



## CIVIL SERVICE BOARD MEETING AGENDA

**Date: September 20, 2018**

**OPEN SESSION 5:30 p.m.**

**City Hall, One Frank H. Ogawa Plaza, Hearing Room 1**

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**BOARD MEMBERS:** Chair, Andrea Gourdine; Vice Chair, David Jones; Lauren Baranco; Yvonne Hudson-Harmon; Christopher Johnson; Carmen Martinez; Beverly A. Williams

**STAFF TO THE BOARD:** Ian Appleyard, HRM Director/Secretary to the Board  
Greg Preece, HRM Manager/Staff to the Board  
Tabitha Pulliam, HRM Technician/Staff to the Board  
Michelle Meyers, Senior Deputy City Attorney

### OPEN SESSION AGENDA

#### ROLL CALL

#### 1) OPEN FORUM

- Updates: Secretary to the Board

#### 2) CONSENT CALENDAR:

ACTION

- Approval of Employee Requests for Leave of Absence
  - Oakland Police Department
  - Oakland Fire Department
  - Human Services Department
  - Library
- Approval of Revised Classification Specifications
  - Early Head Start Instructor

#### 3) OLD BUSINESS:

- Approval of August 16, 2018 Civil Service Board Meeting Minutes ACTION
- Approval of July 19, 2018 Civil Service Board Meeting Minutes ACTION
- Determination of Schedule of Outstanding Board Items INFORMATION

- d) Informational Report on the Status of Temporary Assignments for Temporary Contract Service Employees (TCSEs) and Exempt Limited Duration Employees (ELDEs) Including a Report of the Names, Hire Dates, and Departments of all ELDE's and TCSEs in Accordance with the Memorandum of Understanding Between the City and Local 21 INFORMATION

#### 4) NEW BUSINESS:

- a) Approval of New Classification Specification for Head Start/Early Head Start Assistant Instructor ACTION
- b) Approval of New Classification Specification for Clean Community Supervisor ACTION
- c) 6.05 – Appeal of Removal or Demotion of Employee During the Probationary Period PORT-2018-AP01 (R. Arguello). ACTION
- d) 3.02 (a) – Appeal of Classification of Positions HRM-2018-AP01 (K. McNab) ACTION

#### 5) ADJOURNMENT

NOTE: The Civil Service Board meets on the 3rd Thursday of each month. The next meeting is scheduled to be held on Thursday, October 18, 2018. All materials related to agenda items must be submitted by Thursday, October 04, 2018. For any materials over 100 pages, please also submit an electronic copy of all materials.

Submit items via email or U.S. Mail to:

City of Oakland - Civil Service Board  
150 Frank H. Ogawa Plaza, 2<sup>nd</sup> floor  
Oakland, CA 94612  
[civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov)



Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email [civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov) or call (510) 238-3112 or (510) 238-3254 for TDD/TTY five days in advance.

¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico [civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov) o llame al (510) 238-3112 o al (510) 238-3254 Para TDD/TTY por lo menos cinco días antes de la reunión. Gracias.

你需要手語, 西班牙語, 粵語或國語翻譯服務嗎? 請在會議前五個工作天電郵 [civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov) 或致電 (510) 238-3112 或 (510) 238-3254 TDD/TTY



# MEMORANDUM

**DATE:** September 20, 2018

**TO:** The Honorable Civil Service Board

**FROM:** Tabitha Pulliam, HRM Technician, Recruitment & Classification / Staff to the Board

**THROUGH:** Ian Appleyard, HRM Director / Secretary to the Board

**SUBJECT:** Request Authorization for Employee Requests for Leave of Absence

HRM is in receipt of seven (7) Unpaid Leave of Absence requests pursuant to Personnel Manual Section 8.07 Miscellaneous Leaves of Absence.

Employee Name	Classification	Department	Leave Duration	Category
Bonifacio, Ashley	Librarian I	Library	September 18, 2018 – March 26, 2019	CSR 8.07 (c)(iii) Personal Business
De Salvo, Barbara	Volunteer Program Specialist	Police Department	September 24, 2018 – September 24, 2019	CSR 8.07 (c)(vi) Retain Seniority
Levin, Melanie	Police Services Technician	Police Department	August 21, 2018 to November 6, 2018	CSR 8.07 (c)(iii) Personal Business
Nunez, Ronald	Probationary Firefighter	Fire Department	September 6, 2018 – September 6, 2019	CSR 8.10 Military Leave
Rebollo, Martha	Early Child Instructor	Human Services	August 06, 2018 – September 10, 2018	CSR 8.07 (c)(iii) Personal Business
Schieeser, Paul	Senior Librarian	Library	September 18, 2018 – September 22, 2018	CSR 8.07 (c)(iii) Personal Business
Shen, Alex	Library Aide	Library	October 2, 2018 – October 16, 2018	CSR 8.07 (c)(iii) Personal Business

**RECOMMENDATION:**

Staff recommends that the Civil Service Board approve the requested Leaves of Absence.



# Unpaid Leave of Absence

Leave Type:

- FCL - Family Care Extended
- FDN - Family Death (no pay)
- MNP - Military Leave (no pay)
- SLV - Sick Leave (no pay)
- ANP - Miscellaneous (no pay)
- Maternity Leave (no pay)

Employee's Name Ashley Bonifacio Employee's ID 22258 Today's Date 8/29/18

Department/Division Branch Services Employee Job Title Librarian I

Request: 80.5  Days  Hours From 9/18/18 To 3/26/19  
No. of Days or Hours Select Days or Hours

Unpaid Leave Taken This Year?  Yes  No If yes, what type of leave ANP  
(Write appropriate code)

Comparison of Different Leave Types					
Leave Type	Maximum Duration	Keep Accrued Seniority?	Accrue Seniority?	Keep Health Benefits?	Other
FCL	4 mos*	Yes	No	Depends*	Comb. of paid & unpaid leave
FDN	5 days	Yes	No	Yes	Family death leave (paid) exhausted
MNP	1 year	Yes	Yes	For 5 mos*	For military training and service
SLV	1 year	Yes	No	No*	Sick leave (paid) exhausted
ANP	1 year	Yes	No	No*	Miscellaneous leave (no pay)
P	1 year	No	No	No*	Maternity Leave

**\* Additional Information**  
 Employees on ANP, MNP, SLV or Maternity leave may continue to participate in a City group health plan under COBRA at their own cost.

Family Care Extended Leave allows employees to use a combination of paid and unpaid leave. Employees using paid leave keep their health benefits, while employees on unpaid leave for this category are entitled to extend their coverage under COBRA at their own cost. If the leave is unpaid maternity, an employee may take up to a maximum of 5 months leave.

Ashley Bonifacio 8/29/18  
 Employee's Signature Date

Civil Service Board Approval Date

[Signature] 9/6/18  
 Department Head Approval Date

City Manager Approval Date

Note: Civil Service Board approval is required for leave of 5 days or more for classified employees. City Manager approval is required for leave of 5 days or more for exempt employees.

Distribution: Original to DHRM Admin., Copy to HRIS Operations, Dept., and Employee



# Unpaid Leave of Absence

Print Form

Leave Type:

- FCL - Family Care Extended
- FDN - Family Death (no pay)
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- ANP - Miscellaneous (no pay)
- Paternity Leave (no pay)

Employee's Name Barbara De Salvo

Employee's ID 20846

Today's Date 08/09/18

Department/Division Oakland Police Department

Employee Job Title Volunteer Program Specialist

Request: 365

No. of Days or Hours

Days

Hours

Select Days or Hours

From 09/24/18

To 09/24/19

Unpaid Leave Taken This Year?

Yes

No

if yes, what type of leave

(Write appropriate code)

Comparison of Different Leave Types					
Leave Type	Maximum Duration	Keep Accrued Seniority?	Accrue Seniority?	Keep Health Benefits?	Other
FCL	4 mos*	Yes	No	Depends*	Comb. of paid & unpaid leave
FDN	5 days	Yes	No	Yes	Family death leave (paid) exhausted
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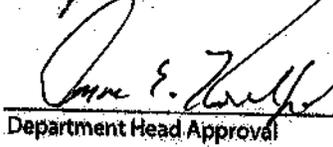
Family Care Extended Leave allows employees to use a combination of paid and unpaid leave. Employees using paid leave keep their health benefits, while employees on unpaid leave for this category are entitled to extend their coverage under COBRA at their own cost. If the leave is unpaid maternity, an employee may take up to a maximum of 5 months leave.

  
Employee's Signature

09 Aug 2018  
Date

Civil Service Board Approval

Date

  
Department Head Approval

8/15/2018  
Date

City Manager Approval

Date

Note: Civil Service Board approval is required for leave of 5 days or more for classified employees. City Manager approval is required for leave of 5 days or more for exempt employees.

Distribution: Original to DHRM Admin, Copy to HRIS Operations, Dept, and Employee



CITY OF OAKLAND

# INTER OFFICE MEMORANDUM

**TO:** Anne E. Kirkpatrick, Chief of Police  
Oakland Police Department

**FROM:** Barbara De Salvo

**SUBJECT:** Leave of Absence for  
Volunteer Program Specialist II,  
Barbara De Salvo

**DATE:** 31 July 2018

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Approval

Date

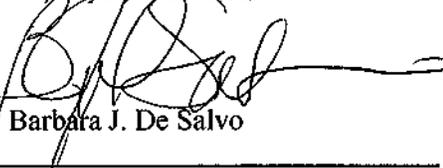
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*OPD recently received a grant to fund the Collective Healing Initiative. The purpose of the initiative is to look at police-community relationships through the eyes of trauma suffered by those directly impacted by high-profile incidents of violence (both police and community). The initiative is designed to identify officer/staff support and trauma training needs and to ultimately promote effective problem-solving between law enforcement and the communities we serve.*

*Five years of experience with Ceasefire and over 20 years of experience in standards & training development and administration has prepared me to lead the Collective Healing Initiative; Trauma-Informed Care in the Wake of Harm, as the project manager.*

*I respectfully request a leave of absence from my current position as Volunteer Program Specialist II, so that I may fulfill the duties of Project Manager I for the Collective Healing Initiative. This leave of absence will conclude at the termination of the grant period on 30 September 2019.*

*Respectfully submitted,*

  
Barbara J. De Salvo

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- Paternity Leave (no pay)

Employee's Name Melanie Levine Employee's ID 5798 Today's Date 07 Aug 18

Department/Division OPD-Traffic Employee Job Title PST

I Request:  Days  Hours From 21 Aug 18 To 10 Nov 18  
No. of Days or Hours Select Days or Hours

Unpaid Leave Taken This Year?  Yes  No If yes, what type of leave \_\_\_\_\_  
(Write appropriate code)



\* Additional Information

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Melanie Levine 07 Aug 18  
 Employee's Signature Date Civil Service Board Approval Date

Anthony E. Jones 9/7/2018  
 Department Head Approval Date City Manager Approval Date

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Print Form



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- ANP - Miscellaneous (no pay)
- Maternity Leave (no pay)

Employee's Name Ronald G. Nunez Employee's ID 23627 Today's Date 08/28/18

Department/Division Fire Employee Job Title Probationary Firefighter/Paramedic

Request: 365  Days  Hours From 09/06/2018 To 09/06/2019  
No. of Days or Hours Select Days or Hours

Unpaid Leave Taken This Year?  Yes  No If yes, what type of leave MNP  
(Write appropriate code)

Comparison of Different Leave Types					
Leave Type	Maximum Duration	Keep Accrued Seniority?	Accrue Seniority?	Keep Health Benefits?	Other
FCL	4 mos*	Yes	No	Depends*	Comb. of paid & unpaid leave
FDN	5 days	Yes	No	Yes	Family death leave (paid) exhausted
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SLV	1 year	Yes	No	No*	Sick leave (paid) exhausted
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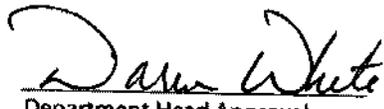
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Employee's Signature 08/28/2019  
Date

Civil Service Board Approval \_\_\_\_\_ Date

  
Department Head Approval 8/28/18  
Date

City Manager Approval \_\_\_\_\_ Date

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- Maternity Leave (no pay)

Employee's Name Martha Rebollo Employee's ID #24135 Today's Date 8/14/18

Department/Division City of Oakland H-S. Employee Job Title Early Child Instructor

Request: 30  Days  Hours From 8/6/18 To 9/10/18  
No. of Days or Hours Select Days or Hours

Unpaid Leave Taken This Year?  Yes  No If yes, what type of leave FCL  
(Write appropriate code)

### Comparison of Different Leave Types

Leave Type	Maximum Duration	Keep Accrued Seniority?	Accrue Seniority?	Keep Health Benefits?	Other
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Martha J. Rebollo 8/14/18  
 Employee's Signature Date

\_\_\_\_\_  
 Civil Service Board Approval Date

[Signature] 8/16/18  
 Department Head Approval Date  
TINA ON BEHALF OF SARA BEDFORD

\_\_\_\_\_  
 City Manager Approval Date

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ATTN: CRYSTAL RAMIRE - ADAMS !

Print Form



# Unpaid Leave of Absence

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- Maternity Leave (no pay)

Employee's Name Paul Schieeser

Employee's ID 12358

Today's Date 9-12-18

Department/Division Library

Employee Job Title Senior Librarian

Request: 5  
No. of Days or Hours

Days  Hours  
Select Days or Hours

From 09-18-2018

To 09-22-18

Unpaid Leave Taken This Year?

Yes  No

If yes, what type of leave ANP

(Write appropriate code)

Comparison of Different Leave Types					
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FCL	4 mos*	Yes	No	Depends*	Comb. of paid & unpaid leave
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09-12-18

Employee's Signature

Date

Civil Service Board Approval

Date

9/13/18

Department Head Approval

Date

City Manager Approval

Date

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- Maternity Leave (no pay)

Employee's Name Alex Shen Employee's ID 21-763 Today's Date 8.29.18

Department/Division Dimond Branch Library Employee Job Title Librarian Aide

Request: 9  Days  Hours From Oct 2<sup>nd</sup> To Oct 16<sup>th</sup>  
No. of Days or Hours Select Days or Hours

Unpaid Leave Taken This Year?  Yes  No If yes, what type of leave ANP  
(Write appropriate code)

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Alex Shen 8.29.18  
 Employee's Signature Date

Civil Service Board Approval Date

[Signature] 9/6/18  
 Department Head Approval Date

City Manager Approval Date

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# MEMORANDUM

**DATE:** September 20, 2018

**TO:** The Honorable Civil Service Board

**FROM:** Jaime Pritchett  
Principal Human Resource Analyst

**THROUGH:** Greg Preece, Human Resources Manager, Recruitment & Classification

**THROUGH:** Ian Appleyard, Director of Human Resources Management  
Secretary to the Board

**SUBJECT:** Approval of Revised Classification Specification for Early Head Start Instructor

Based upon a classification review at the request of the Human Services Department (HSD), staff has proposed revisions to the **Early Head Start Instructor** classification specification. The classification was established on November 15, 2015.

The only change is to the Education section of the Minimum Requirements. The formerly required possession of six (6) Infant/Toddler Units is being reduced to “at least three (3) units.” While the higher number of units was consistent with a best practices approach, the more stringent requirement resulted in smaller applicant pools. On some occasions, it even resulted in the City having to close classrooms due to a lack of available teachers. With this change to the units, the City will still be in alignment with all applicable federal and state regulations and expects to yield more qualified candidates. It should be noted that HSD truly values the additional Infant/Toddler Units and will continue to encourage current and future incumbents to seek additional coursework in this area.

There are two vacancies. The revised specification will be used to initiate a recruitment in the near future.

The Service Employees International Union (SEIU, Local 1021) was notified of the proposed classification specification revisions. City staff and union representatives met on August 28, 2018 to discuss the proposed changes and potential impacts. Following discussion, the union confirmed at that meeting on August 28, 2018 that they have no objections to the proposed revisions.

Additionally, the Port of Oakland does not operate any social service programs such as Head Start. Classifications specifically designed for this role have no corresponding classifications at the Port.

Staff recommends that the Civil Service Board approve the proposed revisions to the **Early Head Start Instructor** classification specification.

**Attachments:** Revised draft Early Head Start Instructor classification specification.



# EARLY HEAD START INSTRUCTOR

**Class Code: PP174 FTE**

**Civil Service Classified**

## **DEFINITION**

Under direction in the Human Services Department, instructs children enrolled in Early Head Start Programs; instructs parents on early childhood development concepts; assists in developmental assessments; organizes and sets up education and play materials for classroom and/or makes home visits; and performs related duties as assigned.

## **DISTINGUISHING CHARACTERISTICS**

This is an entry-level classification. The incumbent is responsible for the full range of instructional duties associated with teaching parents of infants/toddlers in the Early Head Start Program. This is a classification in the Early Childhood Instructor series and can be distinguished from Early Childhood Center Director, which is a working supervisor position, and Childhood Education Coordinator, which is a full supervisory position.

The incumbent receives general supervision from the Early Childhood Center Director or the Childhood Education Coordinator and may provide lead direction to substitute teachers or other assigned staff.

## **EXAMPLES OF DUTIES** - *Duties may include, but are not limited to the following:*

Instruct children in basic infant/toddler education concepts.

Organize and set up developmentally appropriate education and play materials for the classroom and/or the home.

Conduct fire, disaster and safety drills in the classroom; inspect facility for safety standards and maintenance needs.

Assist in planning, organizing and scheduling daily activities at the center classroom or in the home.

Conduct developmental screenings, ongoing child observations, developmental assessments and devise Individual Development Plans (IDP) on all children enrolled in program; assist in developing Individual Family Service Plans (IFSP) for special needs children.

Maintain a clean and organized indoor and outdoor environment, including the food service area.

Make initial and final home visits; make additional/on-going home visits as needed.

Prepare snacks and serve meals.

Conduct outreach and recruit children and families for enrollment in the program.

Observe and supervise children in activities and ensure their health and safety at all times.

Observe children for unusual behavior or illness and notify parents.

Conduct parent conferences.

Keep routine records for daily attendance and progress of children in the classroom and/or the home.

Conduct weekly home visits for 1.5 hours per session.

Collaborate with parents in providing an individualized educational program for their children in the home.

Provide parent education, planning, and goal setting for parents.

May assist with the process of planning and implementing the health programs in areas such as physical examination, vision, hearing, dental screening, and growth/nutritional assessment; complete vision, hearing, growth, and nutrition assessments as needed; provide all necessary follow-up in these or other health needs.

Implement and plan socializations twice a month for three-hour sessions.

Promote parent/child bonding and nurturing parent/child relationships through modeling developmentally and culturally sensitive interactions and communications.

Administer Pediatric First Aid and Cardiopulmonary Resuscitation (CPR), as needed.

## **KNOWLEDGE AND ABILITIES**

Knowledge of:

- Infant, toddler, and early childhood development, growth and behavior.
- Motor skills and development.
- Teaching in an early childhood setting.
- Classroom management with Infant-Toddler children.
- Report writing.
- Safe work practices.
- Modern office equipment
- Personal computer and software applications.

Ability to:

- Maintain high quality classroom environments that meet or exceed the national average.
- Lead learning activities for children and parents.
- Maintain records and effectively prepare reports.
- Screen and assess children using developmentally appropriate tools; input data into program management tracking software.
- Plan developmentally appropriate activities for children.
- Learn and follow Early Head Start program procedures and regulations.
- Communicate effectively with children and parents.
- Follow oral and written directions.
- Work as part of a team in a culturally diverse environment.
- Organize and complete work assignments to meet established deadlines pursuant to performance standards and departmental policies and procedures.
- Make objective observations of children and communicate the findings in writing.

- Stand, walk, squat, kneel, bend, twist, reach above shoulder level and below waist level, push and pull, and lift up to 30 lbs. while monitoring children.
- Grasp and manipulate items such as writing utensils.
- Sit on the floor while working with infants, toddlers and children.
- Carry and bottle feed infants/toddlers.
- Walk from a parked car to a home site and climb up flights of stairs as necessary.
- Administer CPR and Pediatric First Aid.
- Establish and maintain effective work relationships with those contacted in the performance of required duties.

### MINIMUM QUALIFICATIONS

*Any combination of education and experience that is equivalent to the following minimum qualifications is acceptable.*

#### **Education:**

An Associate, Bachelor's or advanced degree in Early Childhood Education/Child Development (ECE/CD) or related field including three (3) units supervised field experience in early childhood education/child development (ECE/CD) completed at an accredited or approved college or university, [at least threesix \(36\)](#) units of which must be in infant/toddler coursework

OR

Twenty-four (24) units in ECE/CD including core courses plus sixteen (16) General Education (GE) units completed at an accredited or approved college or university, [at least threesix \(63\)](#) units of which must be in infant/toddler coursework.

AND hold, or qualify for, a Teacher Permit (or higher level permit) issued by the State of California;

#### **Experience:**

Six months of full-time work experience or one year of part-time experience in a licensed child care center or comparable group child care program.

### LICENSE OR CERTIFICATE

Individuals who are appointed to this position will be required to maintain a valid California Driver's License throughout the tenure of employment OR demonstrate the ability to travel to various locations in a timely manner as required in the performance of duties.

Must obtain a State of California Child Development Permit at the Teacher level within six months of employment and maintain throughout tenure of employment. Must demonstrate proof of application for Teacher (or higher level) permit from the State of California upon hire. Failure to obtain relevant teaching permit within six months will be grounds for removal during probation.

Must obtain Pediatric First Aid and CPR certifications within one year of employment and maintain throughout tenure of employment.

**OTHER REQUIREMENTS**

Depending on nature of assignment, candidates who receive offers of employment will be **required** to submit fingerprints, undergo a criminal record clearance, and have a physical examination including a TB screening.

Proficiency in a foreign language may be required.

<b><u>DEPT. OF HUMAN RESOURCES MANAGEMENT USE ONLY</u></b>					
Established:	11/19/2015	CSB Resolution #:	44790	Salary Ordinance #:	13361
Exempted:	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Exemption Resolution #:			
Revision Date:	/ /	CSB Resolution #:			
Re-titled Date:	n/a	CSB Resolution #:		Salary Ordinance #:	
(Previous title(s):	n/a )				



## CIVIL SERVICE BOARD MEETING MINUTES - DRAFT

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**Date: August 16, 2018**

**OPEN SESSION 5:30 p.m.**

**City Hall, One Frank H. Ogawa Plaza, Hearing Room 1**

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**BOARD MEMBERS:** Chair, Andrea Gourdine; Vice Chair, David Jones (Absent); Lauren Baranco (Absent); Yvonne Hudson-Harmon; Christopher Johnson; Carmen Martinez (Absent); Beverly A. Williams

**STAFF TO THE BOARD:** Ian Appleyard, HRM Director/Secretary to the Board (Absent)  
Greg Preece, HRM Manager/Staff to the Board  
Tabitha Pulliam, HRM Technician/Staff to the Board  
Michelle Meyers, Senior Deputy City Attorney

### OPEN SESSION AGENDA

#### ROLL CALL

##### 1) OPEN FORUM:

- Jeffrey Haymon – SEIU 1021
- Updates: Secretary to the Board (None)

##### 2) CONSENT CALENDAR:

- a) Ratification of Provisional Appointment
  - Health and Human Services Program Planner (2)
- b) Approval of Employee Requests for Leave of Absence
  - Public Ethics
  - Housing & Community Development
  - Police Department
  - Transportation
- c) Approval of Revised Classification Specification
  - Manager, Capital Improvement Program
  - Environmental Enforcement Officer (Litter/Nuisance Enforcement Officer)

**44901 A motion was made by Board Member Williams and seconded by Board Member Hudson-Harmon to approve the Ratification of Provisional Appointments, Requests**

**for Leave of Absence and the Revised Classification Specifications. The motion passed unanimously.**

**Votes:** Board Member Ayes: 4 – Gourdine, Hudson-Harmon, Johnson, Williams  
Board Member Noes: None  
Board Member Abstentions: None  
Board Members Absent: Baranco, Jones, Martinez

### 3) OLD BUSINESS:

- a) Approval of July 19, 2018 Civil Service Board Meeting Minutes

**Note: Approval of the July 19, 2018 Board Meeting Minutes will be held over to the Board Meeting in September due to lack of majority vote.**

**Votes:** Board Member Ayes: –  
Board Member Noes: None  
Board Member Abstentions: None  
Board Members Absent: Baranco, Jones, Martinez

- b) Determination of Schedule of Outstanding Board Items

*Report received and filed*

- c) Informational Report on the Status of Temporary Assignments for Temporary Contract Service Employees (TCSEs) and Exempt Limited Duration Employees (ELDEs) Including a Report of the Names, Hire Dates, and Departments of all ELDEs and TCSEs in Accordance with the Memorandum of Understanding Between the City and Local 21

*Report received and filed*

### 4) NEW BUSINESS:

- a) Update on Common Classification Study – Koff & Associates

*Report received and filed*

**44902 A motion was made by Board Member Williams and seconded by Board Member Johnson to adjourn the August 16, 2018 Civil Service Board Meeting.**

**Votes:** Board Member Ayes: 4 – Gourdine, Hudson-Harmon, Johnson, Williams  
Board Member Noes: None

Board Member Abstentions: None  
Board Members Absent: Baranco, Jones, Martinez

## 5) **ADJOURNMENT**

NOTE: The Civil Service Board meets on the 3rd Thursday of each month. The next meeting is scheduled to be held on Thursday, September 20, 2018. All materials related to agenda items must be submitted by Thursday, September 6, 2018. For any materials over 100 pages, please also submit an electronic copy of all materials.

Submit items via email or U.S. Mail to:

City of Oakland - Civil Service Board  
150 Frank H. Ogawa Plaza, 2<sup>nd</sup> floor  
Oakland, CA 94612  
[civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov)



Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email [civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov) or call (510) 238-3112 or (510) 238-3254 for TDD/TTY five days in advance.

¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico [civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov) o llame al (510) 238-3112 o al (510) 238-3254 Para TDD/TTY por lo menos cinco días antes de la reunión. Gracias.

你需要手語, 西班牙語, 粵語或國語翻譯服務嗎? 請在會議前五個工作天電郵 [civilservice@oaklandca.gov](mailto:civilservice@oaklandca.gov) 或致電 (510) 238-3112 或 (510) 238-3254 TDD/TTY



## CIVIL SERVICE BOARD MEETING MINUTES - DRAFT

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**Date: July 19, 2018**

**OPEN SESSION 5:30 p.m.**

**City Hall, One Frank H. Ogawa Plaza, Hearing Room 1**

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**BOARD MEMBERS:** Chair, Andrea Gourdine (Arrived 5:40); Vice Chair, David Jones; Lauren Baranco; Yvonne Hudson-Harmon; Christopher Johnson (Absent); Carmen Martinez; Beverly A. Williams (Absent)

**STAFF TO THE BOARD:** Ian Appleyard, HRM Director/Secretary to the Board  
Greg Preece, HRM Manager/Staff to the Board  
Tabitha Pulliam, HRM Technician/Staff to the Board  
Michelle Meyers, Senior Deputy City Attorney

### OPEN SESSION AGENDA

#### ROLL CALL

##### 1) OPEN FORUM:

- **Al Marshall – Labor Activists**
- **Updates: Secretary to the Board**

Note: Senior Deputy Attorney, Michelle Meyers provided clarification on the Board’s procedural policy on Hearings as defined by Sections 10.04 and 10.05 of the Personnel Manual (“Civil Service Rules”).

Director Appleyard introduced a new section to the Agenda: Updates provided by the Secretary to the Board.

