in good standing shall receive compensation for all accumulated unused sick leave based upon the rate of three percent (3%) for each year of service, to a maximum of fifty percent (50%). The maximum accrual for payoff purposes is 150 days (based on employee's contracted work hours per day).

See Section 5.1.5 above for service credit eligibility for unused portion of sick leave.

## **5.2 VACATION LEAVE**

### 5.2.1 *Eligibility*

Annual vacation with pay shall be granted to eligible employees. Vacation accrual shall be prorated for those employees working less than full time. Vacation leave does not accrue to those working in the Child Care Temporary class. Vacation benefits may be taken as accrued and provided in Section

5.2.2. below. Probationary employees may take accrued vacation if authorized by the Department Director and approved by the City Manager.

**5.2.2 Rate of Accrual**

Vacation benefits shall accrue during the probationary period. However, use of accrued benefits shall not be allowed until the successful completion of the probationary period, unless specifically authorized by the Department Director and City Manager. Eligible employees shall commence to accrue vacation at the following rate for continuous service: Each service year on the chart begins in the first working day and ends on the last day of the service year.

<b>SERVICE YEAR</b>	<b>ANNUAL ACCRUAL</b>
1	10 days
2	10 days
3	10 days
4	15 days
5	15.75 days
6	16.50 days
7	17.25 days
8	18.00 days
9	18.75 days
10	19.50 days
11	20.00 days
12	21.00 days
13	22.00 days
14	23.00 days
15	24.00 days
16 plus	25.00 days

*Note: Vacation accrual rates shall be based on the daily hours an employee has contracted to work. If the employee's work day is six (6) hours, the employee will accrue ten (10) six-hour vacation days.*

**5.2.3 Administration of Vacation Leave**

The City Manager, upon the recommendation of the Department Director, may advance vacation credits to any permanent regular and permanent part-time employee. The time at which an employee may use his accrued vacation leave and the amount to be taken at any one time shall be determined by the employee's Department Director with particular regard for the needs of the City but also, insofar as possible, considering the wishes of the employee.

In the event that one or more City holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave and the vacation leave shall be extended accordingly.

Employees who resign from City service shall be paid in a lump sum for all accrued vacation leave earned prior to the effective date of termination.

The vacation accrual cap for all employees accruing vacation shall be 250 hours.

#### 5.2.4 *Vacation Cash-In*

An employee who has taken at least ten (10) days of vacation in the preceding twelve (12) months may request, in May or November in any fiscal year, that accrued vacation, not to exceed seven (7) days, be converted to cash payments and the request may be granted at the discretion of the City Manager. Employees cannot cash in more than seven (7) days of vacation in any one twelve (12) month period.

### 5.3 HOLIDAYS

#### 5.3.1 *Paid Holidays*

Employees shall be granted the following holidays:

January 1 <sup>st</sup>	New Year's Day
The third Monday in January	Martin Luther King Jr. Day
The third Monday in February	Washington's Birthday
March 31 <sup>st</sup>	Cesar Chavez Day
The last Monday in May	Memorial Day
July 4 <sup>th</sup>	Independence Day
The first Monday in September	Labor Day
November 11 <sup>th</sup>	Veteran's Day
The fourth Thursday in November	Thanksgiving Day
The fourth Friday in November	Day after Thanksgiving
December 25 <sup>th</sup>	Christmas Day

At the discretion of the Recreation Supervisor for the Child Care Program, the celebrated City holidays, noted above, will be coordinated with the public schools served by the Child Care Centers and/or those holidays falling on a Saturday or Sunday will be observed on either the Friday before or the Monday after pursuant to the City's annual holiday schedule. Part-time employees will be paid for holidays on a pro-rated basis.

#### 5.3.2 *Floating Holidays*

In addition to the designated holidays, employees in this Unit receive two (2) floating holidays. Floating holidays not used by the end of the calendar year will be added to an employee's vacation balance in the first full pay period of each January. Part-time employees will be paid for holidays on a pro-rated basis.

