

**June 12, 2021 to June 10, 2022**

**MEMORANDUM OF UNDERSTANDING**

**CITY OF SANTA CRUZ**

**AND**

**CITY OF SANTA CRUZ TEMPORARY SERVICE EMPLOYEES**

**S.E.I.U. LOCAL 521**

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**CITY OF SANTA CRUZ AND CITY OF SANTA CRUZ TEMPORARY**  
**SERVICE EMPLOYEES**  
**S.E.I.U. LOCAL 521**

SECTION 1.00	PREAMBLE .....	1
SECTION 2.00	TERM .....	1
SECTION 3.00	NO ABROGATION OF RIGHTS .....	1
SECTION 4.00	PAST PRACTICES .....	2
SECTION 5.00	RECOGNITION .....	2
SECTION 6.00	NO DISCRIMINATION .....	2
SECTION 7.00	UNION SECURITY AND UNION RIGHTS .....	3
7.01	Payroll Deductions .....	3
7.02	Memorandum of Understanding - Printing and Distribution .....	4
7.03	Union Notification .....	4
7.04	Bulletin Boards and Department Mail .....	4
7.05	Time Off for Union Officials .....	4
7.05.01	Meet and Confer or Consult Sessions .....	4
7.05.02	Union Stewards .....	5
7.05.03	Chief Stewards .....	5
7.05.04	Union Leave .....	5
7.06	Access to City Facilities .....	5
7.07	Bargaining Unit Employee Information .....	6
7.08	Area Meetings .....	6
7.09	C.O.P.E. Deduction .....	6
7.10	New Employee Orientation .....	7
SECTION 8.00	SALARY STEPS, PERSONNEL FILES AND PERFORMANCE EVALUATIONS .....	7
8.01	Personnel Files .....	7
8.01.01	Performance Evaluations .....	8
8.01.02	Late Evaluations .....	8
8.02	Salary Step Placement and Advancement within the Range .....	9
8.02.01	Salary Rates Upon Appointment .....	9
8.02.02	Advancement within the Salary Range .....	9
SECTION 9.00	WORK ASSIGNMENTS .....	10
9.01	Work Shifts .....	10
9.02	Lunch Period .....	10
9.03	Rest Periods .....	10
SECTION 10.00	SALARY .....	10
10.01	Salary upon Return to Temporary Employment .....	11
10.02	Salary Step When Hired Into a Regular Position .....	11
10.02.01	Credit Towards One (1) Year Probation When Hired Into a Regular Position ..	11
10.03	EMT Differential .....	11

10.04	Bilingual Differential.....	11
10.05	Beach Lifeguard II Duty Officer Stipend.....	11
10.06	Overpayments and Repayments.....	11
10.07	Callback.....	12
10.07.01	Callback by Phone or Computer.....	13
10.07.02	Callback to Worksite.....	13
10.08	Duty Assignment - <i>Marine Rescue Unit Members</i> .....	13
10.08.01	Definition.....	13
10.08.02	Assignment.....	13
10.08.03	Compensation.....	14
10.09	Duty Assignment - <i>All Other Temporary Service Employees</i> .....	14
10.09.01	Definition.....	14
10.09.02	Assignment.....	14
10.09.03	Compensation.....	14
SECTION 11.00	SENIORITY .....	15
SECTION 12.00	OVERTIME.....	15
SECTION 13.00	BEREAVEMENT LEAVE.....	16
13.01	Jury Duty .....	16
13.02	Blood Donation.....	17
13.03	Workers' Compensation .....	17
SECTION 14.00	IN-LIEU PAID TIME.....	17
SECTION 15.00	SICK LEAVE .....	17
SECTION 16.00	CAREER ADVANCEMENT .....	19
16.01	Job Opening Announcements.....	19
16.02	Training and Cross Training.....	19
16.03	Reimbursement for Licenses and Certificates .....	19
16.04	Absence for Examination .....	20
SECTION 17.00	SAFETY .....	20
17.01	Safety Committee .....	20
17.02	Safety Equipment/Uniforms .....	20
SECTION 18.00	BENEFITS.....	21
18.01	Health Care Reimbursement.....	21
18.02	Bus Passes.....	21
18.03	CalPERS Long Term Care .....	21
18.04	Medicare .....	21
18.05	Alternative Transportation Incentive Program.....	21
SECTION 19.00	GRIEVANCE PROCEDURE.....	21
19.01	Purpose .....	21
19.02	Definition.....	22
19.03	Limitations.....	22
19.04	Procedures .....	22
19.04.01	Step I.....	22
19.04.02	Step II .....	22
19.04.03	Step III.....	23
SECTION 20.00	DISCIPLINE.....	23
SECTION 21.00	WRITTEN REPRIMANDS.....	23

SECTION 22.00	LABOR/MANAGEMENT COMMITTEE .....	24
SECTION 23.00	AUTHORIZED AGENTS .....	24
SECTION 24.00	RENEGOTIATIONS .....	24
24.01	Successor Negotiations .....	24
SECTION 25.00	SEVERABILITY .....	25
EXHIBIT A		
	List of Classifications in Temporary Service Employees Bargaining Unit.....	26
EXHIBIT B		
	Santa Cruz City Council Policy 25.2 Discrimination, Harassment, Retaliation, and Respectful Workplace Conduct	
	Policy.....	28
EXHIBIT C		
	Discrimination/Harassment/Retaliation Policy Implementation and Complaint Procedure ...	32

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**MEMORANDUM OF UNDERSTANDING**  
**CITY OF SANTA CRUZ AND CITY OF**  
**SANTA CRUZ TEMPORARY SERVICE EMPLOYEES, S.E.I.U., LOCAL 521**

**SECTION 1.00 PREAMBLE**

This Memorandum of Understanding between the City of Santa Cruz (hereinafter referred to as the City) and the City of Santa Cruz Temporary Service Employees, Service Employees' International Union, SEIU Local 521, (hereinafter referred to as the Union), represents the agreement between the parties related to temporary employees, and is binding under Section 3505.1 of the Government Code.

The City and the Union have met and conferred in good faith and have arrived at an understanding concerning wages, hours, working conditions, and other terms of employment.

The City and the Union recognize their obligation to provide services of the highest quality and efficiency to the community.

The City and the Union affirm the principal that harmonious labor-management relations are to be promoted and furthered.

**SECTION 2.00 TERM**

The term of this agreement shall begin on June 12, 2021 and shall fully terminate on June 10, 2022.

**SECTION 3.00 NO ABROGATION OF RIGHTS**

The parties acknowledge that City responsibilities and rights as indicated in current Article 1, Section 1, (Appendix A) of the City's Personnel Rules and Regulations and all applicable State or Municipal laws are neither abrogated nor made subject to the meet and confer process by adoption of this Memorandum of Understanding.

Pursuant to Article 1, Section 1, (Appendix A), the City's rights include, but are not limited to the exclusive right to determine the mission of its constituent departments, commissions, and boards; to determine the procedures and standards of selection for employment and promotion; to direct its employees; to assign work to employees in accordance with the requirements determined by the City; to establish and change work schedules and assignments; to determine the content of job classifications; to hire, transfer and promote or to lay-off employees for lack of work; to suspend, discipline and discharge employees for proper cause if required; to expand or to diminish services; to subcontract any work or operations; and to determine the methods, means and personnel by which government operations are to be conducted, except as specifically modified by the terms of the Memorandum of Understanding.

The parties further acknowledge that the rights of employees are neither abrogated nor diminished by the adoption of this Memorandum of Understanding.

**SECTION 4.00 PAST PRACTICES**

The parties agree that they shall adhere to established labor relations principles in handling past practices. The parties agree that a past practice may be established if the practice meets all of the following:

1. The practice is unequivocal and consistently performed; and
2. The practice is clearly communicated by the City and acted upon by the Union or clearly communicated by the Union and acted upon by the City; and
3. The practice is readily identifiable over a reasonable period of time as a fixed and established practice accepted by both parties.

The parties agree in handling past practice issues within the scope of representation:

1. Past practices superseded by revised M.O.U. language are null and void;
2. Past practices which contradict existing M.O.U. language or written City rules shall be null and void upon reasonable notice from the City that the language will be followed;
3. Past practices within the scope of representation that are not covered by M.O.U. language or City rules shall remain in effect through the term of the M.O.U. unless changed through mutual agreement.

**SECTION 5.00 RECOGNITION**

Pursuant to the Meyers-Milias-Brown act and the City's Personnel Rules and Regulations, S.E.I.U., Local 521, is certified as the recognized employee organization for temporary employees in classifications listed in Exhibit A attached hereto and all workers in the Temporary Service Classifications assigned to fill regular positions which are vacant for recruitment, or to fill the position during the incumbent's leave. This unit shall be titled Temporary Service Employees.

For the purposes of this M.O.U., the term "employees" shall mean those represented temporary employees listed in Exhibit A.

**SECTION 6.00 NO DISCRIMINATION**

- A. The Union and the City agree to adhere to the City Council policies pertaining to equal opportunity employment and harassment prevention as listed in Exhibits B and C, as well as applicable Federal and State discrimination law.
- B. Neither the City, nor the Union, shall interfere with, intimidate, coerce or discriminate against City employees because of their exercising their right to form, join, and participate in the activities of the Union, or exercising their right to refuse to join or participate in the activities of the Union.

