2011 – 2013

MEMORANDUM OF UNDERSTANDING

CITY OF SANTA CRUZ
AND
THE MID-MANAGEMENT ASSOCIATION OF THE CITY OF SANTA CRUZ

MEMORANDUM OF UNDERSTANDING

CITY OF SANTA CRUZ AND MID-MANAGEMENT ASSOCIATION

OF THE CITY OF SANTA CRUZ

June 25, 2011 to June 21, 2013

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2011 - 2013
MEMORANDUM OF UNDERSTANDING
CITY OF SANTA CRUZ AND MID-MANAGEMENT ASSOCIATION
OF THE CITY OF SANTA CRUZ

SECTION 1.00 - PREAMBLE

This Memorandum of Understanding is entered into by the City of Santa Cruz (hereinafter referred to as the City) and the Mid-Management Association of the City of Santa Cruz (hereinafter referred to as the Association). Employee defined for the purpose of this Memorandum of Understanding shall mean an employee assigned to a classification within the Mid-Management unit of the City of Santa Cruz. This Memorandum of Understanding is subject to Sections 3500-3510 of the Government Code of the State of California, the City of Santa Cruz Municipal Code and the Personnel Rules and Regulations for the City of Santa Cruz.

SECTION 2.00 –TERM

The term of this Memorandum of Understanding shall commence June 25, 2011 and shall expire on June 21, 2013.

During negotiations for a successor Memorandum of Understanding, the parties agree to discuss the applicability of the Fiscal Year 2014 estimated savings generated by the implementation of the second tier retirement benefit during the exchange of economic proposals. The estimated savings will be based upon the Bartel Associates CalPERS Actuarial Issues report dated June, 2010.

SECTION 3.00 -NO ABROGATION OF RIGHTS

The parties acknowledge that City responsibilities and rights as indicated in current Article I, Section 1 (Appendix A) of the City 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.

It is agreed that except as specifically delegated, granted or modified by this Memorandum of Understanding, all of the rights, power and authority the City had prior to the signing of this Memorandum of Understanding are retained by the City and remain the exclusive right of the City without limitation. Furthermore, these retained rights are not subject to any grievance or impasse procedure.

SECTION 4.00 -EMPLOYEE RIGHTS

The Association and the City acknowledge that, although the Association is the recognized unit including those classes specifically listed in Exhibit A, the rights of employees under this Memorandum of Understanding, State law, City rules and regulations and the City Charter are neither abrogated nor diminished by the adoption of this Memorandum of Understanding.

SECTION 5.00 - RECOGNITION

Pursuant to the Meyer-Milias-Brown Act and the City's Personnel Rules and Regulations, the City has certified the Association as the recognized employee organization of the representation unit consisting of all full-time and part-time regular employees except those limited by the State law as reflected in Municipal Codes, resolutions or directives in the classifications specifically listed in Exhibit A attached hereto. This unit shall be titled the Mid-Management Association Unit.

SECTION 6.00 -ASSOCIATION/CITY COOPERATION

The Association recognizes that, in consideration of commitments made by the City to provide effective and efficient service to the citizens of Santa Cruz, there is an obligation upon unit employees to directly be involved with and support efforts to improve the methods and production of the various departments. Toward this goal, both the City and the Association agree to work cooperatively towards achieving a high level of effectiveness and efficiency.

SECTION 7.00 -JOB ACTIONS

The Association agrees not to permit, authorize or in any other manner, allow its members or those supervised to strike, slowdown, sick-in or engage in any work stoppage or other legal or illegal work or job action.

SECTION 8.00 -NO DISCRIMINATION

The Association and the City agree to adhere to the City Council policies pertaining to affirmative action and discriminatory harassment as listed in Exhibits B and C, as well as applicable Federal and State discrimination laws.

SECTION 9.00 -ASSOCIATION SECURITY

9.01 **Notification to Association**

Except in cases of bona fide emergency, the Association shall be given seven (7) workdays 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 City Council or City Administration and shall be given the opportunity to meet with the City representative prior to its adoption.

9.02 **Bulletin Boards and Departmental Mail**

The Association shall have reasonable access to existing bulletin boards and departmental mail for the purpose of informing mid-managers of social events or association-related business. The City shall allow the Association to utilize City e-mail consistent with applicable City policy.

9.03 **Maintenance of Membership**

Employees in classes designated as Mid-Management who have executed an authorization for payroll deduction of Association dues prior to June 25, 2011shall continue such deductions during the period covered by this M.O.U. Employees may withdraw from deductions during the month of January as described below.

Any designated Mid-Management employee desiring to revoke his or her authorization for Association dues shall, during the month of January, forward a letter to the Chief Human Resources Officer setting forth his or her desire to remove said authorization and may include reasons thereof. To be considered, the letter must be received during the month of January. The Chief Human Resources Officer shall promptly forward a copy of said letter to the Association.

Failure to timely notify the Chief Human Resources Officer shall be deemed an abandonment of the right to revocation until the next appropriate time period.

9.04 **Payroll Deduction**

The City shall deduct Association membership dues, the amount to be designated by the Association, and any other mutually agreed-upon payroll deductions from the monthly pay of member employees. The dues or other mutually agreed-upon payroll deductions must be authorized in writing by the employee on an authorization form acceptable to the City and the Association. The City shall remit the deducted dues and other mutually agreed payroll deduction to the Association as soon as possible after the deduction. The City shall not unreasonably deny consent for reasonable payroll deductions nor shall the Association unreasonably request payroll deductions.

9.05 **List of Mid-Management Positions**

The City will provide the Association a list or lists of Mid-Management positions by department on a quarterly basis. This information shall include the name of the position, their hire date, funding sources by percent, and the name of the person or persons occupying the position.

SECTION 10.00 - PERSONNEL ACTIONS

10.01 **Personnel Files**

There shall be only one official personnel file which shall be maintained in the City's Human Resources Division. Employees shall have the right to review their personnel file or authorize, in writing, review by their representative. No adverse material will be placed in an employee's personnel file without prior notice and a copy given to the employee. Employees may cause to be placed in their personnel file responses to adverse material inserted therein.

10.02 **Performance Evaluations**

It is compulsory that all regular employees receive an annual written performance evaluation from their supervisor. Probationary employees will be evaluated at the completion of their third and sixth month of service. All regular employees will be evaluated on their merit review date.

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 his/her highest capacity and to communicate and document the employee's level of performance. To this end, 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. Whenever possible, employees will be given their written evaluation five (5) days prior to the performance evaluation meeting.

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 discuss performance evaluations with their department head and/or the Administrative Services Director and formally enter a response to the evaluation in their personnel file. Disputes regarding performance reviews shall not be subject to the grievance process.

10.03 **Probation**

10.03.01 **Probationary Period**

All original, promotional and re-hire appointments shall be subject to a probationary period of six (6) months. Any time spent by an employee on unpaid status shall not be counted as qualifying service toward completion of the probationary period.

10.03.02 **Objective of Probationary Period**

The probationary period shall be regarded as part of the selection process and shall be utilized for training the new employee on work assignments and standards, and observing and evaluating the employee's performance.

10.03.03 **Rejection of Probationary Employee**

During the probation period, an employee may be rejected at any time by the appointing authority without the right of appeal. Notification of rejection shall be served to the probationary employee in writing.

Any promoted employee who is rejected during the probationary period shall be reinstated to the position from which promotion occurred; unless the rejection is due to discharge in which case no reinstatement shall occur.

10.03.04 **Extension of Probation**

All efforts will be made to sufficiently evaluate the probationary employee during the assigned period. An extension of the probationary period may, however, be recommended by the appointing authority and approved by the Administrative Services Director when good cause exists. Such extensions shall be for a specific period of time not to exceed three (3) months. The employee shall be informed in writing of the reasons for the period of the extension at least seven (7) calendar days prior to the scheduled end of the probationary period.