##### 2) CONSENT CALENDAR:

- a) Ratification of Provisional Appointment
  - Specialty Combination Inspector, Senior
- b) Approval of Employee Requests for Leave of Absence
  - Fire Department
  - Library
- c) Approval of Revised Classification Specification
  - Cook, Supervising (Cook III)

**44894 A motion was made by Board Member Hudson-Harmon and seconded by Board Member Baranco to approve the Ratification of Provisional Appointment, Requests for Leave of Absence and the Revised Classification Specification with an amendment to correct a spelling error on the draft spec. The motion passed unanimously.**

**Votes:** Board Member Ayes: 4 – Baranco, Jones, Hudson-Harmon, Martinez  
Board Member Noes: None  
Board Member Abstentions: None  
Board Members Absent: Gourdine, Johnson, Williams

### 3) OLD BUSINESS:

a) Approval of April 19, 2018 Civil Service Board Meeting Minutes

**44895 A motion was made by Vice Chairman Jones and seconded by Board Member Martinez to approve the April 19, 2018 Civil Service Board Meeting Minutes. The Motion passed.**

**Votes:** Board Member Ayes: 4 – Gourdine, Jones, Hudson-Harmon, Martinez  
Board Member Noes: None  
Board Member Abstentions: Baranco  
Board Members Absent: Johnson, Williams

b) Approval of June 21, 2018, 2018 Civil Service Board Meeting Minutes

**44896 A motion was made by Board Member Hudson-Harmon and seconded by Board Member Martinez to approve the June 21, 2018 Board meeting minutes. The motion passed.**

**Votes:** Board Member Ayes: 3 – Baranco, Hudson-Harmon, Martinez  
Board Member Noes: None  
Board Member Abstentions: Gourdine, Jones  
Board Members Absent: Johnson, Williams

c) Determination of Schedule of Outstanding Board Items

*Report received and filed*

d) Informational Report on the Status of Temporary Assignments for Temporary Contract Service Employees (TCSEs) and Exempt Limited Duration Employees (ELDEs) Including a Report of the Names, Hire Dates, and Departments of all ELDEs and TCSEs in Accordance with the Memorandum of Understanding Between the City and Local 21

*Report received and filed*

**4) NEW BUSINESS:**

- a) Approval of a New Classification Specification for Manager, Finance and Approval of the Exemption of the Classification from the Provisions of Civil Service Pursuant to Charter Section 902(f)

**44897 A motion was made by Board Member Hudson-Harmon and seconded by Vice Chairman Jones to Approve the New Classification Specification for Manager, Finance. The motion passed unanimously.**

**Votes:** Board Member Ayes: 5 – Gourdine, Baranco, Jones, Hudson-Harmon, Martinez  
Board Member Noes: None  
Board Member Abstentions: None  
Board Members Absent: Johnson, Williams

- b) Approval of a New Classification Specification for Budget & Management Analyst, Principal and Approval of the Exemption of the Classification from the Provisions of Civil Service Pursuant to Charter Section 902(f)

**44898 A motion was made by Board Member Hudson-Harmon and seconded by Vice Chairman Jones to Approve the New Classification Specification for Budget & Management Analyst, Principal. The motion passed unanimously.**

**Votes:** Board Member Ayes: 5 – Gourdine, Baranco, Jones, Hudson-Harmon, Martinez  
Board Member Noes: None  
Board Member Abstentions: None  
Board Members Absent: Johnson, Williams

**44899 A motion was made by Vice Chairman Jones and seconded by Board Member Martinez to Approve the Exemption of the Classifications - Manager, Finance and Budget & Management Analyst, Principal - from the Provisions of Civil Service Pursuant to Charter Section 902(f). The motion passed unanimously.**

**Votes:** Board Member Ayes: 5 – Gourdine, Baranco, Jones, Hudson-Harmon, Martinez  
Board Member Noes: None  
Board Member Abstentions: None  
Board Members Absent: Johnson, Williams

- c) Approval of New Classification Specification for Budget Management Analyst and Budget & Management Analyst, Senior

**44900 A motion was made by Board Member Baranco and seconded by Board Member Hudson-Harmon to Approve the New Classification Specifications for Budget & Management Analyst and Budget & Management Analyst, Senior. The motion passed unanimously.**

**Votes:** Board Member Ayes: 5 – Gourdine, Baranco, Jones, Hudson-Harmon, Martinez  
Board Member Noes: None  
Board Member Abstentions: None  
Board Members Absent: Johnson, Williams

- d) Quarterly Report per Section 3.04(f) of the Personnel Manual of the Civils Service Board (“Civil Service Rules”) Providing Status of All Classification Specifications Revisions Currently Under Review

*Report received and filed*

- e) Oral Report: Transfer Process between the City of Oakland and the Port of Oakland

*Oral Report received and filed*

## 5) ADJOURNMENT

NOTE: The Civil Service Board meets on the 3rd Thursday of each month. The next meeting is scheduled to be held on Thursday, August 16, 2018. All materials related to agenda items must be submitted by Thursday, August 2, 2018. For any materials over 100 pages, please also submit an electronic copy of all materials.

Submit items via email or U.S. Mail to:

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Oakland, CA 94612  
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**APPEALS & HEARINGS CALENDAR  
PENDING LIST – September 20, 2018**

**1. OPEN**

Case Number	Classification	Dept.	Action Pending	Hearing Date	Notes/Next Steps
PORT-2018-AP01	Airport Operations Specialist	PORT	6.05 - Appeal of Probationary Removal/Demotion	September 20, 2018	OPEN SESSION
HRM-2018-AP01	Police Communications Dispatcher	OPD	3.02 (a) – Appeal of Classification of Positions	September 20, 2018	OPEN SESSION

**2. OTHER PENDING ITEMS**

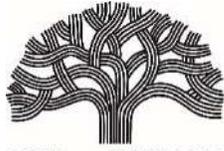
Date Requested	Subject	Report From	Date Due

**3. CLOSED**

Case Number	Classification	Dept.	Action Pending	Date Received	Notes

**4. UNDER REVIEW**

Case Number	Classification	Dept.	Action Pending	Action Date	Notes



CITY OF OAKLAND

# ***STAFF REPORT***

**DATE:** September 20, 2018

**TO:** THE HONORABLE CIVIL SERVICE BOARD

**FROM:** Greg Preece, HR Manager, Staff to the Board

**THROUGH:** Ian Appleyard, HR Director, Secretary to the Board

**SUBJECT:** TEMPORARY EMPLOYEES – Informational Report on the Status of Temporary Assignments for Temporary Contract Service Employees (TCSEs) and Exempt Limited Duration Employees (ELDEs) Including a Report of the Names, Hire Dates, and Departments of All ELDEs and TCSEs in Accordance with the Memorandum of Understanding Between the City and Local 21

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## **SUMMARY**

Staff has prepared this report to provide the Civil Service Board with an update on compliance with the Civil Service Rules related to temporary employees since the last report at the August 16, 2018 meeting that referenced data as of July 27, 2018. This report focuses on temporary employees in the categories of Exempt Limited Duration Employees (ELDEs) and Temporary Contract Service Employees (TCSEs), who are currently employed in the City of Oakland.

As of August 24, 2018, there are a total of fifty-nine (59) employees in the TCSE (17), TCSE/Annuitant (31), and ELDE (11) categories. Two (2) assignments were closed, and two (2) new assignments were added. Of the total, there are zero (0) assignments reported as non-compliant with Rule 5.06.

Reports showing all the temporary assignments discussed in this report are included in a list (*Attachment A*) and a chart of trends (*Attachment B*) attached to this narrative report to provide a snapshot of the overall changes month to month.

## **BACKGROUND**

The use of temporary employees is allowed under Civil Service Rule 5 (Certification and Appointment) in recognition that standard Civil Service employment practices can be cumbersome when a time-sensitive assignment arises or existing resources do not fit a specific need. Pursuant to the Civil Service Rules, Section 5.06 governing temporary assignments, ELDE assignments may not exceed one year and TCSE assignments may not be “ongoing or repetitive.”

**STATUS OF NONCOMPLIANT ASSIGNMENTS**

Of the total fifty-nine (59) temporary assignments, we are reporting zero (0) in this period as out of compliance with Rule 5.06.

**RECOMMENDATION**

Staff recommends that the Civil Service Board accept the monthly report on temporary assignments for Temporary Contract Service Employees (TCSEs) and Exempt Limited Duration Employees (ELDEs).

For questions regarding this report, please contact Greg Preece, Recruitment & Classification at (510) 238-7334.

Attachments:

- A. TCSE/ELDE Report: For Payroll Reporting August 24, 2018.
- B. TCSE/ELDE Compliance Trend Chart: As of August 24, 2018.

**CIVIL SERVICE BOARD  
SEPTEMBER 2018 MONTHLY REPORT OF TCSE/ELDE ASSIGNMENTS**

DEPT	LAST_NAME	FIRST_NAME	ORG	JOB_DATE	TYPE	HOURS	NOTES	STATUS
<b>CLOSED THIS PERIOD (2)</b>								
HUMAN RESOURCE MGMT.	Cook	Allyson	05211 - Human Resources Management	4/7/2018	ELDE		Spec under development for Assistant HR Director classification; duties not yet fully defined.	APPOINTED TO ASSISTANT HR DIRECTOR
HUMAN SERVICES	Montgomery	Stephanie	78111 - DHS Administration Unit	8/28/2017	ELDE		Temporary assignment to administer the Oakland ReCast program (grant)	PERMANENT
<b>NEW THIS PERIOD (2)</b>								
CITY ADMINISTRATOR	Kennedy	Christopher	02112 - Communications & Media	7/23/2018	TCSE	0	Temp assignment to help develop the City's new website in the Oakland Design League.	COMPLIANT
FIRE DEPARTMENT	Domingo	Renee	20711 - Emergency Services Program	7/16/2018	TCSE/ Annuitant		Temporary assignment to train new Emergency Services Manager	COMPLIANT
<b>COMPLIANT (57)</b>								
CITY ADMINISTRATOR	Dalmasso	Jennifer	02491- Oakland Animal Services	5/19/2018	TCSE/ Annuitant	0	Temporary on-call Veterinarian until premise license and DEA permit for shelter are transitioned.	COMPLIANT
CITY ADMINISTRATOR	Dyckoff	Howard	02111 - Administration Unit	9/27/2017	TCSE	0	Temporary project: Oakland Design League - to build the City's new website.	COMPLIANT
CITY ADMINISTRATOR	Griffin	Bendu	02621 - Employment Services	4/21/2018	ELDE		Temporary support to assist department with project close out phase	COMPLIANT
CITY ADMINISTRATOR	Hollenback	Joy	02491 - Oakland Animal Services	4/24/2018	TCSE/ Annuitant	283	Temporary on-call Veterinarian due to resignation of former incumbent	COMPLIANT
CITY ADMINISTRATOR	Kennedy	Christopher	02112 - Communications & Media	7/23/2018	TCSE	189	Temporary project: Oakland Design League - Front end/full stack developer	COMPLIANT
CITY ADMINISTRATOR	Kwan	Jennifer	02491 - Oakland Animal Services	5/12/2018	TCSE	68	Temporary part time Veterinarian to supplement and add capacity to service delivery.	COMPLIANT
CITY ADMINISTRATOR	Mason	Vanessa	02111 - Administration Unit	9/27/2017	TCSE	224.5	Temporary project: Oakland Design League - to build the City's new website.	COMPLIANT
CITY ADMINISTRATOR	Martinson	Leif	02111 - Administration Unit	9/27/2017	TCSE	0	Temporary project: Oakland Design League - to build the City's new website.	COMPLIANT
CITY ADMINISTRATOR	Mufarreh	Chris	02491- Oakland Animal Services	4/23/2018	TCSE/ Annuitant	127.5	Temporary on-call Manager	COMPLIANT
CITY ADMINISTRATOR	Swanson	Luke	02111 - Communications Unit	9/25/2017	TCSE	307.5	Temporary project: Oakland Design League - to build the City's new website	COMPLIANT
CITY ATTORNEY	Moore	Cheryl	04111 - City Attorney Administration Unit	4/25/2018	TCSE/ Annuitant	232.5	Temporary assistance in eliminating file backlog and special project for file inventory.	COMPLIANT
CITY CLERK	Abney	Michelle	03121 - Office of the Clerk	5/30/2018	TCSE/ Annuitant	208.5	Temporary support of the Hotel Labor and Youth Services measures.	COMPLIANT
CITY COUNCIL	Lopes	Joyce	00011 - Council Administration Unit	10/4/2016	TCSE/ Annuitant	0	Filling in for Council staff out on leave	COMPLIANT
CONTROLLER - FINANCE	Bhatnager	Amit	08211 - Accounting Administration Unit	1/8/2018	TCSE	184.5	Temporary project to develop Oracle Business Intelligence Enterprise Edition and Oracle Business Intelligence Applications.	COMPLIANT
DEPT. OF TRANSPORTATION	Brown	Brytane	35214 - Complete Streets Planning & Project	1/13/2018	ELDE		Spec under development for Transportation Planner series; duties not yet fully defined.	COMPLIANT
DEPT. OF TRANSPORTATION	Grant	Surlene	35111 - Director's Office	1/29/2018	TCSE	140.5	Temporary project to develop & implement a Public Outreach Strategy for the Capital Improvement Program (CIP).	COMPLIANT
DEPT. OF TRANSPORTATION	Karl	Elliot	35211 - OakDOT	10/7/2017	ELDE		Spec under development for Transportation Planner series; duties not yet fully defined.	COMPLIANT
DEPT. OF TRANSPORTATION	Neary	Michael	35211 - Department of Transportation	5/21/2018	TCSE/ Annuitant	59	Temporary assistance to develop, manage and implement the GoPort Program (transportation improvement)	COMPLIANT
DEPT. OF TRANSPORTATION	Phan	Hank	35245 - Bicycle & Pedestrian Program	4/7/2018	ELDE		Spec under development for Transportation Planner series; duties not yet fully defined.	COMPLIANT

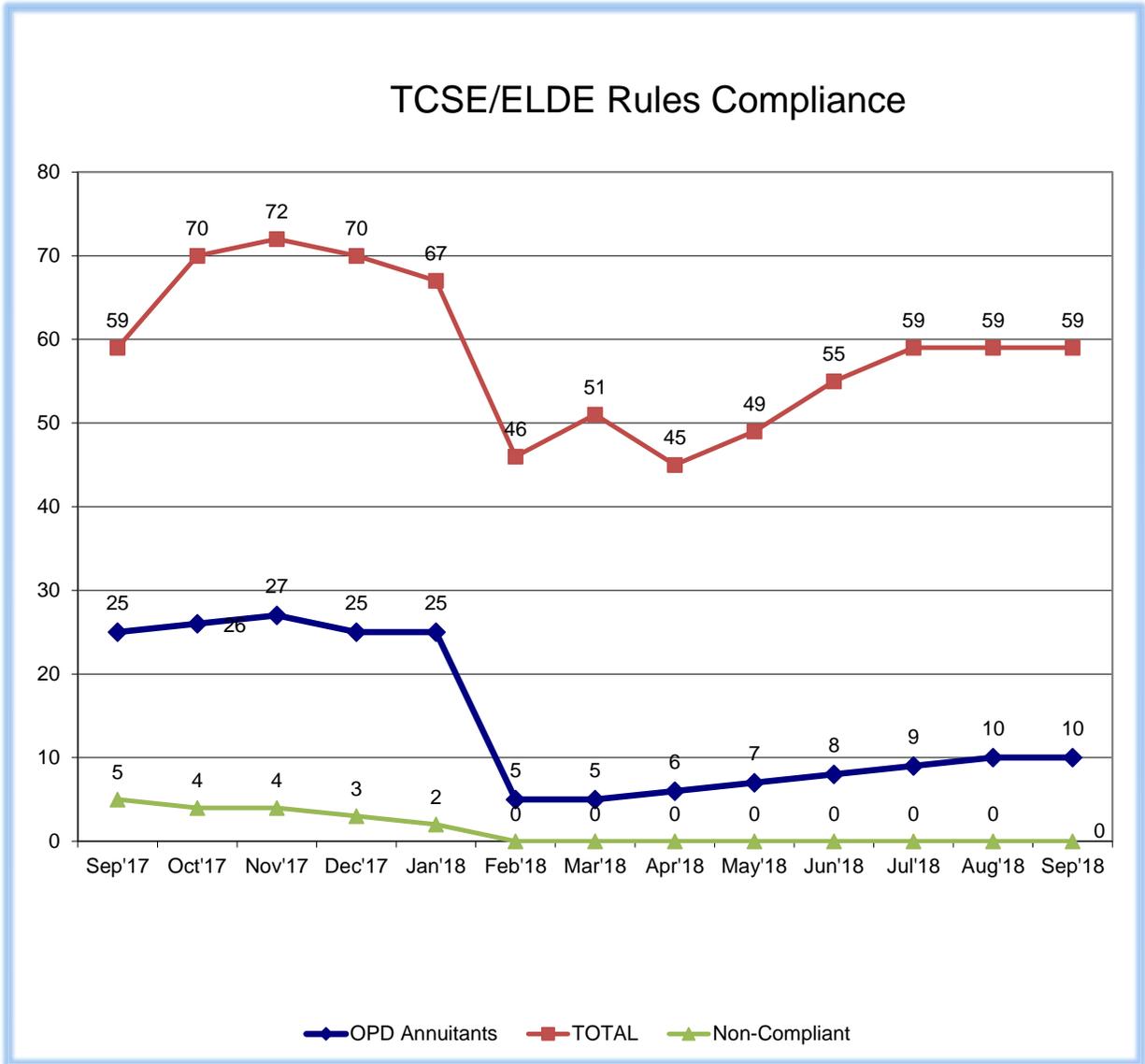
**CIVIL SERVICE BOARD  
SEPTEMBER 2018 MONTHLY REPORT OF TCSE/ELDE ASSIGNMENTS**

DEPT	LAST_NAME	FIRST_NAME	ORG	JOB_DATE	TYPE	HOURS	NOTES	STATUS
ECON & WORKFORCE	Kidder	Sarah	85511 - Cultural Arts & Marketing	6/5/2017	TCSE	19	Temporary project support in the Film Office.	COMPLIANT
ECON & WORKFORCE	Shahzada	Irfan	85111 - Admin: Economic & Workforce Development	5/5/2018	ELDE		Spec under revision for Accountant II; duties not yet fully defined.	COMPLIANT
FINANCE	Macias	Dalia	08211 - Accounting Administration Unit	7/11/2018	ELDE		Temporary project to assist with clean-up of Capital Projects and vendor data.	COMPLIANT
FINANCE	Misgun	Lula	08111 - Finance/Admin Unit	6/18/2018	TCSE/ Annuitant	292.5	Temporary support for Executive Assistant out on leave.	COMPLIANT
FINANCE	Treglown	Donna	08111 - Finance/Controller	6/18/2018	TCSE/ Annuitant	252.5	Temporary assistance to complete Capital projects and end of year fiscal reconciliations.	COMPLIANT
FINANCE/TREASURY	Poon	Natalie	08741 - Treasury Payroll	4/9/2018	TCSE	262	Temporary support for Human Resources Operations Tech out on leave.	COMPLIANT
FIRE DEPARTMENT	Kozak	Rebecca	20110 - Fire Chief Unit	5/21/2018	TCSE/ Annuitant	165	Temporary assistance developing staff and functions of the Office of the Chief of Fire manual and train Executive Assistant	COMPLIANT
FIRE DEPARTMENT	Weisgerber	William	20311 - Fire Marshal's Office Unit	5/7/2018	TCSE/ Annuitant	294	Temporary assistance until Fire Marshal is appointed	COMPLIANT
HOUSING & COMMUNITY DEV.	Cleveland	Everett	89929 - Housing Development	4/9/2018	TCSE	253	Temporary project performing significant administrative duties	COMPLIANT
HOUSING & COMMUNITY DEV.	Leshin	Maryann	89919 - Department of Housing & Community Development	2/13/2018	TCSE	269	Deputy Director - urgent need to fill position with exceptional duties that cannot be accomplished with current staffing level.	COMPLIANT
HUMAN SERVICES	Breedlove	Jaqueline	75231 - Multipurpose Senior Service Program	2/24/2018	TCSE/ Annuitant	187	Provide training to new Case managers and complete procedural manual for future reference per funder's mandate.	COMPLIANT
HUMAN SERVICES	Decuir	Roslynn	78241 - Year Round Lunch Program Unit	5/23/2016	TCSE	187	PT Food Program Coordinator; intermittent, pending creation of PT class; HRM staff preparing salary ordinance amendment to add part time equivalent in Feb/Mar 2018	COMPLIANT
HUMAN SERVICES	Hicks	Kathleen	78111 - DHS Administration Unit	3/1/2018	TCSE	266	Filing in for Executive Assistant staff out on leave.	COMPLIANT
HUMAN SERVICES	Ho	Kathy	78231 - HS Classroom & Seasonal	1/29/2018	TCSE/ Annuitant	0	Temp staffing to help with Instructor Staffing Crises and to meet Federal and State regulations of the Head Start Program.	COMPLIANT
HUMAN SERVICES	Martin-Bobo	Pamela	75231 - Senior Services Program	1/3/2018	ELDE		Temporary appointment while FEHA hold is in place.	COMPLIANT
HUMAN SERVICES	Shelton	Susan	78411 - Community Housing Services	9/11/2017	TCSE/ Annuitant	97	Temporary project: plan, facilitate and update Oakland Homeless Strategy	COMPLIANT
LIBRARY	Anderson	Susan	61511 - African American Museum & Library	10/21/2017	ELDE		Temporary Appointment to meet public service commitments and requirements of serving the AAMLO community pending National recruitment.	COMPLIANT
PLANNING & BUILDING	Borjon	Agustin	84229 - Zoning	2/27/2017	TCSE/ Annuitant	112	Time-limited project; temp assistance with backlog of permits	COMPLIANT
PLANNING & BUILDING	Dignan	Katie	84111 - Administration Unit	6/30/2018	ELDE		Temporary assistance to oversee the Building and Planning Bureaus.	COMPLIANT
PLANNING & BUILDING	Gunari	Seth	84111 - Admin: Planning, Building & Neighborhood Services	3/12/2018	ELDE		Temporary assignment to support Specialty Combination Inspectors	COMPLIANT
POLICE	Hill	Barbara	103310 - Communications Unit	2/2/2015	TCSE/ Annuitant	42	Retired Dispatcher providing intermittent emergency coverage.	COMPLIANT
POLICE	Smith	Phylliss	103310 - Communications Unit	7/20/2015	TCSE/ Annuitant	38	Retired Dispatcher providing intermittent emergency coverage.	COMPLIANT
POLICE	Covington	Donald	106610 - Background & Recruiting	4/23/2018	TCSE/ Annuitant	0	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT
POLICE	Gray	Steve	106610 - Background & Recruiting	6/15/2017	TCSE/ Annuitant	40	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT

**CIVIL SERVICE BOARD  
SEPTEMBER 2018 MONTHLY REPORT OF TCSE/ELDE ASSIGNMENTS**

DEPT	LAST_NAME	FIRST_NAME	ORG	JOB_DATE	TYPE	HOURS	NOTES	STATUS
POLICE	Hicks	Mark	106610 - Background & Recruiting	9/23/2013	TCSE/ Annuitant	116	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT
POLICE	Johnson	Carmen	106610 - Background & Recruiting	1/18/2014	TCSE/ Annuitant	141	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT
POLICE	Lighten	Ronald	106610 - Background & Recruiting	9/23/2013	TCSE/ Annuitant	0	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT
POLICE	Pressnell	Edward	100610 - Background & Recruiting	9/23/2013	TCSE/ Annuitant	8	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT
POLICE	Quintero	Joseph	106610 - Background & Recruiting	10/12/2013	TCSE/ Annuitant	27	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT
POLICE	Williams	Pamela	106610 - Background & Recruiting	4/23/2018	TCSE/ Annuitant	20	Per MOU Agreement; TCSE/ Annuitant supporting OPD backgrounding.	COMPLIANT
POLICE	Gatke	James	102121 - Propety Section	10/9/2017	ELDE		Police Property Specialist Spec under revision; duties not yet fully defined.	COMPLIANT
PUBLIC WORKS	Chavez	Humberto	30541 - Equipment Services Division	12/18/2017	TCSE	0	Temporary assistance with maintenance and repairs of specialized vehicles in the Heavy Equipment Shop	COMPLIANT
PUBLIC WORKS	Combs	Jocelyn	30111 - Director & Human Resources Unit	12/16/2017	TCSE/ Annuitant	64	Temporary support to help develop amd facilitate Department Strategic Action Plan	COMPLIANT
PUBLIC WORKS	Ferguson	David	30611 - Bureau Facilities & Environment	1/13/2018	TCSE/ Annuitant	277	Assistant Director - Short term management of the Bureau of Facilities and Environment.	COMPLIANT
PUBLIC WORKS	Kuvetakis	Joseph	30541 - Equipment Services Division	12/18/2017	TCSE/ Annuitant	0	Temporary assistance with maintenance and repairs of specialized vehicles in the Heavy Equipment Shop	COMPLIANT
PUBLIC WORKS	Perez - Perez	A. Nichole	30112 - Human Resources	3/24/2018	TCSE	239	Temporary support for Payroll staff out on leave	COMPLIANT
PUBLIC WORKS	Pham	Tan	30541 - Equipment Services Division	12/18/2017	TCSE/ Annuitant	0	Temporary assistance with maintenance and repairs of specialized vehicles in the Heavy Equipment Shop	COMPLIANT
PUBLIC WORKS	Weed	Jonelyn	30111 - Director & Human Resources Unit	12/16/2017	TCSE/ Annuitant	79	Temporary support to help develop amd facilitate Department Strategic Action Plan	COMPLIANT

**Non-Compliant (0)**





# MEMORANDUM

**DATE:** September 20, 2018

**TO:** The Honorable Civil Service Board      **FROM:** Jaime Pritchett  
Principal Human Resource Analyst

**THROUGH:** Greg Preece, Human Resources Manager, Recruitment & Classification

**THROUGH:** Ian Appleyard, Director of Human Resources Management  
Secretary to the Board

**SUBJECT:** Approval of New Classification Specification for Head Start/Early Head Start  
Assistant Instructor

Based upon a classification review at the request of the Human Services Department (HSD), staff has proposed the creation of a new classification titled **Head Start/Early Head Start Assistant Instructor**. The establishment of this new part-time classification will help HSD with their urgent need to maintain staffing levels during the school year. Recruitment activities are being initiated now to ensure the vacancies will be filled expeditiously.

Here is summary information related to the new classification:

### Head Start/Early Head Start Assistant Instructor

This is a proposed new, entry-level classification in the Head Start/Early Head Start Instructor series. Incumbents will: assist with instructing children enrolled in Head Start/State Preschool/Early Head Start Programs; assist with introducing parents to early childhood development concepts; observe during developmental assessments and may document observations; and assist in organizing and setting up educational and play materials for classrooms. They will gain experience by assisting the assigned teacher(s) with conducting developmentally appropriate activities for children in the classroom.

It is anticipated that the individuals appointed to these positions will be enrolled in college and seeking valuable experience in the field of child education. There is a national teacher shortage, and Oakland is suffering from reduced candidate pools. The City is taking necessary steps to develop a pipeline of candidates to promote into higher-level instructor positions once they attain all applicable education, experience, and license and certification requirements.

The Service Employees International Union (SEIU, Local 1021) was notified of the proposed new classification specification. City staff and union representatives met on August 28 and September 12, 2018 to discuss the proposed new classification and potential impacts. Following discussion of the union's concerns, one modification was made to the description. The union confirmed at the meeting on September 12, 2018 that they have no objections to the proposed new classification.

Staff is preparing a salary ordinance amendment to create the new part-time classification. It is tentatively scheduled for the October 23, 2018 Finance and Management Committee meeting.

**CIVIL SERVICE BOARD**

Subject: Head Start/Early Head Start Assistant Instructor Classification Specification

Date: September 20, 2018

Page 2

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Additionally, the Port of Oakland does not operate any social service programs such as Head Start. Classifications specifically designed for this role have no corresponding classifications at the Port.

Staff recommends that the Civil Service Board approve the proposed new **Head Start/Early Head Start Assistant Instructor** classification specification.

**Attachments:** Proposed new draft Head Start/Early Head Start Assistant Instructor classification specification.



# HEAD START/EARLY HEAD START ASSISTANT INSTRUCTOR

**Class Code: PPXXX PT**

**Exempt**

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## DEFINITION

Under direction in the Human Services Department, assists with instructing children enrolled in Head Start/State Preschool/Early Head Start Programs; assists with introducing parents to early childhood development concepts; observes during developmental assessments and may document observations; assists in organizing and setting up educational and play materials for classrooms; and performs related duties as assigned.

## DISTINGUISHING CHARACTERISTICS

This is an entry-level classification in the Head Start/Early Head Start Instructor series. The incumbent is responsible for assisting assigned teacher(s) with conducting developmentally appropriate activities for children in the Head Start/State Preschool/Early Head Start Programs. This classification can be distinguished from the Head Start/Early Head Start Instructor, which is a fully functional journey-level teacher position. It is further distinguished from the Head Start/Early Head Start Substitute Associate Instructor position, which is also an entry-level position that provides oversight and instruction in the classroom.

The incumbent receives general supervision from the Early Childhood Center Director and may receive lead direction from Head Start/Early Head Start Instructors.

## EXAMPLES OF DUTIES - *Duties may include, but are not limited to the following:*

Assist with instructing children in basic infant/toddler/preschool education concepts.

Assist with organizing and setting up developmentally appropriate educational and play materials for the classroom.

Assist with conducting fire, disaster and safety drills in the classroom; inspect facility for safety standards and maintenance needs.

Assist with organizing and scheduling daily activities at the center classroom.

Prepare snacks and serve meals.

Assist with conducting outreach and recruiting children and families for enrollment in the Head Start/State Preschool/Early Head Start Program.

Observe, visually supervise and monitor children, and take action as needed during activities to ensure their health and safety at all times.

Observe children for unusual behavior or illness and notify Head Start/Early Head Start Instructor or Early Childhood Center Director.

Provide support during parent conferences.

Maintain a clean and organized indoor and outdoor environment, including the food service area.

Assist with maintaining routine records for daily attendance and progress of children in the classroom.

Partner with parents to adhere to individualized educational programs (IEPs) for their children.

Support the parent education, planning, and goal setting for parents.

Promote parent/child bonding and nurturing parent/child relationships through modeling developmentally and culturally appropriate interactions and communications.

Administer Pediatric First Aid and Cardiopulmonary Resuscitation (CPR), as needed.