## **SECTION 7.00          UNION SECURITY AND UNION RIGHTS**

### **7.01 Payroll Deductions**

- A. The City shall honor the terms of the employee's authorization for Union deductions, for example, any terms of a membership and deduction authorization card the Union has supplied the employee. The employee may only revoke the authorization pursuant to the terms of the authorization the employee signed.
- B. Deductions shall start the pay period after the City receives notification of the authorization. The City shall transmit such payments to the Union through electronic funds no later than thirty (30) days after the deduction from the employee's earnings occur.
- C. Requests to authorize payroll deductions for Union purposes or COPE deductions shall be directed by the employees to the Union rather than the City. Requests to revoke or change the authorization shall also be directed to the Union rather than the City. The City shall rely on the Union's explanation in a certified list, submitted by a representative of the Union who has the authority to bind the Union, regarding whether authorization/ revocations/changes in deductions have been requested by the represented employees.
- D. The Union shall not provide the City a copy of the employee's authorization unless a dispute arises about the existence or terms of the authorization.
- E. The City shall on a bi-weekly basis, provide the Union with an electronic file containing payroll information for SEIU 521 employees including the following information: name; job classification; department; work location; work phone; work email (if available); personal email (if available); home address; mailing address; cell phone (if available); home telephone number; date of birth; hourly rate; status (part-time or full-time); union deductions; annual salary; and employee identification number.
- F. The Union shall indemnify, defend, protect and hold harmless the City and its elected and appointed officials, officers, employees, and agents (collectively hereafter the "Indemnitees") from and against any and all claims, liabilities, losses, damages, fines, penalties, claims, demands, suits, actions, causes of action, judgments, costs and expenses (including, but not limited to, reasonable attorneys' fees and court costs) arising from the application of any provisions under Sections 7.01-7.10, including, but not limited to, any claims made by any represented employees for the dues deductions the City made in reliance on the Union's certification, and any claims made by any represented employees for any deduction cancellation or modification the City made in reliance on the information provided by the Union. In the event any such action or proceeding is brought against the City by reason of any such claim, the Union, upon notice from the City, covenants to defend such action or proceeding by counsel reasonably satisfactory to the City. Further, the Union agrees to indemnify and hold harmless the Indemnitees for any loss or damage arising from the Union's actions or inactions under Sections 7.01-7.10.
- G. Violations of this section of the MOU are grievable.

### **7.01.02 Confidential Employees**

Employees filling positions designated as confidential are represented and may hold membership in the Union, but are excluded from active participation as negotiators, committee chairpersons, or any other role in which they represent the Union in matters within the scope of representation pursuant to Section 3507.5 of the Meyers-Milias-Brown Act.

### **7.02 Memorandum of Understanding - Printing and Distribution**

The City and the Union will share the cost of printing copies of this Memorandum of Understanding in a mutually agreeable format and make it available to all members. Such distribution shall only occur during an employee's rest period, meal break or non-work time.

When a person is hired in any classification covered by this Memorandum of Understanding, the City shall notify the person that the Union is the recognized employee organization and of the agency shop provision. The City will provide that person with a copy of the current Memorandum of Understanding.

### **7.03 Union Notification**

Except in cases of bona fide emergencies, the Union shall be given seven (7) workday's advance written notification of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the Santa Cruz City Council, or management, and shall be given the opportunity to meet with the City representative prior to its adoption.

### **7.04 Bulletin Boards and Department Mail**

The Union shall have reasonable access to bulletin boards and departmental mail for the purpose of Union communications. A copy of non-privileged material shall be provided to the Human Resources Department.

### **7.05 Time Off for Union Officials**

#### **7.05.01 Meet and Confer or Consult Sessions**

During the term of this agreement, a reasonable number of Union members (from two to five), shall be allowed a reasonable amount of paid release time off for meet and confer or meet and consult sessions scheduled with the City Council's designated representative, providing there is no disruption of work in the employee's division. The exact number to be released shall be determined by mutual agreement prior to the session; and shall vary by the type of issue being discussed (i.e., single department affected, multiple departments affected, etc.) The Union shall notify the Director of Human Resources in advance of the meeting of the names of members who will be in attendance. Such Union members shall obtain permission through supervisory channels before leaving their work or work locations.

Ground rules for negotiating successor agreements shall specify the number of Union



members allowed for the meet and confer sessions scheduled with the City Council's representatives.

**7.05.02 Union Stewards**

The Union shall be authorized to designate employees within the unit as stewards, not to exceed five (5) in number and must furnish a list of these stewards to the Human Resource Department on a biannual basis (twice per year). If a designated steward is not available, temporary workers may utilize stewards from the regular bargaining unit. Stewards shall be allowed a reasonable amount of paid release time for the purpose of representing a unit employee within the steward's area of representation as shown below in the filing or processing of identified grievances as long as there is no disruption of work in the employee's division. The Union may designate an alternative representative when it deems appropriate. Stewards must first obtain permission through appropriate management channels before leaving their work or work location for such purposes, and release shall not be unreasonably denied. This provision shall be limited to periods of regular working hours. It is agreed the City shall not pay stewards for time spent in handling grievances when they are not regularly scheduled to work.

The five (5) Union Stewards will each represent one of the following designated areas:

1. Beach
2. Library
3. Parks and Recreation
4. At Large
5. At Large

**7.05.03 Chief Stewards**

In addition to the Union Stewards identified in Section 7.05.02 (Union Stewards), the Union may designate up to two (2) Chief Stewards. Chief Stewards shall be entitled to release time to replace stewards when the designated area Steward is not available.

**7.05.04 Union Leave**

Upon request of the Union's Santa Cruz Area Director, workers who are Union members may request unpaid release time not to exceed twelve (12) months for Union business.

**7.06 Access to City Facilities**

With the approval of the site administrator, the Union's representative may meet with members on City facilities during the non-working hours of the employees involved. The non-working hour's restriction does not apply to the handling of grievances. A reasonable effort will be made to accommodate the Union representative.

## **7.07 Bargaining Unit Employee Information**

### **A. Bargaining Unit Employee List**

On a bi-weekly basis, the City shall supply the Union with a comprehensive list of all employees covered by this MOU with the following information: full name, employee number, job classification, date of hire, termination date (if employment has ended), hourly rate, annual salary, date of birth, department, work location, work phone, work email (if available), personal email (if available), home address, mailing address, home phone, cellular phone (if available), and employment status (to include date of separation, etc.), to the extent permitted by law. On a monthly basis, a list of Union members whose City employment has ended shall be sent to the Union. These lists will be sent in an electronic format that both the Union and the City agree upon.

### **B. Protection of Contact/Biographical Information of Bargaining Unit Employees**

The City shall immediately notify the Union of any third party requests for contact and/or biographical information about the bargaining unit employees. The City shall promptly provide the Union a copy of the request and any material submitted with the request.

The City shall provide the Union at least ten (10) days to review the request and challenge the scope of the request prior to the City responding to the request. The City agrees to consider the Union's response prior to disclosing to a third party any contact and/or biographical information about the bargaining unit employees.

## **7.08 Area Meetings**

The City shall provide employees a maximum of one and one-half (1 ½) hours of release time biannually (twice per year) to attend area Union general membership meetings. The one and one-half (1 ½) hours includes travel time to and from the meeting and cannot result in an adverse impact on City operations. The purpose of general membership meetings shall be to nominate and elect shop stewards and to provide a forum for Union communications. In addition, there may be a maximum of twelve (12) area meetings annually. Union representatives shall have access to City facilities during work hours to conduct such area meetings with employees. The Union shall notify the Human Resources Director at least ten (10) workdays in advance of the date, time, and location of each area meeting. No more than two (2) Union officials shall be provided release time to conduct these meetings.

## **7.09 C.O.P.E. Deduction**

The City agrees to the establishment of a payroll deduction program for voluntary employee contributions to the Committee on Political Education, (C.O.P.E.) subject to the following conditions:

- A. Voluntary deductions for C.O.P.E. shall be withheld only if the employee so authorizes in writing on a form provided by the Union and approved by the City.
- B. Payroll deductions shall commence on the second pay period after the authorization is received by the City.

- C. Employees may sign up, change the amount of their contributions or discontinue their contributions at any time.
- D. The Union shall indemnify, defend and hold the City, its officers and employees harmless against any and all claims, demands, suits and from liabilities of any nature which may arise out of or by reason of any action taken or not taken by the City under the provisions of this section.