10.04 **Alternate Schedules/Flex Time**

The City acknowledges that there may be benefits both to the City and the employee in alternative schedules. Employees may request that their department heads consider alternate scheduling of their work. Examples of alternate schedules include flex-time, job sharing, 9/80 and4/10 plans, and voluntarily reduced work hours. The department head may give consideration to such requests within existing law and policy, but is not obligated to change an employee's schedule.

Employee requests for alternate schedules will be made in writing, on a form mutually agreeable to the Association and the City.

Rejection of an employee’s request for an alternative work schedule option shall be made in writing from the Department Head and shall cite the reason(s) for rejecting the request.

Telework schedules (working away from the office) shall be managed per applicable Administrative Procedure Order.

SECTION 11.00 -PAY RATES AND PRACTICES

11.01 **Salary Range**

Each classification in the unit shall be assigned a salary range that has a spread of approximately 40.345%. Effective December 1, 2007, the lowest level shall be deleted to lessen the spread to the previous 35% range which shall not affect the probationary status of any employee.

11.02 **Salary Rates Upon Appointment**

New employees shall be hired at the beginning salary of the classification’s range; unless a higher starting salary is recommended by the appointing authority based on the employee’s advanced qualifications for the position and such recommendation is approved by the Administrative Services Director and City Manager.

Promoted employees shall be appointed to the beginning salary in the range for the new classification. However, if such employee is already being paid at a rate equal to or higher than the beginning salary of the higher range, she/he shall be placed in the new range at least 5% above his/her previous salary.

11.03 **Advancement Within the Range**

A. Advancement within a classification's salary range shall normally be granted on the employee's scheduled merit review date. Such advancements shall be based solely on meritorious job performance as documented by a satisfactory performance evaluation submitted by the department head and approved by the Administrative Services Director.

B. All new and promoted employees shall be granted their first merit increase upon successful completion of the probationary period (see "Probation").

   The employee shall then be eligible for a subsequent merit increase after each full-year on paid status, continuing until the top of the salary range is attained.

C. Merit increases shall normally be 5%. Beginning with the pay period containing December 26, 2012 salary steps shall normally be 2.5%. The salary range will not be affected.

D. A merit increase may be denied by the department head when an employee's job performance falls below the acceptable work standards for the duties assigned. The department head may, in such a case, recommend that the employee's work performance be reviewed again at a specific time before the next review date. If a merit increase is granted at that time, the employee's original review date shall not change and she/he shall be eligible for the next merit increase after one year on paid status from the new review date.

E. An employee's scheduled merit review date shall be adjusted for any time spent by the employee on unpaid status.

F. When an employee's position is reclassified to a classification with a higher salary range, the employee's pay shall be set at the beginning salary of the range or be placed at a salary in the new range that provides the employee a salary increase of at least5%. This increase shall have no effect on the employee's original merit review date.

11.04 **Salary/Retirement**

A. The parties agree to eliminate the 3% COLA originally scheduled for implementation on December 13, 2008 and twice deferred by mutual agreement (to June 30, 2010 and May 14, 2011).

B. The City's contract with PERS provides for the 2% at 55 retirement option and the Pre-Retirement Optional Settlement 2 Death Benefit. Employees shall pay 7% towards the employee's share of PERS and the City shall pay the balance.

   Starting with the pay period containing July 1, 2012 employees shall pick up an additional 1.5% of PERS (total of 8.5% employee contribution) on a pre-tax basis.

   Starting with the pay period containing December 26, 2012 employees shall pick up an

additional 4.0% of PERS (total of 11.0% employee contribution) on a pre-tax basis.

This additional PERS contribution is scheduled to sunset by mutual agreement of the parties upon reaching an agreement for a successor MOU or upon the date the parties complete the city's impasse procedures for a successor MOU (through mediation or fact finding), whichever is earlier.

The employee contribution towards both the City's Share and the Employee Share are made pre-tax pursuant to IRS Code section 414(h)(2) which allows employees to defer State and Federal Income taxes on their PERS contributions.

A second tier of retirement benefits will be implemented as soon as the City's contract with CalPERS can be modified. The second tier benefit will be the CalPERS 2% @ 60 benefit plan (with 3 year average). All new employees hired after the effective date of the CalPERS contract modification will receive the second tier retirement benefit.

11.05 **3% COLA**

The parties agree to eliminate the 3% COLA originally scheduled for implementation on December 13, 2008 and twice deferred by mutual agreement (to June 30, 2010 and May 14, 2011).

11.06 **Longevity**

Upon completion of ten (10) years of continuous regular service, and with a satisfactory performance rating on the most recent evaluation, employees shall receive a 2½% longevity pay increase. Longevity is calculated from the date of hire into a regular status position or a fully benefited special status position. It is understood that the 2½% longevity pay will be considered as "additional compensation" for purposes of PERS and tax computations.

11.07 **Working Out of Classification Pay Differential**

The term "working out of classification" is defined as a management authorized full-time assignment on a temporary basis of an employee in a lower classification to a budgeted higher classification. Assignments will be made by the Department Head or City Manager to qualified employees assuming a significant number of duties of the higher classified position. Employees must work a minimum of one (1), eight-hour day to qualify for out-of-classification pay.

The employee so assigned shall be entitled to receive a minimum of five percent (5%) above the employee's current base rate of pay and additional increments of two and one half percent (2-1/2%) of base pay that result in the employee reaching at least the first step of the higher salary range.

Working out of class assignments shall be implemented and managed in accordance with applicable Administrative Procedure Orders.

11.08 **Overpayments**

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. The Union and those employees who receive overpayments acknowledge that repayment must be made to the City by payroll deduction. The City will notify employees prior to the implementation of such deductions. Deductions shall be no greater than 5% of gross pay per pay period until repaid in full, without the employees consent.

11.09 **Departmental Technology Coordinator Differential**

An employee assigned as a Departmental Technology Coordinator by his/her Department Head shall receive $60 premium pay per pay period during the period of such assignment. Such differential shall become effective the first full pay period of the assignment.

SECTION 12.00 - HOLIDAYS

Part-time employees shall receive the following holiday benefits on a pro-rated basis, given the ratio of their budgeted work schedule to full-time.

12.01 **Fixed Holidays**

Employees within the unit shall have the following specific holidays with pay:

(Eight (8) Hour Holidays)

New Year's Day
Martin Luther King's Birthday
Presidents' Day
Memorial Day
Independence Day
Labor Day
Veterans' Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Day

(Four (4) Hour Holidays)

Second half of the work shift (not to exceed four hours) Christmas Eve (if Christmas is on a Tuesday - Saturday)

Second half of the work shift (not to exceed four hours) New Year's Eve (if New Year's Day is on a Tuesday - Saturday)

Except as provided for on Christmas Eve and New Year's Eve, when a holiday falls on Sunday,

the following Monday shall be observed. When a holiday falls on Saturday, the proceeding Friday shall be observed.

12.02 **Floating Holidays**

In addition to the above fixed holidays, employees shall be granted twenty-four (24) hours of floating holidays on the first day of the pay period that includes July 1 of each year. When an employee terminates, the employee shall pay the City for that portion of the floating holiday hours used that exceeds the portion of the year the employee worked.

New employees shall be granted floating holidays on a six (6) month pro-rated basis (i.e., if hired in July-December, given twenty-four (24) hours; hired in January-June, given twelve (12) hours). However, no floating holidays may be used until the employee has completed three (3) months of paid service. A department head may authorize floating holiday use prior to three months of service if the employee demonstrates good cause to need to use such leave.

Floating holidays may only be taken with prior approval. Employees must use all floating holidays by the last full pay period in June. There will be no payment for unused floating holidays.

12.03 **Holiday on Regular Day Off**

An employee whose regular day off falls on a fixed holiday shall receive equivalent holiday time off at a later date.

12.04 **Holidays during Vacation**

Fixed holidays which occur while an employee is on paid vacation leave shall be charged to holiday hours and not the employee's vacation balances.

12.05 **Holiday Pay-Off**

Any fixed holiday hours not taken prior to the end of the fiscal year shall be paid off at the employee's current straight time rate on the last pay date in June of each year. In lieu of direct payment, employees may request to have the hour credited to the employee's vacation balance, not to exceed the maximum allowed accrual.

