

**MEMORANDUM OF  
UNDERSTANDING**

**BETWEEN**

**THE CITY OF PACIFICA**

**AND**

**PACIFICA DEPARTMENT  
DIRECTORS  
TEAMSTERS LOCAL 350**

**January 1, 2013 - December 31, 2013**

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**MEMORANDUM OF UNDERSTANDING**

**between**

**CITY OF PACIFICA**

**and**

**TEAMSTERS LOCAL 350 – DIRECTORS UNIT**

The Teamsters Local 350, representing Director employees, and representatives of the City of Pacifica have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in the representation unit, and have freely exchanged information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500 et. seq.) and has been jointly prepared by the parties.

This Memorandum of Understanding shall be presented to the City Council as the joint recommendation of the undersigned for salary and employee benefit adjustments for the period commencing January 1, 2013 and ending December 31, 2013.

**Section 1. Recognition**

*1.1 Union Recognition*

Teamsters Local 350, hereinafter referred to as the "Union" is the recognized employee organization for the Directors Unit, comprised of those classifications listed in Section 5, Pay Plan.

*1.2 City Recognition*

The City Manager, or any person or organization duly authorized by the City Manager, is the representative of the City of Pacifica, hereinafter referred to as the "City."

## **Section 2. Organization Security**

### *2.1 Dues Deduction*

Payroll deductions for membership dues shall be granted by the City Manager only to the Union.

The following procedures shall be observed in the withholding of employee earnings:

(1) Payroll deductions shall be for a specified amount and uniform as between employee members of the Union and shall not include fines, fees and/or assessments. Dues deduction shall be made only upon the employee's written authorization.

(2) Authorization, cancellation or modification of payroll deduction shall be made upon forms provided or approved by the City Manager. The voluntary payroll deduction authorization shall remain in effect until employment with the City is terminated or until canceled or modified by the employee by written notice to the City Manager. Employees may authorize dues deductions only for the organization certified as the recognized employee organization of the unit to which such employees are assigned.

(3) Amounts deducted and withheld by the City shall be transmitted to the Union, at the address specified.

(4) The employee's earnings must be sufficient, after all other required deductions are made, to cover the amount of the deductions herein authorized. When an employee is in a non-pay status for an entire pay period, no withholdings will be made to cover that pay period from future earnings nor will the employee deposit the amount with the City which would have been withheld if the employee had been in pay status during that period. In the case of an employee who is in a non-pay status during a 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 required deductions have priority over the employee organization deduction.

(5) All employees who are members of Local 350, and who are tendering periodic dues through dues deductions from their first paycheck of the month and all employees who become members of the Union, and who tender periodic dues through dues deductions of their paycheck shall continue to pay dues to the Union until the end of the month in which notice is given.

(6) Local 350 shall indemnify, defend and hold the City harmless against any claim made and against any suit initiated against the City on account of checkoff of Union dues or premiums for benefits. In addition, the Union shall

refund to the City any amounts paid to it in error upon presentation of supporting evidence.

## **2.2 *Use of City Facilities***

City employees or the Union, or its representatives may, with the prior approval of the City Manager, be granted the use of City facilities for meetings of City employees provided space is available, and provided further, such meetings are not used for organizing activities or membership drives of City employees. All such requests shall be in writing and shall state the purpose or purposes of the meeting. The City reserves the right to assess reasonable charges for the use of such facilities.

The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, and blackboards is strictly prohibited, notwithstanding the presence of such equipment in approved City facilities.

## **2.3 *Use of Bulletin Boards***

The Union shall be allowed use of available bulletin board space in City buildings for communications having to do with official Union business, provided that the material posted is not derogatory to City officials and employees or other employee organizations in the judgment of the City Manager. All materials must be dated and must identify the organization that published them.

## **2.4 *Advance Notice***

Except in cases of emergency, reasonable advance written notice shall be given to the Union if it is affected by any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council, by any board or commission of the City, or by any department, as the Union shall be given the opportunity to meet with such body or its representatives prior to adoption. In cases of emergency when the City Manager determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with the Union, the City Manager or the Administrative Services Director shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation. Notices shall be sent to the designated representative.

## **Section 3. No Discrimination**

There shall be no discrimination because of race, creed, color, national origin, sex, sexual orientation, medical condition or legitimate employee

organization activities against any employee or applicant for employment by the Union, or by the City or by anyone employed by the City; and to the extent prohibited by applicable state and federal law there shall be no discrimination because of age. There shall be no discrimination against any disabled person solely because of disability unless that disability prevents the person from meeting the minimum standards established with or without reasonable accommodation.

## **Section 4. Union Representatives**

### **4.1 Attendance at Meetings by Employees**

City employees who are official representatives or unit representatives of the Union shall be given reasonable time off with pay to attend meetings Director representatives, or to be present at hearings where matters within the scope of representation are being considered. The use of official time for this purpose shall be reasonable and shall not interfere with the performance of City services as determined by the City Manager. Such employee representatives may be required to submit a written request for excused absence to their respective Department Director, with an information copy to the Administrative Services Director, at least two (2) working days prior to the scheduled meeting whenever possible. Except by mutual agreement, the number of employees excused for such purposes shall not exceed two (2).