### **7.10 New Employee Orientation**

- A. The City agrees that each newly hired bargaining unit employee shall participate in a scheduled new employee orientation that includes a half-hour (30 minute) Union informational in-person meeting within the first thirty (30) days from the date of hire during regular working hours and onsite without the loss of compensation. The City shall notify the Union no less than ten (10) days of a scheduled new employee orientation.
- B. The Union agrees that it shall designate a reasonable number of Union designee(s) mutually agreed upon by the City and the Union (no more than three) to attend each orientation, session, or meeting, provided that there is no disruption of work in each designated Union employee's division due to these employees' attendance. The Union agrees that it shall provide the names of the Union designee(s) to the City's Human Resources Director in writing, at least five (5) calendar days prior to the scheduled attendance at the orientation meetings, sessions, or trainings. Union designee(s) who are included in the written notice of attendance by the Union submitted to the Human Resources Director, at least five (5) calendar days in advance, shall be given release time to conduct such orientation sessions, meetings, or trainings under this Section. For purpose of this subsection, Union designee(s) may include, but not be limited to, Union representatives, officers, stewards and members.
- C. City representatives shall be absent from the room during any sessions, meetings or trainings conducted by the Union with newly hired employees. The City shall not discourage an employee's participation in the Union portion of the onboarding process.

## **SECTION 8.00 SALARY STEPS, PERSONNEL FILES AND PERFORMANCE EVALUATIONS**

### **8.01 Personnel Files**

There shall be only one official personnel file which shall be maintained in the City's Human Resources Department. Employees shall have the right to review their personnel files and/or authorize, in writing, review by their representatives. No adverse material will be placed in an employee's personnel file without prior notice and a copy given to the employee. Employees may prepare written responses to adverse material placed in their personnel files. Upon presentation to the Human Resources Department, the Human Resources Department will place these written responses in employees' personnel files.

### **8.01.01 Performance Evaluations**

All temporary employees will receive a written performance evaluation from their supervisors upon eligibility for the next step in the salary schedule.

Evaluations are intended to be a summary of the employee's performance over the course of the evaluation period. Evaluations are also to be used as a tool to motivate the employee to work at their highest capacity and to communicate and document the employee's level of performance. To this end, if the employee is still actively working at the time the evaluation is completed, the supervisor and the employee will meet and discuss work responsibilities, job standards and objectives, review progress and plan for the employee's future development prior to the evaluation being placed in the employee's personnel file. Employees who are not actively working at the time the evaluation is completed will be mailed their evaluation to the last address provided to the City. Supervisors will make every attempt to address performance issues in a timely manner throughout the evaluation period and provide appropriate feedback to employees on an ongoing basis.

Any additions, corrections, deletions or changes on the original evaluation form, require initialing by both the maker of the amendment and the employee to indicate that the changes have been discussed and understood. No evaluation shall be made on hearsay statements. Employees may also choose to appeal a performance evaluation to the department head and, if not satisfied, formally enter a response to the evaluation in their personnel file. Any unsatisfactory areas in an employee's evaluation shall have attached reasons stated by the rater in the commentary section and shall include specific recommendations for improvement. Disputes regarding performance reviews shall not be subject to the grievance process.

If a step increase is denied as part of the evaluation process, the worker may appeal the denial within fifteen (15) days of receipt to the Department head. The Department Head, or designee, shall meet with the worker and their representative, if any, and render a decision within ten (10) business days of the meeting. The decision of the Department Head shall be final.

### **8.01.02 Late Evaluations**

Failure of the supervisor to present the employee with the evaluation within ninety (90) calendar days of the due date, unless extension is mutually agreed upon in writing, shall result in a recommendation of step advancement in conjunction with Section 8.02 (Salary Step Placement and Advancement Within the Range). However, as soon as possible thereafter, the supervisor shall conduct a performance evaluation in accordance with this section.

## **8.02 Salary Step Placement and Advancement within the Range**

### **8.02.01 Salary Rates Upon Appointment**

Temporary workers may be hired at any step in the appropriate salary range depending on the difficulty of recruitment, unusual qualifications, or upon prevailing rates being paid upon the recommendation of the department head and approval of the Director of Human Resources.

Bargaining Unit employees temporarily filling classifications included in the Service Employees' Bargaining Unit shall be placed in the same salary range as provided to employees in the Service employees' bargaining unit.

### **8.02.02 Advancement within the Salary Range**

Advancement within a temporary employee salary range shall be granted solely on meritorious job performance as documented by a satisfactory performance evaluation.

Hours worked in different Temporary Employee positions (different Grade Codes) accumulate separately for the purpose of the calculations described below, including multiple assignments within the Professional & Technical Assistant position (Grade Code 917).

Step increases for temporaries filling classified positions are as follows:

Starting Step	Placement upon initial hire.
Next Step	Eligible upon completion of 1040 hours worked.
Subsequent Steps	Eligible upon completion of each 2080 hours worked.

Step increases for temporary employees filling unclassified\* positions are as follows:

Starting Step	Placement upon initial hire.
Subsequent Step	Eligible upon completion of 600 hours worked.
Subsequent Step	Eligible upon completion of an additional 600 hours worked. (Total 1,200 hours)
Subsequent Step	Eligible upon completion of an additional 600 hours worked. (Total 1,800 hours)
Subsequent Step	Eligible upon completion of an additional 600 hours worked. (Total 2,400 hours)

\* Professional and Technical Assistants (Grade Code 917) will receive a 5% increase (in lieu of a step increase) in accordance with this schedule, not to exceed the top of their salary range.

## **SECTION 9.00      WORK ASSIGNMENTS**

### **9.01    Work Shifts**

Where practical, employees shall be assigned regularly scheduled starting and quitting times. The Union recognizes that the nature of some temporary employment is on-call and/or irregularly scheduled. Employees in these types of positions will not be assigned regularly scheduled starting and quitting times. Regularly scheduled employees and the Union will be notified as much in advance as possible, but at least five (5) working days in advance of changes in shift schedules and work weeks.

The scheduling of temporary employees is at the sole discretion of the employing department. If requested, the department head will meet with the Union regarding scheduling assignments. Any disputes regarding work assignments will be resolved by the department head.

### **9.02    Lunch Period**

Employees shall be entitled to and expected to take an uninterrupted, unpaid lunch period of a minimum of thirty (30) minutes at or about the mid-point of their workday if the workday is a minimum of eight (8) hours.

### **9.03    Rest Periods**

Employees shall be allowed a fifteen (15) minute rest period during each four hours of regular work. Departments may make reasonable rules concerning the scheduling of same. Rest periods not taken shall be waived. Rest periods cannot be taken at the beginning or end of a shift or combined with a meal period unless approved. This is not effective in periods of a bona fide emergency nature. Rest periods shall be considered work time.

## **SECTION 10.00      SALARY**

- A. Effective the beginning of the pay period in which City Council approves this agreement the salaries for all represented classifications will be increased by three and one half percent (3.5%).
- B. Effective the beginning of the pay period in which City Council approves this agreement Lifeguard salaries will be increased as follows:

		<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Beach LG1</b>	<b>NEW</b>	<b>17.78</b>	<b>18.67</b>	<b>19.60</b>	<b>20.58</b>	<b>21.61</b>
	Old	14.90	15.64	16.42	17.24	18.11
<b>Beach LG2</b>	<b>New</b>	<b>19.56</b>	<b>20.54</b>	<b>21.56</b>	<b>22.64</b>	<b>23.78</b>
	old	16.70	17.54	18.41	19.34	20.30
<b>Beach Lt</b>	<b>new</b>	<b>21.40</b>	<b>22.47</b>	<b>23.59</b>	<b>24.77</b>	<b>26.01</b>
	old	17.43	18.30	19.21	20.17	21.18
<b>Beach Cpt</b>	<b>New</b>	<b>21.76</b>	<b>22.84</b>	<b>23.98</b>	<b>25.18</b>	<b>26.44</b>
	Old	19.60	20.58	21.61	22.69	23.82

### **10.01 Salary upon Return to Temporary Employment**

A worker, who returns to temporary employment in the same position within two calendar years, or longer at management's discretion, shall be placed at their most recent salary step.

### **10.02 Salary Step When Hired Into a Regular Position**

When a temporary worker is hired into a higher-level regular position, their pay step in the regular position shall be at least 5% higher than their most recent temporary pay rate, but shall not exceed the top step for the new position.

#### **10.02.01 Credit Towards One (1) Year Probation When Hired Into a Regular Position**

Employees hired into positions that require a one-year probation shall receive credit toward completion of the probationary period for any time spent in the same position on a temporary assignment immediately prior to the regular appointment. Such credit shall be given on a monthly basis up to a maximum of six (6) months of credit (per Service MOU Section 8.02.01 – Probationary Period).

### **10.03 EMT Differential**

Lifeguard I's who obtain and maintain an EMT certificate shall receive a five percent (5%) differential for all hours worked. The employee shall present proof of certification to the Department.

### **10.04 Bilingual Differential**

The City shall provide payment of an additional \$0.55 per hour on the hourly rate for hours worked when the City certifies an employee as qualified and the position requires the use of bilingual language skills.

### **10.05 Beach Lifeguard II Duty Officer Stipend**

Beach Lifeguard II will receive a four percent (4%) stipend when scheduled to work as the Duty Officer.

### **10.06 Overpayments and Repayments**

The City will not attempt to recover overpayments made to employees as a result of an error made by the City which are over 12 months old.

A. Overpayments

If an overpayment or unauthorized payment has been made to a City employee, the City shall notify the employee in writing and supply the employee with the documentation used to determine the overpayment.

If the employee contends that any portion or the entire amount is not owed, they may request a meeting with the City to attempt to resolve the disagreement. The employee may have a representative attend such meeting(s) with them.