### 5.4 OTHER LEAVE

#### 5.4.1 *Bereavement Leave*

In the event of the death of an employee's spouse, child, parent, brother, sister, registered domestic partner, grandchild, grandparent, in-laws, relative who lives or has lived in the home of the employee to such an extent that the relative was considered a member of the immediate family and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, up to three (3) days within the State and up to five (5) days out-of-state may be granted for bereavement leave.

In those cases where the death involves an individual who had such a relationship with the employee, as defined above, the employee shall sign a simple affidavit describing the relationship and submit this to the Department Director as part of the request for bereavement leave.

#### 5.4.2 *Jury Duty*

Employees required to report to jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided that the employee provides advance notice to the Appointing Authority and remits to the City all per diem service fees except mileage or subsistence allowance within thirty days from the termination of such duty.

#### 5.4.3 *Military Leave*

Military leave shall be granted in accordance with the State of California Military and Veteran's Code as amended from time to time. All employees entitled to military leave shall give the appointing authority and the Department Director an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

#### 5.4.4 *Leave of Absence Without Pay*

Leave of absence without pay may be granted by the City Manager upon the written request of the employee and the recommendation of the Child Care Recreation Supervisor. Accrued vacation leave and if applicable, accrued sick leave, must be exhausted prior to the granting of leave without pay.

#### 5.4.5 *Industrial Injury Leave*

For benefits under Workers' Compensation, an employee should report any on the job injury to his/her supervisor as soon as possible, preferably within twenty-four (24) hours. The Human Resources Department coordinates benefits for Workers' Compensation claims. For further information, see the City's Workers' Compensation policy located on the Intranet (<https://intranet.cityofsanrafael.org>).

Employees of the City who have suffered any disability arising out of and in the course of their employment as defined by the Worker's Compensation Insurance and Safety Act of the State of California, are entitled to all benefits allowed them by the Worker's Compensation Insurance and Safety Act of the State of California.

Temporary disability payments (TD) are made to all employees (full and part-time) when a physician reports an employee is unable to perform their job duties due to an industrial injury and the City cannot accommodate the restrictions mandated by their physician. TD is set by State law and is approximately two-thirds of full salary with state-mandated minimums and maximums. For full-time, regular employees, however, the City augments TD payments with salary continuation, as follows: Compensation leave payments shall not exceed the employee's regular full pay for the first three (3) calendar months and three-fourths (3/4) of the regular full pay for the following six (6) calendar months.

#### **Sick Leave Usage Post Industrial Injury/Illness:**

The following rule applies to employees who have an accepted industrial injury/illness: Available accrued sick leave cannot be used for more than 60 calendar days after one of the following has been determined:

- The employee has reached maximum medical improvement and/or has been determined "permanent and stationary."
- The employee has been determined to be unable to return to their usual and customary occupation, with or without reasonable accommodation.

Given the above has occurred, next steps would include:

- The interactive process; attempt to locate other appropriate employment within the City
- If none available, proceed with termination process, including disability retirement application and/or Skelly process, if appropriate.

#### 5.4.6 *Family Medical Leave*

Union members agree to adhere to the provisions of the City's Family Medical Leave Policy which is available on the City's Intranet Website.

#### 5.4.7 *Catastrophic Leave*

Catastrophic Leave shall be in accordance with City Catastrophic Leave Policy which is available on the City's Intranet website.

#### 5.4.8 *Emergency/Smoke Leave*

In the event that an emergency is declared that impacts the City Child Care facilities or operations and results in the closure of any facilities, employees in this bargaining unit will be granted leave and compensated for the regularly scheduled work day with no adverse effect on the employee.

Employees may be required to report to a worksite other than their regularly scheduled worksite to assist in emergency duties or to a non-impacted child care worksite for childcare duties at the discretion of the City.