### **4.2 Access to Work Locations**

Reasonable access to employee work locations shall be granted officers of the Union and their officially designated representatives, for the purpose of processing grievances or contacting members of the Union concerning business within the scope of representation. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of the Union, such as collecting dues, campaigning for office, conducting elections and distributing literature, shall not be conducted during working hours unless approved in advance by the City Manager or his/her designated representative.

## **Section 5. Pay Plan**

### **5.1 Rates of Pay**

For the period commencing January 1, 2011, and ending December 31, 2013, there will be no scheduled salary increases.

The rates of pay set forth in the salary schedule represent the standard rate of pay for full-time employment for each classification. Compensation for employees working less than full-time shall be adjusted proportionately.

The rates of pay set forth in the salary schedule represent the total compensation due employees, except for other benefits specifically provided for by City Council or this Memorandum of Understanding.

The rates of pay set forth in the salary schedule do not include reimbursement for actual and necessary expenses authorized and incurred incident to City employment.

The City will continue to conduct compensation surveys for informational purposes only. The cities used in previous surveys are Belmont, Burlingame, Daly City, Foster City, Menlo Park, Millbrae, Redwood City, San Bruno, and South San Francisco.

## *5.2 Salary for New Employees*

Except as herein otherwise provided, the entry salary for a new employee entering employment in classified service shall be the minimum salary for the class to which such new employee is appointed. In cases of unusual recruitment difficulty or of hiring exceptionally qualified personnel, initial salary may be set by the City Manager, whose decision shall be final. Such a salary may not be more than the maximum salary for the class to which the employee is appointed.

## *5.3 Pay Days*

Employees shall be paid bi-weekly, normally on a Friday every other week. When a holiday is celebrated on a Friday payday, employees normally will be paid on the regular workday immediately preceding that Friday.

## *5.4 Salary Range*

Effective after adoption of this Memorandum of Understanding, each employee shall have a salary range with a designated minimum and maximum salary only, with no pre-established advancement steps within the range. Consideration for a merit salary increase will be made by the City Manager. No increase in salary shall be automatic merely upon completion of a specific period of service. All merit increases shall be based upon merit as established by the record of the employee's performance and shall require recommendation of the City Manager. Standards of performance shall become progressively higher as the employee advances through the salary range.

Employees at the top of their designated salary range shall also be evaluated on an annual basis by the City Manager. If such employees have a satisfactory evaluation with the individual's performance being at an acceptable level, the employee's salary shall continue to be at the top of their designated salary range. If the employee's general performance and work habits are unsatisfactory, an increase in salary may be withheld in lieu of dismissal or other disciplinary action, or the salary of the employee may be reduced within the established salary range for his/her classification upon recommendation of the City Manager. Any regular employee shall, upon request, be given a statement of the justification for reduction in salary.

If the City Manager at any time determines that it is in the City's interest, s/he may assign an employee to a higher rate within the salary range fixed for the classification. The City Manager shall regulate the accelerated advancement through the salary range.

No manager shall receive less than five percent (5%) more than any subordinate who reports to that manager caused by any increase in subordinate's salary during the term of this agreement.

#### *5.5 Exceptional Contribution Adjustment*

When an employee makes a unique contribution to the City that is not expected in the normal discharge of the responsibilities of the position, and when such contribution is obvious by its significant, substantial, and unique nature, the individual may be awarded an exceptional contribution adjustment. Such an award will be limited to a maximum of five percent (5%) and may be granted either in a one-time lump sum amount or in increments for a specific limited period of time not to exceed twelve (12) months. The actual percentage amount up to the five percent (5%) limit and the award period will be determined by the City Manager.

#### *5.6 Salary Upon Transfer or Promotion*

The transfer of an employee shall not be cause for a decrease in salary.

All employees of the City upon promotion shall be entitled to an increase in salary of not less than five percent (5%) above their current salary; provided, however, that in no event shall the employee receive more than the maximum salary for the classification.

#### *5.7 Work Out of Classification*

An employee shall not work out of his/her classification except in emergencies, or unless s/he is specifically assigned by the City Manager.

The City Manager may assign a Department Director to act as City Manager in the City Manager's absence or assume the direction of an additional department. Since such acting assignments are considered to be part of the regular duties of Department Directors, there shall be no additional compensation for this designation unless the vacancy shall be for an extended period of time of at least thirty (30) days. If thirty (30) days is reached in the assignment, then the entire time is compensated with an additional 5% pay.

If a Department Director or other senior manager is ill or away from his/her position or the position is vacant for an extended period of time, the City Manager shall name an Acting Director or senior manager to act in this capacity who may be eligible for additional compensation.

The amount of extra compensation provided under this policy will be determined by the City Manager based upon the circumstances of the vacant position, and shall be a minimum of five percent (5%).

#### **5.8 *Administrative Leave***

Effective January 1, 2013, employees in this unit will receive administrative leave at the rate of 16 hours per calendar year, in recognition of the additional evening, weekend and on call responsibilities of an exempt employee. Effective January 1, 2014, employees in this unit will receive administrative leave at the rate of 40 hours per calendar year. The administrative leave is in lieu of compensatory time and is to be used during the calendar year, has no cash value, and does not accumulate from year to year.

### **Section 6. Anniversary Date**

- 6.1 For all purposes except eligibility for salary increases, an employee's anniversary date shall be the date of initial hire.