B. Repayment of Funds

An employee will pay no penalties, fees or interest as a result of the overpayment when the City and employee mutually agree upon how the repayment will be made. The employee shall have the right to select one of the following options for repayment:

1. Lump sum payment with the date mutually established by the employee and the City (lump sum payments must be made if the total amount due is 5 percent or less than the employee's biweekly gross salary).
2. Biweekly installment payments through payroll deduction (installment payments must be a minimum of \$10 and repayment must be completed within twenty-six pay periods).
3. Any other repayment arrangement mutually agreed upon between the City and the employee.

The final agreement on the repayment will be committed to writing (including the lump sum payment date, or the biweekly amount and the beginning and ending date of the installment plan identified).

C. Referral to Collections

The City may refer an employee to a collection agency or seek payment only when the employee, after being duly notified of the overpayment and having had the opportunity to review the relevant documentation, refuses to agree to a repayment of the amount owed. The employee will be notified of the referral and the City reserves all its rights to seek repayment and pursue all remedies under law including interest as it would for any other debtor.

**10.07 Callback**

Callback work is defined as work required by management of an employee who, following completion of the employee's work day or work week and departure from the employee's work site, is unexpectedly ordered to report back to duty or by phone or computer to perform necessary work.



**10.07.01                      Callback by Phone or Computer**

If the employee is able to respond by phone or computer and is not required to report to the worksite, then:

A. For the first response of the day, a minimum of thirty minutes (0.5 hours) of overtime will be paid for actual overtime worked of less than thirty minutes. Thereafter, a minimum of fifteen minutes (0.25 hours) of overtime will be paid for actual overtime worked of less than fifteen minutes.

B. An additional minimum will not be paid if an employee is required to respond to additional call(s) and the time and duration of the response is within the previous minimum.

**10.07.02                      Callback to Worksite**

A. All callback hours shall be paid at the overtime rate. A minimum of two (2) hours of overtime compensation shall be paid for all callback periods of less than two (2) hours.

B. Hours worked shall include reasonable travel time to work. Return travel time shall not be included within time worked.

C. If an employee, who was called back to work and has completed their assignment and left work, is again called back to work, they will not receive another minimum if the time of return is within the previous callback minimum.

D. Employees who are required to respond to the worksite will be provided mileage compensation, at the federal rate, for the use of their personal vehicles.

**10.08 Duty Assignment – Marine Rescue Unit Members ONLY (see Section 10.09 for all Other Temporary Service Employees)**

**10.08.01                      Definition**

Duty assignment is defined as an assignment to an on-call status for a twenty-four (24) hour period of time. While on duty assignment, an employee must remain available to be contacted by phone or pager and be able to report to work within ten (10) minutes. The employee must remain within a ten (10) minute response area to the Santa Cruz Municipal Wharf throughout the duty assignment. Duty assignment shall not be considered “hours worked” pursuant to the Fair Labor Standards Act.

**10.08.02                      Assignment**

Duty personnel shall be assigned on a monthly rotational basis from an established list consisting of, but not limited to, qualified volunteers. A voluntary rotation process will be the preferred method of duty assignment selection; however, the City may require duty

assignment if there are insufficient qualified volunteers. Prior to making mandatory assignments, the City will notify the Union. Only “qualified” employees may be appointed to duty assignment lists, as determined by the appropriate department head(s). Such qualifications will be based on the nature and requirements of the tasks performed while on duty assignment. With the concurrence of the duty supervisor, duty assignments may be substituted by other personnel on an approved list, provided employees have at least one week between duty assignments.

### **10.08.03 Compensation**

- A. Duty personnel shall receive \$50 for a twenty-four (24) hour assignment.
- B. All duty hours actually worked during the period of Duty Assignment and outside the employee’s regularly scheduled shift shall be compensated at their regular straight-time pay rate. A minimum of two (2) hours will be paid for callouts of less than two (2) hours.

## **10.09 Duty Assignment – All Other Temporary Service Employees (see Section 10.08 for Marine Rescue Unit Members ONLY)**

### **10.09.01 Definition**

Duty assignment is defined as an assignment to an on-call status for a specified period of time. While on duty assignment, an employee must remain available to be contacted by phone or pager and be able to report to work within a thirty (30) minute period. Duty assignment shall not be considered “hours worked” pursuant to the Fair Labor Standards Act.

### **10.09.02 Assignment**

Duty personnel shall be assigned on a weekly rotational basis from an established list consisting of, but not limited to, qualified volunteers. A voluntary rotation process will be the preferred method of duty assignment selection; however, the City may require duty assignment if there are insufficient qualified volunteers. Prior to making mandatory assignments, the City will notify the Union. Only “qualified” employees may be appointed to duty assignment lists, as determined by the appropriate department head(s). Such qualifications will be based on the nature and requirements of the tasks performed while on duty assignment. With the concurrence of the duty supervisor, duty assignments may be substituted by other personnel on an approved list, provided employees have at least one week between duty assignments.

### **10.09.03 Compensation**

#### **A. Weekdays**

Duty personnel shall receive one and one half (1.5) hours of their base hourly salary for a sixteen hour assignment

B. Weekends

Duty personnel shall receive two (2) hours of their base hourly salary for a twenty-four hour assignment.

C. Holidays (City Designated Eight (8) Hour Holidays)

Duty personnel shall receive eight (8) hours of their base hourly salary for a twenty-four hour assignment.

D. Holidays (City Designated four (4) Hour Holidays)

Duty personnel shall receive four (4) hours of their base hourly salary for a twenty hour assignment.

E. All duty hours actually worked outside the employee's regularly scheduled shift shall be compensated at the overtime rate. A minimum of two (2) hours of overtime will be paid for callouts of less than two (2) hours. An additional minimum will not be paid if an employee is required to perform an additional duty call and the time of return is within the previous duty call minimum.

If the assigned duty person or crew member assisting the duty person is required to respond to a call that requires them to work more than twelve (12) hours within a twenty-four hour period, and any portion of those twelve (12) hours is after midnight, the employee shall be entitled to an eight (8) hour rest period prior to returning to work. If any portion of the rest period occurs during the employee's regular schedule, the employee shall receive regular paid compensation for that time.

F. An employee shall have the option of receiving compensatory time off for the duty assignment compensation and hours worked.

**SECTION 11.00 SENIORITY**

Seniority for temporary workers shall be defined as hours worked within a given classification from the date of initial hire as a temporary worker.

**SECTION 12.00 OVERTIME**

The Union understands that from time to time the City will direct employees to work overtime hours. When overtime work is necessary, the City will make an effort to distribute overtime equally among qualified employees. To the extent possible, employees will be given advance notification. An employee may be excused from overtime work for legitimate reasons.

Overtime is defined as all management authorized hours in a paid status in excess of forty (40) hours per week, which are contiguous with the employee's regular work schedule, excluding voluntary training. Overtime shall be computed at the rate of one and one-half times the base hourly rate or may be converted to compensatory time off at the rate of one and one-half times the hours worked.

Employees covered by the Fair Labor Standards Act (FLSA) shall be entitled to FLSA overtime

which is defined as all hours required by management and actually worked by the employee in excess of forty (40) hours in a work period as defined by the City. FLSA overtime is compensated in pay or compensatory time off at one and one-half (1-1/2) times the employee's regular rate of pay. The regular rate shall be as defined in the FLSA.

Compensatory time off shall not be allowed to accumulate beyond eighty (80) hours at any given time.

Based on IRS tax law under constructive receipt rules an employee may use the following methods to meet the IRS rule.

- An employee with accrued compensatory time off shall be permitted to use such time within a reasonable period in the same calendar year as it was earned after making the request, unless such time off will unduly disrupt the operations of the department.
- Cash out all or part of the accrued and unused compensatory time anytime during the calendar year
- Any remaining balance will be paid out on the last payday in December.

Unused compensatory time hours earned prior to January 1, 2021 may be carried over into calendar year 2021 and are subject to the same provisions above as new hours earned in calendar year 2021 and after.

## **SECTION 13.00      BEREAVEMENT LEAVE**

The purpose of this section is to provide paid leave for employees when they are bereaved at the death of a family member and this loss has had a temporary negative effect on their ability to continue their work performance.

When a temporary worker is scheduled to work and a death occurs in the employee's immediate family, a leave of absence with pay of up to twenty (20) hours per incident, in a seven (7) consecutive day period, may be granted an employee by the department head. For the purpose of this section, "immediate family" is defined as: spouse, parent, son, daughter, grandparent, sibling, mother or father-in-law, brother or sister-in-law, grandchild of the employee or spouse, son-in-law, daughter-in-law, grandparent-in-law, registered Principal Domestic partner, or other close relation residing in the employee's household. In rare cases when the individual has no other legal relationship with the deceased other than foster or step-parent, the HR Director or City Manager has the discretion to approve that leave upon application.

### **13.01 Jury Duty**

Employees shall receive equivalent unpaid time off when performing jury duty on their scheduled work day on the day the jury duty is performed. An employee must notify their supervisor of the expected duration of the absence and must present to the department head official documents supporting such duty. This section shall not apply to grand jury service.