Beginning with the pay period containing July 1, 2012 the ability to cash out holiday hours will be eliminated. Any fixed holiday hours not taken prior to the end of the fiscal year may be credited to the employee’s vacation balance (no to exceed the maximum accrual) on the last pay date in June each year.

12.06 **Eligibility**

To qualify for holiday pay, an employee must be on paid status for at least 50% of the pay period in which the holiday occurs and on his/her last scheduled work day before the holiday and his/her

first scheduled work day after the holiday.

12.07 **Holiday Work**

If an employee is directed by their supervisor to work on a holiday, those holiday hours may be used at a later date during the fiscal year.

SECTION 13.00 -VACATION

13.01 **Accrual**

Vacation accrual will be on a monthly basis beginning at date of hire; however, no vacation time may be taken until a new employee has successfully completed a six-month probationary period. An employee must be in paid status for at least 50% of a pay period to earn his/her vacation accrual. Annual vacation accrual shall be based on continuous service, as follows:

Up to five (5) years:	80 Hours
Six (6) to ten (10) years:	120 Hours
Eleven (11) or more years:	120 Hours, plus 8 hours for each year of service after ten (10) years to a maximum of 160 hours.

13.02 **Vacation Accrual Limit**

Accumulation of vacation time shall not exceed twice the annual rate of accrual without prior written authorization for a specified amount of hours and specified length of time from the Department Head and the Administrative Services Director.

13.03 **Illness During Vacation**

An employee who becomes ill or is hospitalized while on vacation and provides a written statement from a licensed medical practitioner to this effect shall have the period of illness charged against sick leave and not vacation leave.

13.04 **Special Recruitment Circumstances**

To facilitate the recruitment process of Mid-Management Classifications, the City Manager and the Administrative Services Director may, at their discretion, set a higher Vacation Accrual Rate than specified in Section 13.01 and/or grant an advance Vacation Bank. Such rate shall not exceed the Vacation Accrual Rate or Maximum Accrual Amount that would apply if the applicant’s prior years of service were credited as City service.

SECTION 14.00 - SICK LEAVE

14.01 **Definition**

The purpose of this article is to provide paid leave time to be used by employees in the event of their personal illness, injury, or medical appointments, or medical necessity of others as specified below.

14.02 **Accrual and Use**

An employee must be on paid status for at least 50% of the working hours of a pay period to earn sick leave credit for that pay period.

Full-time employees shall accrue sick leave at the rate of eight (8) hours per month.

Part-time employees shall accrue sick leave on a pro-rated basis, given the ratio of their budgeted work schedule to full-time (e.g., all employees working in a 20 hour/week position shall receive four (4) hours of sick leave each month).

When accrued sick leave must be used, an employee will notify his/her immediate supervisor of the cause of the leave and its probable duration within one hour after the regular scheduled starting time. Sick leave shall not be granted unless such report or advance reporting has been made; provided, however, that the department head may grant an exception to this policy when it is determined that the employee's failure to notify was due to extreme circumstances beyond the control of the employee.

14.02.01 **Family Sick Leave**

Up to forty-eight (48) hours of accrued sick leave per fiscal year may be used when the employee's personal attendance is required to care for a family member who is ill or injured. For the purposes of this provision, family is defined as a wife, husband, son, daughter, father, mother, brother, sister, registered Principal Domestic Partner, step-father, step-mother or other close relation residing in the employee's household. This forty-eight (48) hours limitation may be extended by the City Manager with good cause.

14.03 **Limitations**

A department head may require an employee to submit verification of an illness or injury from a licensed medical practitioner prior to any use of sick leave being authorized.

In cases of chronic absenteeism or medical work restrictions, the Administrative Services Director may have an employee examined by a City-selected physician. The City shall pay the cost of any such medical exam.

14.04 **Sick Leave Incentive Program**

14.04.01 **Sick Leave Incentive**

On an annual basis, employees who have accumulated more than 400 hours of sick leave will "bank" all hours in excess of 400, as described below. If employees choose to receive a cash pay-off or convert hours in excess of 400 to vacation hours, as described below, they must notify Payroll by June 1st. Banked hours may not later be converted to cash and will be used as sick leave only when all other sick leave is exhausted.

A. To receive a cash pay-off, or equivalent vacation hours, of all hours in excess of 400 at the rate of 33% of their current base rate of pay (not to exceed the Vacation Accrual Limit).

Employees who have an excess of 400 hours of unbanked sick leave at the time of separation from the City will receive a payoff of all hours over 400 hours at the rate of 33% of the employee's base rate of pay.

The Association and the City agree to discuss a more meaningful sick leave incentive after January 1, 2012.

14.05 **Personal Business Leave**

Employees may use up to twenty-four (24) hours per fiscal year of their accrued sick leave for the purpose of personal business. The scheduling and use of such leave is subject to the approval of the supervisor and shall only be authorized for non-recreational, business-related activities.

SECTION 15.00 - LEAVES OF ABSENCE

All leaves provided in this article shall be granted to full-time employees at the rates described. Part-time employees shall receive paid leaves of absence on a pro-rated basis, given the ratio of their budgeted work schedule to full-time.

15.01 **Paid Leaves of Absence**

15.01.01 **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 effect on the employee's ability to continue daily work performance.

A leave of absence with pay of up to forty (40) hours per incident may be granted an employee by the department head in the event of a death in the employee's family which shall, for the purpose of this article, include spouse, son, daughter, parent, registered Principal Domestic Partner, brother, sister, grandparent, mother-in-law or father-in-law, grandchild of the employee, spouse or registered Principal Domestic Partner, son-in-law, daughter-in-law, grandparent-in-law or a close relation residing in the employee's household. In rare cases when the individual has no

other legal relationship other than a foster or step parent, the Administrative Services Director or City Manager has the discretion to approve that leave upon application.

15.01.02 **Jury Duty**

An employee required to report for jury duty or to answer a subpoena as a witness in his/her capacity as a City employee, shall be granted a leave of absence with pay for actual time spent in court and in related travel, not to exceed the number of hours in the employee's normal work day and work week. An employee must notify his/her supervisor of the expected duration of the absence and must present to the department head official documents supporting such duty. An employee shall reimburse the City for any jury services or witness fees received, except mileage or subsistence allowance. This section shall not apply to grand jury service.

15.01.03 **Military Duty**

An employee who is a member of the National Guard or any reserve component of the armed services of the U.S. shall be granted up to thirty (30) days per fiscal year of paid leave for any active duty scheduled during the employee's regular work hours. The employee must give his/her supervisor forty-eight (48) hours advance notification of the need for such leave and must present a copy of the "notice" for such duty. All other military leaves shall be granted pursuant to relevant State and Federal statutes.

15.01.04 **Workers' Compensation**

An employee who is entitled to continued temporary disability payments may use accumulated paid leave to supplement such payments to an amount equal to his/her 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 Association and the City recognize that work-related injuries/illnesses can often be prevented. Upon the signing of this M.O.U., work-related injuries or illnesses shall be an ongoing agenda item for Citywide Safety Committee. Proactive, measures may be recommended by the Committee. The Committee will also make recommendations on appropriate way(s) of reviewing workers' compensation claims.

15.01.05 **Paid Birth/Adoptive Leave**

An employee is entitled to forty (40) hours leave with pay at or about the time of the birth of the employee's child or at the time of adopting a child. The paid leave shall be within two (2) months of the birth or adoption. An employee may use this leave once during the term of this Memorandum of Understanding. This leave will be considered a part of the time allotted to family leave as authorized in Section 15.02.03.

15.01.06 **Absence for Examination**

An employee shall be granted paid 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 regular hours of work. The employee shall notify his/her immediate supervisor twenty-four (24) hours in advance of such an absence.