This provision applies to Federal, State, County, or City declared emergencies or other non-declared circumstances that result in the closure of District schools.

## **6 TERMS & CONDITIONS OF EMPLOYMENT**

### **6.1 HOURS OF WORK**

The work week for Child Care Center Directors shall be 37.5 hours per week and 35.0 hours per week for Child Care Instructors I and II.

Within the hours of operation, changes in the days or hours of the regular work schedule of an employee shall be posted at least seven (7) days in advance. No advance notice to employees by the City of schedule changes will be required when changes occur as a result of work-related emergencies, i.e., multiple sicknesses, disabilities or injuries; or staff shortage occurring less than seven days in advance or due to unplanned changes in school operations or schedules beyond the control of the City.

### **6.2 STAFF DEVELOPMENT / TRAINING DAYS**

Effective July 1, 1995, four (4) days of staff development/preparation will be provided per fiscal year. The scheduling of these days during the fiscal year will be accomplished through the recommendation of the Child Care Center Directors and approval of the Recreation Supervisor for the Child Care Program.

### **6.3 OVERTIME**

Overtime shall mean actual time worked beyond the standard scheduled workday or work week used for full-time employees as defined per job classification. A work or duty week shall be defined as seven (7) consecutive calendar days, beginning 0001 hours Sunday through 2400 hours Saturday.

Overtime is compensable to the nearest half-hour and must have prior authorization and approval of the Department Director.

### **6.4 COMPENSATORY TIME POLICY**

With the Department Director's approval, compensatory time, in lieu of overtime pay, may be taken subject to the following rules:

#### 6.4.1 *Accrual Limit*

Upon accrual of time, five (5) days or forty (40) hours of compensatory time, employees shall be paid overtime at a rate of time and one-half of their base salary rate for hours worked and may not accrue additional compensatory time.

#### 6.4.2 *Overtime Rate*

Employees who work overtime must be paid at the rate of time and one-half or may accrue compensatory time at a rate of time and one-half subject to the limitations in 6.4.1. Employees who elect compensatory time must take the time off, preferably within the quarter during which it was earned.

#### 6.4.3 *Use & Carry Over*

All compensatory time earned during the fiscal year must be used by June 30<sup>th</sup> of that year with one exception. Upon the recommendation of the supervisor and approval of the Department Director, employees may carry over up to forty (40) hours of compensatory time provided it is taken within the following quarter (7-1 to 9-30).

### **6.5 PROBATION**

All employees hired on or after January 16, 1986, shall be required to serve a probationary period of one (1) year and shall serve a one-year promotional probationary period when appointed to a higher job classification.

### **6.6 TEMPORARY PROMOTIONS**

Employees assigned to work out of class and perform the work of a Child Care Center Director for a period of three consecutive days or longer, will be compensated at an hourly rate of five percent (5%) greater than the employee's current rate, or at the lowest step of the Child Care Center Director's salary range, whichever is greater. The increase shall be retroactive to include the first day.

### **6.7 PERSONNEL RULES & REGULATIONS**

#### 6.7.1 *Harassment Policy*

It is the City's intent and purpose to provide all officials, employees, applicants, and contractors with an environment that is free from any form of harassment, discrimination or retaliation. Employees shall refer to the City Policy against Harassment, Discrimination and Retaliation which is available on the City's Intranet website.

#### 6.7.2 *Drug & Alcohol Policy*

The employees covered by this bargaining agreement agree to abide, as a condition of employment, by the terms of the City's Drug Free Work Place Policy which is available with the City's policies and on the City's Intranet website.

### **6.8 MISCELLANEOUS**

#### 6.8.1 *CPR / First Aid Training*

An annual program for cardiopulmonary resuscitation (CPR) and First Aid certification will be provided for persons working as Child Care Directors and Instructors II.

#### 6.8.2 *Gratuities / Solicitation of Contributions*

No employee shall receive, request, solicit, or demand gratuities from any citizen or company for services provided by the City. Such action shall be considered grounds for disciplinary action up to and including dismissal.