### **13.02 Blood Donation**

An employee may be granted paid release time of up to a maximum of one (1) hour for donating blood during regularly scheduled hours of work at a City sponsored blood drive. The length of such leave must be approved by the supervisor and is dependent upon the nature and scheduling of the work performed and the travel distance required.

### **13.03 Workers' Compensation**

An employee who is entitled to workers' compensation payments may use accumulated in-lieu paid time and/or compensatory time off to supplement such payments to an amount equal to their net salary. After depletion of any accrued paid leaves, the employee shall be eligible for benefits only in the amounts prescribed by the workers' compensation laws.

The Union and the City recognize that work-related injuries/illnesses can often be prevented. Therefore, work-related injuries/illnesses shall be an ongoing agenda item for the Citywide Safety Committee. Proactive, preventive measures may be recommended by the Committee. The Committee will also make recommendations on appropriate way(s) of reviewing workers' compensation claims.

## **SECTION 14.00 IN-LIEU PAID TIME**

During the term of the MOU, upon completion of 600 or more hours of work, temporary employees shall receive nineteen (19) hours of in-lieu paid time. Subsequently, workers accrue nine (9) hours of paid time for every 200 additional hours of work thereafter. Such in-lieu paid time is provided instead of any other type of paid leave or holiday time off (except paid Bereavement Leave). Employees will be allowed to receive payment for accrued in-lieu paid time upon request. Any unused in-lieu paid time will be payable to the employee upon termination of employment.

## **SECTION 15.00 SICK LEAVE**

In accordance with the Healthy Workplaces, Healthy Families Act of 2014:

- I. Applicability and Eligibility to Earn and Use Paid Sick Leave**
  - A. Employees shall receive paid sick leave as described in this section after 30 days of City employment within a 12-month period.
  - B. An employee is eligible to use accrued paid sick leave after 90 days of City employment within a 12-month period. The 12-month period shall be measured initially by the employee's hire date and by the employee's anniversary date.
- II. Annual Grant of Paid Sick Leave**
  - A. Beginning on July 1, 2015, and on July 1st of each calendar year thereafter, the City shall grant employees 24 hours of paid sick leave to use for permitted purposes as

described in this section. Employees who are hired after July 1st of any given calendar year shall also be issued 24 hours of paid sick leave.

- B. Any unused paid sick leave hours remaining as of June 30th of any calendar year shall expire and shall not be carried over to the next 12-month period.

### **III. Use of Paid Sick Leave**

- A. An eligible employee may use only up to a maximum of three (3) days or 24 hours of paid sick leave in a 12-month period. An employee must be allowed to take up to a total of 24 hours of accrued time during any 12-month period for reasons allowed under Section III.B. (For example, if an eligible seasonal or temporary employee who works six (6) hours per day and has accrued 24 hours of paid sick leave, takes three (3) paid sick days during the year, the employee has used 18 hours and still has six (6) hours of paid leave remaining in the same year.)
- B. An eligible employee may use paid sick leave under this section for the following reasons:
  - i. Diagnosis, care, or treatment of the employee's existing health condition or preventive care for an employee; or
  - ii. Diagnosis, care, or treatment of an existing health condition of, or preventive care for an employee's family member. For the purposes of using sick leave under this section only, "family member" shall mean an employee's parent, child, spouse, registered domestic partner, parent-in-law, sibling, grandchild, or grandparent.
  - iii. In addition, with appropriate certification an employee who is a victim of domestic violence, sexual assault, or stalking may use accrued paid sick leave under this section for the following reasons:
    - a) To obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or the victim's child;
    - b) To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;
    - c) To obtain services from a domestic violence shelter, program, or rape crisis center;
    - d) To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; or
    - e) To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

### **IV. Notification to City of Use of Paid Sick Leave**

When accrued sick leave must be used, an employee will notify their immediate supervisor of the need to use leave and its probable duration, if known, within one hour after the regular scheduled starting time. If the employee's need to use sick leave is unforeseeable, the employee must provide notice to the employee's supervisor as soon as practicable. When

the employee's need to use sick leave is foreseeable, the employee must provide reasonable advance notice.

**V. Other Terms of Paid Sick Leave**

- A. Employees may determine how much paid sick leave they wish to use, however, the minimum amount of paid sick leave an employee may use is one hour per work day.
- B. Employees shall be compensated for each hour of sick leave used under this policy at the employee's base hourly rate of pay. Employees shall be compensated for using sick leave, on the payday for the next regular payroll period after the sick leave was taken.
- C. Except as provided in this section, upon termination, resignation, retirement or other separation from employment, no cash out or compensation of any kind will be provided to an employee for accrued and unused paid sick leave.

If an employee separates from the City and is rehired within one (1) year from the date of separation, any previously accrued and unused paid sick leave shall be restored to the employee to the extent required by law. If at the time of separation from City employment, the rehired employee had not yet worked the required 90 days to be able to use paid sick leave, the employee must still satisfy the 90 day requirement, counting all days previously worked for the City, before the employee may use the employee's accrued paid sick leave.

**SECTION 16.00 CAREER ADVANCEMENT**

**16.01 Job Opening Announcements**

The City encourages employees to apply for other positions and, to that end, all job announcements will normally be posted on department bulletin boards and other appropriate locations as determined by the Director of Human Resources. Employees are also advised to access the listings via the City's website and/or the Human Resources Department.

**16.02 Training and Cross Training**

The City shall maintain, consistent with budgetary allocations and availability, a training program which will enable employees to upgrade their skills and improve their levels of performance.

The City and Union acknowledge that there is a benefit to cross-training of employees. When feasible, the City will cross-train employees to enhance skill development. Employees may request consideration for cross-training opportunities. Such requests will be considered and a timely response provided.

**16.03 Reimbursement for Licenses and Certificates**

Employees shall be reimbursed for the cost of licenses and certificates which are required to perform their job duties. No reimbursement shall be made for fees of less than \$5.

Employees whose job description requires a class A or B driver's license shall receive \$100 per month provided they possess and maintain said required license in the performance of their job duties.

#### **16.04 Absence for Examination**

An employee shall be granted release time to participate in any part of an examination process for promotion or transfer within the City workforce that is scheduled during the employee's hours of work. The employee shall notify their immediate supervisor five (5) calendar days in advance of such an absence.

### **SECTION 17.00 SAFETY**

The City intends to meet its obligation under the California Occupational Safety and Health Act and shall adopt and use reasonable safeguards, devices and practices for safe employment. Responsibility for promoting safety practices is shared equally by the City and its employees. The City will provide appropriate safety training courses and may place reasonable requirements of prior training and/or certification before employees engage in certain activities.

In order to ensure that health and safety hazards are dealt with on a timely basis, the following procedure shall be used to deal with potential hazards.

- A. Employees shall report health and safety hazards to their immediate supervisor upon discovery and in accordance with appropriate City Administrative Procedures. If the immediate supervisor is unable to abate the hazard, they shall refer the matter to the department/division manager, or
- B. Employees may use the Safety Communication System as provided in the City's Administrative Procedure Order.

#### **17.01 Safety Committee**

The union may appoint one temporary worker to serve on the Citywide Safety Committee. This Committee shall meet at least quarterly to consider potential or actual health, safety, and training matters. Union members shall serve on the Safety Committee without loss of compensation if scheduled to work during meeting times provided supervisory approval is received.

The Safety Committee shall be apprised of all reported hazards, their status, and resolution of the issue(s).

#### **17.02 Safety Equipment/Uniforms**

The City shall provide employees with any necessary and required uniforms or safety equipment required for the performance of their job.



**SECTION 18.00      BENEFITS**

**18.01   Health Care Reimbursement**

Employees who work more than 220 hours in the following quarters will be reimbursed 50% the cost of their single coverage medical plan, not to exceed \$100 per quarter.

<u>Quarter</u>	<u>Payable</u>
July/August/September	October
October/November/December	January
January/February, March	April
April/May/June	July

Employees must provide a receipt showing their payment for coverage within ten (10) days after the end of each quarter to be eligible for payment. Reimbursement will only be for single medical coverage paid for directly by the employee.

**18.02   Bus Passes**

Temporary service employees are eligible to participate in the City’s bus pass program. Additional information regarding this program is available from the Human Resources Department.

**18.03   CalPERS Long Term Care**

Temporary service employees are eligible to participate in the CalPERS Long Term Care insurance benefit. Additional information regarding this program is available from the Human Resources Department.

**18.04   Medicare**

Temporary service employees and the City (on employees’ behalf) participate in and contribute to the Medicare program.

**18.05   Alternative Transportation Incentive Program**

The City will provide up to \$10 per month per employee for reimbursement of eligible transportation related expenses, subject to a cap, as defined in the City’s APO II-53 - Alternative Transportation Incentive Program.

**SECTION 19.00      GRIEVANCE PROCEDURE**

**19.01   Purpose**

To assure prompt and fair treatment of grievances related to employment.

Any employee or group of employees covered by this Memorandum of Understanding, or the Union acting on their behalf, may file a grievance.

## **19.02 Definition**

A grievance is defined as an alleged violation, misinterpretation or misapplication of the provisions of this Memorandum of Understanding or the City's Personnel Rules and Regulations.