15.02 **Unpaid Leaves of Absence**

15.02.01 **Medical or Personal Leave**

Leave of absence without pay may be granted to an employee in a case of extended illness or disability, personal emergency or other situation where such absence would not be contrary to the best interests of the City. Such unpaid leave will only be granted after an employee has depleted all appropriate paid leaves, except that employees on medical leave may retain up to eighty (80) hours of accrued vacation. The department head may grant a leave of absence of up to thirty (30) consecutive calendar days; additional leave may only be granted by the City Manager and may not exceed a total of twelve (12) months. No vacation, holidays, sick leave, or any other paid benefit shall be accrued or earned during such leave. All requests for unpaid leaves of absence must be made in writing and include specific begin and end dates for the leave.

15.02.02 **Pregnancy Disability Leave**

An employee may take a leave of absence of up to four (4) months in length for the purpose of pregnancy disability leave. The employee must provide adequate medical certification regarding any work restrictions that may exist prior to or after the birth.

Requests for pregnancy disability leave must be made in writing to the department head at least thirty (30) days in advance of the anticipated starting date. Such requests must include specific begin and end dates for the leave. Starting dates should be as accurate as possible barring any unforeseen medical issues related to the pregnancy or earlier or later birth than anticipated. Any requests for extension of pregnancy disability leave must be made in writing to the department head at least ten (10) calendar days prior to the scheduled end of the existing leave.
The employee may elect to use any accrued sick leave and vacation either before or after an approved pregnancy disability leave, no combination of pregnancy disability leave, family leave, sick leave or vacation may exceed one (1) year total or seven (7) months post-partum.

Any additional post-partum leave not to exceed one (1) year total, may be approved by the City Manager or his designee after consideration of the nature of the request and the operational needs of the department.

Upon return to work the employee shall be assigned to the same classification but not necessarily to the same department.

15.02.03 **Family Leave**

In accordance with the Federal Family and Medical Leave Act and the California Family Rights Act, the City will grant job protected unpaid family and medical leave to eligible employees for up to twelve (12) weeks, (continuous or cumulative), per twelve-month calendar year period for any one or more of the following reasons:

A. The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the twelve-month period following the child's birth or placement with the employee); or

B. In order to care for an immediate family member (spouse, domestic partner, child, or parent) of the employee if such immediate family member has a serious health condition; or

C, The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

D, Military family leave.

Conditions covering the leave shall include the following:

E. Eligible employee means having been employed by the City for twelve (12) months and has worked for at least 1,250 hours during the twelve-month period immediately preceding the commencement of the leave;

F. Medical verification is required for employees or ill family member for medical leave period;

G. Employees are required to give at least thirty (30) days written notice in the event of a foreseeable leave. In unexpected or unforeseeable situations, an employee should provide as much written notice as is practicable.

H. Employees are required to use accrued vacation as a part of the family leave period. Use of sick leave is not required, but may be used pursuant to the applicable provisions of this Memorandum of Understanding.

I. Pregnancy disability is not covered under this section and is covered by the California Fair Employment and Housing Act which allows up to four (4) months of leave depending on the actual disability (see Section 15.02.02).

J. Employees retain "employee" status while on family care leave. The leave does not constitute a break in service for purposes of longevity, and/or seniority. Upon return to work, employee will be reinstated to an equivalent position with equivalent pay and benefits.

K. Any request for additional leave may be made pursuant to section 15.02.01. Requests for leave time using multiple time off provisions may not exceed the total amount allowed pursuant to Section 15.02.01.

L. Any other conditions or interpretations of this leave shall be based upon the Federal Family and Medical Leave Act and the California Family Rights Act.

15.03 **Continuation of Insurance Benefits During Unpaid Leaves of Absence**

City-sponsored insurance benefits may be continued during unpaid leaves of absence under the following conditions:

15.03.01 **Personal Leave**

The City shall continue to pay benefit premiums during a personal leave of less than thirty (30) calendar days.

For leaves of more than thirty (30) calendar days, employees may continue premium payments at their own cost, in accordance with appropriate PERS medical plan provisions.

15.03.02 **Medical Leave**

The City shall continue to pay benefit premiums during the entire length of a medical leave of absence including pregnancy disability leave.

15.03.03 **Family Leave**

Benefit premiums shall be made in accordance with the Federal Family and Medical Leave Act and the California Family Rights Act. Under the current law, the City will continue to maintain coverage under the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period.

SECTION 16.00 - BENEFITS

16.01 **Medical Benefits**

A. **City Cafeteria Plan Contributions**

The City will provide medical insurance through the California Public Employees' Retirement System (CalPERS). The City will contribute a monthly amount to CalPERS pursuant to Government Code Section 22892 of the Public Employees Medical and Hospital Care Act (PEMHCA).

In accordance with IRS Code Section 125, the City will provide a Flexible Benefits Plan ("Cafeteria Plan") to all eligible employees. If an employee elects to participate in a CalPERS medical plan, the maximum monthly City contribution*, including the PERS

required minimum, shall equal 90% of the cost of the highest medical premium between the Blue Shield HMO and PERSChoice PPO plans and employees will contribute the remaining premium balance, based upon the plan level in which they are enrolled (i.e., employee only, employee plus one, or employee plus family). Employees shall pay their contribution on a pre-tax basis. In no event will the maximum monthly City contribution exceed the premium for the plan in which the employee is enrolled.

Each employee participating in a medical plan will make an additional $35.00 contribution per pay period towards the cost of health care benefits beginning with the pay period containing July 1, 2012. This pre-tax contribution is made during pay periods where employee deductions for health care benefits are taken (24 pay periods).

This $35 contribution per pay period is offset by savings achieved in excess of the City's target for net savings from July 1, 2012 through June 30, 2013. Beginning with the pay period containing July 1, 2012 and ending with the pay period containing June 30, 2013, the City will not collect the additional $35 contribution as the savings will be generated from other methods. These excess savings will be exhausted by the end of Fiscal Year 2013 and each unit member participating in a medical plan will begin making the contribution beginning with the pay period containing July 1, 2013.

*Note: The monthly contribution is based on the CalPERS regional pricing for the Bay Area/Sacramento area. In the event an active employee relocates to another regional area, or a newly hired employee resides in another regional area, it is the City's intent to provide a contribution based on the Bay Area/Sacramento area CalPERS regional pricing with the understanding that in no event will the maximum monthly City contribution exceed the premium for the plan in which the employee is enrolled.

B. **Optional Benefits**

Through the Cafeteria Plan, employees may enroll in the following optional benefits and elect to pay premiums on a pre-tax basis:

1. Medical Reimbursement Account (MRA)
2. Dependent Care Reimbursement Account (DCAP)
3. Cancer and Critical Illness Protection Insurance

Employees may also enroll in the following optional benefits and elect to pay premiums on a post-tax basis:

1. Accident Protection Insurance
2. Additional Life Insurance
3. Long Term Care Insurance

C. **Medical Waiver**

Employees may elect to waive City medical coverage and receive a cash benefit. In order to receive the medical waiver benefit, the employee must provide proof to the City of other current medical coverage. Full-time employees who waive medical coverage are eligible to receive $200.00 per month; part-time employees shall receive a prorated amount, based upon their full time equivalency (FTE). The medical waiver amount may be applied toward the purchase of any pre-tax or post-tax optional benefits, or paid as a taxable cash benefit.

Employees receiving the medical waiver benefit must notify the Human Resources Division if they cease to be covered by any other medical plan, thereby making them ineligible for the medical waiver benefit.

D. **Medical Plan Changes**

The City will continue to work with the Healthcare Cost Containment Committee to research alternatives to the CalPERS medical plan and options within the CalPERS plan. If the City discontinues CalPERS medical coverage, the City will provide similar coverage, to the extent possible.

In the event the City proposes a change in medical plan coverage, the City will meet and confer with the Association regarding the impact of any changes prior to implementation of such change.

Any change from the CalPERS medical plan during this contract term will only be made by mutual agreement.

E. **Extension of IRS §125 "Use-it-or-Lose-it" Provision**

The City's Cafeteria Plan Flexible Spending Arrangement (FSA) allows a 2½ month extension of the period within which participants in the FSA plan may be reimbursed for qualified benefit expenses with pre-tax dollars.