### **Section 7. Hours of Work**

- 7.1 The regular workweek for full-time employees shall consist of forty (40) hours. Members of the bargaining unit are exempt from the Fair Labor Standards Act.

### **Section 8. Layoff & Furloughs**

- 8.1 At least thirty (30) calendar days prior to the effective day of the layoff, the City Manager or where the authority has been delegated by the City Manager, the City Manager's representative, shall notify the employees affected in writing. Layoff shall be made within the classes of positions

and all temporary employees in affected classifications shall be laid off prior to layoff of any probationary or regular employees. For the purpose of determining order of layoff, total cumulative time shall include time served during a military leave of absence.

Employees laid off shall have the right to displace the employee in the same classification having the least seniority; provided, however, if there is no other employee in the classification of the laid off employee with less seniority, the laid off employee may take a voluntary demotion to a classification in which such employee had prior permanent status, thus displacing the employee working in that classification who has less seniority. Names of persons laid off shall be placed upon reemployment lists in order of total cumulative time served and shall remain on such list for a period of two (2) years unless reemployed sooner. Sick leave and seniority rights earned prior to layoff will be returned to the employee upon reemployment. Upon request of the employee, with the permission of the City Manager demotion may be made to a vacant position in place of layoff. The City Manager's decision shall be final.

- 8.1.1 The City, in its sole discretion, shall determine whether furloughs are necessary. For example, and without limitation, the City may determine that furloughs are necessary if it concludes, in its sole discretion, that revenues and expenditures on a year to year basis are not achieving or have not achieved the goals and/or projections of the five year plan. Furloughs will not be implemented before July 1, 2011. The City may implement up to twenty-four (24) furlough days (192 hours) in the 2011/12 fiscal year. The City may implement up to twelve (12) furlough days (96 hours) between July 1, 2012 and December 31, 2012; provided, that if the City resolves to implement more than 18 furlough days in 2011/12 or more than 9 furlough days between July 1, 2012 to December 31, 2012, the City will give the Union an opportunity to meet and confer, and failing prompt agreement, to mediation under auspices of the State Mediation & Conciliation Service. Meeting and conferring and mediation shall be limited to a 14-day period unless the parties mutually agree to extend that time period. Failing agreement through this defined process, the City may implement its final proposal.
- 8.1.2 All department directors with the exception of the Chief of Police, shall receive the same number of furlough days in a calendar year and shall not be subject to more furlough days than non-safety groups.
- 8.1.3 The City may designate specific closure days during the term of this Agreement. For example, all City Departments and City Services may be closed two days per month on dates designated by the City such as alternating Wednesdays.

- 8.1.4 Employees will receive an equivalent pay rate reduction. For example, in year 1 if the City decides to implement 13 furlough days or 104 hours (13 days\* 8 hours/day), employees pay rates shall be reduced 5% (equivalent to 104/2080). In exchange, employees will be provided with 104 hours of furlough leave, compensated at the employee's normal (reduced) pay rate. The City may exempt certain operations from the closure. Employees not affected by the closure, i.e., those employees working on closure days, may use furlough leave in the same manner as discretionary leave.
- 8.1.5 During weeks in which furloughs are scheduled, affected bargaining unit members are non-exempt from FLSA. Unless otherwise approved /directed by the City Manager, they shall not work more than 8 hours per day on non-furlough days in weeks in which furloughs are scheduled. If they are called in to work during furlough days, they will be paid hour for hour, and shall receive time and one-half if their work on furlough days causes them to have worked over 8 hours that day (10 hours for 4/10 schedules) or 40 hours during that week.
- 8.1.6 All furlough time must be used during the calendar year.
- 8.1.7 Any unused furlough leave not taken by December 31, 2012 shall be forfeited.
- 8.1.8 The provisions relating to layoffs do not apply.
- 8.1.9 This provision shall sunset on January 1, 2013.

## **Section 9. Holidays and Vacations**

### **9.1 *Authorized Holidays***

The holidays for this unit are:

- |                                 |                                   |
|---------------------------------|-----------------------------------|
| (1) January 1                   | (New Year's Day)                  |
| (2) Third Monday in January     | Martin Luther King Jr.'s Birthday |
| (3) February 12                 | (Lincoln's Birthday)              |
| (4) Third Monday in February    | (Washington's Birthday)           |
| (5) Last Monday in May          | (Memorial Day)                    |
| (6) July 4                      | (Independence Day)                |
| (7) First Monday in September   | (Labor Day)                       |
| (8) November 11                 | (Veteran's Day)                   |
| (9) Fourth Thursday in November | (Thanksgiving Day)                |
| (10) Fourth Friday in November  | (Friday after Thanksgiving Day)   |
| (11) December 25                | (Christmas Day)                   |

Effective July 1, 2014, the City shall return the two (2) floating holidays eliminated on January 1, 2013.

Regular full-time employees shall be entitled to take all authorized holidays at full pay, not to exceed eight (8) hours for any one (1) day, provided they are in a pay status on both their regularly scheduled workdays immediately preceding and following the holiday.

If one of the holidays listed above falls on a Saturday and the employee is not regularly scheduled to work that day, the employee's last regularly scheduled workday preceding the holiday shall be considered a holiday.

If one of the holidays listed above falls on a Sunday and the employee is not regularly scheduled to work that day, the employee's first regularly scheduled workday following the holiday shall be considered a holiday.