## **KNOWLEDGE AND ABILITIES**

Knowledge of:

- Basic concepts of infant, toddler, preschool, and early childhood development, growth and behavior.
- Motor skills and development fundamentals.
- Principles and practices of teaching in an early childhood setting.
- Classroom safety related to care and oversight of infant/toddler/preschool children.
- Safe work practices.
- Modern office equipment.
- Personal computer and software applications.

Ability to:

- Assist with leading learning activities for children and parents.
- Assist with maintaining records.
- Support the screening and assessment of children.
- Assist with implementing developmentally appropriate activities for children.
- Learn and follow Head Start/Early Head Start and California State Licensing rules and regulations.
- Communicate effectively with children and parents.
- Follow oral and written directions.
- Work as part of a team in a culturally diverse environment.
- Carry out routine tasks in conjunction with assigned staff to meet established deadlines pursuant to performance standards and departmental policies and procedures.
- Stand, walk, squat, kneel, bend, twist, reach above shoulder level and below waist level, push and pull, and lift up to 50 lbs. while monitoring children.
- Grasp and manipulate items such as writing utensils.
- Sit on the floor while working with infants, toddlers and children.
- Carry and bottle feed infants/toddlers.
- Walk from a parked car to a home site and climb up flights of stairs as necessary.
- Administer CPR and Pediatric First Aid.
- Establish and maintain effective work relationships with those contacted in the performance of required duties.

**MINIMUM QUALIFICATIONS**

*Any combination of education and experience that is equivalent to the following minimum qualifications is acceptable.*

**Education:**

Six (6) units of Early Childhood Education (ECE) or Child Development (CD) from an accredited college or university.

ADDITIONAL REQUIREMENT FOR EARLY HEAD START PROGRAM ASSISTANT INSTRUCTORS: Education must include three (3) units of Infant/Toddler coursework.

**Experience:**

None required. Experience in a licensed child care center or comparable group child care program is highly desirable.

**LICENSE OR CERTIFICATE**

Individuals who are appointed to this position will be required to maintain a valid California Driver's License throughout the tenure of employment OR demonstrate the ability to travel to various locations in a timely manner as required in the performance of duties.

Must possess a State of California Child Development Associate Teacher Permit at time of appointment. Failure to obtain relevant teaching permit upon receipt of conditional job offer will be grounds for removal.

Must obtain Pediatric First Aid and CPR certifications within one year of employment and maintain throughout tenure of employment.

**OTHER REQUIREMENTS**

Depending on nature of assignment, candidates who receive offers of employment will be **required** to submit fingerprints, undergo a criminal record clearance, and have a physical examination including a TB screening.

Proficiency in a foreign language may be required.

<b><u>DEPT. OF HUMAN RESOURCES MANAGEMENT USE ONLY</u></b>			
Established:		CSB Resolution #:	Salary Ordinance #:
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Revision Date:	/ /	CSB Resolution #:	
Re-titled Date:	n/a	CSB Resolution #:	Salary Ordinance #:
(Previous title(s): n/a )			



# MEMORANDUM

**DATE:** September 20, 2018

**TO:** The Honorable Civil Service Board

**FROM:** Jaime Pritchett  
Principal Human Resource Analyst

**THROUGH:** Greg Preece, Human Resources Manager, Recruitment & Classification

**THROUGH:** Ian Appleyard, Director of Human Resources Management  
Secretary to the Board

**SUBJECT:** Approval of New Classification Specification for Clean Community Supervisor

Based upon a classification review at the request of the Oakland Public Works (OPW) Department, Human Resources Management has proposed the creation of a classification specification for the **Clean Community Supervisor** classification.

Although the classification has been part of the Classification Plan for several decades, only a working draft of the classification specification existed. It is necessary at this time to adopt an official classification specification. Very little content remains from the original working draft, and the document has been overhauled to reflect the critical needs of the City's Illegal Dumping Program.

The Mayor, City Council, and City Administration responded to the community's concerns during mid-year adjustment proceedings for the FY 17-19 budget. Changes were adopted in June 2018 and included the addition of five positions (four at the officer level plus one supervisor) to combat illegal dumping and blight issues. The Clean Community Supervisor will oversee four Environmental Enforcement Officers as part of the City's Illegal Dumping Program.

There is one vacancy. This description is being used for the recruitment process that is already in progress.

The International Federation of Professional and Technical Engineers (IFPTE, Local 21) was notified of the proposed classification specification. City staff and union representatives met on August 16, 2018 to discuss the changes. In an email dated August 27, 2018, the union confirmed that they have no objections to the proposed classification specification.

Additionally, no determination has been rendered regarding the "common class" status of this classification. The "Common Class" Project is currently underway, and more information will be available in the future.

Staff recommends that the Civil Service Board approve the proposed new **Clean Community Supervisor** classification specification.

**Attachments:** Proposed New Clean Community Supervisor classification specification.



**DRAFT**

## **CLEAN COMMUNITY SUPERVISOR**

**Class Code: SC116**

**Civil Service Classified**

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### **DEFINITION**

Under general direction in the Oakland Public Works Department, organizes, manages, and directs the work of the Illegal Dumping Program to eradicate illegal dumping, educate the public, and enforce relevant local and state codes; addresses problem locations that attract abandoned waste, improves the lack of oversight in the affected areas, and establishes an on-going campaign to facilitate sustainable communities and environments by reducing blight; prepares short and long range plans; supervises and trains assigned staff; and performs related duties as assigned.

### **DISTINGUISHING CHARACTERISTICS**

This is a first-level supervisor classification. The incumbent oversees the Illegal Dumping Program and is responsible for working with Public Works crews and the community to reduce illegal dumping and blight in the community.

The incumbent receives direction from an Assistant Director, Public Works Agency, and exercises general supervision over Environmental Enforcement Officers, and provides lead direction to assigned professional, administrative, and maintenance staff.

### **EXAMPLES OF DUTIES** - *Duties may include, but are not limited to the following.*

Supervise a staff of Environmental Enforcement Officers; prepare long-range plans and formulate strategies; establish priorities; partner with other city departments, public and private groups, professional groups, merchants and special business districts, community stewards, and citizens to explain or coordinate efforts to combat illegal dumping.

Oversee the Illegal Dumping Program and execute a collective effort to enhance the City's appearance, encourage business and property owners' compliance with disposal programs, and enforce environmental safety; plan and coordinate beautification projects with volunteers to deter abandoned waste; work with Business Improvement Districts.

Promote proper disposal of unwanted items by providing education, public awareness, and technical assistance to residences, businesses, and organizations; organize and speak to a wide variety of community groups at events such as town hall meetings, community workshops, and festivals.

Assist with maintaining the City's website; expand outreach efforts and ensure materials are available in multiple languages; educate and engage residents and the business community to increase public awareness through marketing and social media.

Assist with coordination of clean-up programs; organize meetings and conduct recruitment from merchant associations, businesses, inter-agency organizations, neighborhood groups, volunteer organizations, schools and other City departments to assist with program efforts.

Assist with training and educating business owners and residents on the complexities of illegal dumping, litter, hazardous material, mattresses, e-waste, composting, recycling, sufficient solid waste receptacles, encroachment on public right of ways, how to properly dispose of items, how

to report abandoned waste, and other related issues.

Supervise enforcement operations of applicable municipal and penal codes, fines issued and collected, Administrative Citation Appeals, Vehicle Warning Notices, Hauler Notifications, and Sidewalk Encroachment Notices.

Assist with developing, implementing, and accessing automated systems and databases for recordkeeping and reporting of data.

Provide staff assistance to citizen advisory bodies, committees, and commissions; prepare and present reports to City Council; respond to inquiries and requests.

Assist in developing program goals, objectives, policies, and procedures for effective eradication, education, and enforcement.

Prepare and analyze reports, as needed.

Work with City departments and the community in identifying, surveying, evaluating, planning, and implementing programs that will result in sustainable neighborhoods.

May provide input regarding the negotiation, administration, and monitoring of professional services agreements and contracts with local non-profit agencies.

Review materials and remain current regarding developments in the areas of illegal dumping and proper disposal of items.

Act as a liaison to special districts, non-profit agencies, and local, state, and federal illegal dumping programs.

Assist with developing and monitoring a program budget.

## **KNOWLEDGE AND ABILITIES**

Knowledge of:

- Project management; methods and equipment used in eradication, education, and enforcement of illegal dumping.
- Principles of supervision, training, and evaluation.
- Public contact and public speaking principles.
- Report preparation.
- Computer systems and software applications.
- Budget development and administration; contract administration.

Ability to:

- Communicate effectively both orally and in writing.
- Coordinate projects with staff businesses, residents, community groups, and other stakeholders.
- Prepare, analyze, and present reports.
- Access databases and automated systems for reporting and preparing reports.
- Provide leadership and direction; supervise and train employees.
- Communicate effectively with individuals from diverse backgrounds.
- Handle sensitive matters with tact and diplomacy; defuse hostile situations.
- Monitor budgets and contracts.

- Utilize computer systems and software applications.
- Establish and maintain effective working relationships with those contacted in the performance of required duties.

**MINIMUM QUALIFICATIONS**

*Any combination of education and experience that is equivalent to the following minimum qualifications is acceptable.*

**Education:**

A Bachelor’s Degree from an accredited college or university in public administration, organizational development, environmental studies or a related field, is highly desirable.

**Experience:**

Three (3) years of progressively responsible experience in public works construction and maintenance. Previous lead or supervisory experience is highly desirable.

**LICENSE OR CERTIFICATE**

Possession of a valid California Driver’s License will be required through duration of employment.

Completion of the American Public Works Associations (APWA) Public Works Institute Modules 1-4 is highly desirable.

**OTHER REQUIREMENTS**

Proficiency in a foreign language may be required.

<b>DEPT. OF HUMAN RESOURCES MANAGEMENT USE ONLY</b>			
Established:		CSB Resolution #:	Salary Ordinance #:
Exempted:	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Exemption Resolution #:	
Revision Date:	/ /	CSB Resolution #:	
Re-titled Date:	/ /	CSB Resolution #:	Salary Ordinance #:
(Previous title(s): )			



# HEARING REQUEST FORM - CIVIL SERVICE BOARD

Request must state the specific reason for the appeal request and the section or provision of the Rules under which the appeal is being submitted.

Today's Date 8/14/18

### Appellant Information

Appellant Full Name McNab Kent  
Last First M.I.

Address 100 Oak St  
Street Address

Oakland CA 94607  
City State ZIP Code

Primary Phone (510) [REDACTED] Alternate Phone ( )

E-mail Address Kemcnab@gmail.com

Basis of Appeal (Please cite Civil Service Rules section.): violated Rule 3.02

(The Union believes that this classification were placed in the wrong classification unit. The job specs is identical to SEIU 1021's "lead" position + should stay as such.

Date of Alleged Rules Violation 7/19/18 City Department OPD Communications Dispatch

### Representative Information

Representative Name Yen DO

Address 100 Oak Street  
Street Address

Oakland CA 94607  
City State ZIP Code

Primary Phone (510) 710-0197 Alternate Phone ( )

E-mail Address Yen.DO@seiu1021.org

Representative Type:  Union 1021  Attorney  Other

I am available the following third Thursdays of the month over the next three months to present the appeal:

\_\_\_\_\_

Estimated Number of Hours to Present: \_\_\_\_\_



CITY OF OAKLAND

# *STAFF REPORT*

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**DATE:** September 20, 2018

**TO:** THE HONORABLE CIVIL SERVICE BOARD

**FROM:** Jaime Pritchett, Principal Human Resource Analyst

**THROUGH:** Greg Preece, Human Resources Manager

**THROUGH:** Ian Appleyard, Director of Human Resources Management

**SUBJECT:** Informational Report Regarding the Bargaining Unit Allocation of the New Police Communications Dispatcher, Senior Classification

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## *Background*

The Civil Service Board approved the creation of a new classification titled **Police Communications Dispatcher, Senior** on June 21, 2018. This new classification was established to help the Police Communications Section address critical health and safety issues among staff while supplementing the existing reporting structure. It was never intended to replace the designated Certified Training Officer role [Certified Trainer (CT) that is subject to a premium pay] that already exists per the Service Employees International Union (SEIU, Local 1021) Memorandum of Understanding.

The new classification is responsible for performing the more technical and complex tasks relative to assigned area of responsibility, may provide lead direction or functional supervision to employees engaged in dispatching/call taking operations on an assigned shift, and will perform a wide variety of specialized clerical and administrative duties. Incumbents may provide training to employees.

The new classification was placed in bargaining unit UH1 (Supervisors) of the International Federation of Professional and Technical Engineers (IFPTE, Local 21). This is consistent with the existing Fire Communications Dispatcher, Senior classification since these two classifications are most closely aligned. The salary rate is also commensurate with the existing senior fire dispatcher classification.

All applicable mandatory bargaining obligations were met. City staff and Local 21 representatives met monthly between January and May 2018 to discuss the proposed classification. By June 2018, the union confirmed that they did not have any objections to the proposed new classification and the item was scheduled to the June 21, 2018 Civil Service Board meeting for approval.

## *Employer-Employee Relations Resolution*

Pursuant to Section 13 Appropriate Unit, of the City of Oakland Employer-Employee Relations Resolution (EERR #55881), the Police Communications Dispatcher, Senior classification was assigned to the bargaining unit UH1. This EERR section states, "Representation units shall be designated by the Employee Relations Officer from time to time." In making such designations and in allocating new and existing classes, the City shall consider a number of factors, including but not limited to, scope and breadth of authority, wages, hours, and working conditions, and

**CIVIL SERVICE BOARD**

Subject: Informational Report Regarding the Bargaining Unit Allocation of the New Police Communications  
Dispatcher, Senior Classification

Date: October 18, 2018

Page 2

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whether or not there is a community of interest among the employees comprising the proposed unit.

Attachments: City of Oakland Employer-Employee Relations Resolution (EERR #55881)  
Approved Police Communications Dispatcher, Senior Classification Specification



**DRAFT to CSB  
2018-05-03**

# **POLICE COMMUNICATIONS DISPATCHER, SENIOR**

**Class Code: XXXXX FTE      Civil Service Classified**

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## **DEFINITION**

Under direction in the Oakland Police Department’s Communications Section, the Senior Police Communications Dispatcher performs the more technical and complex tasks relative to assigned area of responsibility and may provide lead direction or functional supervision to employees engaged in dispatching/call taking operations on an assigned shift; performs a wide variety of specialized clerical and administrative duties; may provide training to employees; and performs other duties as assigned.

## **DISTINGUISHING CHARACTERISTICS**

This is the advanced-journey, lead level classification in the Police Communications Dispatcher series. This classification is distinguished from the higher level Police Communications Supervisor in that incumbents of that classification exercise full supervisory responsibility for managing dispatch operations of an entire police communications shift. It is further distinguished from the lower level of Police Communications Dispatcher in that incumbent performs dispatching of emergency and non-emergency police services without lead responsibility.

The incumbent receives general supervision from the Police Communications Supervisor and provides lead direction to Police Communications Dispatchers and Call Takers.

## **EXAMPLES OF DUTIES** - *Duties may include, but are not limited to, the following:*

Provide lead direction over assigned Police Communications Dispatchers and Police Communications Operators in answering and screening telephone calls for Fire, Police, Medical, and/or other emergency and non-emergency City services.

Analyze emergency situations and direct employees as to appropriate course of action including assignments, requests for mutual aid and/or canceled alerts.

Monitor and prompt employee’s response to emergency situations to assure response is appropriate to protect life and property; assist with problems as they arise.

Monitor and ensure the accuracy of information that is transmitted via radio and telephone and entered into computerized police information files; ensure that employees comply with all policies and procedures.

Coordinate dispatch services for emergency situations and major incidents with outside jurisdictions.

Prepare and maintain detailed records of shift activity; prepare staffing, training and other statistical reports.

May train new employees; may provide input to employee performance evaluations.

Maintain, trouble-shoot, diagnose, repair and monitor maintenance of all other components utilized in day-to-day operations including 911 telephone system, radio equipment, personal computers, dispatcher headsets, and other equipment and machinery.

Dispatch Police and order services requested by field units; dispatch and/or cancel field unit back-up assistance; monitor field units for service availability.

Communicate civil and criminal legal information/instructions to emergency and non-emergency callers.

Receive and assist with responses to complaints from the public or other City departments, field units or outside agencies; research complaints and assist with recommending appropriate action.

Log all departmental activities; compile data and prepare reports of reported emergencies, equipment dispatched, and/or position of emergency.

Perform duties of a Police Communications Dispatcher during times of emergency or when staffing shortages occur.

May provide testimony in court regarding legal proceedings related to calls received by dispatchers/call takers.

May act for the Police Communications Supervisor during his/her absence.

Work irregular days and variable shifts.

#### **KNOWLEDGE AND ABILITIES:**

Knowledge of:

- Operation of computer and communication equipment used in a dispatch environment.
- Policies and procedures for emergency dispatch operations; communication dispatch.
- Emergency rules, regulations, and response terminology.
- Basic principles and practices of supervision.
- Report preparation.
- Geographic layout of the City of Oakland.
- 911 operating procedures.
- Customer service and effective telephone answering protocols.
- Correct English usage, spelling, punctuation, and grammar to write and review reports.
- Record keeping and records maintenance procedures.
- Personal computer systems and software applications.

Ability to:

- Provide lead direction to employees in emergency telephone answering and radio dispatching.
- Interpret and apply rules, regulations, policies, and procedures.
- Analyze emergency situations and adopt a quick, effective course of action.
- Work under stress and exercise good judgment in emergency situations.
- Train and provide necessary instruction to employees.
- Enter data completely and accurately into automated information systems; operate the City's computer-aided dispatch system and modern office equipment.

- Apply Oakland Police Department law enforcement policies and procedures.
- Query automated warrant systems, P.I.N., N.C.I.C., and C.L.E.T.S. for data.
- Speak clearly and concisely.
- Communicate effectively both orally and in writing.
- Type at a minimum of 40 words per minute (WPM).
- Make decisions and be aware of the possible impact of those decisions.
- Read and interpret maps.
- Follow oral and written directions.
- Utilize personal computer systems and software applications.
- Establish and maintain effective work relationships with those contacted in the performance of required duties.

**MINIMUM QUALIFICATIONS**

*Any combination of education and experience that is equivalent to the following minimum qualifications is acceptable.*

**Education:**

High school diploma or equivalent.

**Experience:**

Four years of progressively responsible work experience performing law enforcement/emergency services dispatching.

**LICENSE OR CERTIFICATE:**

Possession of a valid California Driver's License. Due to assignments and hours worked, public transportation may not be an efficient method for traveling to required locations. Individuals who are appointed to this position will be required to maintain a valid California Driver's License throughout the tenure of employment OR demonstrate the ability to travel to various locations in a timely manner as required in the performance of duties.

Typing certificate from a recognized educational institution, employment agency, or other organization certifying ability to type at least 40 words per minute (40 WPM) administered within the last six (6) months.

Must possess Post Officer Standards and Training (P.O.S.T.) Public Safety Dispatchers' Certificate.

**OTHER REQUIREMENTS**

Must be eighteen (18) years of age or older.

Must be able to pass a thorough background investigation.

<b>DEPT. OF HUMAN RESOURCES MANAGEMENT USE ONLY</b>		
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Revision Date:	/ /	CSB Resolution #:	
Re-titled Date:	/ /	CSB Resolution #:	Salary Ordinance #:
(Previous title(s):	)		

OKLAND CITY COUNCIL

RESOLUTION No. 55881 C.M.S.

INTRODUCED BY COUNCILMAN \_\_\_\_\_

RESOLUTION REPEALING RESOLUTION NO. 52073 C.M.S.  
AND RESOLUTION NO. 53038 C.M.S. AND ADOPTING  
RULES AND REGULATIONS GOVERNING EMPLOYER-EMPLOYEE  
RELATIONS IN THE CITY GOVERNMENT

WHEREAS, on March 2, 1972, Resolution No. 52073 C.M.S.  
adopted rules and regulations governing employer-employee relations in the  
City Government; and

WHEREAS, on March 22, 1973, Resolution No. 53038 C.M.S.  
amended Resolution 52073 C.M.S.; and

WHEREAS, revisions to existing rules and regulations set forth  
in the above resolutions are necessary to promote improved employer-employee  
relations in the City Government; now, therefore, be it

RESOLVED: Resolution Numbers 52073 C.M.S. and 53038 C.M.S.  
are hereby repealed; and be it

FURTHER RESOLVED: It is the public policy of the Municipal  
government to maintain good relations between that government and those employed  
by it, and to protect the public by assuring the orderly and uninterrupted operation  
and services provided by the City. To that end and pursuant to Section 3507 of the  
Government Code, the following rules and regulations are hereby adopted.

Section 1. Definitions. For the purposes of this Resolution, the  
following terms shall have these meanings:

- a. "Employee Organization" shall be as defined in Section 3501  
of the Government Code of California (commonly known and  
hereinafter referred to as Meyers-Milias-Brown (MMB)  
Act).
- b. "Confidential Employee" means any employee who is privy to  
the management decision-making discussions and memoranda  
affecting employer-employee relations.
- c. "Employee Relations Officer" means the City Manager and/or  
his designated representative.
- d. "Management Employee" means an employee having significant  
responsibilities for formulating and administering City  
policies, procedures and programs, including but not limited to  
the City Manager, his staff, all department heads, assistant  
department heads and division chiefs, as designated from time to  
time by the City Manager.

1681

- e. "Consult" means to communicate orally and/or in writing for the purpose of presenting and exchanging views.
- f. "Employee" means any person who is employed by the City of Oakland, as designated by the Employee Relations Officer.
- g. "Professional employee" shall be as defined in Section 3507.3 of the MMB Act.
- h. "Recognized Employee Organization" means an employee organization which shall have the right to "meet and confer in good faith" with the Employee Relations Officer or other designated representatives of the City.
- i. "Appropriate Unit" means a grouping of employees by class which may be appropriately represented by one employee organization.
- j. "Meet and confer in good faith" refers to the procedure and to the subject matter within the scope of representation provided therefor in the MMB Act.
- k. "Majority Representative" means an employee organization which has been granted formal recognition as representing the majority of employees in an appropriate unit and thereby is the recognized employee organization for such unit.
- l. "Supervisor" or "supervising employee" means an employee who has responsibility for supervising the work of others, or who has authority to exercise independent judgment in the assigning of tasks to subordinates, in directing their work, or in transferring, suspending or evaluating them, or in adjusting their grievances; or who has the authority to recommend action in connection with hiring, discharge and disciplinary matters.

The City Manager shall from time to time designate Management Employees, Confidential Employees, and Supervisory Employees.

Section 2. Employee Relations Officer. The City Manager or his designated representatives shall represent the City in employer-employee relations. All recognized employee organizations shall be notified of any such designation.

Section 3. Federal, State and City Preemption. Any and all subjects preempted by Federal or State law or by the City Charter are excluded from the scope of the meet and confer process.

Section 4. City Responsibilities and Rights. It is the exclusive right and responsibility of the City to determine the organization of its activities, to determine the mission of each of its organizational units, to set standards of service, to determine and enforce the required levels of employee skill and performance, and to exercise control and discretion over its organization and operations. It is also the exclusive right and responsibility of the City to assign, reassign and direct its employees and the use of its equipment and vehicles, to take disciplinary action for proper cause, to terminate employees for lack of funds or work or other legitimate reasons, and to determine the means, number and kind of personnel by which the City's operations are to be conducted. It is also within the City's exclusive right and responsibility to contract any work or operation permitted under the City Charter and to take all necessary actions in emergencies to carry out its functions. The City will "consult" on the practical consequences of contracting any work or operation permitted under the City Charter.

The City shall not be required to meet and confer in good faith on City responsibilities and rights or on employee rights as defined in Section 4 and 5 respectively. Proposed amendments to this Resolution are excluded from the scope of the meet and confer process, but are subject to consultation.

Section 5. Employee Rights. Each City employee shall have the rights set forth in Section 3502 of the MMB Act. Nothing in this Resolution shall be construed to restrict the right of an individual employee to present matters involving his personal employment relationship to management, provided that any action taken is not inconsistent with the terms of a memorandum of understanding then in effect which applies to such employee.

Section 6. Responsibility to Represent. Each employee organization shall represent fairly all employees within its organizational unit who wish to be represented and shall not discriminate on the basis of organizational membership, race, color, creed, sex, or national origin.

Section 7. Prohibition Against Discrimination. The City shall not discriminate for or against any employee organization or its members nor in any way coerce or influence any employee in his free choice to join or not to join any employee organization, nor shall it discriminate on the basis of race, color, creed, sex, or national origin.

Section 8. Registration of Employee Organizations. Each organization which desires to be registered as an employee organization shall file with the Employee Relations Officer a statement, signed by its principal officer, indicating:

- a. Name and mailing address of the organization.
- b. Names and titles of organization officers.

Any employee organization whose membership consists of City employees may represent its members in consultation with the Employee Relations Officer and before the City Council with respect to matters within the scope of representation, but the "Meet and Confer" process will be available only to recognized employee organizations.

Each such organization shall submit a statement, signed by its principal officer, that the organization has no restrictions on membership based on race, color, creed, national origin or sex.

Section 9. Proof of Representation. Proof that an employee organization represents City employees shall be evidenced by employee authorization forms, furnished by the City, and signed and dated by the eligible employees within sixty (60) days prior to the submission of such authorization forms. Only authorization forms of persons currently employed at the time proof is submitted shall be counted.

Section 10. Time for Petition and Recognition. Petitions seeking recognized employee organization status and containing such information as is described in Section 11 may be filed with the City, identifying the representation unit for which recognition is sought. The Employee Relations Officer shall

determine the validity of each such initial petition within fifteen (15) days after the last date of the filing period. If an election is not required, the recognized employee organization shall be formally acknowledged within thirty (30) days after such determination. If an election is required, it shall be held within thirty (30) days after such determination with respect to the additional petition (or petitions); the results shall be determined and announced within thirty (30) days after such election; and the recognized employee organization so determined shall be formally acknowledged within thirty (30) days after such determination.

Employee organizations may appeal adverse decisions under this section by the Employee Relations Officer to the City Council who, in their discretion, may hear the appeal or refer it to a sub-committee thereof.

**Section 11. Certification of Employee Organizations.** Any employee organization which desires to be certified as a recognized employee organization, in addition to complying with the requirements of Section 9 shall file with the Employee Relations Officer a petition signed by its presiding officer, showing:

- a. The name of the employee organization.
- b. The name, address and title of each principal officer and of the representative of the employee organization.
- c. A statement by its principal officer that the organization has as one of its primary purposes representation of employees in their employment relations with the City.
- d. A clear description of the general composition of the proposed representation unit and the number of employees in the proposed unit:
- e. A statement by the employee organization to the effect that it has been designated as a representative employee organization by at least 20% of the employees in the proposed representation unit.
- f. A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.
- g. The petition shall be accompanied by appropriate evidence that the employee organization has in fact been designated by at least 20% of the employees in the proposed representation unit. Such evidence shall consist of signed forms furnished by the City and signed by eligible employees, and dated within sixty (60) days prior to the filing of the petition authorizing such representation. The petition and the accompanying evidence shall be verified in writing by the chief officer of the employee organization as true and accurate.

**Section 12. Notice of Filing Petition.** Upon receipt of a Section 11 petition, the Employee Relations Officer shall within ten (10) working days post a notice upon the official bulletin board in the City Clerk's office that such petition has been filed.

Section 13. Appropriate Units. Representation units shall be designated by the Employee Relations Officer from time to time. In making such designations, and in allocating new and existing classes to units, the Employee Relations Officer shall consider the following factors, among others, although the principal criterion shall be whether or not there is a community of interest among the employees comprising the proposed unit.

- a. Will the proposed unit assure employees freedom in the exercise of rights set forth under this Resolution?
- b. What is the history of employee relations in the unit; among other employees of the City, and in similar public employment generally?
- c. What will be the effect of the unit on the efficient operation of the City and upon sound employee-employer relations?
- d. Will the criteria result in the broadest feasible units?

Appeal from the determination of the Employee Relations Officer as to appropriate units shall be heard by the City Council or, in its discretion, by a committee thereof, upon written request of the employee organization, setting forth the specific reasons upon which the appeal is based.

Section 14. Membership in Units. The following limitations shall apply to formation of, and membership in, recognized employee organizations (appropriate units) for purposes of representation:

- a. An employee shall not be represented by more than one employee organization for the purpose of representation.
- b. Confidential employees shall not be included in any unit which includes non-confidential employees.
- c. Professional employees shall have the right not to be included in any unit which includes non-professional employees.
- d. Neither Management Employees nor Confidential Employees shall represent an employee organization which includes non-management or non-confidential employees, in consulting with, or in meeting and conferring with, the Employee Relations Officer.
- e. Management employees shall not be included in the same unit as non-management employees.

Section 15. Recognition of Valid Petitions. If the Employee Relations Officer determines that a valid Section 11 petition has been filed, he shall then determine the percent of proof of employee approval. A petition accompanied by proof of employee approval of 20% or more within the representation unit shall be certified as a valid petition; petitions not accompanied by proof of employee approval by at least 20% of the employees within that representation unit will not be acted upon.