Reimbursable expenses for the calendar plan year are not limited to expenses incurred through December 31 of the calendar year, but may include expenses incurred through March 15 of the following plan year. Because the 2 ½ month extension will overlap with a new plan year, benefit expenses incurred from January 1 through March 15 may be paid from either the unused contributions from the previous plan year, if any, or the contributions made during the new plan year.

16.02 **Dental Insurance**

A. The City shall provide a dental plan for employees and their eligible dependents with a maximum benefit of $1,700 per covered individual per calendar year.

B. The maximum monthly premiums contribution by the City is as follows:

Employee Only:	$ 38.10
Employee + Family:	$109.72

16.03 **Vision**

The City shall provide a vision plan for employees and their eligible dependents.

A. Coverage will include an annual eye examination. Contacts or lenses will be covered every year, frames every two years.

B. The maximum monthly premiums contribution by the City is as follows:

Employee Only:	$10.64
Employee + Family:	$18.74

16.04 **Long Term Disability**

The City shall contribute the full cost of the City-sponsored long-term disability program for employees working 30 or more hours per week, with a maximum benefit of $10,000 per month.

16.05 **Part-Time Employees**

The City shall pay a pro-rated share of medical, dental, vision and life insurance premiums for part-time employees. The City's pro-rated share of the premiums shall be based upon the proportion of the part-time employee's hours in relation to full time equivalency (FTE)* (e.g., a 24 hour per week position is .6 FTE; an employee in a .6 FTE position will receive 60% of the premium paid by the City for a full time employee). Part-time employees shall pay the balance of the premiums on a pre-tax basis unless the employee elects to pay the balance on a post-tax basis.

*Full time equivalency, or FTE, is the ratio of an employee's budgeted work schedule to full-time work.

16.06 **Retiree Health Program**

A. **Retiree Medical Plan**

Covered employees who retire under the provisions of the City's contract with CalPERS, are currently eligible to continue CalPERS medical coverage. The City will contribute a monthly amount to CalPERS pursuant to Government Code Section 22892 of the Public Employees Medical and Hospital Care Act (PEMHCA).

B. **Retiree Medical Incentive**

Employees who receive a regular service retirement from CalPERS and have at the time of retirement at least five (5) years of continued service with the City and are at least fifty (50) years of age, will receive a retiree medical incentive in the amount of $89.00 per month. This incentive will be paid during any period the retiree maintains CalPERS medical coverage and until such time the retiree is eligible for Medicare or other Federal or State health programs, solely on account of age. If coverage is dropped and subsequently restarted it is the retiree's responsibility to give the City written notice; payment of the incentive will be re-started beginning with the month in which the City receives written notice. If notice is received in a month after which coverage is re-started there will be no retroactive payment of the incentive for that/those month(s).

16.07 **Health Care Cost Containment**

The Health Care Cost Containment Committee, one member of which is a Mid-Management employee representative, will continue to study cost containment measures. The Health Care Cost Containment Committee will continue to meet on an ongoing basis to monitor the effectiveness of recommended cost containment measures and to develop related promotional wellness programs.

The Committee shall meet regularly as determined by the needs of the Committee.

The Human Resources Division shall serve as staff to the Committee.

Regular Committee members shall receive release time to attend Committee meetings. In advance of attending meetings, members shall obtain permission through supervisory channels.

16.08 **Life Insurance**

The City shall provide a $25,000 term life insurance policy for employees.

16.09 **Principal Domestic Partners**

The City will provide medical, dental and vision benefits to employees with Principal Domestic Partners equivalent to those provided to an employee's spouse. Employees may enroll their eligible Principal Domestic Partners and the eligible dependents of their Principal Domestic partners subject to the eligibility requirements established by either CalPERS or the City and subject to the tax regulations of the State of California and the Internal Revenue Service of the United States Government.

SECTION 17.00 – MID-MANAGEMENT BENEFITS

17.01 **Management Vacation**

In the first full pay period in January of each year, all Mid-Management employees will be credited with eighty (80) hours of vacation time in addition to their normal authorized vacation allowance. This additional vacation shall be designated as Management vacation. Employees shall be paid for up to sixty (60) hours of this Management vacation in the last full pay period in January of each year for the prior years' balance. Beginning with the pay period containing December 26, 2012 the ability to cash out management vacation will be limited to twenty (20) hours. This implementation date includes the 2012 management vacation cash out. During the last full pay period of December, 2012 employees will be paid for up to twenty (20) hours of their management vacation balance in the last full pay period of December 2012 and each December thereafter. Employees who do not use all of their Management vacation prior to the first full pay period in January of each year will only be credited at the start of the subsequent year with sufficient hours to maintain an eighty (80) hour balance. Employees who use all of their Management vacation prior to the year's end and who leave City service during this year will have the pro-rated value of the Management vacation deducted from their final paycheck. This benefit will be pro-rated for new hires.

It is mutually understood and agreed that retroactive changes to time cards converting already used management vacation to some other form of paid leave, thus increasing the number of management vacation hours eligible for pay out at years end, will not be allowed.

It is mutually understood and agreed that it is each individual employee's responsibility to manage his/her use of management vacation hours to avoid the loss of any unused time.

17.02 **Optional Management Benefit**

In recognition of unscheduled and special assignments performed by Mid-Management employees and night meetings they occasionally attend, the City will contribute $1,300 for employees with less than ten (10) years of service and $1,500 for employees with ten (10) or more years of service to an optional management benefit plan. Payment for this benefit shall be made on the last pay date in July of each year for the previous fiscal year's service. In lieu of direct payment, employees may contact Payroll by June 1 to select one of the following options for use of this benefit:

1. Payment to deferred compensation (not as an "employer contribution");

2. Purchase of additional vacation leave, not to exceed the Vacation Accrual Limit in Section 13.02;

This benefit will be pro-rated for new hires and terminated employees.

SECTION 18.00 - TUITION REIMBURSEMENT

The City shall reimburse employees the cost of tuition and books for job-related college, university courses, workshops, adult education and other training programs when approved by the Department Head and Administrative Services Director prior to enrollment.

Payment shall be made upon successful completion of each course. This provision shall be limited to $500 per fiscal year and pro-rated for part-time employees.

SECTION 19.00 - TRAINING AND PROFESSIONAL DEVELOPMENT

The City and its Mid-Management employees are committed to training and professional development. The City budgets funds for such training and development and the City department heads are responsible for the application of the funds.

The City Manager may approve Mid-Management employees' attendance at out-of-state conferences on an individual basis when it is determined to be in the best interest of the City.

The City shall pay for employees for attendance at all approved conferences that directly relate to their positions. The City shall reimburse the employee for any additional allowable expenses incurred during the attendance of conferences or seminars. More than one employee may attend the same conference when it is deemed appropriate by the department head.

SECTION 20.00 - MEMBERSHIPS AND LICENSES

The City will pay all professional license fees required for employment.

SECTION 21.00 - COMMUNICATIONS

At least three (3) times per a year, a joint meeting of the City's Mid-Management and Executive personnel will be held for the purpose of discussing items of mutual concern.

SECTION 22.00 - SAFETY

The City intends to meet its obligation under the California Occupational Safety and Health Act and shall adopt and use safeguards, devices and practices reasonably adequate to render such employment safe.

The Association will cooperate with the City by requiring employees under its control to work safely and, further, the Association recognizes its obligation as management to support the City's effort to prevent injuries.

At least two Mid-Management employees shall be members of the Safety Committee. The Committee will establish a work program to carry out its functions.

SECTION 23.00 – MID-MANAGEMENT/CITY FINANCE COMMITTEE

Upon execution of this agreement, the parties will establish a joint committee to study and provide input regarding the factors that influence and impact the City's budget. The Committee will consist of two Mid-Management employees and two City representatives, one of which to be the Assistant City Manager.