## 9.2 *Eligibility*

All employees shall be entitled to annual vacation leave except employees serving the first six (6) months of the original one (1) year probationary period.

## 9.3 *Vacation Credits Accrual*

Vacation time shall be accrued in hourly amounts according to the following schedule:

<u>Granted or Earned Years of Service</u>	<u>Vacation Days Earned per Year of Full-Time Service</u>	<u>Hours Accrued Per Pay Period</u>
1st yr. through 5th yr.	11 days	3.38
6th yr. through 10th yr.	16 days	4.92
11th year	17 days	5.23
12th year	18 days	5.54
13th year	19 days	5.85
14th year	20 days	6.15
15th year	22 days	6.77
16th year	23 days	7.08
17th year	24 days	7.38
18th year	25 days	7.69
19th year	26 days	8.00
20 <sup>th</sup> year & up	27 days	8.31

Vacation accrual will be calculated either by granting years-in-service credit for any past employment in another California municipality; prior service with the City of Pacifica will also count for vacation accrual purposes; or a new employee in this unit with no prior city service in any city or less than 14

years of City service with the City of Pacifica or other cities will begin accruing vacation at 6.15 hours per pay period (the equivalent of 20 days per year accrual). In no event will a new member of this unit, at the end of his/her first year with the City of Pacifica, accrue less than the rate which is equal to the Management Unit rate of 14 years of service.

#### 9.4 *Time Charged*

Vacation time shall be charged on the basis of the number of days used for vacation purposes, and in conformance to the Fair Labor Standards Act.

#### 9.5 *Vacation Credits Advance*

Employees may take only such vacation as they have accumulated at the time that the vacation begins, except after three (3) years of service the employee may draw upon anticipated vacation credits not to exceed five (5) working days. At termination of employment the City shall be reimbursed by the employee for any vacation taken in excess of vacation credit, through payroll deduction.

#### 9.6 *Vacation Scheduling and Accumulation*

The times during the calendar year at which an employee may take his/her vacation shall be determined by the City Manager with due regard to the needs of the service and desires of the employee. If requirements of the service or the desires of the employee are such that an employee must defer part or all of his/her annual vacation in a particular year, the City Manager may permit the employee to take such deferred vacation during the following calendar year. No employee may accumulate more than four (4) times his/her annual vacation allowance.

#### 9.7 *Sick Leave During Vacation*

If an employee becomes sick during his/her vacation, such employee may charge the period of illness against sick leave credits in the same manner as provided in Section 10 (Sick Leave). A doctor's certificate shall be required and shall be submitted prior to such charge against sick leave credits.

#### 9.8 *Return of Vacation*

Effective July 1, 2014, Directors will be allowed to sell to the City, up to one (1) week of vacation leave per year, at the employee's prevailing wage if, within the last calendar year, the employee has used at least half of his/her vacation time accrual per the accrual chart in Section 9.3 of this MOU.

## 9.8 *Separation from Service*

Employees who were hired prior to 1992 and who terminate employment shall have 100% of all accrued vacation leave earned prior to the effective day of termination paid into the health retirement account. Employees who were hired in or after 1992 who terminate employment shall have 50% of all accrued vacation leave earned prior to the effective day of termination paid into the health retirement account and the other 50% to be paid in a lump sum.

Should an employee be reemployed by the City, they will not be able to reestablish any such vacation hours.

## **Section 10. Sick Leave**

### 10.1 *Sick Leave Plan*

#### (1) Accrual

Regular employees shall earn sick leave credit at the rate of one (1) day per month.

#### (2) Usage

Sick leave shall not be considered a privilege which an employee may use at his/her discretion but shall be allowed only in cases of necessity and actual sickness of the employee or the employee's designated family members including necessary physician appointments.

Sick leave shall be charged against an employee's sick leave credit in conformance with the Fair Labor Standards Act. All employees shall be entitled to sick leave compensation except employees serving the first thirty (30) days of the original one (1) year probationary period.

In order to receive compensation while absent on sick leave, an employee shall notify his immediate supervisor prior to or within one-half (½) hour after the time set for the beginning of the employee's daily duties.

When the absence is for more than one (1) working day, employees may be required to file a physician's statement with the City Manager stating the cause of the absence.

### 10.2 *Incapacity to Perform Duties*

The City Manager or where the authority has been delegated by the City Manager, the City Manager's representative, may require any employee who

the City Manager or the City Manager's representative believes may be physically or mentally incapacitated for work to undergo an examination by a physician designated by the City and at the City's expense. If as a result of the physician's examination the employee is determined to be incapacitated to perform the employee's duties, the City Manager may place the employee on leave of absence without pay. An employee may use accrued sick leave, vacation or compensatory time prior to being placed on a leave of absence without pay. However, the employee may be eligible for long-term disability benefits under Section 12.3 (Long-Term Disability). Vacation and sick leave credits shall not accrue when an employee is on an unpaid leave of absence.

### *10.3 Sick Leave at Retirement*

Through December 31, 2012: At retirement only, 50% of department directors' sick leave balance shall be applied to PERS service credit as consistent with requirements of the Government Code 20965. After December 31, 2012: department directors' opportunity to apply the remaining 50% of their sick leave balance to the retirement health savings program shall be restored.

### *10.4 Catastrophic Illness or Injury Time Donation Program*

Employees may donate time in accordance with the City's Catastrophic Illness or Injury Policy.