### 6.8.3 *Labor / Management Meetings*

During the term of the Agreement, the City and the Union agree that consultation meetings may contribute to improved employer-employee relations. Issues relating to the cost of living in Marin County, job classes within the City and promotional opportunities may serve as a basis for initial agenda items to be discussed.

The committee shall be comprised of three (3) representatives from the Child Care Unit and three (3) from City Management as well as the Union staff and the Human Resources Director. The parties agree that committee members may change depending on the subject matter.

Meetings may be requested by either party. The party requesting the meeting shall submit a proposed agenda and the receiving party shall acknowledge and confirm the date, time and location of the requested meeting. It is intended that the subject matter will not include issues subject to Grievance Procedures outlined in this MOU and this language is not intended to create a re-opener clause in this MOU.

### 6.8.4 *Child Care Division Employee Program Discount*

All Child Care Division staff with children enrolled in any City of San Rafael Child Care Division program will receive a 50% discount on program fees based on their level of enrollment. All policies regarding admission and attendance in the Child Care Program will continue to apply to Child Care staff in accordance with the Child Care Division Parent Handbook and Child Care Staff Handbook.

## **7 PROCEDURES**

### **7.1 DISCIPLINARY ACTION**

#### *7.1.1 Right to Discipline & Discharge*

Upon completion of the designated probationary period, an employee shall be designated as a non-probationary employee and the City shall have the right to discharge or discipline any such employee for dishonesty, insubordination, drunkenness, incompetence, negligence, failure to perform work as required or to observe the Department's safety rules and regulations or for engaging during the term of this Memorandum of Understanding, in strikes, individual or group slowdowns or work stoppages, or for violating or ordering the violation of the Memorandum of Understanding. The City shall use progressive disciplinary steps (i.e., reprimand, suspension, demotion, discharge) unless the violation is such as to justify termination. Disciplinary action shall mean discharge/dismissal, demotion, reduction in salary, and suspension resulting in loss of pay.

In addition, the City may discipline or discharge an employee for the following: Fraud in securing appointment; negligence of duty; violation of safety rules; unacceptable attendance record including tardiness, overstaying lunch or break periods; possession, distribution or under the influence of alcoholic beverages, non-prescription or unauthorized narcotics or dangerous drugs during working hours; inability, unwillingness, refusal or failure to perform work as assigned, required or directed; unauthorized soliciting on City property or time; conviction of a felony or conviction of a misdemeanor involving moral turpitude; unacceptable behavior toward (mistreatment or discourteousness to) the general public or fellow employees or officers of the City; falsifying employment application materials, time reports, records, or payroll documents or other City records; misuse of City property; violation of any of the provisions of these working rules and regulations or departmental rules and regulations; disorderly conduct, participation in fights, horseplay or brawls; dishonesty or theft; establishment of a pattern of violations of any City policy or rules and regulations over an extended period of time in which a specific incident in and of itself would not warrant disciplinary action, however, the cumulative effect would warrant such action; failure to perform an acceptable level of work quality and quantity;

insubordination; other acts inimical to the public service; inability or refusal to provide medical statement on cause of illness or disability.

### 7.1.2 *Preliminary Notice*

A non-probationary employee shall receive a preliminary written notice from the Recreation Supervisor for the Child Care Program of any proposed disciplinary action that involves the loss of pay. The notice must contain a specific statement of charges or grounds upon which the proposed disciplinary action is based and the date the disciplinary action will be effective.

Any known written materials, reports or documents upon which the disciplinary action is based must be attached to the notice.

Upon receipt of the notice, the non-probationary employee shall have five (5) days to appeal the matter in writing in Step 2 of the Grievance Procedure. If a written appeal is filed, no disciplinary action shall be imposed until the Department Director has conducted a hearing with the employee and employee's representative present and has heard the response of the employee. If no written appeal is filed within five (5) days, the employee shall be deemed to have waived his/her right to proceed to Step 4 of the Grievance Procedure.