SECTION 24.00 - REDUCTION IN FORCE

If the workforce is reduced or hours of work are reduced for reasons of changes in duties or organization, abolition of positions, shortage of work or funds or completion of work, employees with the shortest length of service within the classification will be laid off first, provided that employees retained are fully qualified, trained and capable of performing remaining work in the opinion of the department head. Length of service for the purpose of this section will be calculated from the hire date of record into a regular (non-temporary) position.

Bumping is defined as a voluntary movement of an employee to be laid off from his/her current classification to a previously held lower classification held by an employee with less seniority. Bumping privileges may be exercised only within the employee's current department. An employee with sufficient seniority to bump an employee in a lower classification shall bump the least senior person in that classification.

Employees laid off according to this section shall be given not less than fifteen (15) days written notice prior to the reduction in force unless the reduction is necessitated by emergency or urgent conditions. A copy of such notice shall be given concurrently to the Association. If there is sufficient time, thirty (30) days notice shall be given.

Wherever possible, such employees will be offered regular or temporary positions which are requisitioned and for which the employees are qualified.
Employees displaced under this section will be assigned to the step in the new classification salary range closest to the employee's salary at the time of reduction of force.

This Reduction of Force section shall not be construed to either broaden or decrease the rights of the City or the employees under State law.

The City's reinstatement policy is hereby included by reference (Exhibit D) and any conflict shall be resolved by the City's policy.

SECTION 25.00 - GRIEVANCE PROCEDURE

25.01 **Purpose**

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

Any employee covered by this Memorandum of Understanding may file a grievance.

25.02 **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.

25.03 **Limitations**

A. A grievant may be represented by any representative of his or her choosing in preparing and presenting a grievance.

B. No reprisal shall result against any employee who presents a grievance under this procedure.

C. A grievant and representative will be allowed reasonable time during work hours to meet regarding any grievance as provided in this article without loss of pay. It is understood that the grievant and representative shall: (1) provide their supervisor(s) with advance notice and request for such time; (2) that such request will not be arbitrarily denied; (3) that such time shall be charged on the grievant's/representative's time card to the designated program code, if applicable.

D. Time limits may be extended by written mutual agreement of the parties.

E. A grievance shall be considered settled in favor of the other party if, at any step, a decision is not rendered or appealed within the specified time limit.

F. Only upon mutual written agreement between the parties may Step I of the grievance be waived.

25.04 **Procedures**

Step I:

The grievant will first attempt to resolve the grievance through informal discussions with successive levels of supervision beginning with his/her immediate supervisor through his/her department head. These discussions must be initiated within ten (10) working days following knowledge of the incident upon which the grievance is based. Every attempt will be made by the parties to settle the issue at this level.

Step II:

If the grievance is not resolved through the informal discussions, the employee may submit a written appeal to his/her department head within ten (10) working days after the informal meeting.

The written appeal must contain in clear, factual and concise language:

1. A brief statement as to the date of the occurrence on which the grievance is based and the

facts as the grievant sees them;

2. The rule, regulation or act on which the grievance is based;

3. The action the grievant believes will resolve the grievance;

4. Signature of the employee.

The department head shall have ten (10) workdays following receipt of the appeal to review the matter and prepare a written response. Copies shall go to the parties involved and the Human Resources Division.

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 his/her representative, stating in writing the basis for the appeal.

The City Manager or his/her representative shall render a written decision to all parties directly involved within fifteen (15) workdays following the date which the aggrieved employee appealed the department head's decision. This decision will be final.

SECTION 26.00 - DISCIPLINARY APPEALS PROCEDURE

26.01 **Definition**

For the purposes of this article, disciplinary action shall mean suspension (as authorized by FLSA), demotion, disciplinary reduction in salary or discharge.

The appeal procedure described herein shall apply to cases of disciplinary action affecting regular employees. It shall not be applicable to probationary employees. Employees have the right to representation at any or all stages of the appeal process.

26.02 **Pre-Action Procedure**

Step I:

Prior to imposing disciplinary action, the supervisor shall first provide the employee a preliminary written notice of the proposed action stating the effective date and the specific grounds and particular facts upon which the action will be taken. The employee shall have access to any known written materials, reports or documents upon which the action is based. The employee shall have the right to respond to the charges within five (5) workdays from receipt of the notice either orally, in writing, or both to the department head. If the department head is personally involved in the initial investigation and notice process, the City Manager or Administrative Services Director shall appoint a designee to hear the response.

The employee may request an extension of the time to respond for justifiable reasons. Failure to respond within the time specified will result in the employee's waiver of his/her procedural rights and final action will be taken.

Step II:

Following a review of a proposed disciplinary action, the department head, within five (5) workdays of receiving employee's response, shall render a written decision and send it by registered mail or personal delivery to the employee. A copy shall also be mailed to the employee's representative.

The employee has the right, within five (5) workdays after receiving the decision, to file a request for appeal with the City Manager. The appeal shall be a written statement, signed by the appellant, explaining the matter appealed from, stating the action desired by the appellant, with his/her reasons therefore, and stating that the pre-action procedures have been exhausted.
If, within the five-day appeal period, the employee involved does not file such appeal, unless good cause for the failure is shown, the department head's decision shall be final and shall take effect as prescribed.

26.03 **Post-Action Appeal**

Step III:

If the employee files a timely appeal, the City Manager shall, within five (5) working days after receiving the appeal, designate a hearing officer who shall schedule a hearing not less than five (5) working days from the date the appeal was received.
The hearing officer may conduct such independent investigation of the matter as he/she deems necessary. The appellant shall be given the opportunity to answer or present evidence in opposition to the findings of this independent investigation.

The appellant shall appear personally at the scheduled hearing unless physically unable to do so. The appellant or his/her representative may produce relevant oral or documentary evidence at the hearing.

Within fifteen (15) working days following the hearing, the hearing officer shall render a written decision to all parties involved. The hearing officer has the authority to affirm, repeal or modify the disciplinary action.

For discipline equivalent to the severity of suspension (as authorized by FLSA) of one (1) week or less, or leave balance reduction of one (1) week or less, there shall be no appeal beyond Step III and the City Manager's decision shall be final.

Step IV:

If the appeal (except as exempted above) is not resolved to the satisfaction of the appellant at the conclusion of Step III, the employee may appeal the decision of the City Manager to a neutral

arbitrator, provided it so informs the City Manager in writing within ten (10) working days following receipt of the City Manager's decision.

Within ten (10) working days from the date of receipt of appeal, the parties may mutually agree on a neutral party from an independent source to serve as an arbitrator. In the event the parties fail to agree on the neutral party, they shall immediately thereafter jointly request the California State Mediation and Conciliation Service to submit to them a list of five (5) persons qualified and available to act as arbitrator.
If such a list is requested from the State Mediation and Conciliation Service, the parties within five (5) working days of receipt of the list, shall mutually agree upon the person on the list who shall be the arbitrator. If one person is not mutually agreed upon, the parties shall within five (5) days after receipt of the list of names, alternately strike two (2) names from such list with the last remaining name to be the person serving as arbitrator. The party having first choice to strike a name from the list shall be determined by lot.

The arbitrator shall have no authority to add to, detract from, alter, amend, or modify any provision of this agreement, or impose on any party hereto a limitation or obligation not explicitly provided for in this agreement, or to alter any wage rate or wage structure. The decision of the arbitrator shall be rendered after the evidence and arguments are presented to him/her by the parties in the presence of each other and in post hearing briefs, if necessary. The decision of the arbitrator shall be final and binding upon the parties.

The arbitrator is requested to expedite the decision as the parties normally expect a decision to be issued within fifteen (15) days after the conclusion of the hearing.

The arbitrator's expenses shall be borne equally by the parties. Except that each party shall bear the cost of its own representation.

SECTION 27.00 - WRITTEN REPRIMANDS

A written reprimand may be issued by an employee's supervisor if an employee has violated a City rule, provision of the M.O.U., or if his/her 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 his/her 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 five (5) working days of receipt of the reprimand. The department head's decision regarding the written reprimand shall be final.