## **Section 11. Leaves of Absence**

### *11.1 Family Illness Leave*

An employee may use his/her accrued sick leave up to a maximum of six (6) days per year to care for a member of the employee's immediate family who is ill.

For the purpose of this Section 11.1 immediate family means parent, spouse, domestic partner, child, step-child, or sibling.

Federal and State provided family leave shall be granted to employees in accordance with the applicable laws.

### *11.2 Jury Duty*

An employee summoned to jury duty shall inform his supervisor and, if required to serve, may be absent from duty with full pay; provided, however, the employee must remit to the City, through the City Manager, within fifteen (15) days after receipt, all fees received except those specifically allowed for

mileage and expenses. When the employee is released from jury duty each day, s/he shall report to work promptly for the balance of his/her regularly scheduled shift or workday.

### *11.3 Military Leave*

The provision of the Military and Veterans Code of the State of California as well as the Uniformed Services Employment and Reemployment Act shall govern military leave of City employees.

### *11.4 Campaign Leave*

Upon becoming a candidate for public office any regular employee shall request and be granted a leave of absence without pay, to remain in effect for the period of his/her candidacy.

### *11.5 Leave of Absence Without Pay*

Upon written request the City Manager may grant an employee a leave of absence without pay for a definite period not to exceed one (1) year. The City Manager's decision shall be final. Upon expiration of leave of absence the employee shall be reinstated in the position held at the time the leave was granted or to another position in the same classification. Failure on the part of an employee on leave to report promptly on its expiration, or within fifteen (15) days after notice to return to duty, shall result in such employee's automatic dismissal. Vacation, sick leave, and seniority credits shall not accrue to an employee on voluntary leave of absence. A copy of the letter granting leave shall be forwarded to the Union within ten (10) calendar days of the commencement of the leave.

### *11.6 Bereavement Leave*

In case of death within the immediate family of an employee, an employee shall be entitled to remain absent from duty with pay for a maximum period of five (5) days in order to attend the funeral or memorial services for the times hereinafter specified:

Said bereavement leave is not to be charged to sick or vacation leave.

For the purpose of this section, immediate family is defined as parent, sibling, spouse, domestic partner, child, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents, grandchildren, great grandparents, step-children, foster children, or other persons with whom there is a demonstrated child-rearing/parental or immediate familial relationship.

### *11.7 Absence Without Official Leave*

Failure of an employee to report for duty on a normal working day or shift without notice to the City Manager of the reason for such absence shall constitute absence without official leave and without pay. Employees should make every effort to contact the City Manager or his/her designated representative at the beginning of the work day if they plan to be absent.

Absence without leave for any length of time without satisfactory explanation is cause for dismissal. Absence without leave for five (5) or more consecutive days shall be deemed a tender of resignation.

### *11.8 Industrial Disability Leave With Pay*

No disability leave with pay will be granted to non-safety employees until the illness or injury is declared compensable under the California Workers' Compensation Law. During such disability leave of absence, the City may request that an employee be examined by a physician selected by the City. The City will pay full pay for the initial three (3) months' leave to non-safety employees who suffer industrial disabilities and are on authorized Industrial Disability leave. Workers' Compensation benefits will be integrated and checks endorsed to the City by the employee. No use of sick leave will be required during the first three (3) months. Full pay as used herein shall mean the employee's base rate of pay.

After the first three (3) months of Industrial Disability Leave, until the three hundred sixty-fifth (365th) consecutive calendar day's absence or the employee is determined to be permanently disabled, the employee may integrate Workers' Compensation disability benefits with unused sick leave to assure no loss of compensation. The ratio used will be seventy-five percent (75%) City/Workers' Compensation pay and twenty-five percent (25%) sick leave. Insurance premiums will continue to be paid by the City.

Safety employees are covered under Labor Code Section 4850, et seq. While on 4850\_leave, employees will accrue benefits and the City will continue to contribute to benefits as usual.

## **Section 12. Health and Welfare**

### *12.1 Health and Dental Contributions*

City will contribute to the employee's cafeteria Plan in the following amounts:

Effective the beginning of this contract term, each employee receives \$1,022 per month for health related expenses with any

unused amounts returned to the cafeteria Plan for other choices; provided, that for any balance remaining as a cash option after electing their cafeteria options, employees shall be limited to 25 percent of such balance commencing January 1, 2013.

Disbursement choices for cafeteria Plan to include either monthly or semi-annual disbursements, but in no event will bargaining unit members receive money or sell back time yet to be accrued. The City will explore options to expand the cafeteria Plan to include a vision insurance option.

The City will continue to offer CalPERS Health Benefits Program and make the necessary employer contributions as contracted with CalPERS for both active and retired participants.

2011 - \$208.00

Eligibility of retirees to participate in this program shall be in accordance with the regulations promulgated by PERS. In the event PERS requires a minimum employer payment in excess of the amount outlined above, the City and the Union shall meet and confer regarding payment of such additional amounts during the term of this Memorandum of Understanding.

Each employee within this unit will also be eligible for a maximum benefit of \$2000 per year for each eligible member of the family for the City's self-insured dental plan. In addition, members of this unit will be eligible for orthodontic care for themselves and their dependents to a lifetime benefit of \$2000. Dependent children are eligible for this benefit as long as they are a full time college student completing under graduate college studies.