### 7.1.3 *Disciplinary Action and Appeal*

After hearing the response of the employee, the Department Director may order that the proposed disciplinary action or modification thereof be imposed. The decision of the Department Director shall be final and binding for suspensions of five (5) days or less. For suspensions of more than five (5) days, demotions, reduction in pay, and terminations, thereafter, the employee shall notify the City within ten (10) days to appeal the matter to Step 4 (Arbitration) of the Grievance Procedure. The matter shall then proceed in accordance with the Grievance Procedure.

## **7.2 GRIEVANCE PROCEDURE**

### 7.2.1 *Definition*

1. **Grievance** is a dispute, which involves the interpretation or application of any provision of this Memorandum of Understanding. All ordinances, resolutions, rules and regulations, which are not specifically covered by the provisions of this Memorandum shall not be subject to the Grievance Procedure.
2. **Day** shall mean any that the City Office is open for business, excluding Saturdays, Sundays and the holidays recognized by the City.
3. **Grievant** may be an individual employee or a group of employees or the Union on the behalf of a group of employees or the Union on its own behalf on matters involving the City and Union relationship.
4. **Time limits** begin with the day following the event causing the grievance or the day following receipt of a grievance decision.

### 7.2.2 *Procedure*

#### **Step 1**

Within seven (7) days of when the grievant knew or should have known of the act or omission causing the grievance, the grievant shall present either in writing or verbally a clear and concise statement of the grievance to the immediate supervisor.

Within five (5) days thereafter, the immediate supervisor shall investigate and respond to the allegations of the grievant.



## **Step 2**

If the grievant is not satisfied with the resolution at Step 1, the grievant must reduce the grievance to writing and present it to the Department Director within five (5) days.

The written grievance shall contain a statement of facts about the nature of the grievance and shall identify the specific provisions of this Memorandum of Understanding alleged to be violated, applicable times, places and names of those involved, the remedy or relief requested, and shall be signed by the grievant.

The Department Director shall confer with the grievant and within ten (10) days respond to the allegations in writing.

## **Step 3**

If the grievant is not satisfied with the resolution at Step 2, the grievant shall within five (5) days appeal the matter to the City Manager.

The City Manager shall investigate the matter, conduct a hearing if the City Manager deems it appropriate and within ten (10) days, thereafter, respond to the allegations in writing.

## **Step 4**

If the grievance remains unresolved after Step 3, the Union may, by written notice to the City Human Resources Department within ten (10) days after the receipt of the response in Step 3, notify the City that the Union wishes to appeal the grievance to final and binding arbitration. The parties shall attempt to agree upon an arbitrator. If no agreement is reached, they shall request a list from the State Conciliation Service of nine (9) names.

Each party shall then alternately strike a name until only one (1) name remains, said person to be the arbitrator. The order of striking shall be determined by the flip of a coin.

### **7.2.3 Arbitration**

The arbitrator shall be empowered to conduct a hearing and to hear and receive evidence presented by the parties. The hearing shall be informal and need not be conducted according to technical rules of evidence. Repetitious evidence may be excluded and oral evidence shall be taken only under oath. The arbitrator shall determine what evidence is relevant and pertinent, as well as any procedural matters, and he/she may call, recall and examine witnesses, as he/she deems proper.

The burden of proof shall be upon the Union in grievance matters and upon the City in disciplinary/discharge matters.

After the conclusion of any hearing and the submission of any post hearing evidence or briefs agreed upon by the parties, the arbitrator shall render a written decision which shall be final and binding upon the City, the Union and any employee(s) involved in the grievance or disciplinary matter.