If the department head initiated the written reprimand, the employee has the right to appeal to the City Manager or his/her designee. The decision of the City Manager or his/her designee shall be final.

SECTION 28.00 – MISCELLANEOUS

28.01 **Automatic Deposit - New Hires**:

Newly hired employees shall be required to receive their paycheck through automatic deposit. Newly hired means only those employees hired from an external hiring list, and does not include promotional hires from current City employees. The City will create an appeal process for those who do not use financial institutions.

SECTION 29.00 – HOLIDAY CLOSURE

If the City decides to close around the Christmas and New Years' holidays, the following will apply:

A. Employee participation in the closure program is voluntary. During the closure, employees may use accrued vacation, compensatory time off, management leave, floating holidays, or excess holiday time.

B. Employees may also request leave without pay during this year-end closure which will result in budget savings. To encourage the use of leave without pay, seniority, benefit and leave accruals will not be impacted if leave without pay is taken during the year-end closure period. (Note: Unpaid leave is not credited towards PERS retirement.) The City will allow leave without pay hours to be deducted over the same number of pay periods as the number of workdays the City was closed.

C. If there are employees who do not wish to take either paid or unpaid leave time during the closure period the City will make a reasonable effort to accommodate their request to work during the closure by finding appropriate assignments and/or work space.

SECTION 30.00 - 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.

MID-MANAGEMENT ASSOCIATION OF THE CITY OF SANTA CRUZ

Fred Klingel Date

Robert Solick Date

Janis O'Driscoll Date

Don Lauritson Date

Chris Cave Date

Mike Woodhouse Date

CITY OF SANTA CRUZ

Lisa Martinez Sullivan Date

Mark Dettle Date

Joe McMullen Date

Tori Hannah Date

EXHIBIT A

MID-MANAGEMENT CLASSIFICATIONS

Accountant I

Accountant II

Arts Programs Manager

Assistant Director of Finance

Assistant to the City Manager

Associate Civil Engineer

Associate Planner I

Associate Planner II

Asst Dir Plan and Comm Develop

Assistant Director of PW/City Eng

Chief Building Official

Chief Human Resources Officer

Chief Technology Officer

City Clerk Administrator

Customer Service Manager

Deputy Building Official

Deputy City Clerk

Deputy Water Dir/Engineering Mgr

Deputy Water Dir/Oper Mgr

Desalination Program Coord

Economic Devel Cord I

Economic Devel Cord II

Engineering Associate

Finance Manager

GIS Coordinator

Golf Course Superintendent

Human Resources Analyst I

Human Resources Analyst II

IT Network Manager

IT Ops Customer Service Mgr

IT Project Mgr/Train Coord

IT Systems Mgr Database Admin

Library Division Manager

Management Analyst

Manager System Services and Support

Network Administrator

Parking Program Manager

Police Records Manager

Principal HR Analyst

Principal Mgmt Analyst

Principal Planner

Property Manager

Public Works Oper Supt

Public Works Operations Mgr

Purchasing Manager

Recreation Superintendent

Redevelop Finance Manager

Redevelopment Manager

Redevelopment Project Coordinator

Resource Ecologist

Senior Accountant

Senior Planner

Superintendent of Parks

Supt of Parking Services

Supt of Resource Recovery – Collections and Sweeping

Supt of Resource Recovery – Processing – Disposal

Supt of Wastewater Plant

Supt of Water Distribution

Supt of Water Treatment & Prod

Telecommunications Manager

Traffic Engineer

Urban Forester

Wastewater Lab/Pretreat Mgr

Wastewater Mains Manager

Water Conservation Manager

Water Quality Manager

Water Resources Manager

WW Treatment Facil Oper Mgr

EXHIBIT B

SANTA CRUZ CITY COUNCIL

STATEMENT OF EQUAL EMPLOYMENTOPPORTUNITY
and
NON-DISCRIMINATION POLICY

It is the policy of the City Council of Santa Cruz to provide all current and prospective employees with equal opportunity in employment without discrimination on the basis of race, color, creed, national origin, ancestry, religion, disability, medical condition, gender, height, weight, physical characteristics, marital status, sex, age, sexual orientation, organizational affiliation, disabled veteran status, or status as a veteran of the Vietnam era (except when sex, age, disability, or medical condition is a bonafide occupational qualification). This non-discrimination policy applies to decisions affecting recruitment, selection, placement, assignment, training, transfer, promotion, evaluation, discipline, termination, compensation, benefits, and all other aspects of employment.

The City Council recognizes that the most fundamental function of a municipality is to deliver services such as law enforcement, fire protection, and public utilities to persons who live and work in the City and who pay taxes to finance the delivery of these services. Because the populace of Santa Cruz is culturally diverse and ethnically diverse, it is reasonable to conclude that Santa Cruz can most effectively and efficiently function in its role as a municipal service provider when its workforce, charged with responsibility for delivering municipal services, is similarly, ethnically, and culturally diverse. While Santa Cruz does not have, and never has had, "quota" or "set-aside" programs to assure that its workforce enjoys the same cultural and ethnic diversity that the City enjoys overall, it is the policy of the City Council, in order to achieve its objective of effective and efficient delivery of municipal services, to actively and aggressively recruit qualified applicants for City employment from <u>all</u> cultural and ethnic sectors of the City and County of Santa Cruz, including members of protected classes who may have been inadvertently excluded or under-utilized in the past. While this recruitment policy process specifically contemplates identifying groups and organizations comprised of, or with close connections to, members of protected classes, the policy is implemented within the context of the City's overall policy to recruit the most qualified employees from all sectors of the community, and is included within the overall policy as a safeguard to assure that protected class members are not inadvertently deprived of an equal opportunity to compete for City employment positions. This policy serves to assist the City in approaching a goal whereby, through the provision of equal opportunity to all sectors of the community, the City achieves and maintains a workforce which includes women and minorities in percentages consistent with those of the Santa Cruz labor market and/or the labor market of any larger recruitment area.

The City Council further recognizes that discrimination of the type prohibited by Santa Cruz City policy and ordinance is also strictly prohibited by the Constitution of the United States of America and the State of California Constitution. These constitutional proscriptions against

discrimination not only forbid acts of discrimination by individuals, but also institutional discrimination by public entities that might not be apparent but for periodic review and examination of patterns and practices with respect to hiring and employment of workers. To that end, Santa Cruz is committed to an annual self-examination of its workforce to identify the number and placement of minority, women, disabled, and other protected class individuals within that workforce to confirm that Santa Cruz is not engaging in unlawful and unconstitutional discriminatory hiring and employment practices either through acts of commission or omission.

Through the establishment and implementation of this policy, it is the intent of the City Council to actively support and comply with the following laws and regulations: the Equal Pay Act of 1963; Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972); Executive Order 11246 (as amended by Executive Order 11375 [revised order #4] of 1968); the Age Discrimination in Employment Act of 1967 (as amended in 1978); the Rehabilitation Act of 1973; the Vietnam Veteran's Readjustment Act of 1974; the California Fair Employment and Housing Act of 1980; the California Fair Employment and Housing Commission Rules and Regulations; the Americans With Disabilities Act of 1991; the Civil Rights Act of 1991; and the City of Santa Cruz Anti-Discrimination Ordinance of 1992.

The City Council charges the City Manager with responsibility for, and holds the City Manager accountable for developing, implementing, and administering an Equal Employment Opportunity/Non-Discrimination Program to carry out these policies and objectives.

EXHIBIT C

City of Santa Cruz
Administrative Procedure Order
Section II, #1A (Revised October 1, 1999)

TO: Department Heads

SUBJECT: DISCRIMINATION/HARASSMENT POLICY AND COMPLAINT PROCEDURE

PURPOSE

The purpose of this policy is to confirm the City of Santa Cruz' commitment to maintain a work environment free from unlawful discrimination and/or harassment for all current and prospective City employees.

This policy:

- defines discrimination and harassment under this policy;
- confirms the City's commitment to prohibit and prevent unlawful discrimination and harassment in employment; and
- provides a City complaint and investigation procedure to resolve complaints of alleged discrimination or harassment in violation of law or this policy.