The Employee Relations Officer shall post notice of his certification of valid petitions on the official bulletin board in the City Clerk's Office. A secret ballot election shall then be held among the holders of valid petitions by the City Clerk or other disinterested person or office.

- a. Eligible members of the particular representation unit will be afforded the opportunity to vote by secret ballot to determine which employee organization, if any, of those appearing on the ballot shall represent them. To become the recognized employee organization for a designated representation unit, the employee organization must receive a majority of the votes cast, and the total of the votes cast must constitute at least 51% of the total possible votes in the unit.
- b. Eligible voters shall be those employees in the appropriate unit whose names appeared on the first payroll in the month immediately prior to the call of election as employees in said unit, including those shown as on vacation or other authorized leave of absence.
- c. Every ballot for such election shall contain a choice of "no organization" in addition to the names of each employee organization which has qualified for a place on the ballot. If "no organization" receives a majority of the votes cast, no employee representative shall be recognized for the unit.
- d. Each election shall be conducted by rules and procedures established to guard against fraud, mistake, ineligible voting and the like.
- e. If none of the ballot choices receives a majority of the votes cast, a run-off election shall be held between the two choices receiving the highest number of votes.
- f. If less than 51% of the employees in the appropriate unit eligible to vote cast their ballots in the election, the election shall be declared a nullity and no further election shall take place for a minimum period of one year.
- g. Any costs incurred in conducting elections shall be borne equally among the involved employee organizations and the City of Oakland.
- h. Each employee organization included on the ballot shall be authorized one official observer to observe the voting and the counting of votes. A committee of two management representatives and one representative of each employee organization involved shall establish any special procedures needed for conduct of the election.
- i. The employee organization receiving a majority of the votes so cast and counted, provided that these constitute at least 51% of the total possible vote, shall be formally acknowledged as the recognized employee organization for the designated appropriate unit.

Section 16. Reconsideration of Recognition. A formally acknowledged employee organization representing an appropriate unit shall continue such representation from year to year following such formal acknowledgment pursuant to the following procedures:

- a. Such acknowledged employee organization may withdraw from such representation at any time upon filing written notice thereof with the Employee Relations Officer not less than 30 days preceding said date of withdrawal. In such case, the MOU between such employee organization and the City shall terminate effective on the date of withdrawal.
- b. During the period 150 days and 120 days prior to the expiration date of a Memorandum of Understanding (and prior to the third and subsequent anniversary dates of a Memorandum of Understanding of longer duration than three years) Section 11 petitions may be completed and filed by employee organizations which seek to replace a recognized employee organization with respect to the appropriate representation unit which is represented by such recognized employee organization and/or which petitions may propose a modified unit to include some or all of the employees in said unit and some other employees. Such petition shall be evaluated and processed pursuant to Sections 11, 13 and 15.
- c. Annually between October 1 and December 1, each formally acknowledged employee organization representing an appropriate unit, to qualify for continued formal acknowledgment as such, shall provide the Employee Relations Officer with such information as he may require as to whether or not there has been any change in the facts and information on file in support of its Section 11 petition, as to what the change (or changes) is and shall state the changed information; and as to current appropriate evidence that it is the designated organization representing at least 30% of the employees in the unit. The Employee Relations Officer may formally declare and notify the organization that it no longer is a recognized employee organization promptly upon its failure to comply with these requirements.
- d. The City Manager at any time, for appropriate reasons including substantial changes in City functions, organizational structure or job classification, may initiate a reconsideration of the recognition of an employee organization by proposing a new or modified appropriate representation unit or units and require an election pursuant to the procedure set forth in Section 15 to determine which employee organization or "no organization" shall represent the employee in the proposed unit or units. In such cases, the City shall bear the cost of an election.
- e. During the period 150 days and 120 days prior to the expiration date of a Memorandum of Understanding (and prior to the third and subsequent anniversary date of a Memorandum of Understanding of longer duration than three years) a Section 11 petition may be completed and filed by a group of employees equaling not less than 30% of the unit requesting decertification of the recognized employee organization involved in which the affected employees work.

Section 17. Withdrawal of Recognition. Upon the refusal of an employee organization or recognized employee organization or the members, officers or representatives thereof, or of City employees, to comply after written notice with these Rules and Regulations insofar as they apply to such organization members, officers, representatives, or employees, the Employee Relations Officer shall withdraw City recognition of such organization or individuals for purposes of the meet and confer process.

Section 18. Dues Deduction From Pay Check. On and after the effective date of these Rules and Regulations, only a recognized employee organization may be granted permission to have the regular dues of its members deducted from their pay checks in accordance with procedures prescribed by the City and the Finance Director, provided, however, that this shall not preclude the continuation of dues check-off heretofore granted to any employee organization.

Dues deduction shall be for a specified amount or in accordance with specific dues provisions of an employee organization's constitution or by-laws and shall be made only upon the voluntary written authorization of the member. Such authorization is to continue in effect until cancelled upon voluntary written notice by the member to the City effective after 30 days' notice or as otherwise agreed in an applicable Memorandum of Understanding.

Dues deduction authorization or cancellation shall be made upon cards provided or authorized by the City.

An employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues check-off authorized. When a member in good standing of the recognized employee organization is in a non-pay status for an entire pay period, no dues withholding shall be made to cover that pay period from future earnings nor shall the member deposit the amount with the City which would have been withheld had the member been working during that period. If such an employee is in a non-pay status during a portion of the pay period and the earnings are not sufficient to cover the full withholding, no dues deduction shall be made for him. All other legal and required deductions shall have priority over employee organization dues.

Dues withheld by the Finance Director shall be transmitted to the office or agency designated in writing by the proper officer of the employee organization as the person or agency authorized to receive such funds, at the address specified.

Each employee organization which receives dues check-off shall indemnify, defend and hold the City of Oakland and its officers and employees harmless against any claims made and against any suit instituted against it or them on account of check-off of employee organization dues. Each such employee organization shall refund to the City of Oakland any amounts paid to it in error, upon presentation of supporting evidence.

Section 19. Reasonable Employee Representation at Meetings. Each recognized employee organization may select representatives for the purpose of meeting and conferring, according to the following guidelines:

Total membership	1 - 100	2 representatives
	101 - 400	3 representatives
	more than 400	5 representatives

The above number is exclusive of a non-City employee, paid representative, if any such there be.

Representatives of the recognized employee organizations' "Meet and Confer" team shall be entitled to meet with the Employee Relations Officer and other management officials during regular business hours, without loss of time, provided:

- a. That no City employee representative shall leave his duty station or assignment without the specific prior approval of his department head or the latter's designated representative.
- b. Nothing provided herein shall limit or restrict the right of both management and employee groups to meet and confer either before or after the regular working day as a matter of mutual convenience.

Section 20. Access to Work Location. Officers of recognized employee organizations and their officially designated representatives shall be granted reasonable access to employee work locations for the purpose of contacting members concerning business within the scope of representation.

Such officers or employees shall enter a work location only with the consent of the department head involved, or his designated representative. Access shall be granted only if it does not interfere with work operations or with established safety and security requirements.

Solicitation of City employees relating to the internal management of an employee organization, such as dues collection, soliciting membership, campaigning for offices, distributing literature, and conducting elections shall not be permitted during working hours unless specifically authorized by the department head.

Section 21. Use of Bulletin Boards. Recognized employee organizations may use a portion of bulletin boards designated for the purpose by the department head in the City offices under the following conditions:

- a. All materials to be posted must receive the prior approval of the department head involved.
- b. All materials posted must identify the organization and must be dated.
- c. All material posted will be removed at the end of 30 days unless, in particular instances, special arrangements are made with the department head.
- d. Materials which the department head considers untruthful, misleading or libelous must first be cleared with the Employee Relations Officer. No material derogatory to the City shall be posted.
- e. An employee organization which does not abide by these conditions may forfeit its right to post material on City bulletin boards as determined by the Employee Relations Officer.

Section 22. Advance Notice. Except under such conditions as might require the adoption of an urgency ordinance by the Council, each recognized employee organization shall receive reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed for adoption by the Council, and each such organization shall be given the opportunity to appear before the Council. For the purpose of this section, ten calendar days prior to first reading shall constitute reasonable notice.

In cases of emergency when the governing body or boards and commissions determine that ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the governing body or such boards and commissions shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

Section 23. Publications to be Made Available. Upon request of a recognized employee organization, the City shall provide or make available to its representative a copy of those non-confidential departmental publications relating to conditions of employment which periodically are published. Neither confidential records nor confidential studies are to be made available to such employee organization.

Section 24. Nonapplication of Labor Code Section 923. The enactment of these Rules and Regulations shall not be construed as making the provisions of Section 923 of the Labor Code applicable to City employees.

Section 25. In order that a memorandum of agreement become effective on July 1 of the ensuing fiscal year, it must be signed by June 20 of the previous fiscal year. The "Meet and Confer" process for the ensuing budget year shall start annually on or about April 1.

Section 26. The provisions of this resolution shall not apply to sworn members of the Police or Fire Departments.

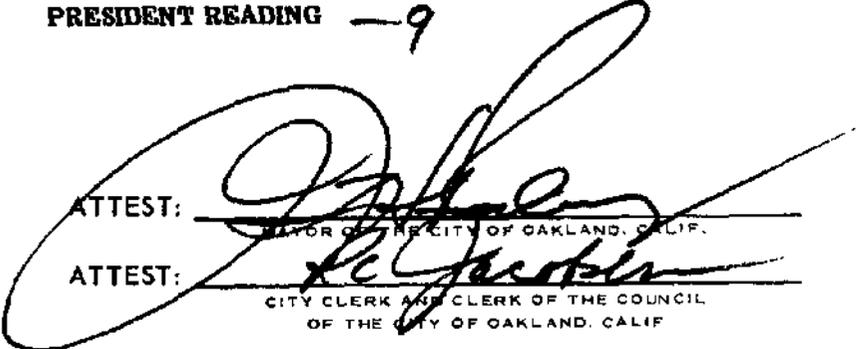
IN COUNCIL, OAKLAND, CALIF., SEP 28 1976, 1976

**PASSED BY THE FOLLOWING VOTE:**

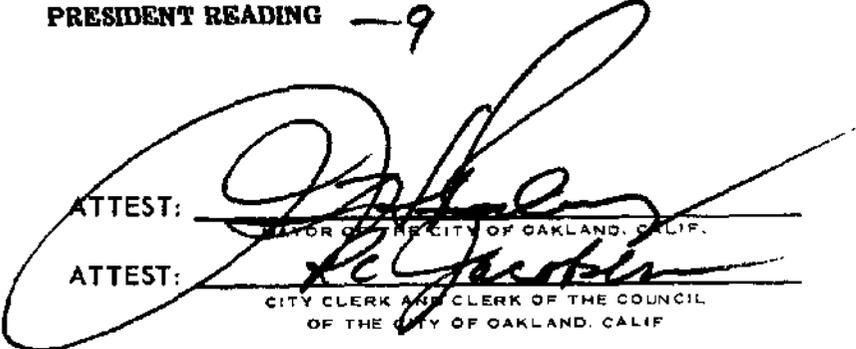
AYES - ~~DEEM~~ <sup>COTO</sup> CHIALVO, ENG, MAGGIORA, OGAWA, ROSE, SUTTER, VUKASIN,  
AND PRESIDENT READING - 9

NOES - NONE

ABSENT - NONE

ATTEST: 

MAYOR OF THE CITY OF OAKLAND, CALIF.

ATTEST: 

CITY CLERK AND CLERK OF THE COUNCIL  
OF THE CITY OF OAKLAND, CALIF.



HEARING REQUEST FORM - CIVIL SERVICE BOARD

RECEIVED DEPT OF HUMAN RESOURCES MANAGEMENT

Request must state the specific reason for the appeal request and the section or provision of the Rules under which the appeal is being submitted.

18 JUL 27 PM 1:25

Today's Date 07/27/2018

Appellant Information

Appellant Full Name Arguella-Martinez Rosemary J. Last First M.I.

Address Street Address Apartment/Unit # Oakland CA 94602 City State ZIP Code

Primary Phone [Redacted] Alternate Phone ( )

E-mail Address [Redacted]

Basis of Appeal (Please cite Civil Service Rules section.): Please see Attachment A

Date of Alleged Rules Violation 07/23/2018 City Department Port of Oakland (Dept. 46)

Representative Information

Representative Name Millie Cleveland

Address Street Address Apartment/Unit # 100 Oak St OAKLAND CA 94607 City State ZIP Code

Primary Phone (510) 710-0201 Alternate Phone (510) 563-9559

E-mail Address Millie.Cleveland@seiu1021.org

Representative Type: [X] Union [ ] Attorney [ ] Other

I am available the following third Thursdays of the month over the next three months to present the appeal:

All

Estimated Number of Hours to Present: 2

18 JUL 27 PM 2:12 RECEIVED DEPT OF HUMAN RESOURCES MANAGEMENT

Attachment A  
Civil Service Board Appeal  
Rosemary Arguello

Basis of Appeal:

Section 6.04 states: Upon a favorable report, the appointment of the employee shall be deemed to be permanent at the expiration of the probationary period. In the event of an unfavorable report, the appointing authority shall notify the Personnel Director and the employee, at least five (5) working days in advance, that he/she will be removed from the position no later than the final date of the probationary period.

My "OVER-ALL RATING" in my fifth month report (April, 2018) was ABOVE STANDARD (Exceptional Performance).

My "OVER-ALL RATING" in my eighth month report (July, 2018) was STANDARD (Thoroughly Competent) with some factors marked as ABOVE STANDARD (Exceptional Performance).

Section 6.01 states: The probationary period shall be an essential part of the selection process, and shall be utilized for the most effective adjustment of a new employee and for the removal or demotion of any probationary employee whose performance does not meet the required standard of performance. When asked, Mr. Mitchell, of Port HR, was unable to provide an example of a deficiency in my standard of performance.

JAHMAL T. DAVIS  
PARTNER  
DIRECT DIAL (415) 995-5815  
DIRECT FAX (415) 995-3489  
E-MAIL [jdavis@hansonbridgett.com](mailto:jdavis@hansonbridgett.com)

September 12, 2018

VIA EMAIL ([TPulliam@Oaklandca.gov](mailto:TPulliam@Oaklandca.gov)) AND REGULAR U.S. MAIL

Civil Service Board  
City of Oakland  
150 Frank Ogawa Plaza, 2nd Floor  
Oakland, CA 94612

**Re: Appeal of Probationary Release by Port of Oakland Probationary Employee  
Rosemary Arguello  
Port of Oakland Position Statement/Exhibits**

To the Honorable Members of the City of Oakland Civil Service Board:

Please consider this correspondence and attached exhibits as a position statement submitted by the Port of Oakland (the "Port") in response to the appeal filed by Ms. Rosemary Arguello concerning her July 23, 2018 Notice of Probationary Release. (A copy of the appeal is attached as Exhibit A.)

The Port terminated Ms. Arguello's employment during her probationary period based on its determination that she was not a good fit for the position of Airport Operations Specialist. (A copy of the termination letter is attached as Exhibit B.) Ms. Arguello has appealed her termination on the grounds that the Port did not comply with Port Personnel Rules and Procedures sections 6.04 and 6.05. However, as explained below, Ms. Arguello's appeal is unfounded.

Consistent with section 6.05 of the Port's rules and procedures, which provides that the Port may terminate an employee "[a]t any time during the probationary period," the Port terminated Ms. Arguello during month eight (8) of her nine (9) month probationary period. The Port did so based on its determination that she was not a good fit. Ms. Arguello's reliance on section 6.04 is misplaced. That section provides in part: "Upon favorable report, the appointment of the employee shall be deemed to be permanent at the expiration of the probationary period." (*Emphasis added.*) Although Ms. Arguello did receive a favorable interim performance review in April 2018, based on the Port's overall evaluation of her performance—which took into consideration an earlier unfavorable review—the Port decided to terminate her well before the expiration of the probationary period. Once the Port determined that Ms. Arguello was not a good fit for the job, she was ineligible to transition to permanent status pursuant to section 6.04.

Based on its determination during the probationary period that Ms. Arguello was not a good fit for the position of Airport Operations Specialist, the Port exercised its discretion and terminated her employment consistent with the Port Personnel Rules and Procedures. Thus, the Port respectfully requests that the Civil Service Board deny Ms. Arguello's appeal.

## I. APPLICABLE PORT PERSONNEL RULES AND PROCEDURES

The Port's Personnel Rules and Procedures (the "Rules") governing probationary employees are set forth in Rule 6 (Probationary Period, Sections 6.01 – 6.07), a copy of which is attached as Exhibit C.

Section 6.01 (Probationary Period) states in relevant part:

Every person appointed or promoted to a permanent position in the competitive civil service [...] shall serve a period of probation while occupying such position, which shall be considered a part of the test for fitness [...] The probationary period shall be an essential part of the selection process, and shall be utilized for the most effective adjustment of a new employee and for the removal or demotion of any probationary employee whose performance does not meet the required standard of performance. (*Emphasis added.*)

Section 6.04 (Performance Rating During Probationary Period) states in relevant part:

Upon a favorable report, the appointment of the employee shall be deemed to be permanent at the expiration of the probationary period. In the event of an unfavorable report, the Executive Director or his/her designee shall notify the Port's Director of Human Resources and the employee, at least five (5) working days in advance, that he/she will be removed from the position no later than the final date of the probationary period.

Section 6.05 (Removal or Demotion of Employee During Probationary Period) states in relevant part:

At any time during the probationary period [...] an employee may be removed from her/his current position [...] (*Emphasis added.*)

(a) [...] and he/she shall be considered permanently separated from that position without right to appeal to the Civil Service Board except as set forth in section 6.06

Section 6.06 (Limited Rights of an Employee During Probationary Period) states in relevant part:

The right of an employee to appeal to the Civil Service Board because of her/his permanent separation from her/his position during his/her probationary period shall be limited to the following:

(a) Failure of the Executive Director or his/her designee to comply with section 6.04 of these Rules;

(b) Failure of the Executive Director or his/her designee to comply with section 6.05 of these Rules;

(c) Discrimination against an employee during such probationary period on the basis of race, color, religion/religious creed, marital status, national origin/ancestry, sex, gender identify, gender expression, pregnancy, sexual orientation, physical or mental disability, medical condition, genetic information, AIDS/HIV status, military or veteran status, age, citizenship or on any other status protected by federal, state or local law.

Section 6.07 (Procedure to Be Used In Appeals and Hearings Under Section 6.06) states in relevant part:

(a) [...]

iii. The appeal shall state the sub-section of section 6.06 of these rules upon which it is based and a statement of the facts upon which such appeal is based.

Under Article 7 (Hiring, Layoff and Rehiring) of the Memorandum of Understanding ("MOU") between SEIU Local 1021 and the Port of Oakland, "the probationary period of any employee filling an entry-level position shall not exceed nine (9) months in duration." (Article 7.A.1 "Length of Probationary Period," a copy of which is attached as Exhibit D.)

## II. STATEMENT OF FACTS

The Port hired Ms. Arguello to the position of Airport Operations Specialist effective November 20, 2017. As a condition of her employment, she was required to serve a nine (9) month period of probation in accordance with Rule 6 (Probationary Period) and Article 7.A.1 of the MOU, both referenced above and attached as Exhibits C and D.

During the initial training portion of her probationary period, Ms. Arguello was supervised by Dion Bailey and Francisco Flores, two of the Port's Duty Managers. Consistent with Section 6.04 of the Rules, Mr. Bailey, with input from Mr. Flores, completed an interim performance review in February 2018, after three months of employment. The review rated Ms. Arguello's overall performance as "unacceptable" and noted that "improvement [was] urgently needed" in connection with four (4) of seven (7) areas evaluated. Specifically, the review highlighted Ms. Arguello's difficulties with interpersonal relationships, her learning ability, attitude, and personal fitness. A copy of this review is included in Ms. Arguello's appeal at Exhibit A.

Regarding "Relationship with People," the review stated that "[t]he ability to work well with others is essential to your success as a Port employee. You have demonstrated difficulty with following basic directions from your training Supervisors and mentors." As an example, the review described an incident during which Ms. Arguello disrupted a training session by "openly expressing [her] dislike" of the information her supervisor instructed her mentor to present. (See Exhibit A.)

With respect to "Learning Ability," the review stated that Ms. Arguello had "demonstrated difficulty with listening and following instruction [...] had been observed failing to follow

policy/procedure as presented during the training process and attempting to perform tasks outside the boundaries set by [her] training Supervisors." As examples, the report described two incidents highlighting Ms. Arguello's failure to follow her supervisor's instructions. (See Exhibit A.)

With respect to "Attitude," the February 2018 review noted that there were times Ms. Arguello was "unwilling to accept coaching to improve [her] performance" and gave examples of this conduct. (See Exhibit A.)

Regarding "Personal Fitness," the February 2018 review described an incident during which Ms. Arguello requested time off from one supervisor after having had her request denied by another. The review stated that such conduct was "unprofessional and dishonest" and that her "continued use of this tactic is particularly unsettling [...]." (See Exhibit A.)

Finally, the review reiterated that, "the probationary period is the final part of the selection process where you demonstrate that are you 'fit' for employment with the Port."

During the first three months of employment—the time period reflected in the February 2018 performance report—Ms. Arguello was in training and not assigned to a regular shift. Subsequently, the Port assigned her to the night shift, where she reported to two completely different supervisors, James Duenas and Joe Orcott. After two months, Mr. Duenas prepared a second performance review in April 2018, a copy of which is included with Ms. Arguello's appeal at Exhibit A. Although this review demonstrated improvement in some areas, the reason for this improvement was likely due to the fact that on the night shift Ms. Arguello had different supervisors, less interaction with others, and less activity at the airport gate. With decreased demands and opportunities for interpersonal conflict, her performance appeared to improve.

After the April 2018 review, Ms. Arguello moved to the swing shift. There, she again reported to a different supervisor, Nate Estep. In July 2018, Mr. Estep prepared a preliminary draft of a review of Ms. Arguello's job performance. The draft was reviewed by Mr. Estep's manager, Matt Davis, along with the Director of Human Resources. The decision was made not to deliver the July review and, instead, to terminate Ms. Arguello's probationary employment based on the fact the Ms. Arguello was not a good fit. In reaching this decision, Matt Davis considered the totality of Ms. Arguello's job performance, and concluded that she was not a good fit for the job. Matt Davis had received ongoing input from Mr. Bailey and Mr. Flores that they continued to observe the behaviors noted in the February 2018 review. Matt Davis determined that Ms. Arguello's improved performance on the night shift—where her interpersonal skills, in particular, were barely tested—was insufficient to overcome the original assessment set forth in the February 2018 performance review. He also determined that Ms. Arguello would ultimately need to be able to work effectively with each of her supervisors, and not just her supervisors on the night or swing shift.

Ms. Arguello now claims that the Port did not comply with section 6.04 of its Rules based on the fact that her overall performance rating in April 2018 was "above standard" and in July 2018 was "standard"<sup>1</sup>. She offers no additional facts in support of her assertion regarding section 6.04, stating only—in connection with section 6.01—that "Mr. Mitchell, of Port HR, was unable to provide an example of a deficiency in [her] standard of performance." In a subsequent letter, Ms. Arguello's union representative amended the appeal to include a violation of section 6.05

but did not offer an explanation or any additional facts to support this claim. (See email exchange attached as Exhibit E.)

### III. LEGAL ARGUMENT

As a preliminary matter, Ms. Arguello's appeal fails to comply with section 6.07 of the Rules. First, it does not include a "statement of the facts upon which such appeal is based." (See Rule 6.07(a)(iii).) On August 8, 2018, Ms. Cleveland, Ms. Arguello's union representative, notified the Port that she was amending the appeal to include an argument that Ms. Arguello's termination violated section 6.05. However, Ms. Cleveland's email failed to include any facts upon which this new argument was based. (See Exhibit E.)

Next, the appeal incorrectly refers to a violation of section 6.01. Section 6.05 limits an employee's right to appeal to failure to comply with sections 6.04 or 6.05<sup>2</sup>. There is no right to appeal based on a violation of section 6.01. (See section 6.06.)

Ms. Arguello's claim that the Port violated section 6.04 is unfounded. Under that section, a probationary employee's status is only deemed permanent if, at the end of the probationary period, the employee has received a favorable performance report. Ms. Arguello received a favorable review in April and was terminated on July 23, 2018, one (1) month before the end of the probationary period. The probationary period lasts a full nine (9) months, and employees are evaluated for "fitness" throughout that time. (See section 6.01 the Rules and Article 7.A. of the MOU.) The Port reviews the totality of a probationary employee's performance—which in this case included both favorable and unfavorable reviews—to determine whether they are a good fit for the position. The fact that Ms. Arguello received a favorable review in April 2018 did not entitle her to remain in the position as a permanent employee, just as her receipt of an unfavorable review in February 2018 did not result in her automatic termination. As defined in section 6.01, the probationary period is an "essential part of the selection process" and intended to serve as "a part of the test for fitness."

Section 6.05 of the Rules allows the Port to terminate a probationary employee at any time during the probationary period. Consistent with section 6.05, the fact that Ms. Arguello received one favorable report during the probationary period did not preclude the Port from terminating her employment. Ms. Arguello's interpretation of section 6.04 of the Rules would require the Port to retain a probationary employee and deem them permanent upon receipt of a favorable performance review at any time during the probationary period. Such an interpretation defies logic. Conceivably, a probationary employee could excel and receive a favorable review in her first three months of employment because the skills being evaluated fall into that employee's area of strengths. That same probationary employee could display subpar performance the remainder of the probationary period where different skills sets are evaluated, and where the employee is deficient. By Plaintiff's logic, that probationary employee would have been deemed permanent immediately upon receipt of the first, interim review, without the benefit of a comprehensive evaluation of that probationary employee's overall performance. Such an interpretation of section 6.04 would undermine the intent of the probationary period, which is to use that time to evaluate the employee's overall performance, including whether they are a good fit for the job.

In July 2018, the Port evaluated Ms. Arguello's overall performance and concluded that she was not a good fit for the job. The issues raised in the February 2018 performance report were still of concern. Thus, the Port acted reasonably and within its authority in terminating Ms. Arguello effective July 23, 2018.

#### IV. CONCLUSION

For the reasons described above, the Port respectfully requests that the Civil Service Board deny Ms. Arguello's appeal.

Very truly yours,



Jahmal T. Davis

Enclosures

cc: Daniel S. Connolly

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<sup>1</sup> Ms. Arguello refers to a July 2018 performance review with an overall rating of "Standard." There is no such report attached to the appeal, because this review was never finalized or given to Ms. Arguello. In the process of preparing that report, the Port came to the conclusion that Ms. Arguello was not a good fit for the position. Thus, the Port does not recognize the validity of a "Standard" July 2018 performance review.

<sup>2</sup> Section 6.05 of the Rules also provides a basis for appeal on discrimination grounds, which are not relevant to this action.

# **EXHIBIT A**

8/2/18  
4:00pm

July 27, 2018

JUL 27 2018 PM 1:50

Rosemary Arguello

[REDACTED]

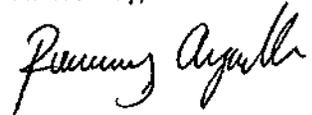
Oakland, CA 94602

Re: Appeal to Civil Service Board, City of Oakland

Mr. Lytle:

Find attached my appeal to the Civil Service Board, City of Oakland

Sincerely,



Rosemary Arguello



HEARING REQUEST FORM – CIVIL SERVICE BOARD

Request must state the specific reason for the appeal request and the section or provision of the Rules under which the appeal is being submitted.

Today's Date 07/27/2018

Appellant Information

Appellant Full Name Arguello-Martinez Rosemary J.
Address [Redacted]
Primary Phone (510) [Redacted]
E-mail Address [Redacted]
Basis of Appeal (Please cite Civil Service Rules section.): Please see Attachment A

Date of Alleged Rules Violation 07/23/2018 City Department Port of Oakland (Dept. 46)

Representative Information

Representative Name Millie Cleveland
Address 100 Oak St
Primary Phone (510) 710-0201
E-mail Address Millie.Cleveland@seiu1021.org
Representative Type: [X] Union [ ] Attorney [ ] Other

I am available the following-third Thursdays of the month over the next three months-to present the appeal:

All

Estimated Number of Hours to Present:

2
18 JUL 27 PM 2:13
RECEIVED
EMPLOYEE RESOURCES
MANAGEMENT

Attachment A  
Civil Service Board Appeal  
Rosemary Arguello

Basis of Appeal:

Section 6.04 states: Upon a favorable report, the appointment of the employee shall be deemed to be permanent at the expiration of the probationary period. In the event of an unfavorable report, the appointing authority shall notify the Personnel Director and the employee, at least five (5) working days in advance, that he/she will be removed from the position no later than the final date of the probationary period.

My "OVER-ALL RATING" in my fifth month report (April, 2018) was ABOVE STANDARD (Exceptional Performance).

My "OVER-ALL RATING" in my eighth month report (July, 2018) was STANDARD (Thoroughly Competent) with some factors marked as ABOVE STANDARD (Exceptional Performance).

Section 6.01 states: The probationary period shall be an essential part of the selection process, and shall be utilized for the most effective adjustment of a new employee and for the removal or demotion of any probationary employee whose performance does not meet the required standard of performance.