### *12.2 Life Insurance*

The City shall continue to contribute towards payment of term life insurance benefits an amount equal to the premium cost of two (2) times the employee's annual salary up to \$200,000 for all classifications in this unit.

### *12.3 Changes in State or Federal Laws*

If, pursuant to any federal or state law enacted subsequent to the effective date of this Memorandum of Understanding, the City is required to pay contributions or taxes for hospital, medical, dental or any other benefits to be provided to employees, the City's obligation to furnish the same shall be held in abeyance and the contributions agreed to be paid monthly herein by the City shall be reduced each month by the amounts which the City is required

to expend during any such month in the form of contributions or taxes to support said federal or state health plan.

If, as a result of such a law, the level of benefits provided by such law for any group of employees, or their dependents, is lower in certain categories of services than that provided hereunder, the City, to the extent practicable, shall provide a plan of benefits supplementary to the federal or state benefits so as to make benefits in each category of coverage as nearly comparable as possible to the benefits provided hereunder. The City need only expend for this purpose the actual amount required to achieve parity between the benefits agreed to be provided hereunder and the benefits provided under any federal or state plan as supplemented in the manner hereinabove described.

If the benefits provided under the federal or state act exceed the benefits provided hereunder in each category of coverage, the City shall be under no further obligation to make any contribution in pursuance of this Section.

In the event that the federal or state government enacts a health care program requiring contributions by employees, such employee contributions shall be reimbursed by the City to the amount by which said employee contribution reduces the City's contribution required under this Section of the Memorandum of Understanding.

If during the term of this Memorandum of Understanding, pursuant to any federal law, the Employer is required to make contributions to Social Security for any employees, such contributions shall be deducted from employee's wages.

#### *12.4 Long-Term Disability Plan*

The City shall contribute an amount necessary to provide the long-term disability plan benefits presently in effect for each eligible employee.

#### *12.5 Retirement Plan*

The present retirement plan, CalPERS 2.5% @ 55 for non-safety members, shall be maintained at the current benefit level and for non-safety members employed before January 1, 2011, the City shall provide a supplemental PARS Retirement Annuity of .5% to enhance the retirement benefit level to 3% @ 55. Employees hired on or after January 1, 2011, will not be eligible for the supplemental PARS Retirement Annuity.

The City will propose to other non-safety units and if agreed upon effective as soon as practicable, and in a manner consistent with law, the City shall amend its contract with PERS in order to provide the 2% @ 60 retirement

formula (Gov. Code section 21353) for all miscellaneous personnel hired on or after July 1, 2011, including the provision for highest or final year compensation authorized by Section 20024.2 of the Government Code and 1959 Survivors Benefit plan and credit for unused sick leave.

If another miscellaneous bargaining unit is allowed to adopt more favorable retirement plan terms, then the Directors unit will be allowed to opt for the other unit's language.

Effective July 1, 2002, the City shall provide the CalPERS 3% @ 50 retirement plan for safety employees in this unit. Effective July 1, 2012, a salary reduction equivalent to the percent of increase in the City's contribution rate shall be effective. Subject to and conditioned on agreement with all miscellaneous employee units, the City shall effect a "cost sharing" amendment of its PERS contract covering miscellaneous personnel. Under the cost sharing amendment, the deduction is pre-tax and will not result in a reduction of pensionable compensation or final retirement calculation. The deduction will be shown separately on unit members' paychecks. The City has implemented the provisions of 414(h)(2) of the Internal Revenue Service Code. These provisions allow an employee to make his/her applicable employee contribution to PERS on a pre-tax basis.

#### 12.6 *Vantagecare Retirement Health Savings (RHS) Plan*

The following language shall be suspended and inoperative during the term of this agreement. Unless otherwise agreed in successor negotiations, these provisions will be restored as of January 1, 2014.

Employees represented in this unit may voluntarily participate in and contribute to the City's Vantagecare Retirement Health Savings Plan to set aside pre-tax contributions for health related expenses after retirement.

City will contribute an amount equal to 2% salary to each member's health retirement account.

City will contribute 8% of the final annual salary to the Health Retirement Account (HRA) to a retiring member of this unit who is at least fifty-five (55) years of age at retirement and has completed two (2) or more years of full-time years of executive management employment with the City as of the last day of employment with the City.

### **Section 13. Reimbursement for Use of Private Vehicles**

Directors shall have the choice to receive a \$450 per month increase to salary as private vehicle allowance or be assigned a full time city vehicle. Members of this unit who receive a vehicle allowance shall not be compensated for use of private vehicles in the performance of their duties and/or reimbursement for any/all mileage accumulated in the course of their duties.

### **Section 14. Safety Equipment**

All employees required to wear steel-toed safety shoes in the performance of their job duties shall be provided an allowance equal to the allowance provided employees in the Miscellaneous Unit.

### **Section 15. Uniform Allowance**

Employees of the Fire Department or Police Department who are required to wear uniforms not provided by the City shall receive a uniform allowance equal to that granted to employees of the Pacifica Firefighters or Police Officer Unit respectively.