POLICY

It is the policy of the Santa Cruz City Council to provide all current and prospective employees with equal opportunity in employment without discrimination on the basis of race, color, creed, national origin, ancestry, religion, disability, medical condition (including pregnancy, child birth and cancer-related conditions), gender, height, weight, physical characteristics, marital status, sex, age, sexual orientation, organizational affiliation, disabled veteran status or status as a veteran of the Vietnam era (except when age, disability or medical condition is a bonafide occupational qualification) and to further assure that all such current and prospective employees are guaranteed a work environment free from unlawful discrimination. In applying and interpreting this policy, any person charged with doing so shall define the terms of art used in the policy in a manner which is consistent with all applicable Federal, State and Municipal statutes, regulations and ordinances. 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, training, transfer, promotion, evaluation, discipline, termination, compensation and benefits. The City's non-discrimination/non-harassment policy prohibits any form of unlawful conduct, and the City shall take aggressive steps to prevent discrimination and

harassment from occurring in the workplace. When such discrimination or harassment is detected in the workplace, the City will take aggressive, prompt and fair measures to eradicate the misconduct. To this end, the City, upon confirming the existence of discrimination or harassment prohibited by this policy, shall take disciplinary action against those responsible for the discrimination or harassment up to and including termination of employment.

This policy is promulgated in recognition of the fact that discrimination and harassment 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 further acknowledges and understands that in order to implement a non-discrimination/non-harassment policy of the type hereby promulgated, it is essential that all persons who witness or experience discrimination or harassment of the type prohibited by this policy report that discrimination or harassment 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 discrimination/harassment complaint, reporting discrimination/ harassment which he or she has witnessed or assisting in a discrimination/harassment investigation is strictly prohibited. Employees found to have participated in retaliatory action in contravention of this policy shall, therefore, be subject to disciplinary action up to and including termination.

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

DEFINITIONS

I. Discrimination

"Discrimination" as used in this policy is defined to include, but is not limited to:

A. Basing an employment decision as to a job applicant or employee (e.g., decision to hire, promote, transfer, terminate, etc.) on one's protected status (e.g., race, sex, age, religion, etc.).

B. Treating an applicant or employee differently with regard to any aspect of employment because of his or her protected status.

C. Engaging in harassment, as more specifically defined below.

D. Taking adverse employment action (i.e., demotion, transfer, discipline, termination)

against an employee based on the employee opposing discrimination in the workplace; assisting, supporting or associating with a member of a protected group who complains about discrimination; or assisting in an investigation of discrimination.

II. Harassment

"Harassment" as used in this policy is defined to include, but is not limited to:

A. Speech, such as epithets, derogatory comments or slurs and lewd propositioning on the basis of race, color, creed, national origin, ancestry, religion, disability, medical condition (including pregnancy, child birth and cancer-related conditions), gender, height, weight, physical characteristics, marital status, sex, age, sexual orientation, organizational affiliation, disabled veteran status or status as a veteran of the Vietnam era. Prohibited speech may include inappropriate sex-oriented comments on appearance, including dress or physical features, or race-oriented stories and jokes.

B. Physical acts, such as assault, impeding or blocking movement, offensive touching or physical interference with normal work or movement when directed at an individual on the protected bases listed in the policy. Prohibited physical acts include pinching, grabbing, patting, propositioning, leering or making explicit or implied job threats or promises in return for submission to physical acts.

C. Visual insults, such as derogatory posters, cartoons or drawings related to the protected bases listed in the policy (e.g., race, sex, religion, etc.).

D. Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile or offensive working environment.

DUTIES

I. Director of Personnel

The Director of Personnel shall be responsible for:

A. Insuring that this policy and complaint procedures are disseminated to all employees.
B. Providing training and assistance to department heads, supervisors and employees in preventing and addressing discrimination and harassment.
C. Investigating, resolving and making findings and recommendations on complaints of unlawful discrimination and harassment.

II. Department Heads

Department heads shall be responsible for:

A. Assisting the Director of Personnel by disseminating this policy and ensuring that the workplace remains free of discrimination and/or harassment.

B. Coordinating and cooperating with the Director of Personnel in resolving complaints involving employees in their respective departments; and, when discrimination/ harassment has occurred, taking:

- Prompt and appropriate remedial action against the perpetrator/harasser.
- Reasonable steps to protect the complainant from further discrimination/harassment.
- Reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
- Action to remedy the effects of discrimination/harassment.

III. Employees

Employees shall cooperate fully with all investigations of discrimination and harassment and implementation of remedial measures and shall not retaliate against complainants or witnesses.

IV. Independent Contractors

Contracts with the City of Santa Cruz which contain an equal employment/non-discrimination clause shall also include language requiring those contractors to be responsible for insuring that effective policies and procedures concerning the prevention of harassment exist in their companies.

DISSEMINATION OF POLICY AND TRAINING

All employees, supervisors and managers shall receive a copy of this policy, and all regular City employees shall attend sexual harassment and cultural diversity training.

DISCRIMINATION/HARASSMENT COMPLAINT PROCEDURE

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

Complainants, and employees alleged to have engaged in discrimination or harassment, 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 the Director of Personnel 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/harassment complaint shall notify the Director of Personnel as soon as possible after receiving the complaint. Complaints may be presented orally or in writing.

If possible, written complaints should include the following information:

- The name, address and telephone number of the complainant.
- The basis for the alleged discrimination or harassment (i.e., race, color, religion, age, sex, etc.).
- 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 Division to schedule an appointment with a staff investigator.

II. Investigation and Resolution

After reviewing the discrimination/harassment complaint, the Director of Personnel 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. 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. Every effort will be made to conclude the investigation within one hundred and twenty (120) calendar days of receipt of the complaint.

The Director of Personnel 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 nineteen (19) discriminatory bases or if a nexus cannot be established between the alleged act(s) and discrimination based on one of the nineteen (19) protected categories. When the investigation is completed, the Director of Personnel will determine if there is sufficient

evidence to substantiate a violation of the City's Discrimination/Harassment Policy and if remedial action is necessary to resolve the issues of the complaint. The complainant, alleged perpetrator/harasser and department head will be notified of the 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 Personnel Department, the City Manager will be responsible for this process.

III. City Manager Review

Complainants who are not satisfied with the Personnel 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 Director of Personnel'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 or harassment 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:

Department of Fair Employment and Housing
111 North Market Street, Suite 810
San Jose, CA95113-1102
Phone: (408) 277-1277 or (800) 884-1684

Equal Employment Opportunity Commission
San Jose Office
96 North Third Street, Suite 200
San Jose, CA95112
Phone: (408) 291-7352

EXHIBIT D

RULE 9: LAYOFF

Rule 9: Layoff Policy and Procedure

9.1:Employees Subject to a Memorandum of Understanding
9.2:Other Classified Employee

9.1:Employees Subject to a Memorandum of Understanding
All employees covered by a memorandum of understanding shall be subject to the layoff policy and procedures contained in that agreement.

9.2:Other Classified Employees
All other classified employees shall be subject to the layoff policy and procedure provided in this section.

a. Lay-offs. The City reserves the right to reduce its workforce by laying off employees for reasons of economy or changes in departmental operations. When one or more employees assigned to the same classification within a department are to be laid off, the order of lay-off shall be as follows:
   1. Temporary
   2. Probationary
   3. Regular

   The order of lay-offs shall be governed by seniority in service from the date of hire in a classified
   position.

b. Notification. Employees to be laid off shall be given not less than fifteen (15) working days written notice prior to the reduction in force.
c. Reinstatement. Should the position from which an employee was laid off be re-established within 18 months,thereby increasing the workforce in that division, the employee shall be eligible for reinstatement. It shall be the employee's responsibility to notify the Human Resources Department of his/her current address. Every effort shall bemade to notify the affected individual of any
   reinstatement opportunity. Reinstatement shall be in the reverse order of lay-off.