When asked, Mr. Mitchell, of Port HR, was unable to provide an example of a deficiency in my standard of performance.

**CITY OF OAKLAND  
REPORT OF PERFORMANCE FOR PROBATIONARY EMPLOYEE**

Name Rosemary Arguello Date of report 02/13/2018  
 Class title Airport Operations Specialist / Code number \_\_\_\_\_ Agency Port of Oakland/Oakland Airport

- FIRST
- SECOND
- THIRD
- FINAL

To the best of my judgment, the ratings checked on this report, indicate how well you have been learning and doing your work during the Probationary period. The ratings and comments on the copy you receive are the same as shown on the copies I am forwarding.

**PERFORMANCE FACTORS-RATE AT LEAST 7 OR MORE FACTORS BUT ONLY THOSE RELATED TO THE JOB.**

1. **SKILL** - Expertness in doing specific tasks; accuracy; precision; completeness; neatness; quantity.
2. **KNOWLEDGE** - Extent of knowledge of methods, materials, tools, equipment, technical expressions and other fundamental subjects matter.
3. **WORK HABITS** - Organization of work; care of equipment; safety considerations; promptness; industry; attendance; tardiness.
4. **RELATIONSHIPS WITH PEOPLE** - Ability to get along with others; effectiveness in dealing with the public, other employees, patients or inmates.
5. **LEARNING ABILITY** - Speed and thoroughness in learning procedures, laws, rules and other details; alertness; perseverance.
6. **ATTITUDE** - Enthusiasm for the work; willingness to conform to job requirements and to accept suggestions for work improvement; adaptability.
7. **PERSONAL FITNESS** - Integrity; sobriety; emotional stability; physical condition; appearance and habits.
8. **ABILITY AS SUPERVISOR** - Proficiency in training employees and in planning, organizing, laying out and getting out work; leadership.
9. **ADMINISTRATIVE ABILITY** - Promptness of action; soundness of decision; application of good management principles.
10. **FACTORS NOT LISTED ABOVE** -

RATINGS ARE INDICATED BY "X" MARKS				
UNACCEPTABLE Improvement is Urgently Needed	SHORT OF STANDARD Need to improve	STANDARD Thoroughly Competent	ABOVE STANDARD Exceptional Performance	OUTSTANDING Distinctly Superior
		✓		
		✓		
		✓		
✓				
✓				
✓				
✓				

**OVER-ALL RATING** - The over-all rating must be consistent with the factor rating and comments (check one).

**SUPERVISOR'S COMMENTS TO EMPLOYEE** - Supervisors must make written comments on all factors rated above even though the ratings are Standard. Written suggestions on to how work performance can be improved must also be made when needed. Use additional sheets if more space is needed.)

See attached.

I RECOMMEND THAT YOU BE GRANTED PERMANENT STATUS. (To be checked on final report; employee must be notified if rejected.)

Signature of RATER [Signature] Title Airport Duty Manager Date 2/22/2018

In signing this report, I do not necessarily agree with the conclusion of the rater.

I wish to discuss this report with the Reviewing Officer of my Department.

Signature of EMPLOYEE \_\_\_\_\_ Date \_\_\_\_\_

I agree in the ratings given by the rater. I have made no change in the report.

As requested, Reviewing Officer discussed report with employee.

Signature of AGENCY REVIEWING OFFICER [Signature] Date 3.2.18 Signature \_\_\_\_\_ Date \_\_\_\_\_

## Report of Performance

Rosemary Arguello

### 1. Skill

Ms. Arguello, your Airport Operations Specialist I (AOS I) skill level meets the standard established by the department for a new employee. Your understanding of the duties of the classification is improving. Your knowledge of the security access control system (C-Cure) and CCTV (Milestone) are improving. You answer incoming calls to the AOC in a professional manner and maintain a thorough shift log.

### 2. Knowledge

Ms. Arguello, your knowledge of Airport/Terminal Operations and the functions of the Airport Operations Center (AOC) meet the standard set by the department for a new employee. You have demonstrated the ability to apply the knowledge and skills obtained during your airline career. Your knowledge and understanding of the responsibilities of the AOS I position continue to grow.

### 3. Work Habits

Ms. Arguello, your work habits meet the standard established in performance factor 3. Your coordinator's logs are completed and submitted in a timely manner.

### 4. Relationship with People

Entering a new work environment can be challenging for many reasons and the adjustment period often varies from one employee to the next. The ability to work well with others is essential to your success as a Port employee. You have demonstrated difficulty with following basic directions from your training Supervisors and mentors. At times, you push back on information presented to you by the training team. For example, on January 8, 2018, you disrupted AirIT/AODB Gate Management training by openly expressing your dislike of the information I instructed your mentor to present to you. Your comments were viewed as an attempt to pressure your mentor to change the training agenda to include other AOC coordinator duties of greater interest to you. We discussed the incident during your January 16, 2018 coaching session. Your relationship with people is unacceptable and requires immediate improvement.

### 5. Learning Ability

Learning is a process where a specific skill or set of skills are transferred from one person to another. Your training Supervisors and mentors have been tasked with transferring their skill and knowledge of Airside Operations policies and procedures to you. A key component of the learning process is the ability to listen and follow instructions. You have demonstrated difficulty with listening and following instruction. You have been observed failing to follow policy/procedure as presented during the training process and attempting to perform tasks outside of the boundaries set by your training Supervisors. During your initial on the job training, I assigned you to the security position in the AOC. I instructed you to perform only security functions and associated dispatching. However, you were heard over the command radio dispatching the Equipment System Engineers to customer service related issues. On another occasion, you were observed coordinating with the Air Traffic Control Tower Supervisor. On both occasions, I instructed you to defer the non-security related duties that you were not

trained to perform to a fully trained coworker. You failed to follow my instructions. Your rating in this performance factor is unacceptable and requires immediate improvement.

6. Attitude

You come to work with enthusiasm and ready to perform the duties of an Airport Operations Specialist I. However, as mentioned under performance factor 4 and 5, there are times when you are unwilling to accept coaching to improve your performance. When challenged about why you failed to follow a policy, procedure or directive, you reference what "they" said. This has occurred on several occasions during AOS I training. In January, you failed to clear multiple security access control door alarms per Security Directive 602.6. When I coached you on the correct way to clear an alarm. You were unwilling to acknowledge that your decision to clear the alarm based on your CCTV observation did not comply with the directive. You are responsible for clearing every alarm in compliance with the Security Directive 602.6.

On January 26, I instructed you to attend Air IT/AODB (gate management software) training at 1:30pm. Earlier the same day, you requested permission to attend the 11:00am training session with a coworker and I denied your request. However, you attended the 11:00am training session anyway. You did not coordinate with your training mentor nor did you disclose to the trainer that your request to attend the 11:00 training had been denied. You do not meet the standard established for new employees in this performance factor. Your rating for attitude is unacceptable and requires immediate improvement.

7. Personal Fitness

You report for work on time and prepared to perform your duties. However, on February 8, I denied your request for leave for February 16 (day shift) because it was the last day of AOS I day shift training. You later requested and obtained authorization for approved leave for day shift from Airport Duty Manager Flores without disclosing that I already denied your request. You do not meet the standard in this performance factor. Your personal fitness is unacceptable and requires immediate improvement.

Summary

Your overall performance to date is unacceptable. The incidents described above in which you failed to follow instructions and directions provided by your Training Supervisors and mentors do not meet department expectations and is disappointing. Requesting time off from Airport Duty Manager Flores after being denied was unprofessional and dishonest. Your continued use of this tactic is particularly unsettling as you have been a Port employee for less than 90 days. You have proven that you are qualified for this position; however, this probationary period is the final part of the selection process where you demonstrate that you are "fit" for employment with the Port. Your continued employment with the Port is contingent upon immediate improvement in the Relationships with People, Learning Ability, Attitude, and Personal Fitness competencies.

## Report of Performance Rebuttal

Rosemary Arguello

On February 22<sup>nd</sup> 2018, I was scheduled for a 6:10am meeting to be presented with my first three month evaluation. I was assuming this would be meeting that would be private and confidential, but it seemed as though my training supervisor made it a point to do the very opposite. The meeting did not start until 6:30am and it was done right in the very next room to where the entire operation is, as well as where all the staff assembles to start and finish our shifts. Immediately I felt uneasy, during my training Dion was always very aware of the shift changes times and how busy this particular room gets during these times. At first I dismissed this to be typical protocol for an evaluation meeting, but it actually became very embarrassing. Later I was made aware by Mr. Bailey; because he did this in while I was on shift that he actually took my training counterpart, Matt Santelles to his evaluation meeting at a private conference room in another building. He did this with only himself and Matt at 4:10am on a Thursday morning before he took a flight out of OAK. My meeting was with both of my training supervisors Dion Bailey, Francisco Flores also my now current supervisor James Duenas and Superintendent Darron Evans. To further add to my embarrassment, my colleagues who needed to get to their lockers were being denied entry. During this time, I was presented with the same copy that all the other supervisors in the meeting had, and was instructed to read it in front of them as this made this situation even more uncomfortable. This entire meeting felt like it was staged to be very public and humiliating. But I continued on because after all, during my first three months of employment here I was commended repeatedly for jobs well done and what a quick learner I had been. So much so, that my superintendent was fast tracking us to be released into our own shifts as soon as possible. As I read my evaluation, I found it to be very critical, very personally charged, biased and full of malicious accusations. It was an unpleasant surprise to read such accusations since Matt and I were always told by Mr. Bailey that we were both on track and on the same level throughout our training but come to find out, Matt received a completely standard evaluation.

1. Skill – Under this category Mr. Bailey states that I meet the standard and that I do understand the duties of my classification. I concur with this statement. But I immediately noticed that the first three categories were very brief. Each being meets standard with what seem very generic comments.
2. Knowledge – Under this category Mr. Bailey states that I demonstrate the ability to apply the knowledge and skills that I have obtained during my airline career. I feel that he is referencing skills and knowledge that I have gained prior to me working here, instead of acknowledging the skills and information I have learned during my training period.
3. Work Habits – Under this category Mr. Bailey states that I meet the standards established for work habits. He follows this by stating that I complete and submit the coordinator's log in a timely manner. I believe this to be a very generic explanation as to how I "meet the standards"

for this category since the coordinator's log is filled out during each shift by the two AOS I's that are on the desk. Also, during training we were only contributing small parts of the log, only when we were assigned on the job training for period of time.

4. Relationship With People – Under this category Mr. Bailey states that I have allegedly demonstrated difficulty with following basic directions from the training supervisors and my "mentors." He states that I "push back." This term that Mr. Bailey is using is very vague and it may definitely be taken out of context. In discussing this term during the meeting, we both agreed that I ask a lot of questions. He followed by saying that my questions may be worded as questions, but that they can be taken to be "push backs." I told him and everyone else in the meeting that I have always been taught to ask questions and it has never been taken to be challenges. I did notice that when we asked our other trainer, Francisco Flores questions, he was very attentive and more than willing to get us answers. This was not the same demeanor Mr. Bailey demonstrated during our training period.

He also references a conversation on a date where he was not present, stating that I expressed dislike to my "mentor" whom is actually another AOS I, Andrea Gomez. He continues by stating that I attempted to pressure her to change the training agenda when in fact, she was the one who veered away from his training agenda. This is why I mention what Mr. Bailey had instructed us to do. He wanted us to do a very superficial introduction of the gate management system before lunch and after lunch we were to go back to our desk duties. But like I mentioned, Andrea took it upon herself to change his instructions for that day. He mentions that I did this in order to include doing other AOC duties that were of greater interest to me. How is this so? I have never mentioned that I have greater interest in one aspect of my job over others. I cannot figure out how he came to this assumption. He closes this category by stating that he had a coaching session with me on January 16<sup>th</sup>, which in my notes show that I was at the desk for on the job training after he took me for a long walk from the AOC through the airport to his vehicle to hang his parking hang tag, then back through the terminal to visit his girlfriend at southwest baggage office, then back to the AOC. Most of the time he would take my training counterpart, Matt on one on one's regularly to private sit down area and I would be left on the desk or out on the field with an AOSII. His final statement to this category is that due to these examples my relationship with people is unacceptable and requires immediate improvement.

All the other categories from there on out are all below standard. There is a pattern of Mr. Bailey stating his point of view or observations and nothing more regarding the input of other ADM's whom Matt and I have trained and worked under, i.e. Nate Estep, Bob Shiner, Andrew Pabst, Will Kuna and OAS colleagues Donald Carreira which Mr. Bailey called our mentor also, Isela Rico, Hitesh Mehta, Samantha Barnes and our second trainer ADM Francisco Flores.

5. Learning Ability – Under this category Mr. Bailey states that I have demonstrated difficulties with listening and following directions. He gives me an example, again of a time where he was not present, when I dispatched a duty that belonged to the customer service side and not the security/gate management side. In his explanation, he clearly states that this was during my initial on the job training in which we were just starting to identify which calls, phone or radio

belonged to which desk. Not only that, but we were also taught to give each other visual cues when one desk was overwhelmed or busy with a call, the other would agree to take it in order to give the best customer service to our patrons and stakeholders. This, well as the other example he gave shocked me. To think that taking the initiative to assist and jump in when help is needed is then "observed" to be a negative and used to mark me below standard is extremely demoralizing and counterproductive. At this time, he did not defer any duty because he was not present to do so. The control tower example he gave, he was present, and he was watching me assist taking calls while Matt and Andrea made calls to accommodate Virgin Airline diversions from SFO. All of the information that was given to me over the phone I was passing on and distributing, as is don't in the Airport Operations Coordination Center. The only items that were off limits to us for a very long time into our trainings were medical calls and aircraft alerts. He ended with stating that my rating in this category was unacceptable and that I require immediate improvement.

6. Attitude – For this category Mr. Bailey begins by stating that I come to work with enthusiasm and ready to perform the duties of my classification. He continues by stating that I am unwilling to accept coaching to improve my performance. This statement is 100 percent untrue. He mentions that I reference "they said" on several occasions, yet this per his own instructions. He wanted us to state exactly what was told to us and forward the exact same message. Continuing on with his example, on the day that he said that I failed to clear multiple alarms he was asking me why I was clearing them. I told him that my AP11 told me that he had a visual on the door and he asked me to acknowledge. But this was not good enough for Mr. Bailey; he wanted me to demand to my AP11, who was Alfonso Loera, to go where I can actually see him on camera. Mr. Bailey references directive 602.6 Dispatch of Access Control System (ACS) Alarms where it states multiple was of resolving an alarm. The day, those alarms were effectively being dispatched in a very timely manner, what Mr. Bailey did not like was the way in which AOS II Alfonso Loera responded to them and this he expressed to us multiple times. But according to the directive, I did effectively resolve it by an in-person response of an airport or ACSO personnel. There is no verbiage on the time frame allotted to clear a door alarm. On this occasion I did have multiple alarms and they were dispatched as per the directive, what Mr. Bailey did not like was how long they were taking to get resolved and also how much time I was spending on the phone with each violator who called in to clear their door alarm. It was very apparent that the relationship between Mr. Bailey and some of the AOS II's was not positive or cohesive. I believe that I was being pitted against employees that he didn't like or had little respect for. Multiple times I was told by Mr. Bailey that I should refrain from being too social and friendly at lunch with Mr. Loera because this may be taken as a leeway to be playful with me during work. That was another one of the many odd, unprofessional statements made by Mr. Bailey during my training.

The other reference he made was for the Air IT/AODB ( gate management software) training he scheduled for myself and Matt with Rolando Rogers. He scheduled myself to go at 1:30pm and Matt to go at 11am. That morning Matt and I discussed asking Mr. Bailey if it would be OK to attend together. We felt that since I have gate management experience and since I like to ask

questions, it could benefit Matt if we went together. So I asked and Mr. Bailey simply said no because Ms. Rogers did not have enough space to train both of us at once. Matt left for his training, I stayed at the desk. A couple of minutes later I picked up a call from Ms. Rogers asking me why were we scheduled separately and if I wanted to join. I told her I didn't know, so she asked me who my AP10 was. I told her it was Nate and she asked me to transfer her to him. A minute later Nate comes out and asks me if I know what she was talking about, I said I do. Then he told me to go and even gave me permission to drive a vehicle over. When I got there, Ms. Rogers asked why he scheduled us like that, I told her exactly what Mr. Bailey said to us that there wasn't enough room for all three of us. She said that that was not true, that she never said that, and to just have the joint training with her but to not mention it because she didn't want us or her to get in trouble.

During the meeting I told everyone there how all of that happened and I asked Mr. Bailey if he had spoken with Ms. Rogers about how that day actually went, he hesitantly said that he did. Yet, in the evaluation he mentioned that I did not disclose to Ms. Rogers that he had already said no to the joint training that morning. This statement is not true since Ms. Rogers instructed us to not mention it. He refers to this date as another example as to how I don't follow directions from my mentor or trainer. Yet, I was taking direction from my trainer that day, which was Ms. Rogers since he was not going to be present past 10am. And in the previous example he stated in category 4, I was speaking up about how my mentor was deviating from the directions he set in place for us. The day I listen to my trainer without asking questions, he feels that my actions were unacceptable. I feel like all Mr. Bailey has done is set up traps for me to fall into. I feel like it is his way of setting me up for failure, when all I can do is do what he asks me to do, yet it is always wrong. I feel extremely demoralized, bullied and belittled,

7. Personal Fitness -- For this category Mr. Bailey begins by stating that I report to work on time and prepared for my duties. He continues on by referencing an incident where he stated that I needed to attend the last day of training which was also my first day of being released to report to work that same evening. So I would be expected to complete training and start my bided shift eight hours later. First and foremost, when he presented me with the news that we were now being released into our shifts, he neglected to disclose all of the information pertaining to this release. I had to ask and ask and ask questions to finally come to the conclusion that the last day of training was Friday morning February 16<sup>th</sup> day shift and that my first day of work was February 17<sup>th</sup> graveyard shift. This meant that I was expected to go home after training for 8 hours then come back to my first day on the job at 11pm. This worried me because I did not want to show up at my first day on graveyard shift exhausted. Before this day, he had stated that we would have a day or two off before going into our shifts. But this only turned out to be true for Matt, not myself due to my scheduled days off. During this time, I kept asking Mr. Bailey if there was anything I can do, we can do in order to make this an easier transition for me, he kept saying no. So I took the schedule that he printed out for me and said OK. A small time later Mr. Bailey came to my desk and told me that I could take off Saturday night, Sunday night or even Monday night off. But not the last day of training. Now, I want this to be very clear, that I

have never missed a day of training since day one. Not one day during the three months full of pertinent training information, yet my training counterpart requested and was approved leave without pay for an entire week off. That day I went there feeling very discriminated against and treated unfair. The next day I asked the other training manager, Francisco Flores if it was necessary to attend the last day of training and if there was any special test or testing that I needed to be there for. He said no on more than one occasion. So I spoke with him about taking the last day of training off and he approved it without any issues. In the evaluation he refers to Mr. Flores as Airport Duty Manager, but Mr. Flores was in fact just as equally my trainer. The fact that Mr. Flores saw absolutely no issue with me taking that day off and Mr. Bailey did not want me to take that day off felt very personal. If they are both my trainers, how do they have two different opinions or schedules of training? He claims that I did not disclose the fact that he did not want me to take the last day of training off, but yet neither did he. And what reason would he have had, being that he wasn't going to be there on Friday and Mr. Flores was.

In his summary, and yes I am saying his, because this entire evaluation has been full of personal thoughts and opinions from Mr. Bailey rather than factual observations and input from all other individuals involved, he states that my overall performance is unacceptable. He states that my actions described above show that I do not meet the department's expectations. He states that requesting time off from my other trainer was dishonest and unprofessional, yet how professional and honest are my trainers that between the two of them, they were not able to sort out details of our trainings and this situation displays one of the multiple occasions this happened. I do want to say that I went with my impulse and felt that if there was nothing I would miss on the last day of training, and then it would be better to miss that than my first day of work. I did not intend any malice with my decision as well as I also had the means for taking a day off (floating holiday.)

In all, I strongly believe that this evaluation is absolutely not a reflection of me or my work ethics. I get along with every single person that I have come into contact with since being here. I also believe that creating negativity between coworkers, my "mentor" Andrea and I, is quite unprofessional and displays improper motivations on Mr. Bailey's behalf. These statements I believe have no rational connection to the kind of work I have displayed, as well as how well and quickly I was able to learn from all of my trainings and trainers despite some of the negativity I went through.

**CITY OF OAKLAND  
REPORT OF PERFORMANCE FOR PROBATIONARY EMPLOYEE**

Name Rosemary Arguello Date of report 4/06/2018  
 Class title Airport Operations Specialist 1 Code number [REDACTED] Agency Port Of Oakland

- FIRST  
 SECOND  
 THRD.  
 FINAL

To the best of my judgment, the ratings checked on this report, indicate how well you have been learning and doing your work during the Probationary period. The ratings and comments on the copy you receive are the same as shown on the copies I am forwarding.

PERFORMANCE FACTORS-RATE AT LEAST 7 OR MORE FACTORS BUT ONLY THOSE RELATED TO THE JOB.

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6. ATTITUDE-Enthusiasm for the work; willingness to conform to job requirements and to accept suggestions for work improvement; adaptability.
7. PERSONAL FITNESS - Integrity; sobriety; emotional stability; physical condition; appearance and habits.
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9. ADMINISTRATIVE ABILITY-Promptness of action; soundness of decision; application of good management principles.
10. FACTORS NOT LISTED ABOVE -

RATINGS ARE INDICATED BY "X" MARKS				
UNACCEPTABLE Improvement is Urgently Needed	SHORT OF STANDARD Need to Improve	STANDARD Thoroughly Competent	ABOVE STANDARD Exceptional Performance	OUTSTANDING Distinctly Superior
			✓	
			✓	
		✓		
			✓	
		✓		
			✓	
		✓		
			✓	

OVER-ALL RATING - The over-all rating must be consistent with the factor rating and comments (check one).

SUPERVISOR'S COMMENTS TO EMPLOYEE - Supervisors must make written comments on all factors rated above even though the ratings are Standard. Written suggestions on to how work performance can be improved must also be made when needed. Use additional sheets if more space is needed.)

Please see attachment.

I RECOMMEND THAT YOU BE GRANTED PERMANENT STATUS. (To be checked on final report; employee must be notified if rejected.)

Signature of RATER [Signature] Title Airport Duty Manager Date 04/06/2018

In signing this report, I do not necessarily agree with the conclusion of the rater.

I wish to discuss this report with the Reviewing Officer of my Department.

Signature of EMPLOYEE [Signature] Date 04/06/18

I agree in the ratings given by the rater. I have made no change in the report.

As requested, Reviewing Officer discussed report with employee.

Signature of AGENCY REVIEWING OFFICER \_\_\_\_\_ Date \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

Report of Performance for Probationary Employee

Rosemary Arguello AOS 1

April 6, 2018

1. For this reporting period (February 16 – April 6), Ms. Arguello's Skill and expertise in doing specific tasks, accuracy and precision is above standard. On February 19, while working the Graveyard Shift, Ms. Arguello was vigilant and thorough in researching a door alarm violation. Ms. Arguello demonstrated that she is very proficient and comfortable using Milestone and C-cure systems especially in one particular incident. One incident that comes to mind was when Ms. Arguello verified that a TSA agent committed a security door violation. She demonstrated that she was knowledgeable in security protocols and observed a TSA agent who did not follow the sight and sound escort procedures. Ms. Arguello researched and investigated C-cure footage to verify that the offender did not follow through with security procedures. Ms. Arguello demonstrated that she was capable of following through with security violation procedures and issued the offender a citation.

Another example where Ms. Arguello's Skills exhibited to be above the department's standard was on March 30, 2018. On this date, Ms. Arguello was working the desk and assisted worried passengers in locating their missing grandmother. In this incident, Ms. Arguello went beyond the call of duty and used all of her resources available to her. For her work regarding this incident, the Assistant Director of Aviation recognized her. Per the Assistant Director of Aviation, *"thank you for your high level of commitment to the safety and aid of our passengers and their loved ones. You demonstrated your skills in analysis and creative problem solving, as well as your technical abilities, and ability to work with our many partners and be persuasive. I can only imagine how comforting it was for the family to know you and ACSO were there for them."* The Swing Shift Supervisors advised that they have observed this skill and work ethic as well while Rosemary was working the Swing Shift prior to being released to the Graveyard Shift.

tools available to her to find information to assist in locating the whereabouts of the missing passenger. Ms. Arguello suggested that the family text a picture of the passenger to her personal cell phone. From this picture, Ms. Arguello was able to use the flight information and use the Milestone system to see if the missing person came off the aircraft. Once Ms. Arguello verified the missing person arrived to OAK, she was able to follow her whereabouts via Milestone and also use C-cure to identify who the employee was that last assisted the missing passenger to the baggage carousel and then to the curb. This enabled Ms. Arguello to locate and question this employee to determine the last sight of the passenger at the airport. This was a key component to Alameda County Sheriff's Office (ACSO) investigation, which also gave the family some comfort.

5. Ms. Arguello's learning ability is rated as standard for this reporting period. On March 18, Ms. Arguello volunteered to assist in the weekly training on the Graveyard shift. Ms. Arguello read and reviewed AC 150/5370-2G: Operational Safety on Airfield Construction Chapter 2 for the Airside staff. Since being trained on how to complete the CCTV weekly discrepancy log, Ms. Arguello has become proficient and has helped her colleagues complete the weekly task.
6. Ms. Arguello is above standard for the attitude category. She appears happy to be at work. She readily accepts instructions from her Supervisor and has a willingness to conform to job requirements. On March 23, I had instructed Ms. Arguello to pick out two random passengers from the TSA queue lines from each terminal. I instructed her to monitor and see how long it took those passengers to be vetted through security. She has performed this irregular detail several mornings upon my request without any hesitation. Since being a part of the graveyard shift, one night Ms. Arguello had coordinated to bring in a specialty dish to share with the graveyard shift. This small gesture really got the team ready for the night and made everyone feel like a team. Just another reason why Ms. Arguello is an asset to the Graveyard shift team.

# **EXHIBIT B**



# PORT OF OAKLAND

July 23, 2018

SENT VIA REGULAR U.S. MAIL AND HAND DELIVERED

Rosemary Arguello  
[REDACTED]

**Re: Notice of Probationary Release**

Dear Ms. Arguello:

The Port of Oakland ("Port") hired you into the position of Airport Operations Specialist I effective November 20, 2017. As a condition of your employment, the Port required you to serve a period of probation. Such requirement is consistent with **Port Personnel Rule 6 (Probationary Period), Section 6.01**, which provides in pertinent part that:

Every person appointed or promoted to a permanent position in the competitive civil service after certification from an eligible list, shall serve a period of probation while occupying such position, which shall be considered a part of the test of fitness.... The probationary period shall be an essential part of the selection process, and shall be utilized for the most effective adjustment of a new employee and for the removal or demotion of any probationary employee whose performance does not meet the required standard of performance.

**Port Personnel Rule 6, Section 6.05 (Removal or Demotion of Employee during the Probationary Period)** provides in pertinent part that "at any time during the probationary period...an employee may be removed from her/his current position by the Executive Director or his/her designee..."

Accordingly, I wish to advise you that you are being released from your probationary status as an Airport Operations Specialist I effective the close of business Monday, July 23, 2018 pursuant to Port Personnel Rule, Section 6.01. We will provide you with five (5) working days of Administrative Leave with pay for the following days, July 24, 2018, July 27, 2018, July 28, 2018, July 29, 2018 and July 30, 2018 pursuant to **Section 6.04 (Performance Rating During Probationary Period)**.

Enclosed for your reference is **Section 6.06 (Limited Rights of an Employee During Probationary Period)** and **Section 6.07 (Procedure to be Used In Appeals and Hearings Under Section 6.06)**.