## **19.03 Limitations**

- A. A grievant may be represented by an individual of their choosing in preparing and presenting a grievance.
- B. No reprisal shall result against any employee, group of employees, or the Union, who presents a bona fide grievance under this procedure.
- C. Time limits may be extended by mutual agreement of the parties. Absent such agreement, grievances may be advanced to the next step if time limits are not met.
- D. Only upon mutual written agreement between the parties may Step I of the grievance procedure be waived.
- E. Grievances may, by mutual agreement in writing, be referred back for further consideration or discussion to a prior Step, or advanced to a higher Step of the grievance procedure. If a grievance is moved either forward or backward to another step, the time limits at that step shall be controlling and shall begin on the date the parties agree to the move.

## **19.04 Procedures**

### **19.04.01 Step I**

The grievant will first attempt to resolve the grievance through informal discussions with their immediate supervisor or other appropriate departmental personnel. These discussions must be initiated within ten (10) working days of the incident upon which the grievance is based. Meetings shall be scheduled in advance and the nature of the grievance stated when the appointment is made. Every attempt will be made by the parties to settle the issue at this level.

### **19.04.02 Step II**

If the grievance is not resolved through the informal discussions, the grievant or their representative may within ten (10) working after the informal meeting, submit a written grievance to the department head. The written grievance must contain in clear, factual and concise language.

1. Name of the grievant.
2. A brief statement as to the date, time and place of the occurrence on which the grievance is based and the facts as the grievant see them.
3. The specific provision of the M.O.U. which the grievant alleges has been misinterpreted, misapplied, or violated.

4. Steps taken toward informal resolution.
5. The action the grievant believes will resolve the grievance.
6. The name of any representative chosen by the grievant.
7. A copy of the written grievance, signed by the grievant or Union Representative, shall be presented at the time of the department head conference. However, the grievance will not be processed by the City until the Grievant or employee representative of a group grievance has signed the written grievance document.

The department head shall hold a conference with the grievant within ten (10) workdays following receipt of the formal grievance. They shall prepare a written response within five (5) working days after the conference. Copies shall go to the parties involved including the employee's representative and the Human Resources Department.

#### **19.04.03 Step III**

If the grievance is not resolved, the grievant may, within five (5) workdays following receipt of the department head's response, appeal to the City Manager or their representative, stating in writing the basis for the appeal. The grievance may also be appealed if the department head fails to respond within fifteen (15) workdays after submission of the formal grievance. The City Manager or their representative shall set a meeting within ten (10) workdays of receiving the appeal. The grievant and/or their representative shall state their position on the grievance to the City Manager and present any other materials that they deem relevant to the grievance. The City Manager or their representative shall render a written decision to all parties directly involved within fifteen (15) workdays following the meeting. The decision of the City Manager on the grievance shall be final.

### **SECTION 20.00 DISCIPLINE**

The City and Union acknowledge that temporary employees have at will employment status and that either the employee or the City is entitled to end the employment relationship at any time, for any reason.

Should the City decide to terminate, suspend or demote a temporary employee due to performance and/or attendance issues, it will so notify the employee in writing with concurrent notice to the Union. Upon request, by the employee or the Union, a meeting will be scheduled with the department head to allow the employee and/or their representative to provide explanatory or mitigating information, which the City will consider in determining if any change in its position is appropriate. The department head shall have the final decision in all temporary employee decisions. There is no appeal.

### **SECTION 21.00 WRITTEN REPRIMANDS**

A written reprimand may be issued by an employee's supervisor if an employee has violated a City rule, provision of the MOU, or if their performance is in need of improvement. Written reprimands shall be placed in the employee's personnel file. An employee shall have the right to prepare a written response to the reprimand and have said response placed in their personnel file. An

employee may appeal the supervisor's decision to issue a written reprimand to the department head by filing an appeal to the department head within ten (10) working days of receipt of the reprimand. The department head's decision regarding the written reprimand shall be final.

## **SECTION 22.00 LABOR/MANAGEMENT COMMITTEE**

The City and the Union agree to establish a committee for the purpose of discussing the use and management of temporary employees and positions. Each party (City and Union) may appoint up to four (4) representatives to the committee. The committee will meet at least twice per each contract year at a date, time, and location that is mutually convenient.

The committee will review data pertaining to temporary employees including: names, hours worked, position classification, assigned department, original start date, and position status (temporary or regular). The purpose of reviewing this data is to identify if and when it is appropriate to transition temporary workers &/or positions to regular employment status. As a result of working with this data, the committee shall also recommend improved tracking and accounting practices for managing temporary employees and positions.

Additionally, in an effort to maintain transparency and accountability in the recruitment and selection of temporary employees, the committee shall discuss and recommend improvement to those processes.

## **SECTION 23.00 AUTHORIZED AGENTS**

For the purposes of administering the terms and provisions of this Memorandum of Understanding:

- A. The City's principal authorized agent shall be the Director of Human Resources, or their duly authorized agent (address 809 Center Street, Room 6, Santa Cruz, CA 95060); except where a particular Management representative is specifically designated in connection with the performance of a specified function or obligation set forth herein.
- B. The Union's principal authorized agent shall be the Field Representative of Local 521, or their duly authorized representative (address 517 Mission Street, #B, Santa Cruz, CA 95060.)

## **SECTION 24.00 RENEGOTIATIONS**

If the Union desires to negotiate a successor M.O.U., then the Union shall serve upon the City, no later than ninety (90) days prior to the expiration date of the M.O.U., its written request to begin negotiations as well as its written proposals modifying the M.O.U.

Negotiations shall begin within thirty (30) days from the date of receipt by the City of such notice and proposals, or any other mutually agreed upon dates.

### **24.01 Successor Negotiations**

The parties will meet and consult no later than October 1, 2017 about whether or not the Temporary Service Employees bargaining unit will bargain over a successor Memorandum of Understanding with the Regular Service Employees bargaining unit.

**SECTION 25.00 SEVERABILITY**

Should any of the provisions herein contained be rendered or declared invalid by reason of any State or Federal legislation or court action, such invalidations shall not invalidate the remaining portions of this Memorandum of Understanding, which shall remain in full force and effect, insofar as such remaining portions are severable.

**CITY OF SANTA CRUZ**

**CITY OF SANTA CRUZ  
TEMPORARY SERVICE EMPLOYEES,  
S.E.I.U., LOCAL 521**

Date: August 26, 2021

Date: August 26, 2021

Signature on file  
Lisa Murphy

Signature on file  
Olivia Martinez

Signature on file  
Joe McMullen

Signature on file  
Katy Bradley

Signature on file  
Nico Megevand

Signature on file  
Ken Bare

Signature on file  
Violet Shemitz

Signature on file  
Noah Nagel



**City of Santa Cruz**  
 California  
 Human Resources  
**Salary Compensation Plans**

Page 1 of 2  
 09/15/2021  
 Effective Date: 09/04/2021  
 Deliver To: cruser

Sorted by: Grade Description

Grade Code	Description	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H	Step I	Step J
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**Temporary**

901	AQUATIC INSTRUCTOR/COACH		14.4900	15.2145	15.9752	16.7740	17.6127				
902	BEACH CAPTAIN		22.5173	23.6423	24.8250	26.0654	27.3692				
903	BEACH LIEUTENANT		22.1538	23.2615	24.4269	25.6500	26.9308				
904	BEACH LIFEGUARD I		18.4038	19.3212	20.2846	21.3000	22.3673				
905	BEACH LIFEGUARD II		20.2500	21.2654	22.3269	23.4462	24.6173				
907	COMMUNITY SERVICE AIDE I		16.3318	16.6572	17.4895	18.3640					
908	COMMUNITY SERVICE AIDE II		18.2225	19.1367	20.0922	21.0971	22.1520				
925	LIBRARY AIDE		14.4980	15.2205	15.9788	16.7789	17.6149				
911	MAINTENANCE WORKER AIDE I		14.4900	15.2145	15.9752	16.7740	17.6127				
913	MAINTENANCE WORKER AIDE II		16.6635	17.4967	18.3716	19.2901	20.2546				
914	OFFICE ASSISTANT		14.4900	15.2145	15.9752	16.7740	17.6127				
915	POOL LIFEGUARD		14.4900	15.2145	15.9752	16.7740	17.6127				
916	POOL MANAGER		15.4176	16.1862	16.9965	17.8464	18.7387				



**City of Santa Cruz**  
 California  
 Human Resources  
**Salary Compensation Plans**

Sorted by: Grade Description

Grade Code	Description	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H	Step I	Step J
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**Temporary**

917	PROFESSIONAL & TECH ASSIST	14.4900		39.0114							
918	RANGER TRAINEE		17.2875	18.1534	19.0607	20.0136	21.0142				
919	RECREATION AREA AIDE		14.4900	15.2145	15.9752	16.7740	17.6127				
920	RECREATION I		14.4900	15.2145	15.9752	16.7740					
921	RECREATION II		15.9390	16.7360	17.5727	18.4514	19.3740				
922	RECREATION III		17.5329	18.4095	19.3301	20.2966	21.3114				
923	RECREATION IV		19.2862	20.2505	21.2630	22.3262	23.4424				
924	RECREATION V		21.2148	22.2756	23.3893	24.5588	25.7867				

POLICY TITLE        DISCRIMINATION, HARASSMENT, RETALIATION, AND  
RESPECTFUL WORKPLACE CONDUCT POLICY

POLICY STATEMENT

It is the policy of the City of Santa Cruz to maintain and promote a working environment free from abusive conduct, discrimination, harassment, and retaliation; and to provide all current and prospective employees, Councilmembers, contractors, unpaid interns, and volunteers with equal opportunity in employment regardless of race, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, disability (mental and physical), medical condition, sex, gender (including gender identity and gender expression), physical characteristics, marital status, age, sexual orientation, genetic information (including family health history and genetic test results), organizational affiliation, and military and veteran status (all of which are later referred to as “Protected Categories”), or any other consideration made unlawful by local, State or Federal law.