The arbitrator shall not be empowered to add to, subtract from, or in any way modify or alter any provision of this Memorandum of Understanding. The arbitrator shall only determine whether a grievance exists in the manner alleged by the grievant, and what the proper remedy, if any, shall be, or in the case of disciplinary/discharge matter whether the City allegations are accurate and the appropriateness of the disciplinary penalty.

The fees and expenses of the arbitrator shall be shared equally by the Union and the City. All other expenses shall be borne by the party incurring them. The cost of the services of court reporter shall be borne by the requesting party unless there is a mutual agreement to share the cost or unless the arbitrator so requests. Then the costs will be shared equally.

#### 7.2.4 *General Provisions*

1. Employees who participate in the Grievance Procedure, by filing a grievance or acting as a witness on the behalf of either party shall be free from discrimination by either the Union or the City.
2. A grievant has the right to be represented at each stage of the procedure, to cross examine witnesses, and have access to all information regarding the basis of the grievance upon which the City relies in making its determinations.
3. If the City management fails to respond within the specified time limits, the grievance shall, at the request of the Union, automatically be moved to the next step of the procedure. If the Union or a grievant fails to process or appeal a grievance within the specified time limits, the matter shall be deemed settled. The parties may by mutual agreement waive the steps in the procedure.
4. If a hearing is held during work hours of employee witnesses, such employees shall be released from duties without loss of pay or benefits to appear at the hearing. Witnesses requested by the parties shall be compelled to attend said hearings.
5. The Human Resources Department shall act as the central repository for all grievances.
6. Time limits contained herein may be extended by mutual agreement of the parties. Absence for bona fide reasons by a grievant, the Union Executive Secretary or any management official involved in responding to the grievance shall automatically extend the time limits by the same number of days of absence.

#### **7.3 VOLUNTARY TIME OFF (VTO)**

An employee may request voluntary time off without pay, in lieu of using accrued vacation and/or sick leave, for a minimum of one full workday and not to exceed ten (10) working days in any calendar year. The needs of the City, specifically the Child Care Division will need to be considered prior to approving a request for VTO.

#### **7.4 REDUCTION IN FORCE**

##### *7.4.1 Authority*

The Appointing Authority may lay off, without prejudice, any employee covered by this MOU because of lack of work or funds, or organizational alterations, or for reasons of economy or organizational efficiency.

##### *7.4.2 Notice*

Employees covered by this MOU designated for layoff or demotion shall be notified in writing at least fifteen (15) calendar days prior to the anticipated date of termination or demotion. The employee organization shall also be notified.

##### *7.4.3 Order of Layoff*

Layoffs and/or reductions in force shall be made by classification, consistent with the licensing requirements of the California Department of Social Services. A classification is defined as a position or number of positions having the same title, job description and salary. Extra hire employees shall be laid off before permanent employees in the affected classification. In effecting the preceding order, a part-time permanent employee with more seniority can displace a full-time permanent employee.

#### 7.4.4 Seniority

If two or more employees within a classification have achieved permanent status, such employees will be laid off or reduced on the following basis:

- a. Seniority within the affected classification will be determinative. Such seniority shall include time served in higher classification(s). The computation of seniority for part-time employees will be credited on a pro-rata basis to full-time service. Time spent on a City Manager approved leave of absence without pay does not count toward seniority.
- b. If the seniority of two or more employees in the affected classification or higher classifications(s) is equal, departmental seniority shall be determinative.
- c. If all of the above factors are equal, the date regular status in City service is achieved shall be determinative.
- d. If all of the above are equal, date of certification for appointment shall be determinative.

#### 7.4.5 Bumping Rights

An employee designated to be laid off may bump into a class at the same salary level, for which he or she meets the minimum qualifications or into the next lower classification in which such employee has previously held regular status. An employee who is bumped shall be laid off in the same manner as an employee whose position is abolished.

#### 7.4.6 Transfer Rights

The Human Resources Director will make every effort to transfer an employee who is to be affected by a reduction in force to another vacant position for which such employee may qualify. The length of eligibility for such transfer will be the period of notification as provided in Section 7.4.2, but no longer than the effective date of such layoff or reduction.