Sincerely,

*for*   
J. Christopher Lytle  
Executive Director

cc: Millie Cleveland, Field Representative, Service Employees International Union, Local 1021  
Michael Mitchell, Director of Human Resources  
530 Water Street ■ Jack London Square ■ P.O. Box 2064 ■ Oakland, California 94604-2064  
Telephone: (510) 627-1100 ■ Facsimile: (510) 627-1826 ■ Web Page: [www.portoakland.com](http://www.portoakland.com)

# **EXHIBIT C**

PERSONNEL RULES AND PROCEDURES  
OF THE  
PORT OF OAKLAND

Adopted: January 26, 2017 (P.O. #4404)

## TABLE OF CONTENTS

INTRODUCTION .....	1
RULE 1 - DEFINITIONS.....	3
Section 1.01 – Glossary of Terms.....	3
RULE 2 - ORGANIZATION, RULES AND PROCEDURES .....	9
Section 2.01 – Duties of the Port’s Executive Director .....	9
Section 2.02 – Duties of the Civil Service Board .....	9
Section 2.03 – Civil Service Board Procedures .....	10
Section 2.04 – General Appeal Procedure .....	10
Section 2.05 – Staffing for Civil Service Board .....	10
Section 2.06 – Port Department .....	10
RULE 3 - CLASSIFICATION OF POSITIONS.....	11
Section 3.01 – Competitive Civil Service.....	11
Section 3.02 - Definition of Classification Plan. ....	11
Section 3.03 - Title of Positions.....	12
Section 3.04 - Administration and Maintenance of the Classification Plan .....	12
Section 3.05 – Treatment of Incumbents as a Result of Reclassification of Positions. ....	13
Section 3.06 – Conditions for Accepting an Exempt Classification into the Competitive Civil Service.....	14
RULE 4 - APPLICATIONS, RECRUITMENT, EXAMINATIONS, SELECTION, AND ELIGIBLE LISTS.....	16
Section 4.01 – Recruitment.....	16
Section 4.02 – Applicants for Selection Process .....	16
Section 4.03 – Names of Applicants Withheld.....	16
Section 4.04 – Background Checks .....	16
Section 4.05 – Eligibility to Compete In Competitive Examination Process.....	16
Section 4.06 – Basis for Rejection of Applications .....	16
Section 4.07 – Announcement of Selection Process to Fill Vacancy .....	17
Section 4.08 – Type and Scope of Competitive Examination .....	17
Section 4.09 – Administration of Examinations .....	18
Section 4.10 – Ratings of Results of Examinations.....	18
Section 4.11 – Oakland Residents Preference in Examinations .....	18
Section 4.12 – Veterans’ Preference in Examinations.....	18
Section 4.13 – Disabled Veterans’ Preference in Examinations.....	19
Section 4.14 – Veterans’ Preference Entitlement Exhausted Upon Acquiring Permanent Appointment .....	19
Section 4.15 – Seniority Credit for Permanent Employees .....	19
Section 4.16 – Eligibility for Promotional Examination .....	19
Section 4.17 – Eligibility for Restricted Examination.....	20
Section 4.18 – Notice and Review of Results of Examinations .....	20
Section 4.19 – Appeal of Examination Results .....	20
Section 4.20 – The Establishment of Eligible Lists.....	20
Section 4.21 – Declined Offer of Appointment.....	21
Section 4.22 – Removal of Names from Eligible Lists .....	21
Section 4.23 – Restoration of Names to Eligible Lists .....	22
RULE 5 - CERTIFICATION AND APPOINTMENT.....	22

TABLE OF CONTENTS

Section 5.01 – Power of Appointment and Types of Appointments ..... 22  
Section 5.02 – Procedure for Certification to Fill Vacancies in the Competitive Civil Service..... 22  
Section 5.03 – Selective Certification..... 23  
Section 5.04 – Limit on Certifications..... 23  
Section 5.05 – Certification to Position in Lower Class..... 23  
Section 5.06 – Temporary Appointments ..... 23  
Section 5.07 – Reassignment of Employees ..... 25  
Section 5.08 – Transfer of Employees..... 25  
Section 5.09 – Transfer List..... 25  
Section 5.10 – Reassignment to Accommodate a Disability ..... 25  
Section 5.11 – Re-employment After Resignation ..... 25  
RULE 6 - PROBATIONARY PERIOD ..... 27  
Section 6.01 – Probationary Period ..... 27  
Section 6.02 – Duration of Probationary Period..... 27  
Section 6.03 – Interruption of Probationary Period..... 27  
Section 6.04 – Performance Rating During Probationary Period ..... 27  
Section 6.05 – Removal or Demotion of Employee During The Probationary Period. 28  
Section 6.06 – Limited Rights of an Employee During Probationary Period..... 28  
Section 6.07 – Procedure to Be Used In Appeals and Hearings Under Section 6.06... 29  
RULE 7 - PERFORMANCE EVALUATIONS ..... 31  
Section 7.01 - Establishment of Performance Evaluation System..... 31  
Section 7.02 – Official Copy of Employee Performance Evaluations..... 31  
Section 7.03 – Participants in the Performance Evaluation Procedure..... 31  
Section 7.04 - Assistance by the Port’s Director of Human Resources..... 32  
Section 7.05 - Open Records of Performance Evaluations..... 32  
RULE 8 - VACATIONS AND LEAVES OF ABSENCE ..... 33  
Section 8.01 - Vacation Leave, Authority For..... 33  
Section 8.02 - Sick Leave - General ..... 36  
Section 8.03 – Parental Leave..... 38  
Section 8.04 - Injury on Duty ..... 38  
Section 8.05 - Family Death Leave..... 39  
Section 8.06 - Miscellaneous Leaves of Absence..... 40  
Section 8.07 - Return to Duty Following Leave ..... 42  
Section 8.08 – Authorization to Approve Leaves..... 42  
Section 8.09 - Military Leave of Absence ..... 42  
RULE 9 - SENIORITY, LAYOFF, CHANGE IN STATUS, RESIGNATIONS ..... 43  
Section 9.01 - Layoffs..... 43  
Section 9.02 - Layoff Procedure ..... 43  
Section 9.03 – Reinstatement List ..... 45  
Section 9.04 – Return of Laid-off Probationary Employees to Eligible Lists ..... 45  
Section 9.05 – Resignation ..... 45  
Section 9.06 - Retirement ..... 45  
Section 9.07 – Medical Separation ..... 46  
Section 9.08 – Separation Due to Absence Without Leave ..... 46  
Section 9.09 – Termination of Seniority..... 47

## TABLE OF CONTENTS

RULE 10 - DISCIPLINARY ACTIONS, APPEALS AND HEARINGS .....	47
Section 10.01- Disciplinary Action.....	47
Section 10.02 - Procedure in Disciplinary Actions.....	48
Section 10.03 - Appeal of Disciplinary Action.....	48
Section 10.04 - Procedures for Hearings by the Civil Service Board.....	48
Section 10.05 - Procedures for Hearing by a Hearing Officer.....	50
Section 10.06 – Judicial Review of Final Administrative Decisions.....	51
RULE 11 - PROHIBITIONS AND PENALTIES .....	52
Section 11.01 - Frauds Prohibited.....	52
Section 11.02 - Penalty .....	52
RULE 12 - INCOMPATIBLE ACTIVITY OF PORT EMPLOYEES .....	53
Section 12.01 –Incompatible Activities; Incompatible Employment .....	53
Section 12.02 – Community Activities.....	53
RULE 13 – PUBLIC RECORDS .....	54
Section 13.01 - Records Open to the Public .....	54
Section 13.02 - Disposition of Records .....	54
SAVINGS CLAUSE.....	54
APPENDIX A - GUIDELINES FOR FILLING VACANCIES.....	55
APPENDIX B – COMMON CLASSES.....	58

## Port Personnel Rules and Procedures

### INTRODUCTION

Pursuant to the City of Oakland Charter (“Charter”), Article VII (Port of Oakland), Section 700 authorizes and establishes the Port Department to promote and more definitely insure the comprehensive and adequate development of the Port of Oakland (“Port”) through continuity of control, management and operation; Section 701 vests exclusive control and management of the Port Department with the Board of Port Commissioners (“Board”). For purposes of these personnel rules only, the terms “Port Department” and “Port of Oakland” shall have the same meaning and shall be used interchangeably. As provided in Section 714, and subject to certain exceptions, all permanent places of employment in and under the Board shall be included within the personnel system of the City of Oakland (“City”) subject to the provisions of Article IX.

Consistent with Article IX, Section 900 (“Personnel Policy”) of the Charter, there is in the City of Oakland a comprehensive personnel system based on merit; and pursuant to Charter Section 706 (21), the Board of Port Commissioners employs and appoints officers, employees and agents of the Port Department and prescribes and fixes their duties, authority and compensation; therefore, consistent with such authority, the operational functions described in these Personnel Rules are hereby delegated by the City Administrator to the Executive Director of the Port of Oakland to facilitate the efficient and economical performance of those functions. Pursuant to the City Charter, the Municipal Code and the City of Oakland Personnel Manual of the Civil Service Board, the City Administrator shall be responsible for the administration of the City’s comprehensive personnel system.

These Personnel Rules and Procedures (hereinafter “Rules”), as adopted by the Board of Port Commissioners, generally describe the employment relationship between the Port of Oakland, acting by and through its Board of Port Commissioners, and its classified employees. The Oakland Municipal Code, Section 2.08.050 (Port Department), describes the authority of the Board of Port Commissioners to establish personnel rules and procedures and provides in pertinent part that:

Subject to the approval of the Civil Service Board, the Board of Port Commissioners is authorized to establish personnel rules and procedures to provide for the administration of such rules for employees of the Port Department. Any such rules and procedures shall be consistent with and subordinate to: (1) the City Charter, (2) this chapter, and (3) rules adopted by the Civil Service Board (Personnel Manual) (collectively, “City Civil Service Rules”). In the event of any conflict between the Port personnel rules and procedures and the City Civil Service Rules, the City Civil [Service] Rules shall control.

These Personnel Rules and Procedures apply to all Port of Oakland employees in the competitive civil service, except where otherwise indicated in these Rules, or where an applicable Memorandum of Understanding (“MOU”) specifically conflicts with a Rule, in which case the MOU provision shall govern. The competitive civil service consists of all employees who are not in positions exempted by action of the Civil Service Board or exempted pursuant to Article VII, Section 714 and/or Article IX, Section 902 of the City of Oakland Charter as it may be amended.

## Port Personnel Rules and Procedures

These Rules were established to conform with and be complementary to the City Charter. In cases of conflict between a Rule and the City Charter, the Charter shall prevail.

No person shall be discriminated against in any aspect of employment, including but not limited to, recruitment, examination, hiring, promotion or discipline, on the basis of race, color, religion/religious creed, marital status, national origin/ancestry, sex, gender, gender identity, gender expression, pregnancy, sexual orientation, physical or mental disability, medical condition, genetic information, AIDS/HIV status, military or veteran status, age, citizenship or on any other status protected by federal, state or local law.

The Port's labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq. By Ordinance No. 1688 ("An Ordinance Establishing Rules and Regulations for the Administration of Port of Oakland Employer-Employee Relations"; "EERO"), the Port adopted rules and regulations governing Employer-Employee Relations. Under the Port's EERO, and the MMBA, the Port recognizes certain employee organizations as the exclusive representative of certain Port employees for purposes of labor relations. For represented employees, the Port meets and confers with employee labor representatives regarding wages, hours and others terms and conditions of employment and provides advance notice of certain matters as specified by the EERO. Whenever any amendments to these Rules fall within the scope of bargaining under the MMBA, EERO or other applicable laws, they shall be subject to meet and confer.

## RULE 1 - DEFINITIONS

### *Section 1.01 – Glossary of Terms.*

The words and terms described in this section, to the extent that they are used in these Rules and elsewhere in documents relating to Civil Service processes, unless the context otherwise requires, shall have the following meanings:

- (a) Absence – an absence occurs when there is an incumbent, and that individual is expected to be off the job for a period of 120 days or less.
- (b) Actual Time in Class – paid service in a class plus unpaid leaves of absence of thirty (30) consecutive days or less. Unpaid leaves of absence of greater than thirty (30) consecutive days shall not be counted as actual time in class unless required by law or memorandum of understanding. For the purpose of Section 9.02(b), disciplinary suspensions shall not be counted as actual time in class.
- (c) Allocation – the official determination of the class in which a position in the competitive civil service shall be deemed to exist and the assignment of such position to the appropriate class in the competitive civil service.
- (d) Applicant – a person who has filed an application for examination.
- (e) Appointing Authority – for positions in the Port department, any Port official or group of Port officials having authority by legislation or Charter or the Bylaws of the Board of Port Commissioners, or having lawfully delegated authority, to make appointments to or cause a removal from any position in the Port department.
- (f) Appointment – the designation of a person by the Appointing Authority to become an employee in a position, and her/his induction into employment in such position.
- (g) Board of Port Commissioners – A body composed of seven members appointed by the City Council upon nomination by the Mayor that is vested with the exclusive control and management of the Port Department (Charter, Article VII, Section 701).
- (h) Civil Service Board – A body constituted and appointed as provided in Article VI of the Charter and responsible for the general supervision of the City's personnel system (Charter, Article IX, Section 901).
- (i) Candidate – a person participating in a selection process.
- (j) Certification – the transmittal by the Port's Executive Director or his/her designee to a hiring department of names of available candidates for employment from a list of eligibles in the manner prescribed in these Rules.
- (k) Charter – the Charter of the City of Oakland.
- (l) Class or Class of Positions – a position or group of positions for which a common descriptive job title may be used, as defined by similar education, experience, knowledge, duties, qualifications and compensation schedule.

## Port Personnel Rules and Procedures

- (m) Class Title – the designation given to a class, to each position allocated to such class and to the incumbent occupying any such position. Its meaning is set forth in the corresponding class specification.
- (n) Classification Plan – an orderly arrangement of titles and descriptions of separate and distinct classes in the competitive civil service.
- (o) Clear and Convincing Evidence – proof that is so clear, explicit and unequivocal as to leave no substantial doubt in a reasonable mind.
- (p) Compensation – the salary and wages earned by or paid to any employee in remuneration for services in any position, but does not include allowances for expenses authorized and incurred as incident to employment.
- (q) Compensation Plan – a series of schedules of salaries and wages established for the several classes of positions in the classification plan, and the method of administration; otherwise referred to as the Port of Oakland Budget and Staffing Plan.
- (r) Competitive Civil Service – all positions now existing or hereafter created under the Port Department and approved by the Civil Service Board, but not including those positions specifically exempted from the competitive civil service pursuant to Article VII, Section 714 and/or Article IX, Section 902 of the Charter or otherwise exempted by the Civil Service Board.
- (s) Competitive Examination – an examination, either assembled or unassembled, in which one (1) or more candidates are in competition, either with each other or against a standard established by the Port's Director of Human Resources as the minimum acceptable which candidates must possess in order to competently perform the duties of a position.
- (t) Conclusion of Appointment – the involuntary separation of a non-permanent and non-probationary employee for any reason authorized by these rules other than discharge, removal or layoff.
- (u) Day – a day shall be a calendar day unless otherwise specified. A working day shall be any day that the Port is regularly open for business.
- (v) Demotion – a change of an employee in the Port service from a position of one (1) class to a position of another class for which a lower schedule of pay is prescribed.
- (w) Discharge – separation from employment as a disciplinary measure or for failure to maintain requirements of minimum qualifications.
- (x) Domestic Partner – a person who has registered for a Certification of Domestic Partnership and who is in a committed relationship with a Port employee, in which two (2) cohabiting, unrelated people over the age of 18, share common responsibility for the necessities of life and have resided together for at least six (6) months prior to registering for a Certificate of Domestic Partnership.

## Port Personnel Rules and Procedures

- (y) Eligible – a person whose name is recorded on an eligible list or reinstatement list.
- (z) Eligible List – any of the lists of names of persons who have been found qualified through suitable examination for employment in a specific class of position in the competitive civil service arranged in rank order.
- (aa) Employee – a person legally occupying a position in the Port service in accordance with applicable rules and procedures of the Port and shall include those Port positions referenced in Article VII, Sections 706 and 714 and in Article IX, Section 902(c).
- (bb) Examination – all the tests of fitness, taken together, that are applied to determine the eligibility of applicants for positions of any class in the competitive civil service.
  - i. Assembled Examination – an examination in which applicants are called together in one (1) or more designated places to compete in tests according to procedures established and controlled by the Port's Director of Human Resources.
  - ii. Unassembled Examination – an examination in which applicants are subject only to general controls as to the manner in which required material is submitted to the examining staff for review and rating, and usually not involving the calling of applicants together.
- (cc) Executive Director: a classification that is exempt from the City's Personnel System (Charter, Article VII, Section 714) and that is employed and appointed by the Board of Port Commissioners (Charter, Article VII, Section 706(21)); the Executive Director shall be the chief executive and administrative officer of the Port and shall be in charge of the Board's business and properties and shall be responsible for their efficient and economical use. Specific examples of the Executive Director's duties and responsibilities are set forth in Article IX of the Board's Bylaws.
- (dd) Final Earned Rating – the final percentage attained by a candidate in an examination -as computed in accordance with section 4.10.
- (ee) Director of Human Resources – a classification exempt from the City's Personnel System (Charter, Article IX, Section 902(c)) that directs the Port of Oakland's Human Resources functions in accordance with the mission, goals, and objectives as articulated by the Executive Director and/or Chief Financial Officer and approved by the Board of Port Commissioners; ensures Port compliance with Federal, State and local ordinances pertaining to employee/labor relations, recruitment and selection, staffing, classification and compensation, benefits administration, organizational development and the full range of human resources activities. The analogous City classification is the City's Personnel Director.
- (ff) Layoff – the separation of an employee from her/his position in a class without fault on her/his part because of lack of work or funds.

## Port Personnel Rules and Procedures

- (gg) New Position – a position created through the authorized addition of a position not previously existing.
- (hh) Part-time Employee – a person occupying a position in the Port service under one (1) of the following conditions:
- i. Classified – employee working in a classified position on a permanent basis, working less than the normal hours of the normal work week for the Port department.
  - ii. Exempt – employee working in an exempt position on a part-time basis.
- (ii) Permanent Employee – an employee who has satisfactorily completed a probation period and whose regular appointment has been approved by the appointing authority.
- (jj) Personnel Director – a position appointed by the City Administrator and responsible for the efficient operations of the Personnel Department of the City, per Section 2.01 of the City of Oakland Personnel Manual.
- (kk) Position – an individual employment in a particular class.
- i. Limited Duration - a position created for a specific purpose or due to an urgent need of limited duration.
  - ii. Exempt - a position not included in the competitive civil service by reason of the Charter or exemption by the Civil Service Board.
  - iii. Permanent - a position in the competitive civil service, which has required or which is intended to require, the services of an incumbent without interruption for a period of more than 120 calendar days.
  - iv. Temporary - a position in the competitive civil service which has required, or is intended to require, the services of an incumbent for a period not to exceed 120 calendar days, except as otherwise provided in these Rules.
- (ll) Promotion – the change of an employee in the competitive civil service from a position of one (1) class to a position of another class, for which a higher maximum base rate of pay is provided in the compensation plan and which involves increased or more complex duties.
- (mm) Promotional List – a list of names of persons arranged in order of ratings/scores, as provided by these Rules, who have been found qualified for promotion to a higher position or positions.
- (nn) Reassignment – The voluntary or involuntary assignment of any employee from one position to another position in the same or similar class under the jurisdiction of a single appointing authority.

## Port Personnel Rules and Procedures

- (oo) Reassignment to Accommodate a Disability – reasonable accommodation of an employee with a disability through assignment to a vacant, funded position pursuant to section 5.10 of these Rules.
- (pp) Reclassification – the reassignment or change in allocation of an individual position on the basis of significant changes in the kind or difficulty of duties and responsibilities of such position.
- (qq) Redesignation – the designation of the incumbent in a position without affecting her/his status in the position in the event of a title change.
- (rr) Re-employment – the re-employment of a permanent employee who has resigned in good standing to a position in the same or similar class from which he/she resigned, within an allowable time period as provided by section 5.11 of these Rules.
- (ss) Reinstatement – the process of returning a person to her/his class from a reinstatement list after that person was laid off from her/his class.
- (tt) Reinstatement List – an eligible list of names of persons, arranged in the order as provided by Rule 9, who have been laid off from a position in the competitive civil service, and who are entitled to have their names certified to appointing authorities under the provisions of Rule 9.
- (uu) Release – separation due to failure to complete probation.
- (vv) Resignation – the voluntary separation of an employee from employment.
- (ww) Restricted Examination – an examination limited to specific full-time or part-time Port employees who meet the minimum qualifications of the class to be examined.
- (xx) Selection Process – the process of evaluating applicants for the competitive civil service. The selection process includes recruitment, application, screening, examination, certification, interview, appointment and the probationary process.
- (yy) Separation – the cessation of a person’s employment from Port service, including but not limited to resignation, medical separation, retirement, conclusion of appointment, release, and discharge.
- (zz) Series – a subdivision of a group in the classification plan, being a collection of classes in one occupational group having similar duties but usually at different pay schedules.
- (aaa) Shall and May – “shall” is mandatory and “may” is permissive.
- (bbb) Suspension – the temporary separation of an employee from her/his position with loss of pay and as a disciplinary measure.
- (ccc) Temporary Vacancy – a vacancy where there is an incumbent, but that individual is expected to be off for more than 120 days.
- (ddd) Test – one part of an examination.

## Port Personnel Rules and Procedures

- (eee) Transfer – the transfer of a classified employee from a position under the jurisdiction of one appointing authority to a position under another appointing authority. Transfers are with the consent of the employee and the approval of the Port's Director of Human Resources and the consent of the appointing authorities concerned, provided the positions are in the same or similar class.
- (fff) Weight – the numerical value given to each part of an examination designating the relative worth and used in computing a final score or rating.
- (ggg) Y-rated Salary – when an employee is reallocated to a classification with a lower base rate of pay, the salary of an employee is fixed at the rate the employee was earning at the time of the reallocation until the salary rate for the position to which the employee is reallocated reaches or exceeds the level of salary that the employee is receiving.

## RULE 2 - ORGANIZATION, RULES AND PROCEDURES

***Section 2.01 – Duties of the Port’s Executive Director.*** The Port’s Executive Director shall be responsible for the management of Port personnel in accordance with Charter sections 706(21) and 901, Oakland Municipal Code Section 2.08.050, these rules and applicable Port Ordinances, the Bylaws of the Board of Port Commissioners, Resolutions and Administrative policies. The Port’s Executive Director shall have the following duties and, at his/her discretion, may delegate them to the Port’s Director of Human Resources:

- (a) Direct the efficient operation of Port personnel;
- (b) Prepare and maintain the Port Personnel Rules and Procedures, with proposed modifications thereto subject to the approval of the Civil Service Board;
- (c) Prepare, maintain and, subject to Civil Service Board approval, amend the position classification plan, including detailed classification descriptions;
- (d) Administer the selection process for positions at the Port of Oakland and maintain eligible lists of qualified candidates;
- (e) Perform other duties as the Board of Port Commissioners may assign.

***Section 2.02 – Duties of the Civil Service Board.*** The functions and duties of the Civil Service Board are as follows:

- (a) Enforce, through general supervision of the personnel system, the provisions of these rules;
- (b) Review and approve amendments to the Personnel Rules and Procedures of the Port proposed by the City Administrator, Executive Director or the Board of Port Commissioners, except those that are administrative in nature, subject to and in accordance with OMC 2.08;
- (c) Study, investigate and research into such areas and matters as the City Administrator, or the Council through the City Administrator, the Board of Port Commissioners, or the Executive Director through the Board of Port Commissioners, may request, or as it may deem advisable;
- (d) Make reports and recommendations in writing thereon and formulate policy recommendations or recommended changes to the Personnel Rules and Procedures of the Port for the better realization of the objectives of the personnel system as set forth in the Charter,
- (e) Approve exemption of positions from the competitive civil service;
- (f) Perform the appellate duties and functions set forth in these Rules;
- (g) The Civil Service Board, or its designated representative, may, upon its own initiative, make such inquiries and investigations as it may deem to be warranted regarding the administration and effect of the provisions of the City Charter as related to matters of personnel management, and of the rules adopted in

## Port Personnel Rules and Procedures

accordance therewith, and make such recommendations therewith, and make such recommendations to the appropriate authorities as in its judgment may be warranted; and

- (h) Perform such other duties and functions as the City Administrator or Executive Director may from time to time request.

***Section 2.03 – Civil Service Board Procedures.*** The Civil Service Board shall, in consultation with the City Administrator and with the approval of the Council, establish procedures for the conduct of its meetings and hearings. Assuming at least a quorum of the Board is present, a majority vote of those members present is required for the adoption of any procedural or appellate motion. A quorum shall consist of four (4) members of the Board. The Civil Service Board shall make its reports, findings and recommendations in writing unless otherwise requested. All reports, findings and recommendations shall be submitted to the City Administrator. The City Administrator shall forward such reports, findings and recommendations to the Council, the Executive Director, or the Board of Port Commissioners, as appropriate.

***Section 2.04 – General Appeal Procedure.*** Except as provided elsewhere in these Rules, appeals shall be filed with the Secretary to the Civil Service Board. The appeal shall be scheduled for the next regularly scheduled meeting of the Civil Service Board and may be continued by the Civil Service Board. At the meeting, the appointing authority, employee and/or affected union shall have an opportunity to present their positions, either orally or in writing. The Port's Executive Director or his/her designee shall also have an opportunity to be heard by the Civil Service Board who shall issue a final decision regarding the dispute.

***Section 2.05 – Staffing for Civil Service Board.*** The City Administrator shall provide the Civil Service Board with assistance from City employees under her/his jurisdiction.

***Section 2.06 – Port Department.*** The Board of Port Commissioners is hereby authorized to establish personnel rules and procedures, subject to approval by the Civil Service Board, consistent with the Charter and Oakland Municipal Code Section 2.08.050 and to provide for the administration of such rules for employees of the Port Department.

## RULE 3 - CLASSIFICATION OF POSITIONS

***Section 3.01 – Competitive Civil Service.*** All positions in the Port shall be in the competitive civil service except those positions designated in Article VII, Section 714 and Article IX, Section 902 of the City Charter or otherwise exempted by the Civil Service Board. All positions in the competitive civil service shall be under the jurisdiction of the Civil Service Board. No appointment to positions within the competitive civil service shall be made except in accordance with the Port Personnel Rules and Procedures.

### ***Section 3.02 - Definition of Classification Plan.***

- (a) **Classification of Positions:** All positions in the competitive civil service shall be grouped into classes, and each class shall include those positions sufficiently similar in respect to their duties, functions, and responsibilities so that similar positions may be assigned similar titles and embraced within the same class specifications, so that similar requirements as to training, experience, knowledge, skill, and ability, and same rates of pay are applicable. The purpose of such classification is to provide uniform standards, uniform pay scales and an orderly means of regulating the status of incumbents. The classification plan fixes titles of positions to their proper classes so that all positions with the same titles may be in the same class. The classification plan shall identify job series and feeder classes, where applicable.
- (b) **Preparation and Amendment of Classification Plan:** The classification plan for the Port Department, including class specifications, shall be prepared, maintained and, subject to Civil Service Board approval, amended by the Executive Director or his/her designee.
- (c) **Purpose and Effect of Class Specifications:** Each class specification describes the main characteristics and qualification requirements of positions in the class and gives examples of specific duties which employees holding such positions may properly be required to perform. Class specifications provide a basis for determining the relationship among classes, including the series to which a classification belongs, where applicable. The class specification is descriptive and explanatory, but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks of related kind or character or skills.
- (d) **Performance of Higher Level Duties:** When an employee is assigned to perform duties of a higher class for training purposes, the Executive Director or his/her designee must be informed and such training is subject to her/his approval as to the individual working out of classification. The basis for approval shall be that benefit accrues to both the employee and the Port as a result of this training. Such training shall not be of more than six (6) months' duration.
- (e) **Application of Specifications to Positions:** In determining the class to which a position should be allocated, the specification of each class shall be considered in its entirety and in relation to the specification of other classes in the classification

## Port Personnel Rules and Procedures

plan; and the position shall be related to other positions of its kind in the Port service.

- (f) Statement of Minimum Qualifications: The statement of qualifications in a class specification is intended to be used in determining the admissibility of applicants to competitive examinations, and as an aid in the preparation of such examinations. The minimum qualifications may also be used in determining the relationship between positions in one class and positions in other classes. The Executive Director or his/her designee, after consultation with the appointing authority, shall determine desired combinations of training and experience as minimum qualifications for the respective classes and, subject to Civil Service Board approval, these minimum qualifications shall become part of the class specification.

***Section 3.03 - Title of Positions.*** The class title of a position shall be used to designate such position in all budgets, payrolls, the Port's Staffing Plan, and other official records in connection with all personnel transactions. No employee shall be appointed, employed or paid under any title or position other than that to which he/she was appointed, except in cases of acting pay.

### ***Section 3.04 - Administration and Maintenance of the Classification Plan.***

- (a) Responsibilities of the Personnel Director and the Civil Service Board: The Civil Service Board shall oversee and the Personnel Director shall administer and maintain the classification plan.
- (b) Creation of New Classifications: New classifications in the competitive Civil Service shall be subject to meet and confer to the extent required by law and shall become effective upon approval by the Civil Service Board as is consistent with City Charter Section 706(21) and Oakland Municipal Code Section 2.08.050 and ratification by the Board of Port Commissioners. In recommending the establishment of a new classification, the Executive Director or his/her designee shall submit to the Civil Service Board a class title and specification for such classification. The date of the Civil Service Board's and the Board of Port Commissioners' action shall be included on new class specifications.
- (c) Amendments to Class Specifications: Amendments to existing class specifications that fall within the mandatory scope of bargaining shall be subject to meet and confer. In the event that the affected union agrees with the proposed amendments, the amended class specification shall be effective upon approval by the Executive Director or his/her designee, subject to the following: first ratification on a consent calendar at the next regularly scheduled meeting of the Civil Service Board; second, adoption on a consent calendar at the next regularly scheduled meeting of the Board of Port Commissioners.

In the event that the Port and affected union do not come to agreement on the proposed amendments, the amendments shall be calendared for approval at the next regularly scheduled meeting of the Civil Service Board. The union and the Executive Director or his/her designee shall have the opportunity to be heard by

## Port Personnel Rules and Procedures

the Civil Service Board at such meeting before the proposed amendment is effective. It will also be subject to adoption by the Board of Port Commissioners.