### **Section 16. Tuition Reimbursement**

An employee may be reimbursed up to a maximum of Seven Hundred Dollars (\$700.00) within one fiscal year for tuition and related fees paid for courses of study in an off-duty status if the subject matter content of the course is closely related to the employee's present work assignment, or if the employee is enrolled in a program of study related to the employee's work assignment (declared major). There must be a reasonable expectation that the employee's work performance or value to the City will be enhanced as a result of the course of study or that the employee will be better prepared for promotional opportunities.

The employee must submit a claim form for reimbursement to the Finance Director giving all information needed for an evaluation of the request. The Director of General Services decision shall be final. If a course is approved and later found to be unavailable, a substitute course may be approved after enrollment.

Upon completion of the course, a copy of the grade sheet or certificate must be filed in the Human Resources Office for placement in the employee's personnel file. All reimbursement must be returned to the City in full if the employee does not achieve at least a "C" grade.

If the employee leaves City employment within one (1) year after reimbursement, such employee is required to refund one-half (1/2) of the reimbursement to the City.

## **Section 17. Probationary Period**

### *17.1 Duration*

All appointments and promotions shall be tentative and subject to a probationary period of not less than one (1) year from the date of appointment or promotion. Where an employee's extended absence from work has prevented a full probationary evaluation, the probationary period may be extended by the City Manager or where the authority has been delegated by the City Manager, in order to provide a full probationary evaluation. For the purpose of this Section, an extended absence from work shall be defined as absences of at least one (1) calendar month or six (6) cumulative weeks.

### *17.2 Termination*

The City Manager, or where the authority has been delegated by the City Manager, the Department Director may terminate a probationary employee at any time during the probationary period for any reason. Upon such action of termination, the probationary employee shall have no right of appeal in any manner and no recourse to any of the procedures set forth in the Memorandum of Understanding.

### *17.3 Regular Status*

An employee who is not rejected prior to the completion of the prescribed probationary period shall acquire regular status. Former regular employees appointed from a reemployment eligibility list shall be given regular appointments when reemployed. Regular employees who are demoted to lower classifications shall be given regular appointments in the lower classifications; provided, however, that the employee has had prior regular status in the lower classification.

### *17.4 Layoff*

An employee who is laid off and subsequently appointed as a result of certification from a general employment eligible list to a position in a different classification than that from which laid off shall undergo a new probationary period. Former probationary employees whose names were placed on a reemployment eligible list before they achieved regular status shall start a new probationary period when appointed from a reemployment eligible list.

### *17.5 Transfer*

Regular employees who transfer to another position in the same classification shall not be required to undergo a new probationary period in the position into which transferred.

### *17.6 Promotions*

Regular employees who are promoted to a higher classification shall undergo the probationary period prescribed for the higher classification. During the probationary period, an employee may be rejected at any time by the appointing authority without right of appeal and without recourse to the procedures provided in Section 19 (Grievances) hereof.

## **Section 18. Dismissal, Suspension or Demotion for Cause**

The City Manager or where the authority has been delegated by the City Manager, the City Manager's representative, may dismiss, demote, or suspend any employee for cause. Suspension without pay shall not exceed thirty (30) days in any fiscal year. Also, in accordance with the Fair Labor Standards Act, the suspension may not be for less than five (5) days unless it involves a safety violation. In accordance with applicable State law, an employee shall be notified in writing of any proposed disciplinary action with a copy to the Union and shall be given an opportunity to respond in writing or in person.

Any regular employee (one who has passed the probationary period) who is suspended, demoted or dismissed shall be furnished a written notice of such action. Upon the employee's request, the employee shall be provided a written statement of the reasons for such action.

## **Section 19. Grievances**

### *19.1 Definition*

A grievance is any dispute which involves the interpretation or application of any provision of this Memorandum of Understanding excluding, however, those provisions of this Memorandum of Understanding which specifically provide that the decision of the named City official shall be final, the interpretation or application of those provisions not being subject to the grievance procedure. A grievance regarding discipline, suspension or discharge must be filed within seven (7) work days. All other grievances must be filed within fourteen (14) work days. All grievances shall be handled in accordance with the procedure that follows:

## 19.2 Procedure

Grievances shall be processed in the following manner. Department Directors will submit a grievance directly to the City Manager (Step 1) and may appeal the decision of the City Manager (Step 2):

(1) Step 1. Any employee who believes that the employee has a grievance may discuss his complaint with the immediate supervisor in the Department in which the employee works. The grievance shall be presented to the immediate supervisor within fourteen (14) work days of the event giving rise to the grievance. Grievances not presented in the time period shall be considered resolved. The grievance shall state the particulars of the grievance and the nature of the determination desired. The supervisor shall meet with the grievant to attempt to settle the grievance. If the issue is not resolved within the department, or if the employee elects to submit his grievance directly to the Union, the procedures hereinafter specified may be invoked. A grievance may be filed on behalf of an employee by the employee or jointly on behalf of a group of employees or by the Union.

(2) Step 2. If not resolved satisfactorily in Step 1 above, the grievant or his/her representative may appeal the decision to the Department Director within ten (10) work days of receipt of the Step 1 answer. Such appeal shall be in writing, detailing the specific issues involved in the appeal together with a statement of the resolution desired. The Department Director shall investigate the issue and attempt to reach a satisfactory resolution of the problem.