### 7.5 RE-EMPLOYMENT

#### 7.5.1 General Guidelines

Individuals who have been laid off or demoted shall be offered re-appointment to the same classification in which they held status in the order of seniority in the classification. Individuals demoted in lieu of reduction in force shall be offered restoration to the highest class in which they held status and in which there is a vacancy prior to the appointment of individuals who have been laid off.

#### 7.5.2 Right to Re-Employment

Each person who has been laid off or demoted in lieu of a layoff from a position the person held, shall, in writing, be offered re-appointment in the same classification should a vacancy occur in the classification within two years after the layoff or demotion. Prior to being re-employed, the employee must pass a physical exam administered by a City appointed physician and must pass the background check administered by the City.

#### 7.5.3 Time Limits

Should the person not accept the re-appointment within seven (7) calendar days after the date of the offer, or should the person decline or be unable to begin work within two weeks after the date of acceptance of the offer, the person shall be considered unavailable for employment, shall forfeit the right to re-employment and be removed from the re-employment list.

#### 7.5.4 Availability

Whenever a person is unavailable for re-employment, the next senior person who is eligible on the re-employment list shall be offered re-employment.

#### 7.5.5 *Probationary Status*

Employees re-appointed under the provisions above will not be required to complete a new probationary period if they had previously held permanent status in the classification. Employees who had not completed their probationary period shall serve the remainder of the probationary period upon re-appointment.

#### 7.5.6 *Restoration of Benefits*

Employees restored to previously held positions shall be deemed to have returned from a leave of absence for the purpose of all rights and benefits legally permissible. Time not on the payroll will not count as time worked for the purposes of seniority accrual.

### **8 REOPENER RELATED TO REORGANIZATION OF CITY'S CHILDCARE PROGRAM**

The City anticipates it may need to restructure the Childcare program in the event that the Miller Creek School District implements full-day kindergarten classes. In anticipation of this, the Parties agree to meet and confer to the extent required by the MMBA upon the request of the City regarding any plan to reorganize the Childcare program during the term of this MOU, and that this reorganization may include modification of bargaining unit employees' work schedules and the number of hours bargaining unit employees work under Section 6.1 of the MOU. The City agrees it will notify the Union of its reorganization plans and will provide the Union the right to meet and confer with the City. This section does not waive the Parties' obligations pursuant to the MMBA to negotiate in good faith regarding negotiable subjects.

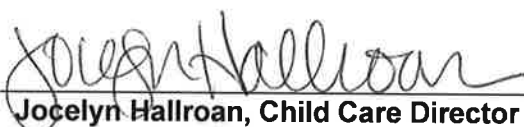
**SEIU Local 1021 – Child Care:**

**\*\* ROUTED FOR SIGNATURE \*\***

**Tiffany Crain Altamirano, Chief Negotiator, SEIU 1021**

  
**Joel Evans-Fudem, Field Representative, SEIU 1021**

  
**Patricia Cerutti-Saylors, Child Care Director**

  
**Jocelyn Hallroan, Child Care Director**

  
**Gabriela Farias, Child Care Director**

**\*\* ROUTED FOR SIGNATURE \*\***

**Jason Klumb, SEIU 1021 Area Director**

**\*\* ROUTED FOR SIGNATURE \*\***

**John Stead-Mendez, SEIU 1021 Executive Director**

**DATE**

**CITY OF SAN RAFAEL:**

  
**Tim Davis, Burke & Assoc.**

  
**Shibani Nag, Human Resources Director**

  
**Kelly Albrecht, Senior Recreation Supervisor**

  
**Cristine Alilovich, Assistant City Manager**

**DATE**

03/03/2020

**SEIU Local 1021 - Child Care Unit**  
**SALARY SCHEDULE**  
Effective November 1, 2019

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director	\$ 4,040	\$ 4,242	\$ 4,454	\$ 4,676	\$ 4,910
9350	Instructor II	\$ 2,899	\$ 3,044	\$ 3,196	\$ 3,356	\$ 3,524
9351	Instructor I	\$ 2,259	\$ 2,371	\$ 2,490	\$ 2,615	\$ 2,745