The date of the Civil Service Board's and the Board of Port Commissioners' action shall be included on amended class specifications.

- (d) Classification Studies: The Executive Director or his/her designee and/or the Personnel Director may initiate and conduct classification studies of any Port positions in the competitive civil service when he/she deems such study necessary, and shall recommend a change in classification where the facts warrant such action.

An employee who contends that he/she is working outside of her/his classification or who contends that her/his position has been improperly classified may submit to the Executive Director or his/her designee a request for a classification study. The Executive Director or his/her designee shall review such request and take further action as he/she deems appropriate, subject to appeal to the Civil Service Board as provided in section 3.04(e) of these Rules.

- (e) Appeal to Civil Service Board regarding Changes in Classification: In the event the Executive Director or his/her designee has made a decision regarding a change to an employee's classification or regarding an employee's request for review of her/his classification, and the affected employee does not agree with this decision, the employee or affected union shall have an opportunity to be heard by the Civil Service Board before the Executive Director's decision becomes effective. The employee shall file an appeal with the Secretary to the Civil Service Board within fifteen (15) working days of notice of the Executive Director's decision. A letter sent to the affected employee's address of record via regular and certified mail, or hand delivered to the affected employee, shall constitute notification. At the hearing, the appointing authority, employee and/or affected union shall have an opportunity to present their positions, either orally or in writing. The Executive Director or her/his designee shall also have an opportunity to be heard by the Civil Service Board. The Civil Service Board shall issue a final and binding decision regarding the classification issue in dispute.

- (f) Quarterly Updates: For both employee and employer initiated classification studies, the Executive Director or his/her designee shall provide quarterly updates to the Civil Service Board, the Board of Port Commissioners and the affected employee. For any classification studies pending for more than one (1) year, the update shall be accompanied by an explanation for the delay. An employee may request an update on her/his employee request for classification study at any time.

***Section 3.05 – Treatment of Incumbents as a Result of Reclassification of Positions.*** In the event of a classification study, incumbents may be upgraded, downgraded or unchanged. Should an incumbent be upgraded or downgraded, the following shall occur:

- (a) Upgrading of Position: When a position is reclassified to a class of higher grade, the incumbent may be assigned to the class of higher grade without examination providing he/she has performed the duties of the class for one year prior to the

## Port Personnel Rules and Procedures

inception of the classification study. The Executive Director or his/her designee must attest to the fact that the employee has performed these duties for a period of one year. No classification study shall be performed if the incumbent has served less than one year in the position.

When a class study is initiated by an employee, the Executive Director or his/her designee or the Personnel Director and leads to placement in a higher grade classification, for purposes of determining seniority, the effective date of reclassification shall be the date on which the completed Position Description Questionnaire form is received by the Port's Human Resources Department.

When a class study involving multiple positions is initiated by the Executive Director or his/her designee or the Personnel Director and leads to placement in a higher grade classification for any incumbent, for purposes of determining seniority, the effective date of reclassification shall be the date on which the earliest completed Position Description Questionnaire form is received by the Port's Human Resources Department.

- (b) Downgrading of Position: When a position is reclassified to a class of lower grade, the incumbent may be assigned to the position of a lower grade at no loss in salary at the time of the downgrading. The salary shall be "Y-rated" until such time as it becomes equivalent to the salary paid the classification. The employee shall be placed on the laid-off list of her/his former class and shall have priority re-employment rights to the classification from which he/she was downgraded for a period of two (2) years from the date of the Civil Service Board's action changing the classification.
- (c) Redesignation: When a position is retitled to a class of the same grade, the incumbent shall be redesignated to the new classification without loss in status.
- (d) Notification: When a position is reclassified to a class of a lower or higher grade, the incumbent, her/his appointing authority, and the affected union (when applicable), shall be notified in writing at least two (2) calendar weeks in advance of the reallocation. A letter sent to the affected employee's address of record via regular and certified mail, or hand delivered to the affected employee, shall constitute notification.

***Section 3.06 – Conditions for Accepting an Exempt Classification into the Competitive Civil Service.*** In the event that classifications which were previously exempted from the competitive civil service are to be included in the competitive civil service, the following procedure shall be followed:

- (a) The Executive Director or his/her designee shall review the classification to determine that its organizational structure, job design, and compensation meet the standards established for other classifications at the Port consistent with the City's Personnel System. If these standards are met, the classification shall be placed in the competitive civil service in the same manner as any new classification.
- (b) In the event a position in such a classification has an incumbent, and the incumbent meets the minimum requirements for the classification, has lawfully

## Port Personnel Rules and Procedures

served for at least one year in the position performing the same or similar duties, and has standard or above performance ratings, the Executive Director or his/her designee shall grant the incumbent permanent status in the competitive civil service and shall notify the incumbent of such decision.

- (c) Should a position be occupied by an incumbent whose service is less than one year and/or does not possess the minimum qualifications, such employee shall be declared a provisional employee and may continue in that status for a period not to exceed 120 days from date of such declaration. The position shall then be treated as being vacant and open to competitive examination. Upon appointment of a candidate from an eligible list, the classification shall be deemed classified.

## **RULE 4 - APPLICATIONS, RECRUITMENT, EXAMINATIONS, SELECTION, AND ELIGIBLE LISTS**

***Section 4.01 – Recruitment.*** The Port shall utilize the broadest feasible recruitment methods for attracting Oakland residents and other qualified and diverse applicants. Recruitments may be open, promotional or may be restricted to Port employees, depending on the Port's needs. The Port will give reasonable notice to all of its employees concerning the Port's employment opportunities. Announcements of recruitments for positions shall be posted on the Port's website and on the City's Personnel website weekly and supplied to all department heads who shall post and/or distribute such notices.

***Section 4.02 – Applicants for Selection Process.*** All applicants for positions in the competitive civil service will be required to participate in a competitive selection process, which shall be based on merit and fitness as ascertained by practical competitive examination and by records of achievement. The Port will make Port application forms available to all prospective applicants. In compliance with Labor Code Section 432.9(a), and unless mandated by law, such application shall not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant until the Port has determined that the applicant meets the minimum qualifications as stated in the notice issued for the position. Once submitted to the Port, applications shall not be returned. Applicants must submit applications on or before the filing deadline stated in the job announcement. An applicant's failure to provide complete and accurate information on all application materials may be grounds for immediate disqualification in the application process, and may result in dismissal from employment.

***Section 4.03 – Names of Applicants Withheld.*** Names of applicants shall not be made public prior to examination, except by permission of the Executive Director or his/her designee.

***Section 4.04 – Background Checks.*** As part of the selection process, applicants shall, upon request, be required to supply references, and may be required to submit to a thorough background check by the Port. Applicants may be required to submit to testing for illegal drug use, where permitted by law.

***Section 4.05 – Eligibility to Compete In Competitive Examination Process.*** Except as provided in section 4.06, the competitive examination process shall be open to all applicants who meet the minimum qualifications and any standards or requirements of state or federal law.

***Section 4.06 – Basis for Rejection of Applications.*** The Executive Director or his/her designee may refuse to examine and/or certify an applicant who is found to lack any of the requirements established for the position for which application is made, for any violation of these Rules, or for the following reasons:

## Port Personnel Rules and Procedures

- (a) Applicant is not currently employed by the Port:
  - i. The applicant's past employment record is of such a nature that would indicate unsuitability for public employment including incompetence, misconduct, or unsatisfactory service;
- (b) All applicants:
  - i. The applicant has practiced, or attempted to practice, any deception or fraud in her/his application, or in demonstrating her/his eligibility or in securing her/his appointment.
  - ii. The applicant has been convicted of an offense which excludes the applicant from eligibility for the position based on applicable law or which in the judgment of the Executive Director or his/her designee renders the applicant unsuitable for the position. The Director shall take into consideration the following:
    - (1) Whether or not the conviction is job related to the position the applicant is seeking.
    - (2) The nature of the job he/she is applying for and the seriousness of the crime committed.
    - (3) The time elapsed since conviction and the applicant's demonstrated behavior pattern during that time.
  - iii. The applicant has made a false statement or has omitted material facts on the application.
  - iv. The applicant is a current user of illegal drugs as defined by state law.

If the applicant's name is placed on the eligible list before the Executive Director or his/her designee becomes aware of any false statements made on the application, the applicant's name shall be stricken from the eligible list. If, after the applicant has been appointed to a position, such false statement is discovered, it shall be considered cause for discharge.

***Section 4.07 – Announcement of Selection Process to Fill Vacancy.*** Notice of a selection process for employment shall be given at least ten (10) working days in advance of the last date for filing applications. The announcement of the selection process shall list the minimum education, experience, and license requirements for application, and any other information as is necessary to adequately inform prospective applicants about the selection process. The minimum rating and/or score for which eligibility for the position may be achieved will be established by the Executive Director or his/her designee, in keeping with the provisions of section 4.10 of these Rules.

***Section 4.08 – Type and Scope of Competitive Examination.*** Examinations may be assembled or unassembled, in part or in their entirety.

All examinations shall be designed for the purpose of determining the qualifications of applicants for positions, and shall be practical and shall fairly test the fitness of the

## Port Personnel Rules and Procedures

persons examined, and shall take into consideration elements or requirements of education, experience, knowledge and skill, aptitude, character, personality, physical fitness and any other element or requirements pertinent to the job and the specifications, as determined by the Executive Director or his/her designee.

***Section 4.09 – Administration of Examinations.*** Each examination shall be conducted by the Executive Director or his/her designee. Due diligence shall be used to ensure fairness, prevent collusion and/or fraud in the examination process, and to comply with these Rules.

Dates for any examinations may be postponed or canceled by the Executive Director or his/her designee. The Executive Director or his/her designee may order a new recruitment and examination process in the event that the examination generates an insufficient number of eligible candidates to certify the number of candidates specified under the certification rule.

***Section 4.10 – Ratings of Results of Examinations.*** The Executive Director or his/her designee shall use generally accepted examination methods in rating and/or scoring the results of examinations and in determining the relative standings of the candidates.

Candidates shall be required to attain a score of not less than 70% on each part of the examination. In all examinations the 70% used, representing the minimum passing score, need not be the arithmetic 70% of the total possible score, but may be an adjusted score based on a consideration of the difficulty of the test, the quality of the competition, and the needs of the competitive civil service. Any such adjusted score shall be established before the identification of the candidates' examination papers.

The final earned rating and/or score of each person competing in any examination shall be determined by the weighted average of the earned ratings and/or scores on all parts of the examination, according to the weights for each part established by the Executive Director or his/her designee; the weights of each portion of the exam shall be provided to applicants in advance of the conduct of the examination.

***Section 4.11 – Oakland Residents Preference in Examinations.*** A City of Oakland resident who competes in an examination process for a position in the competitive civil service shall be given an additional five (5) points on her/his final examination score, provided that he/she initially scores a passing score on the examination and has been a City resident for a minimum of one (1) year as of the date of the establishment of the eligible list for that examination. The applicants must submit satisfactory written proof of residency as determined by the Executive Director or his/her designee.

***Section 4.12 – Veterans' Preference in Examinations.*** A qualifying veteran who competes in an examination for a position in the competitive civil service shall be given an additional five (5) points on her/his final examination score, provided that he/she initially scores a passing grade on the examination. For the purposes of this Rule, a "veteran" means any person who has served full time for 181 days or more in the armed forces in time of war; or in time of peace in a campaign or expedition or service in which

## Port Personnel Rules and Procedures

a medal has been authorized by the government of the United States, who has been discharged or released under conditions other than dishonorable, but does not include any person who served only in auxiliary or reserve components of the armed forces.

***Section 4.13 – Disabled Veterans’ Preference in Examinations.*** “Disabled Veteran” means a veteran who was disabled as a result of such service. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration. Such veterans who become eligible for certification from eligible lists by attaining the passing mark established for the examination shall be allowed additional credits amounting to 7.5 points on open examinations. Dates of military service shall be defined as those established in section 4.12 of these Rules.

***Section 4.14 – Veterans’ Preference Entitlement Exhausted Upon Acquiring Permanent Appointment.*** The exercise of the preferences in section 4.12 and section 4.13 shall be exhausted upon one (1) permanent appointment from an eligible list and the completion of the required probationary period. The application of any other veterans’ credits on any other examination shall be automatically cancelled.

***Section 4.15 – Seniority Credit for Permanent Employees.*** Seniority credit shall be given on the final examination score for permanent employees who compete in examinations so long as the employee’s overall rating is at least “fully effective” or equivalent in the most recent performance appraisal leading up to the date of the examination. In addition, an employee shall have maintained a record clear of any disciplinary action (excluding reprimands) for a period of one year prior to the date of examination. To receive this credit, employees must be in permanent status at the time of application and examination, on an approved leave of absence, or on a reinstatement list. Credit shall be calculated as of the date of the job announcement as follows:

- (a) An employee who has completed ten (10) or more full years of Port and/or City service and who successfully competes in an examination shall receive up to an additional five (5) points added to her/his final examination score.
- (b) An employee who has completed fewer than ten (10) years of Port and/or City service shall receive an additional number of points, less than the five (5) points cited in sub-section (a) above and prorated in accordance with her/his number of completed years of Port and/or City service, added to her/his final score.

Current Port employees who qualify for an examination shall be permitted to take such examination during working hours, if the examination is scheduled during working hours and the employee provides three (3) working days notice to her/his immediate supervisor. If the announcement of examination does not permit three (3) working days notice, the employee shall notice her/his supervisor within 24 hours of being notified of the examination.

***Section 4.16 – Eligibility for Promotional Examination.*** At the discretion of the Executive Director or his/her designees, promotional examinations may be administered to candidates who meet the minimum qualifications or occupy appropriate classifications

## Port Personnel Rules and Procedures

designated by the classification plan. Only employees who are eligible to receive credit pursuant to 4.15 may compete in a promotional examination.

***Section 4.17 – Eligibility for Restricted Examination.*** The Executive Director or his/her designee may order an examination limited to specific full-time and part time Port employees who meet the minimum qualifications of the class to be examined.

***Section 4.18 – Notice and Review of Results of Examinations.*** All persons competing in any examination shall be given notice of their final score/rating and rank, or their failure to attain a place upon the eligible list.

A candidate who is a current Port or City employee may, upon request, inspect her/his own examination papers and the grading thereof during the first 30 days after the Executive Director or his/her designee has established the eligible list.

***Section 4.19 – Appeal of Examination Results.*** Applicants may appeal the results of an examination or any of its parts to the Civil Service Board. Such appeal may be sustained only upon a clear and convincing showing that:

- (a) A mechanical and/or electronic error or error not involving judgment or discretion was made in grading, scoring, or computing, or
- (b) An examination rating and/or score was the result of fraud or bias on the part of an examiner or rater.

Test content is not subject to appeal.

Any appeal must be filed with the Executive Director or his/her designee no later than thirty (30) days after the establishment of the eligible list resulting from the examination. The Executive Director or his/her designee's decision on the appeal may be appealed to the Civil Service Board within thirty (30) days. In the event the Executive Director or his/her designee does not act upon the appeal within thirty (30) days, the appellant shall have an additional thirty (30) days to appeal the matter directly to the Civil Service Board. The decision of the Civil Service Board shall be final. No person previously appointed shall be displaced as a result of any correction ordered by the Executive Director or his/her designee or the Civil Service Board.

***Section 4.20 – The Establishment of Eligible Lists.*** The Executive Director or his/her designee shall provide for an eligible list, from which vacancies shall be filled, for a period of probation before employment is permanent, and for promotion on the basis of merit, experience and record.

Each eligible list shall consist of the names of all persons who have shown by examination that they possess the qualifications which entitle them to be considered for appointment or promotion to any position in the class for which such list is established. Eligible lists shall be made public after the list has been established by the Executive Director or his/her designee.

From the reports of the scoring and/or rating of the examination process, the Executive Director or his/her designee shall prepare or cause to be prepared an eligible list showing

## Port Personnel Rules and Procedures

the names of candidates who have obtained ratings and/or scores equal to or greater than the minimum required in each stage of the examination process, whose final earned rating is 70 or more, and who have been accepted as meeting all other requirements for eligibility, arranged in order of their relative ratings or scores. The Executive Director or his/her designee may determine the total number of persons who shall constitute the list of eligibles.

Eligible lists shall become effective upon approval by the Executive Director or his/her designee. There shall be two (2) kinds of eligible lists resulting from examinations: (1) Open eligible lists, which result from open examinations and which shall expire one year from that date of approval; and (2) restricted or promotional lists, which result from closed restricted or promotional examinations and which shall expire two (2) years from that date. The Executive Director or his/her designee shall have the authority to extend the duration of an eligible list or to cancel such list prior to expiration. However, no list shall be extended for a period exceeding four (4) years from date of initial approval. When there is more than one eligible list for a particular class, the two (2) lists may be combined and the names of eligibles may be entered on the combined list at the discretion of the Executive Director or his/her designee. A name occurring on a combined list shall be removed on the date on which the original list would expire. In the event that there are insufficient names to certify to the appointing authority or no eligible list exists, the Executive Director or his/her designee may designate alternative lists, to include a transfer or eligible list for comparable classes.

***Section 4.21 – Declined Offer of Appointment.*** An eligible who is notified that he/she is being offered an appointment is required to respond to the Executive Director or his/her designee within five (5) working days of the date of notification. The Executive Director may extend the time response period. An eligible who has failed to respond within the time limits shall be considered to have declined the offer of appointment.

After being offered an appointment, an eligible may decline appointment without losing her/his eligibility for future appointment by providing in writing reasonable grounds for declining an offer within the time periods set forth above.

***Section 4.22 – Removal of Names from Eligible Lists.*** Names of eligibles will be removed from any eligible list for any causes as set forth in section 4.06, and may be removed for any of the following:

- (a) The eligible has been appointed through certification from any such list to fill a vacancy in any department, except as provided by section 5.06;
- (b) The eligible has declined a formal offer of appointment and has failed to respond to the Executive Director or his/her designee in accordance with section 4.21 of these Rules;
- (c) The eligible has waived a hiring interview three (3) times for a permanent position in any given class;
- (d) The eligible has failed to respond to her/his communication regarding availability for employment; or

## Port Personnel Rules and Procedures

- (e) The eligible does not possess or has failed to maintain the qualifications required by law and the terms of the position announcement.

***Section 4.23 – Restoration of Names to Eligible Lists.*** Names removed from any eligible lists may be restored to the list, for just cause, upon a request made in writing to the Port's Executive Director or his/her designee. The decision of the Executive Director or his/her designee may be appealed to the Civil Service Board.

### **RULE 5 - CERTIFICATION AND APPOINTMENT**

***Section 5.01 – Power of Appointment and Types of Appointments.*** All appointments to Port positions in the competitive civil service shall be made by the Executive Director or his/her designee under and in conformity with the provisions of the City Charter and these Rules and the Bylaws of the Board of Port Commissioners, by appointment from an eligible list, reinstatement, re-employment, transfer, reassignment, or temporary appointment (see guidelines in appendix A).

There are three (3) types of vacancies in the Port service to be filled by appointments: permanent vacancies, temporary vacancies, and absences. Permanent vacancies shall be filled by: appointment from an eligible list, reinstatement, re-employment, transfer or reassignment. Temporary appointments shall be made in accordance with section 5.06 of these Rules.

Except as specifically provided in these Rules or in applicable MOUs, temporary appointments shall be at will and shall not attain permanent status.

***Section 5.02 – Procedure for Certification to Fill Vacancies in the Competitive Civil Service.*** Whenever a vacancy is to be filled other than by transfer, reassignment (including reassignment to accommodate a disability), demotion or re-employment, the Executive Director or his/her designee shall request the certification of names to the class of position for which the vacancy exists. Upon receipt of this request, the Director of Human Resources shall certify eligibles for the appropriate class in the following order: (1) reinstatement list; (2) promotional or restricted list; (3) open list.

In case of certification from a reinstatement list, the Executive Director or his/her designee shall certify the names in rank order on the list, in accordance with section 9.03 of these rules.

Except in the case of a reinstatement list, the Executive Director or his/her designee shall certify, whenever possible, the top four (4) ranks on the eligible list for the vacancy, with an additional two (2) ranks for each additional vacancy. The appointing authority shall interview all available and willing certified eligibles. If the appointing authority does not select for appointment any of the certified eligibles, he/she may request additional ranks as set forth above.

As provided in section 4.20, if no appropriate eligible list exists, then the Port's Director of Human Resources may certify from such other eligible lists, as he/she deems most appropriate.

## Port Personnel Rules and Procedures

***Section 5.03 – Selective Certification.*** The Executive Director or his/her designee shall certify the highest ranking eligibles willing to accept employment. However, the Executive Director or his/her designee may require additional and special qualifications and experience for the position. The Executive Director or his/her designee must provide a statement of valid reasons for such additional and special qualifications and experience; notice of these special qualifications shall be a term of the job announcement. The Executive Director or his/her designee shall certify the highest ranking eligibles who possess the necessary qualifications for selective certification in accordance with section 5.02 of these Rules. The decision to conduct a selective certification recruitment may be appealed to the Civil Service Board within 10 working days of the posting of the job announcement.

***Section 5.04 – Limit on Certifications.*** No person shall be certified from an eligible list more than four (4) times for the same or a similar position, except at the request of an appointing authority, provided that certification for a temporary appointment shall not be counted as one of such certifications.

***Section 5.05 – Certification to Position in Lower Class.*** Any person on an eligible list may, with the approval of the Executive Director or his/her designee, be certified to a class of position lower than that for which he/she was examined, provided such position is one having similar duties and responsibilities and provided further, that no eligible list exists for the lower class. Acceptance of such position shall not result in removal from the original eligible list.

### ***Section 5.06 – Temporary Appointments.***

- (a) **Provisional Appointments:** The Executive Director or his/her designee, subject to the ratification of the Civil Service Board and the Board of Port Commissioners, may make provisional appointments, in the absence of an eligible list, for any position in which a vacancy may occur. No such provisional appointment shall continue after regular appointment from an eligible list, nor, in any event, shall such appointments continue for more than 120 calendar days. Provisional appointees may not be placed in permanent employment without successfully competing in a selection process.

In cases where the Executive Director or his/her designee desires to fill a vacancy by provisional appointment, candidates must be eligible to compete in the examination for that vacancy.

- (b) **Limited Duration Appointments:** Whenever the Port requires assistance because of a special project, employees' absence due to sick or other leave or vacation relief, or a temporary increase in the workload, appointments of a limited duration may be made from an appropriate eligible list for the duration of such work. The acceptance or rejection by an eligible of this type of appointment shall not affect her/his standing on the eligible list.

The request and certification shall specifically state the date beyond which such appointment shall not extend, insofar as is known; and on such date, the

## Port Personnel Rules and Procedures

employment of the person shall cease, unless sooner terminated. Appointments of over a year are construed as being of a permanent nature, and as such, the rules affecting permanent appointments will apply.

- (c) **Temporary Contract Service Employees:** The Executive Director or his/her designee may appoint an employee to the temporary contract service employee classification for a maximum of 960 hours per fiscal year for one of two (2) types of assignments. Employees may be assigned to a division or a project on a regular basis up to the maximum 960 hours; or, assignments may be on an occasional or short-term (less than 30 days) basis. These assignments usually require specialized skills such as performance arts, short-term project management and transcription services. This classification may not be used for ongoing or repetitive use. Temporary contract service employees may not be placed in permanent employment without successfully competing in an examination process.
- (d) **Exempt Limited Duration Employees:** The Executive Director or his/her designee may appoint an employee to the exempt limited duration employee classification to meet the Port's need to fill positions with: (1) limited funding cycles of one year or less; (2) special projects that are longer than 6 months in duration, yet still short-term; or, (3) positions where the duties and responsibilities have not been fully defined. Exempt limited duration appointments may not exceed one year.  
  
Regular appointment employees who accept exempt limited duration appointments will continue to receive the same fringe benefits they received in their regular appointment. Exempt limited duration employees do not accrue seniority. Exempt limited duration employees may not be placed in permanent employment without successfully competing in a selection process.
- (e) **Temporary Agency Assignments:** The Executive Director or his/her designee may contract with temporary agencies to provide temporary services in the event of an emergency, a special project or under unusual circumstances when help is needed immediately and for short duration. If temporary personnel are required for more than 30 days, it is preferable to make a provisional or limited duration appointment. Temporary agency assignments may not exceed 120 days. Temporary agency employees are not Port employees and are not eligible for retirement, health or other fringe benefits.
- (f) **Grant Funded Limited Duration Appointments:** The Executive Director or his/her designee may appoint grant funded limited duration employees to meet the Port's need to fill classified positions that are funded by grants lasting up to three (3) years. Grant funded limited duration appointments shall come from an appropriate eligible list, and shall not exceed three (3) years. The acceptance or rejection by an eligible of this type of appointment shall not affect her/his standing on the eligible list.

Upon completion of a probationary period, grant funded limited duration appointments shall attain permanent status with the following exception: in the

## Port Personnel Rules and Procedures

event of a layoff or the conclusion of the grant, a grant funded limited duration employee shall have no right of appointment to any classified position.

***Section 5.07 – Reassignment of Employees.*** The Executive Director or his/her designee may at any time assign any employee under her/his jurisdiction from one position to another position under her/his jurisdiction in the same class. The Executive Director or his/her designee may also reassign an employee in a position in the competitive civil service to a position of a similar class under his/her jurisdiction for which the maximum base rate of pay is the same.

***Section 5.08 – Transfer of Employees.*** The transfer of a classified Port employee from a position under the jurisdiction of the Executive Director or his/her designee to a position under the jurisdiction of another appointing authority may be made with the consent of the employee and the approval of the Personnel Director and the consent of the appointing authorities concerned, provided the positions are in the same or similar class.

***Section 5.09 – Transfer List.*** Any permanent classified Port employee may request a transfer to another department within the Port in her/his current classification, provided the employee meets the qualifications for the position. A transfer list may be maintained and employees may, upon written application to the Executive Director or his/her designee, have their names made available to department heads for consideration of appointment to vacancies for which they would be eligible as defined by these Rules. Names of employees may also be placed on the transfer list upon request of the Executive Director or his/her designee, with notice to the employee. Vacancies may, with the consent of the Executive Director or his/her designee, be filled from the transfer list.

***Section 5.10 – Reassignment to Accommodate a Disability.*** When an employee who has a disability is unable to perform the essential functions of her/his job, with or without reasonable accommodation, the Executive Director or his/her designee, shall, where required by law, reassign the employee to a vacant, funded position for which the employee meets the minimum qualifications, and is able to perform the essential functions of the job, with or without reasonable accommodation. Such reassignments shall have priority over any individuals on existing eligible lists.

***Section 5.11 – Re-employment After Resignation.*** Any permanent employee who has resigned from service in good standing shall, upon her/his written request, be considered for re-employment to a position in the same or similar class in the competitive civil service, within two (2) years of the date of such separation. A longer period of time from separation date to re-employment may be approved by the Executive Director or his/her designee, for highly qualified former employees and for positions where recruitment is difficult.

Such re-employment shall be made without additional examination and must have the approval of the Executive Director or his/her designee. Re-employment as herein defined, may take precedence over eligible lists; but in no way shall it be made mandatory for the

## Port Personnel Rules and Procedures

Executive Director or his/her designee to re-employ former employees. Appointment shall otherwise be made in the manner as for original employment as defined in other sections of these Rules.

## RULE 6 - PROBATIONARY PERIOD

***Section 6.01 – Probationary Period.*** Every person appointed or promoted to a permanent position in the competitive civil service after certification from an eligible list, shall serve a period of probation while occupying such position, which shall be considered a part of the test of fitness. Former employees who are re-employed under the provisions of these rules shall be required to serve a period of probation of six (6) months from the date of re-employment.

The probationary period shall be an essential part of the selection process, and shall be utilized for the most effective adjustment of a new employee and for the removal or demotion of any probationary employee whose performance does not meet the required standard of performance.

***Section 6.02 – Duration of Probationary Period.*** For entrance appointments, the duration of such probationary period shall be for a period of twelve (12) consecutive months of active service. The probationary period for persons appointed on a promotional basis shall be six (6) months.

An employee accepting a regular entrance appointment who has served on a limited duration appointment in the same class immediately prior to her/his regular appointment shall have that period of time counted as part of her/his probationary period. Rights and privileges shall accrue from the beginning date of limited duration appointment and shall be considered the original appointment date.

***Section 6.03 – Interruption of Probationary Period.*** If an employee is laid off during the probationary period and subsequently reappointed to the same class, he/she shall be given credit for the portion of the probationary period previously completed.

If an employee is transferred during her/his probationary period from a position under the jurisdiction of the Executive Director or his/her designee to a position under the jurisdiction of another appointing authority, the second appointing authority shall grant credit for the portion of the probationary period previously completed.

***Section 6.04 – Performance Rating During Probationary Period.*** The Executive Director or his/her designee shall file an approved report of performance at the end of the third and fifth months of employment for each employee serving a six-month probationary period. For probationary employees who have been required to serve a twelve-month probationary period, the Executive Director or his/her designee shall file with the Director of Human Resources a report of performance for each employee at the end of the third, fifth, eighth, and eleventh months of employment. This section does not preclude the filing of additional reports at any other time during the employment of any individual.