(3) Step 3. If not resolved satisfactorily in Step 2 above, the grievant or his/her representative may appeal the decision to the City Manager within ten (10) work days of receipt of the Step 2 answer. Such appeal shall be in writing, detailing the specific issues involved in the appeal together with a statement of the resolution desired. The City Manager shall designate a personal representative who is not the Department Director to investigate the merits of the complaint, to meet with the complainant and, if the complainant is not the Union, to meet also with the officials of the Union and to settle the grievance or to make recommendations to the City Manager. The City Manager shall render his/her decision within fourteen (14) work days of receipt of grievance. No grievance may be further processed under this Section unless it has been filed in accordance with above paragraphs (1) - (2).

(4) Step 4. If not resolved satisfactorily in Step 3 above, the grievant or his/her representative may, within ten (10) work days of the receipt of the Step 3 answer, submit the matter to an Adjustment Board comprised of three (3) Union representatives, no more than one (1) of whom

shall be either an employee of the City or an elected or appointed official of the Union, and three (3) representatives of the City, no more than one (1) of whom shall be either an employee of the City or a member of the staff of any organization employed to represent the City in the meeting and conferring process.

(5) Step 5. If an Adjustment Board is unable to arrive at a majority decision, either the Union or the City may, within ten (10) work days of receipt of the Adjustment Board decision, require that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the Union and the City Manager. The fees and expenses of the arbitrator and of a Court Reporter shall be borne equally by the parties. Each party, however, shall bear the cost of its own presentation, including preparation, witness costs and post hearing briefs, if any.

(6) Decision of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the parties hereto, to the extent permitted by the laws governing General Law Cities in the State of California.

No Adjustment Board and 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 Section 19.1.

### *19.3 No Change to Memorandum*

Proposals to add to or change this Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. Neither any Adjustment Board nor any 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.

### *19.4 Demotion, Suspension and Dismissal Grievances*

When the City Manager in pursuance of Section 19.2 (3) above resolves a grievance which involves suspension or discharge, the City Manager may agree to payment for lost time or to reinstatement with or without payment for lost time, but in the event the dispute is referred to arbitration and the arbitrator finds that the City had the right to take the action complained of, the arbitrator may not substitute his judgment for the judgment of

management and if he finds that the City had such right, he may not order reinstatement and may not assess any penalty upon the City.

#### *19.5 Compensation Complaints*

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the City Manager. Only complaints which allege that employees are not being compensated in accordance with the provisions of this Memorandum of Understanding shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and if not detailed in the Memorandum of Understanding which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed.

#### *19.6 Mutual Agreement on Changes*

No changes in this Memorandum of Understanding or interpretations thereof (except interpretations resulting from Adjustment Board or arbitration proceedings hereunder) will be recognized unless agreed to by the City Manager or where the authority has been delegated by the City Manager, the City Manager's representative, and Union President.

#### *19.7 No Strike*

The Union, its members and representatives, agree that it and they will not engage in, authorize, sanction, or support 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; and neither the Union nor any representatives thereof shall engage in job action for the purpose of effecting changes in the directives or decisions of management of the City, nor to effect a change of personnel or operations of management or of employees not covered by this Memorandum of Understanding.

### **Section 20. Separability of Provisions**

In the event that any provision of this Memorandum of Understanding is declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of the Memorandum of Understanding shall be null and void but such nullification shall not affect any other provisions of this Memorandum of Understanding, all of which other provisions shall remain in full force and effect.

**Section 21. Past Practices and Existing Memoranda of Understanding**

- 21.1 Continuance of working conditions and practices not specifically authorized by ordinance or by resolution of the City Council is not guaranteed by this Memorandum of Understanding.
- 21.2 This Memorandum of Understanding shall supersede all existing memoranda of understanding between the City and the Union.

**Section 22. Additional Provisions**

Additionally, the City agrees to meet in good faith with the Union prior to the expiration of this agreement to negotiate a new agreement that will become effective December 31, 2013.

Made and entered into this \_ day of 8/14 /, 2013.

TEAMSTERS LOCAL 350

CITY OF PACIFICA

By James V. Tasa  
Jim Tasa

By Michael P. Garvey  
Mike Garvey  
City Manager

By Michelle Kenyon  
Michelle Kenyon  
City Attorney

SIDE LETTER  
REGARDING  
VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN  
Between  
THE CITY OF PACIFICA  
And  
PACIFICA DEPARTMENT DIRECTORS TEAMSTERS LOCAL 350

August 9, 2013

Representatives for the City of Pacifica, here in after City and representatives for the Pacifica Department Directors Teamsters Local 350, here in after Local 350, have meet and conferred and have agreed to the modify the Memorandum of Understanding, which expires on December 31, 2013.

The City and Local 350 have agreed to the following modifications to Section 12.6 Vantagecare Retirement Health Savings (RHS) Plan.

- The provisions of Section 12.6 Vantagecare Retirement Health Savings (RHS) Plan that provides for a City contribution equal to 2.0% of salary for each bargaining unit member shall be suspended effective August 1, 2013 and shall not be restored until the pay period including March 1, 2016.
- The remaining terms of Section 12.6 will remain in effect for the term of the Memorandum of Understanding.

If the foregoing is in accordance with your understanding, please indicate your approval and acceptance in the space provided below.

Approved and Accepted:

For the City of Pacifica

For Pacifica Department Directors  
Teamsters Local 350

Michael P. Hawley

James V. Jara

Date: 8/14/2013

Date: 08-13-2013