This policy pertains to all aspects of employment with the City or the application for employment with the City including, but not limited to, recruitment, selection, placement, assignment, compensation, benefits, training, transfer, promotion, evaluation, discipline, and termination.

This policy prohibits unlawful harassment, discrimination, and retaliation by supervisors, managers, co-workers, and third parties such as vendors or customers.

**Definitions:**

Discrimination as used in this policy is defined as the treatment or consideration of, or making a distinction in favor of or against, an employee on the basis of any of the above-listed protected categories including, but not limited to, any of the following forms:

- a) basing an employment decision on a job applicant’s or an employee’s protected status;
- b) treating an applicant or employee differently with regard to any aspect of employment because of their protected status;
- c) offering an employment benefit in exchange for sexual favors;
- d) threatening negative consequences if an employee declines a sexual advance;
- e) engaging in harassment, as more specifically defined below; and
- f) taking adverse employment action (i.e., demotion, transfer, discipline, or termination) against an employee based on the employee opposing discrimination in the workplace; assisting, supporting, or associating with a member of a protected category who complains about discrimination, or assisting in an investigation of discrimination.

Harassment as used in this policy is defined as the persistent disturbance or irritation of an employee on the basis of any of the above-listed protected categories including, but not limited to, any of the following forms:

- a) verbal harassment such as epithets, derogatory comments, or slurs, including on social media;
- b) physical acts such as assault or impeding or blocking movement;
- c) visual insults such as derogatory posters, drawings, or photographs;



- d) unwanted sexual advances, requests for sexual favors, and other acts of a sexual nature; and
- e) sending sexually-related emails or text messages.

Abusive Conduct as used in this policy is defined as conduct in the workplace or on social media, undertaken with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests; it may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating, or the sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

Employee as used in this policy is defined as an individual performing business activities under direct supervision of another City employee and includes full-time, part-time, and temporary employees, contractors, unpaid interns, and volunteers.

Equal Employment Opportunity Committee (EEOC) as used in this policy is an advisory body to the City Council consisting of nine (9) members, including representatives from the community appointed by the City Council, employees appointed by the City Manager, and employees appointed by various labor groups.

Responsibilities:

1. The City of Santa Cruz shall take reasonable steps to prevent abusive conduct, discrimination, harassment, and retaliation from occurring in the workplace environment, including the following:
  - a) affirmatively raising the subjects of abusive conduct, discrimination, harassment and retaliation;
  - b) expressing strong disapproval;
  - c) maintaining and developing appropriate sanctions;
  - d) informing employees of their right to raise and how to raise the issues of abusive conduct, discrimination, harassment, and retaliation under City policy and/or the law; and
  - e) maintaining and developing methods to sensitize all concerned.

Such behavior shall not be tolerated, condoned, or trivialized. The City is committed to take action against any person violating this policy which will end the prohibited conduct. City employees who violate this policy shall be subjected to appropriate discipline, including possible dismissal, upon consideration of the findings and recommendations of the City Manager or their representative.

2. The City Manager shall fully accept and support the City's commitment to prevent abusive conduct, discrimination, harassment, and retaliation as a means to assure full equal employment opportunity for all prospective and current employees, contractors, unpaid interns, and volunteers including the following:
  - a) defining and assigning specific responsibilities throughout the organization for the development, implementation, and monitoring of this policy;
  - b) appointing one (1) department head and three (3) employee representatives to the EEOC;
  - c) ensuring all department heads support this policy;
  - d) reviewing the recommendations of the Human Resources Director on the resolution of complaints appealed under the Administrative Procedure Order (APO) Discrimination/Harassment/Retaliation Policy Implementation and Complaint Procedure, and making final decisions in each such complaint; and
  - e) ensuring that an EEO Report is completed and submitted annually to the City Council.

3. The Human Resources Department (HR) Director shall be responsible for:
  - a) ensuring that this policy, including its definition of abusive conduct, discrimination, harassment, and retaliation and the complaint procedures are disseminated to all employees;
  - b) providing guidance, training sessions, and assistance to department heads, managers, supervisors, and employees within their areas of responsibility;
  - c) investigating, resolving, and making findings and recommendations on complaints that are reported according to established informal and formal grievance procedures as set forth in the Discrimination/Harassment/Retaliation Policy Implementation and Complaint Procedure APO and the Respectful Workplace Conduct APO;
  - d) coordinating the annual EEO report, to include data on the make-up of the City workforce and the representation of protected classes, and distributing the report to the City Council, City staff, the public, and Federal and state agencies as requested or required;
  - e) regularly reviewing and revising personnel policies, procedures, and practices to eliminate non-job-related criteria, minimize the opportunity for discrimination and harassment, and ensure compliance with all legal requirements for equal employment opportunity;
  - f) designing, implementing, and monitoring a recruitment program to draw all qualified applicants; and
  - g) designating an EEO Coordinator, who will assist the HR Director with EEO-related activities and staff the EEOC.
  
4. Department Heads, Managers, and Supervisors shall all be responsible for:
  - a) giving their full support to this policy through active cooperation, leadership, and personal example;
  - b) informing employees in their respective departments or areas of responsibility of their rights and responsibilities regarding abusive conduct, discrimination, harassment, and retaliation under this policy;
  - c) ensuring that their employees have equal access to training and promotional opportunities;
  - d) acting to prevent abusive conduct, discrimination, harassment and retaliation from occurring; and
  - e) cooperating with the HR Director in resolving complaints involving employees in their respective departments.
  
5. Employees of the City shall be responsible for lending their personal support and cooperation in maintaining equal employment opportunities in the City. Employees shall cooperate fully with all investigations of abusive conduct, discrimination, harassment, and retaliation and implementation of remedial measures and shall not retaliate against complainants or witnesses.
  
6. The EEOC shall act in an advisory capacity to the City Council in all matters pertaining to EEO and be responsible for serving as a communication channel between City employees, the community, the City Manager, and the EEO Coordinator on any EEO activities and concerns.

Additional Applications and Considerations:

- Complaints may be filed by any individual (or a representative of their choice, on their behalf) who feels a violation of this policy has occurred. The procedures for resolving complaints alleging violation of this policy are set forth in APO Discrimination/Harassment/Retaliation Policy Implementation and Complaint Procedure and APO Respectful Workplace Conduct.

- Contracts with the City of Santa Cruz which contain an equal employment opportunity/non-discrimination clause shall also include language which requires those contractors to be responsible for ensuring that effective policies and procedures concerning the prevention of abusive conduct, discrimination, harassment, and retaliation exist in their companies.
- Councilmembers, contractors, unpaid interns, volunteers, customers and visitors shall not be subjected to, or cause, a violation of this policy.
- All Memoranda of Understanding entered into by the City and any employee organization shall contain an appropriate non-discrimination/harassment clause.
- In applying this policy, the rights of free speech and association shall be accommodated consistently with the intent of this policy. Nothing in these regulations may be construed as limiting the City's right to take reasonable disciplinary measures which do not discriminate on a basis identified in this policy.
- Discrimination/harassment/retaliation prevention (including prevention of abusive conduct), and cultural diversity awareness training, is mandatory for all City employees and City Councilmembers.
- All City employment announcements, brochures, procedures, advertisements, and application forms will state that the City is an Equal Opportunity Employer. The Human Resources Department will also inform all outreach recruitment and referral sources of the City's Discrimination and Harassment Policy and request that sources actively recruit and refer qualified applicants from all sectors of the community.
- In support of recruitment and retention efforts, City management shall consider the viability of participating in or developing supportive programs in such areas as: job-related skill training and education, job development, career counseling, transportation, day care, and health care.
- Where groups of employees are featured in the City's publications and communications (i.e., text and photographs), insofar as possible, the materials should illustrate that the City's workforce is as diverse as the populace it serves.

AUTHORIZATION: Council Policy Manual Update of November 17, 1998

**HISTORY:**

Revision by Resolution No. NS-28,533 July 24, 2012

Revision by Resolution No. NS-28,823 September 9, 2014

Revision by Resolution No. NS-29,220 April 4, 2017

City of Santa Cruz  
Administrative Procedure Order  
Section II, #1A (Revised April 2017)

II-1A

TO: Department Heads

SUBJECT: DISCRIMINATION/HARASSMENT/RETALIATION POLICY  
IMPLEMENTATION AND COMPLAINT PROCEDURE

PURPOSE

The purpose of this document is to confirm the City's commitment to prohibit and prevent unlawful discrimination, harassment, and retaliation in employment, and provide a City complainant an investigation procedure to resolve complaints of alleged discrimination, harassment, or retaliation in violation of the law or City Council Policy 25.2 (*Discrimination, Harassment, and Respectful Workplace Conduct Policy*).