*\*Employees are eligible to advance to Step E after at least 2 years at Step D in the current job class*

**HOURLY RATES:**

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director (37.5 hrs/week)	\$ 24.8588	\$ 26.1018	\$ 27.4069	\$ 28.7772	\$ 30.2161
9350	Instructor II (35 hrs/week)	\$ 19.1161	\$ 20.0719	\$ 21.0755	\$ 22.1293	\$ 23.2358
9351	Instructor I (35 hrs/week)	\$ 14.8916	\$ 15.6362	\$ 16.4180	\$ 17.2389	\$ 18.1008

**SEIU Local 1021 - Child Care Unit**  
**SALARY SCHEDULE**  
Effective November 1, 2020

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director	\$ 4,120	\$ 4,326	\$ 4,543	\$ 4,770	\$ 5,008
9350	Instructor II	\$ 2,957	\$ 3,105	\$ 3,260	\$ 3,423	\$ 3,595
9351	Instructor I	\$ 2,304	\$ 2,419	\$ 2,540	\$ 2,667	\$ 2,800

*\*Employees are eligible to advance to Step E after at least 2 years at Step D in the current job class*

**HOURLY RATES:**

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director (37.5 hrs/week)	\$ 25.3560	\$ 26.6238	\$ 27.9550	\$ 29.3527	\$ 30.8204
9350	Instructor II (35 hrs/week)	\$ 19.4985	\$ 20.4734	\$ 21.4970	\$ 22.5719	\$ 23.7005
9351	Instructor I (35 hrs/week)	\$ 15.1894	\$ 15.9489	\$ 16.7464	\$ 17.5837	\$ 18.4629

**SIDE LETTER AGREEMENT  
BETWEEN THE  
SEIU LOCAL 1021 – CHILD CARE UNIT  
AND  
THE CITY OF SAN RAFAEL**

The City of San Rafael (hereinafter referred to as “City”) and the SEIU Local 1021 - Child Care Unit (hereinafter referred to as the “Child Care Unit”) entered into a Memorandum of Understanding (“MOU”) with a term beginning on November 1, 2019 and terminating on October 31, 2021. The City and the Child Care Unit are collectively referred to herein as the “Parties.”

The specific provisions contained in this Agreement are intended to supersede any previous agreements, whether oral or written, regarding the matters contained in this Agreement. Except as provided here, all wages, hours, and other terms and conditions of employment presently in the City’s MOU with the Child Care Unit remain in full force and effect.

The Parties have satisfied their obligations to meet and confer in good faith in accordance with the Meyers-Milias-Brown Act (“MMBA”) concerning the terms and conditions of this Agreement and its implementation.


Effective December 12, 2019, the Parties mutually agree to revise Article 5.3.2 Floating Holidays to read as follows:

*5.3.2 Floating Holidays*

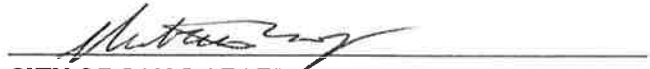
In addition to the designated holidays, employees in this Unit receive two (2) floating holidays. One floating holiday will be provided in November and one floating holiday will be provided in May each year going forward. Unit employees floating holiday for November 2019 will be provided in December 2019. Floating holidays not used by the end of the calendar year will be added to an employee’s vacation balance in the first full pay period of each January. Part-time employees will be paid for holidays on a pro-rated basis.

CITY OF SAN RAFAEL:

Date: 12/13/19

  
SEIU LOCAL 1021 – CHILD CARE UNIT

Date: 12/16/19

  
CITY OF SAN RAFAEL