POLICY

It is the policy of the City of Santa Cruz to maintain and promote a working environment free from discrimination, harassment, and retaliation, and to provide all current and prospective employees, contractors, interns, and volunteers with equal opportunity in employment regardless of race, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, disability (mental and physical), medical condition, sex, gender (including gender identity and gender expression), physical characteristics, marital status, age, sexual orientation, genetic information (including family health history and genetic test results), organizational affiliation, and military and veteran status (later referred to collectively as "Protected Categories") or any other consideration made unlawful by local, State, or Federal law.

This policy is promulgated in recognition of the fact that conduct of the type prohibited by this policy, if allowed to exist, not only violates Federal, State, and municipal law, but also serves to undermine employee integrity, create low employee morale, reduce employee productivity, and cause skilled and valuable workers to leave their City employment. All of this, in turn, is detrimental to the general health and welfare of the community, which depends upon a highly motivated and skilled body of City employees to deliver essential municipal services.

The City Council acknowledges and understands that in order to implement a policy of this type, it is essential that all persons who witness or experience discrimination, harassment, or retaliation report it immediately in order to facilitate early, effective, efficient, and impartial investigation and intervention by the City. Accordingly, any retaliation against a person for filing a complaint, reporting discrimination, harassment, or retaliation which he or she has witnessed, or assisting in an investigation is strictly prohibited. Employees found to have participated in retaliatory action in contravention of this policy shall be subject to disciplinary action up to and including termination.

In implementing the policy, the rights of free speech and association shall be accommodated in a manner consistent with applicable Federal and State law and in a manner consistent with the intent of the policy.

#### DISSEMINATION OF POLICY AND TRAINING

All employees, supervisors, and managers shall receive a copy of this Administrative Procedure Order and City Council Policy 25.2 and shall also attend sexual harassment and cultural diversity training according to the following schedule:

- 1) All New Employees – Harassment/Discrimination/Retaliation Prevention Training, and Cultural Diversity Training, within the first year of hire.
- 2) Supervisors – Cultural Diversity Training within the first year of hire, Harassment/Discrimination/Retaliation Prevention Training within six months of gaining supervisory responsibilities, and refresher training no less frequently than every two years.

Posters explaining local, State, and Federal non-discrimination laws will be prominently displayed in the Human Resources Department.

#### REASONABLE ACCOMMODATION FOR DISABILITY (in accordance with Title II of the *Americans with Disabilities Act of 1990, and as amended by the ADA Amendments Act of 2008*)

Disability is defined as: a) a physical or mental impairment that substantially limits one or more major life activities, b) having a documented record of such an impairment, or c) being regarded as having such an impairment.

Accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. It means modifications or adjustments to: a) a job application process to enable an individual with a disability to be considered for the position, b) the work environment in which a position is performed so that a person with a disability can perform the essential functions of the position, and c) enable individuals with disabilities to enjoy equal benefits and privileges of employment as employees without disabilities enjoy.

#### **I. Inclusions**

Accommodation includes making existing facilities and equipment used by employees readily accessible to and usable by individuals with disabilities. Accommodation applies to: a) all employment decisions and to the job application process, b) all services and programs provided in connection with employment, c) non-work facilities provided in connection with employment, and d) known disabilities only.

#### **II. Exclusions**

Accommodation is not required if: a) it eliminates essential functions of a position from the person's job, or b) adjustments or modifications requested are primarily for the benefit of the person with a disability. The law does not require an accommodation that imposes an "undue

hardship” on the operation of the City. Undue hardship means significant difficulty or expense incurred in the provision of accommodation relative to the operation of the City’s program and includes, but is not limited to, financial difficulty. Undue hardship refers to any accommodation that would be unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the nature or operation of the City. Whether a particular accommodation will impose an undue hardship is determined on a case-by-case basis. The following factors will be considered in determining whether an accommodation would create undue hardship: a) the nature and cost of the accommodation, b) the financial resources of the City, c) the number of employees, and d) the type of operations of the City, including the composition and functions of its workforce.

### **III. Determining the Appropriate Accommodation**

Where a particular accommodation would result in an undue hardship, the City must determine if another accommodation is available that would not result in an undue hardship. If a qualified individual with a disability requests the provision of a reasonable accommodation, the City shall engage in an informal, interactive process with the person with a disability which identifies the precise limitations resulting from the disability and potential accommodations that could overcome those limitations. The accommodation process shall generally involve five (5) steps.

- First, the City shall analyze the particular job at issue and determine its purpose and essential functions.
- Second, the City shall consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual’s disability.
- Third, the City shall consult with the individual with a disability and, if desired by the agency, the appropriate rehabilitation or ergonomics consultant to identify potential accommodations and the necessary modifications.
- Fourth, the City shall assess the effectiveness of each potential accommodation with regard to enabling the individual to perform the essential functions of the position.
- Finally, the City shall consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the agency.

### **DISCRIMINATION, HARASSMENT, AND RETALIATION COMPLAINT PROCEDURE**

This complaint procedure is available to City of Santa Cruz employees and individuals who believe that they have been subjected to discrimination, harassment, and/or retaliation in relation to employment with the City of Santa Cruz.

Complainants, and employees alleged to have engaged in discrimination, harassment, or retaliation, may choose to be represented at any or all steps in the complaint process.

#### **I. Filing a Complaint**

Complaints may be submitted to an employee’s immediate supervisor, any supervisor or manager within or outside the department, the department head, or Human Resources Department within one (1) year of the date the alleged action occurred. Any City of Santa

Cruz supervisor, manager, or department head who receives a discrimination or harassment complaint shall notify the Human Resources Department immediately upon receipt of the complaint. Complaints may be presented orally or in writing.

Written complaints should include the following information:

- The name, address, and telephone number of the complainant.
- The basis for the alleged discrimination or harassment (protected category and/or retaliation).
- The specific discriminatory practice(s) or incident(s) that have occurred.
- The names of any persons thought to be responsible for the discrimination/harassment.
- The remedy the complainant is seeking as a result of the complaint.
- The name, address, and telephone number of the complainant's representative, if any.

If complainants wish to file the complaint in person and receive assistance, they may contact the Human Resources Department to schedule an appointment with a staff investigator.

## II. **Investigation and Resolution**

After reviewing the complaint, the Human Resources Director shall determine if an investigation is necessary to resolve the issues of the complaint and, if so, authorize and supervise the investigation of the complaint by a qualified person. The complainant will be contacted by the investigator upon the investigator's receipt of the complaint and will be kept apprised of the status of the investigation. The investigation will be documented and tracked for reasonable progress and appropriate due process. Every effort will be made to conclude the investigation within one hundred and twenty (120) calendar days of receipt of the complaint.

The Human Resources Director will not proceed with the investigation of a complaint if the complaint contains no assertion that the alleged acts occurred based on one or more of the protected categories or if a nexus cannot be established between the alleged act(s) and discrimination based on any of the protected categories.

When the investigation is completed, the Human Resources Director will determine if there is sufficient evidence to substantiate a violation of the City's Discrimination, Harassment, and Retaliation Policy and if remedial action is necessary to resolve the issues of the complaint. The complainant, alleged perpetrator/harasser, and department head(s) will be notified of the Human Resources Director's determination. If discipline is imposed, the discipline will not be communicated to the complainant.

If it would present a conflict (or the appearance of such) for the review and investigation of a complaint to be conducted by the Human Resources Department, the City Manager will be responsible for this process.

**III. City Manager Review**

Complainants who are not satisfied with the Human Resources Director's determination may request a review by the City Manager (or his/her representative), in writing, within ten (10) workdays following receipt of the Human Resources Director's determination. The City Manager (or his/her representative) shall review the complainant's written appeal and the investigative findings and shall render a written decision within thirty (30) workdays following the review.

**IV. Additional Remedies**

Current City employees covered by a memorandum of understanding that includes arbitration as the final step in the grievance process may request that the matter be taken to arbitration in accordance with the specific procedures contained in the applicable memorandum of understanding.

In addition, all complainants may file complaints of discrimination, harassment, or retaliation with the State of California Department of Fair Employment and Housing and the Federal Equal Employment Opportunity Commission, whether or not complainants choose to use the City of Santa Cruz' complaint procedure. Time limits for filing complaints with State and Federal compliance agencies vary, and those agencies should be contacted directly for specific information. The addresses and telephone numbers (as of the revision date of this procedure) are:

California Department of Fair Employment and Housing  
Bay Area Regional Office  
39141 Civic Center Drive, Suite 250  
Fremont, CA 94538  
Phone: (800) 884-1684  
For Persons with a Hearing Impairment: (800) 884-1684 or TTY at (800) 700-2320  
E-mail: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

United States Equal Employment Opportunity Commission  
San Jose Local Office  
96 North Third Street, Suite 250  
San Jose, CA 95112  
Phone: (800) 669-4000  
Fax: (408) 291-4539  
TTY: (800) 669-6820  
ASL Video Phone: (844) 234-5122