Upon a favorable report, the appointment of the employee shall be deemed to be permanent at the expiration of the probationary period. In the event of an unfavorable report, the Executive Director or his/her designee shall notify the Port's Director of

## Port Personnel Rules and Procedures

Human Resources and the employee, at least five (5) working days in advance, that he/she will be removed from the position no later than the final date of the probationary period.

***Section 6.05 – Removal or Demotion of Employee During The Probationary Period.*** At any time during the probationary period (entrance appointment to a classified position – one (1) year; entrance and restricted entrance appointment to a higher or equal classification – one (1) year; or a promotional appointment – six (6) months), an employee may be removed from her/his current position by the Executive Director or his/her designee provided that:

- (a) Upon removal by the Executive Director or his/her designee, such probationer's name shall be removed from the eligible list from which he/she was certified, and he/she shall be considered permanently separated from that position without right of appeal to the Civil Service Board except as set forth in section 6.06.
- (b) If the employee has served at the Port or the City in another position in the competitive civil service, the employee shall be notified in writing by the Department of Human Resources within five (5) working days of removal that he/she may be reinstated to his/her prior classification from which promotion was made. The employee has five (5) working days from date of notification to respond in writing, stating her/his wish to be so reinstated.
- (c) Reinstatement to his/her former classification will be based on the circumstances of the removal from the most recent appointment during the probationary period and the employee's work record as determined by the Executive Director or his/her designee.
- (d) If reinstatement is effected by the Executive Director or his/her designee, the employee shall be appointed to a vacant position in his/her former classification. If none is immediately available, it shall be the responsibility of the Executive Director or his/her designee to provide such a vacancy as expeditiously as possible without violating the rules of any applicable Port/Union MOU, or these Port Personnel Rules and Procedures, concerning layoffs and without the necessity of creating an additional position.

***Section 6.06 – Limited Rights of an Employee During Probationary Period.*** The right of an employee to appeal to the Civil Service Board because of her/his permanent separation from her/his position during his/her probationary period shall be limited to the following:

- (a) Failure of the Executive Director or his/her designee to comply with section 6.04 of these Rules;
- (b) Failure of the Executive Director or his/her designee to comply with section 6.05 of these Rules;
- (c) Discrimination against an employee during such probationary period on the basis of race, color, religion/religious creed, marital status, national origin/ancestry, sex, gender, gender identity, gender expression, pregnancy, sexual orientation,

## Port Personnel Rules and Procedures

physical or mental disability, medical condition, genetic information, AIDS/HIV status, military or veteran status, age, citizenship or on any other status protected by federal, state or local law.

***Section 6.07 – Procedure to Be Used In Appeals and Hearings Under Section 6.06.*** Whenever an employee who has been permanently removed from her/his position during the probationary period desires to appeal under the provisions of section 6.06, the following order of procedure shall govern:

(a) Order of Procedure in Appeals:

- i. The appeal must be filed in the office of the Executive Director or his/her designee within five (5) working days from the date that notice of removal was filed upon the affected employee. A letter sent to the affected employee's address of record via regular and certified mail, or hand delivered to the affected employee, shall constitute notification.
- ii. The appeal must be submitted in writing, and if the appellant desires to waive a public hearing, such a waiver must be in writing.
- iii. The appeal shall state the sub-section of section 6.06 of these rules upon which it is based and a statement of the facts upon which such appeal is based.
- iv. Within seven (7) working days from the filing of this appeal, the Executive Director or his/her designee shall submit to the Civil Service Board in writing its response.
- v. At the first meeting of the Civil Service Board after the filing of the appeal and the Port's response, the appeal shall be received and a date for the hearing shall be set. The appeal hearing shall be held at the next meeting of the Civil Service Board, unless continued by the Civil Service Board.
- vi. Not less than five (5) working days before the date the appeal is scheduled for hearing, the Civil Service Board shall send:
  1. A written notice giving the date, time, and place of such hearing to the Executive Director or his/her designee, to the appellant or her/his attorney and/or representative, and to the Port Attorney;
  2. A copy of the appeal to the Executive Director or his/her designee and the Port Attorney; a copy of the answer of the Executive Director or his/her designee to the appellant or her/his attorney or representative.
- vii. Hearings on appeals may be open to the public. However, upon motion of a directly interested party, the Chairperson of the Civil Service Board may exclude from the hearing room any witnesses not at the time under examination; except that a party to the proceeding and/or her/his counsel, or other persons conducting her/his case cannot be excluded.

## Port Personnel Rules and Procedures

- viii. The technical rules of evidence shall not apply. However, all testimony and exhibits offered must be relevant and bear upon the act of removal. Any testimony or exhibits that do not meet these criteria may be excluded. The Civil Service Board shall consider the objection of either side to the introduction of evidence.
  - ix. Hearings may be continued beyond the period originally scheduled or recessed until a future date agreeable to the Civil Service Board and the parties for good reason. Provided, however, that if such request is made by the appellant or her/his attorney of record and the Civil Service Board sustains the appeal, the Civil Service Board may rule that the appellant shall receive no pay for the period of time during which such continuance was granted.
  - x. Based on the evidence presented at the hearing, the Civil Service Board shall render its decision which may be:
    - a. to sustain the action of the appointing authority concerned;
    - b. to sustain the appeal and reinstate the appellant in accordance with subsection xi below.
  - xi. The words "probationary period" as defined in section 6.01 of these rules shall be construed to mean a period of probation consistent with the letter and spirit of these rules; if an appeal is sustained hereunder, the Civil Service Board may determine that there has been an interruption in the probationary period from the date of the cause giving rise to the appeal hereunder, to the date of the decision by the Civil Service Board, and the probationary period of the appellant may be extended by the length of such interruption.
- (b) Burden Of Proof: In any appeal under this section, the burden of proof shall be upon the appellant, and the evidence in support of the allegations made in such appeal must be clear and convincing.

## **RULE 7 - PERFORMANCE EVALUATIONS**

***Section 7.01 - Establishment of Performance Evaluation System.*** A system of performance evaluation is established to provide a fair, impartial, and objective means for rating and reporting the service and performance of each employee in the competitive civil service.

The performance evaluation plan, embodying significant factors and factor degrees for the various classes of positions, shall have reference to the quality and quantity of work done, and other characteristics which shall be considered in rating and reporting the ability, performance and efficiency of the respective employee and the value of the employee to the Port service.

The following rules and the supplemental manual of procedures and factors define the performance evaluation standards and procedures which shall be used in connection with eligibility for advancement, layoff, re-employment, promotion, demotion, dismissal from the service, or as a recommendation for reduction in pay within the salary range for the classification, and in other decisions relating to the status of employees. Such plan shall primarily be a means, whereby individual employees may regularly review their performance with their supervisors, and for ascertaining and encouraging the improvement in service by the employees, for recognizing superior performance, and in providing effective supervision of employees.

***Section 7.02 – Official Copy of Employee Performance Evaluations.*** The system of performance evaluations, as approved by the Civil Service Board, shall be maintained in separate manual form.

The Port's Director of Human Resources shall provide the Executive Director or his/her designee with copies of the performance evaluation plan and shall prescribe the forms to be used. The performance evaluation plan in the office of the Port's Director of Human Resources shall be open for the inspection of the employees during business hours.

***Section 7.03 – Participants in the Performance Evaluation Procedure.*** The performance evaluation for permanent employees in the competitive civil service shall be made annually by a rating supervisor and a reviewing supervisor in each organizational unit or department within the Port, as designated by the Executive Director or his/her designee.

Each rating supervisor, designated by the Executive Director or his/her designee, shall be the person who is immediately responsible for the work of the employee; that is, the first person in authority who has supervisory responsibility and who either regularly oversees, reviews and checks the work of the employee or who is most closely acquainted with her/his daily performance during the period of time for which the performance evaluation is conducted. The reviewing supervisor, designated by the department head, shall be the next higher supervisor in line of authority above the rating supervisor, who has personal knowledge of the work and performance of the employee in the unit or division to which the employee is assigned.

## Port Personnel Rules and Procedures

***Section 7.04 - Assistance by the Port's Director of Human Resources.*** The Port's Director of Human Resources shall be responsible for distributing employee performance evaluation forms, instructing the evaluating and reviewing supervisors regarding the performance evaluation procedure, recording final performance ratings for individual employees on the appropriate records, and obtaining widespread understanding among the employees of the objectives and characteristics of the performance evaluation procedures.

***Section 7.05 - Open Records of Performance Evaluations.*** The performance evaluations of the respective employees in each department shall be open at all times to said employees for review of their own file and for the inspection by the Port's Director of Human Resources.

The performance evaluations of employees as maintained by the Port's Director of Human Resources respecting each department likewise shall be open to the respective employees for review of their own file and to the Executive Director and his/her designee. Any employee shall be entitled to be informed by the Port's Director of Human Resources only as to the performance evaluations recorded for herself/himself and those employees who work under her/his supervision.

## RULE 8 - VACATIONS AND LEAVES OF ABSENCE

***Section 8.01 - Vacation Leave, Authority For.*** The following rules shall govern vacations and leaves of absence, in accordance with the provision of Ordinance No. 8546 C.M.S., passed by the City Council May 16, 1972:

*The Board is hereby authorized to make rules and regulations governing leaves of absence and vacations for all employees in the Classified Civil Service whose leaves of absence and vacations are not otherwise provided for by ordinance or resolution of Council. Unless otherwise provided for by ordinance or resolution of Council, those employees not in the Classified Civil Service shall be allowed the rights and privileges granted to the employees in the Classified Civil Service.*

- (a) **Purpose.** The purpose of annual vacation leave is to enable each eligible employee to return to her/his duties mentally and physically refreshed. All employees in the Competitive civil service, other than those excluded in section (b), shall be entitled to earn annual vacation leave.
- (b) **Exclusions.** The provisions of this section do not apply to the following:
  - i. Employees who, by Charter, are excluded from the Competitive Civil Service.
  - ii. Employees who work on a temporary, intermittent, or seasonal basis.
  - iii. Employees who work on an exempt part-time basis.
  - iv. Employees whose leaves of absence and vacations are otherwise provided for by the terms of any applicable Port/Union MOU provision, Port ordinance or Port resolution adopted by the Board of Port Commissioners.
- (c) **Specific Inclusions**
  - i. **Port employees:** Persons who are employed on an exempt part-time basis and who have worked at least 1,730 hours in the preceding calendar year, and not less than 140 hours in any month during the year.
  - ii. Employees who work on a permanent part-time basis in a classified position and who have worked at least 50 percent or more of each normal work week during the preceding calendar year.

Vacation and sick leave credits should be determined on a pro-rated basis according to the time spent in part-time work, in relation to the normal work week for the class.

- (d) **Times At Which Vacation Leave Shall Be Taken.**
  - i. The times at which an employee shall take her/his vacation leave during the calendar year shall be determined by her/his department head, with due regard for the wishes of the employee, and with particular regard for the operational needs of the department. If circumstances are such that a department head cannot permit an employee within her/his department to take an annual vacation leave or any part of such leave within a particular calendar year, the employee shall have the right to take the deferred

## Port Personnel Rules and Procedures

vacation during the following calendar year, in addition to her/his then current vacation.

- ii. All vacations shall be computed and taken on a calendar year basis. Employees shall be allowed to take vacation according to the following schedules, with the approval of their department head. The time of which shall be determined with due regard for the employee's wishes and particular regard for department needs. Provided, however, that no employee shall take vacation leave before such leave has been earned.
  - a. After her/his fifth calendar year of continuous service, 15 working days.
  - b. After her/his fifteenth calendar year of continuous service, 18 working days.
  - c. After her/his twentieth calendar year of continuous service, 20 working days.

(e) Rate at Which Vacation Leave Shall Accrue For Full-Time Employees.

- i. For employees during their first four (4) calendar years of service with the City or Port of Oakland, vacation leave shall accrue at the rate of ten-twelfths working days per month.
- ii. For employees who have completed four (4) calendar years of service with the City or Port of Oakland, vacation leave shall accrue at the rate of one and one quarter working days per month.
- iii. After completion of fourteen calendar years of service, leave shall accrue at the rate of one and one-half working days per month; after completion of nineteen calendar years of service, leave shall accrue at the rate of one and two-thirds working days per month.
- iv. For purposes of computing the rate of accrual of vacation leave, a break in service of less than two (2) years shall have no effect. A break in service in excess of two (2) years shall mean that the employee so re-employed shall, for purposes of computing vacation leave, be treated as a new employee.
- v. For the purpose of computing length of service in determining eligibility for vacation at the higher accrual rate, time spent on extended military leave shall be counted as time spent in the service of the City or Port.
- vi. An employee who works under the four-day work week plan shall accrue vacation leave on the same basis as he/she would accrue vacation leave under the five-day work week schedule. All vacation time used shall be charged by the actual hours taken.

(f) Deferred Vacation. Each employee is entitled to defer up to one years' vacation accrual to the succeeding calendar year.

## Port Personnel Rules and Procedures

- (g) Effect of Leaves of Absence Without Pay Upon Vacation. A Port employee who is granted a leave of absence without pay for a period in excess of thirty (30) consecutive days shall not earn vacation credits for the period in excess of thirty (30) consecutive days, except as otherwise required by law or the terms of any applicable Port/Union MOU.
- (h) Computation of Vacation Leave Upon Separation or Extended Military Leave.
- i. Compensation for Unused Vacation for Separated Port Employee. The Port shall pay a separated Port employee, or her/his estate, for earned vacation leave that he/she has accumulated.
  - ii. Method of Payment for Unused Vacation. Upon separation from Port service or commencement of extended military leave, an employee shall be paid in a lump sum for such unused vacation time as he/she has accrued. Payment shall be made on the following basis: For purposes of computation it shall be assumed that there are 250 working days in a year. The employee's actual annual salary divided by 250 determines the daily workday rate multiplied by the actual number of working days of vacation due the employee at separation shall be the amount paid to the employee.
    - a. For the purpose of computing the number of working days of vacation due an employee upon termination, an employee shall be allowed credit for one full day if he/she has served one-half or more of the total number of calendar days in the month in which he/she separates, plus the credit earned before that month; but no allowance shall be granted for service of less than this amount.
- (i) Supplemental Vacation Benefits.
- i. Sick leave credits may be accrued up to a maximum of one hundred and fifty days for sick leave use.
  - ii. Employees who accrue and maintain this maximum are eligible to earn supplemental vacation based on the following scale:
    - a. Employees who accrue six (6) additional days of sick leave credit over and above the maximum during a calendar year are eligible for one additional day's vacation.
    - b. Employees who accrue twelve (12) additional days of sick leave credit over and above the maximum during a calendar year are eligible for two (2) additional days of vacation.
  - iii. Determination of eligibility for supplemental vacation will be made at the end of each calendar year, and any sick leave credits above one hundred and fifty days will be reduced to zero at that time. Supplemental vacation shall be taken as a part of the employee's next scheduled vacation.
  - iv. Employees who are or become eligible for supplemental vacation on the basis of accrual of one hundred and twenty days sick leave pursuant to

## Port Personnel Rules and Procedures

section 8.01(1) as it was on June 30, 1969, shall continue to be eligible to earn supplemental vacation at that rate for a period of three (3) years from July 1, 1969; effective July 1, 1972, an employee must have accumulated one hundred and fifty days sick leave in order to be eligible for supplemental vacation under section 8.01(1) as hereby amended.

***Section 8.02 - Sick Leave - General.*** Each full-time Port employee, other than those whose sick leave is governed by the Charter or the terms of any applicable Port/Union MOU provision, shall be entitled to take sick leave, with full pay, in case of her/his illness or disability, or serious illness within her/his immediate family, in accordance with the provisions contained in Section 8.02 (a) through 8.02 (k) of this rule. In addition, Port employees shall be entitled to use accumulated sick leave in case of urgent personal business, in accordance with the provisions set forth in section 8.02 (1) of this rule.

- (a) Purpose of Sick Leave. It is the purpose of this rule to establish provisions, which will enable the ill employee to remain off her/his job until he/she is well enough to work, and to avoid subjecting coworkers to illnesses, which might be contagious. Sick leave, under this rule, is a privilege which the employee can exercise only in the event of her/his bona fide illness or disability, or serious illness within her/his immediate family, except that Port employees only may be allowed additional use of sick leave as outlined in section 8.02 (1) of this rule.
- (b) Rate At Which Employees Shall Earn Sick Leave.
  - i. Each employee, upon completion of three (3) months of service with the Port, shall be credited with three (3) working days of sick leave credits with pay.
  - ii. When the original sick leave credit has been granted, as provided in Section (1) above, each employee shall thereafter be credited with one working day of sick leave credit with full pay for each month of service.
  - iii. For the purpose of this rule, a month of service shall mean thirty calendar days.
- (c) Accumulation Of Sick Leave Credits. Such sick leave with pay, as provided for in Section (b) above, which is not used shall be cumulative. Sick leave credits may be accumulated, not to exceed one hundred and fifty working days. When the maximum of one hundred and fifty working days have been accumulated and a portion of it is subsequently used, it may be re-accumulated at the applicable earning rate provided in Section (b).
- (d) Disposition of Sick Leave Credits of Separated Employees.

Except as hereinafter set forth, if an employee separates or is separated for any reason whatsoever, all accumulated sick leave shall be cancelled; provided, however, that such employee who returns to work with the Port of Oakland within one year of such separation shall be again credited with the amount of accumulated sick leave he/she had at the time he/she separated. An employee who is re-appointed or reinstated in this manner shall earn sick leave at the rate of one

## Port Personnel Rules and Procedures

working day per month, unless her/his previous service with the Port of Oakland amounted to less than three (3) months of service.

If an employee with not less than ten years total Port of Oakland employment, uninterrupted by a single period of absence in excess of one year, separates or is terminated for any reason, he/she shall be paid a lump sum on the basis of 33-1/2% of accumulated sick leave credit. For this purpose, a day's pay will be computed in the manner set forth in Section 8.01 (h) (2) of these rules.

(e) Family Illness - Immediate Family Defined.

- i. Each Port employee who is otherwise eligible to take sick leave may, in the event of serious illness in her/his family, take a maximum of five (5) working days family sick leave in any calendar year. Such family sick leave shall be charged against the employee's accumulated sick leave credits.
  - a. In extreme or unusual circumstances, the Executive Director or his/her designee, in his/her discretion and taking into consideration the operational needs of the Port, may grant additional family sick leave time against earned sick leave credits and may, under extreme or unusual circumstances, authorize family sick leave for other than members of the immediate family.
- ii. The immediate family of a Port employee shall include spouse, registered domestic partner, child, including biological, adoptive, stepchild, foster, legal ward or a child of a person standing in loco parentis, who is either under the age of 18 or an adult dependent child, parent, including biological, adoptive, stepparent, foster, a legal guardian or other person who stood in as loco parentis when the employee was a child, grandparent, grandchild, sibling or parent in law.

(f) Limitations on Sick Leave. Sick leave shall not be granted to a Port employee who is absent from duty due to an injury incurred while regularly working for an employer other than the Port of Oakland.

(g) Effect of Leaves of Absence Without Pay Upon Sick Leave. A Port employee who is granted a leave of absence without pay for a period in excess of thirty (30) consecutive days shall not earn sick leave credits for the period in excess of thirty (30) consecutive days, except as otherwise required by law or the terms of any applicable Port/Union MOU.

(h) Verification of Illness - Abuse of Sick Leave. A department head, or his/her designee, who reasonably suspects an abuse of paid sick leave, may require of any employee under her/his jurisdiction, who has been on sick leave for one or more working days, a doctor's certificate or other authoritative verification for the employee's subsequent use of paid sick leave, certifying that the illness was "bona fide." He/she also may require that the employee be examined by the City-selected occupational physician for the purpose of determining whether he/she is, in fact, fit for duty and able to return to her/his regular duties; the employee

## Port Personnel Rules and Procedures

concerned shall be considered on an appropriate leave status until the City-selected occupational physician releases her/him for duty.

Abuses of the sick leave privilege will result in discipline up to and including discharge from employment.

- (i) Required Method of Reporting Illness. In order to receive compensation for the period in which he/she is on sick leave, the Port employee shall notify her/his immediate supervisor or a higher supervisor prior to or within one hour after the employee's regularly scheduled time for reporting to work. If the circumstances involved clearly are such as to make this impractical, the employee shall report her/his illness at the earliest possible time. Failure to do so is cause for denying sick leave with pay.
- (j) Compulsory Sick Leave. If, in the opinion of the Executive Director or his/her designee, a Port employee is unable to perform her/his work properly due to illness, he/she may direct that the employee be examined by the City-selected occupational physician. If the City-selected occupational physician finds that the Port employee is physically or mentally unfit to properly perform her/his duties, the employee may use his/her accrued sick leave and/or other appropriate leave, as allowed under applicable laws (e.g., FEHA, CFRA, ADA, FMLA, Pregnancy Disability Leave Law), these rules, and the employee's Port/Union MOU, if any.
- (k) Return to Duty from Extended Sick Leave. In all instances Port employees returning to duty after extended sick leave (ten days or more), or when due to the nature of the injury or illness, it is in the best interest of the Port service, medical clearance must be obtained from the City-selected occupational physician prior to the Port employee's return to duty. Persons on leave as described in Section (j) above will also be contacted by the City-selected occupational physician for medical clearance given their anticipated return to duty date.
- (l) Personal Leave for Port Employees. Up to (4) days of accumulated sick leave per year may be used by Port employees for urgent personal business. These four (4) days are not accumulative. However, if not used, this time will be counted as sick leave, in which case it can be carried from year to year. Using sick leave for personal business is defined as necessary transactions that might affect an employee's economic well-being, or personal welfare, and which cannot be carried out during off-duty hours. At least forty-eight (48) hours prior notice shall be given except in case of extreme emergency.

***Section 8.03 – Parental Leave.*** The Executive Director or his/her designee may grant parental leave, with or without pay, to any employee under her/his jurisdiction as is consistent with the CFRA, the Pregnancy Disability Leave Law, these rules and the employee's Port/Union MOU, if applicable.

### ***Section 8.04 - Injury on Duty.***

- (a) Combining Benefits of Workmen's Compensation Act and Sick Leave. Subject to the California Worker's Compensation Law.

## Port Personnel Rules and Procedures

- i. When a Port employee is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of her/his duties, he/she shall become entitled to leave of absence while so disabled, for a period not to exceed ninety (90) days, including Saturdays, Sundays, and holidays, and such leave shall not be deducted from her/his accumulated sick leave; provided, however, that such sick leave for said period of not to exceed ninety (90) days including Saturdays, Sundays, and holidays, shall not be at full pay, but shall be in such amount as, when added to her/his disability indemnity under the Worker's Compensation Act of the State of California, will result in a payment equal to her/his full salary or wage; and provided further, that such leave, if interrupted by return to duty, shall in no event exceed in the aggregate ninety (90) days, including Saturdays, Sundays, and holidays, for each injury or illness.
- ii. If the specific disability continues with or without interruption for a period in excess of ninety (90) days, including Saturdays, Sundays, and holidays, such Port employee may thereafter take as much of her/his accumulated sick leave as, when added to her/his disability indemnity payments, will result in a payment to her/him of not more than her/his full salary or wage. Her/his accumulated sick leave shall be reduced in proportion to the amount of salary or wage paid in excess of the indemnity payments and shall be computed on a working-day basis.
- iii. If a Port employee whose disability continues, with or without interruption, beyond ninety (90) days, including Saturdays, Sundays, and holidays, elects to receive thereafter only the disability indemnity payments provided for in the Labor Code, he/she must so advise the Executive Director or his/her designee within seven (7) days before the first payment of salary chargeable to her/his accumulated sick leave is made. If he/she does not so elect, he/she shall receive her/his full salary to the extent of her/his accumulated sick leave, and her/his accumulated sick leave will be reduced in proportion to the amount of salary or wages paid in excess of disability indemnity. When her/his accumulated sick leave is exhausted, he/she still is entitled to receive disability indemnity as provided in the Labor Code.

***Section 8.05 - Family Death Leave.*** Leaves of absence with pay due to a death of a Port employee's immediate family is allowed, and such leave shall not be charged against vacation or sick leave to which an employee may be entitled, but shall be in addition thereto.

- (a) Eligibility for Family Death Leave. In order to be eligible for family death leave, a Port employee must have worked full-time for the Port of Oakland for a period of time in excess of three (3) months.

## Port Personnel Rules and Procedures

- (b) Schedule of Allowances. In the event of a death within her/his immediate family, a Port employee may be permitted to remain absent from duty with pay for such time as hereinafter specified:
- i. If the service is within the Bay Area, three (3) working days with pay will be allowed.
  - ii. If the service is outside the Bay Area but within 300 miles of Oakland, not to exceed four working days with pay.
  - iii. If the service is more than 300 miles but less than 600 miles from Oakland, not to exceed five working days with pay.
  - iv. If the service is more than 600 miles from Oakland, not to exceed eight working days with pay.
- (c) Exceptional Cases. In special or unusual cases, the Executive Director or his/her designee, within his/her discretion and after taking into consideration the operational needs of the Port, may grant a family death leave to allow a Port employee to attend funeral or memorial services for someone other than those included within the definition of the immediate family under Section, 8.02 (e) (ii) of the Sick Leave Rule. It is the intent of this provision to cover the kind of situation in which someone other than immediate kin has raised the Port employee, or due to unusual circumstances has a very close relationship with the Port employee.
- (d) Procedure for Requesting Leave. In order to qualify for Family Death Leave, the Port employee shall obtain the approval of her/his immediate supervisor or a higher supervisor prior to going on leave of absence. If the circumstances are such- as to clearly make this impracticable, he/she shall notify her/his supervisor at the earliest possible time. Failure to do so may be cause for denying leave with pay.

***Section 8.06 - Miscellaneous Leaves of Absence.*** Miscellaneous leaves of absence other than vacation and sick leave may be granted by the Executive Director or his/her designee within his/her discretion and after taking into consideration the operational needs of the Port, unless otherwise provided. Department heads may grant leaves of absence without pay for periods not in excess of three working days; provided, however, that no Port employee shall be granted a total of more than five working days of such leave without pay in any one calendar year.

- (a) Procedure for Granting Leaves of Absence. A Port employee may be granted a leave of absence only if:
- i. The employee makes a written request to her/his department head at least five working days prior to the effective date of the request, stating her/his specific reasons for the request.
  - ii. The Executive Director or his/her designee, within his/her discretion and after taking into consideration the operational needs of the Port, approves the request.

## Port Personnel Rules and Procedures

- (b) Limitation Upon Leaves of Absence Without Pay. No leave of absence without pay, other than leaves to accept exempt positions in the City or Port service or classified positions in the City or Port service financed in whole or in part by Federal or tax exempt foundations, may be granted for a period in excess of one year. Leaves of absence to fill exempt positions in the Port service or classified positions in the Port service financed in whole or in part by Federal or tax exempt foundations shall be granted for the entire period during which the employee serves in such positions. A leave of absence without pay of thirty (30) consecutive days or less shall not impact seniority.

A leave of absence may be extended, upon the recommendation of the appointing authority and the approval of the Civil Service Board.

- (c) Reasons for Which Leaves of Absence without Pay May Be Granted. Leaves of absence without pay may be granted for reasons that, in the opinion of the Executive Director or his/her designee and after taking into consideration the operational needs of the Port, appear to be proper and in the best interest of the Port, such as:
- i. To permit the Port employee to receive additional education of such nature that will improve the employee's job performance and increase her/his worth to the Port.
  - ii. To permit the Port employee, because of her/his particular abilities or her/his outstanding competence, to assist another governmental jurisdiction, and which in a direct way will enhance the prestige of the Port of Oakland.
  - iii. To permit the Port employee to take care of urgent or most important personal business which cannot feasibly be accomplished by someone else.
  - iv. To permit the Port employee who is a victim of domestic violence and/or a victim of sexual assault to take off to seek medical attention, to obtain services from a domestic violence program or psychological counselling, or to participate in safety planning.
  - v. To permit the Port employee to take an exempt position in the City or Port services.
  - vi. To permit the Port employee to retain promotional and seniority rights to her/his permanent position upon accepting appointment to a classified position in the City or Port service under a program financed in whole or in part by Federal or tax exempt foundations.
- (d) Leaves of Absence With Pay. In addition to those leaves of absence with pay that are provided for elsewhere in these rules, a leave of absence with pay may be granted to a Port employee under special circumstances that, in the opinion of the Executive Director or his/her designee, and after taking into consideration the operational needs of the Port, it is in the best interests of the Port to grant such leave request. In no case shall leave with pay be granted in excess of three working days in any calendar year.

## Port Personnel Rules and Procedures

Leave of absences with pay may be granted to a Port employee who has been selected for jury duty and from which he/she cannot be excused. Leave with pay for unexcused jury duty is not subject to the time limitation expressed above. A leave of absence with pay for jury duty may be approved by the Executive Director or his/her designee and will not be counted as regular leave with pay. A Port employee who serves on jury duty shall be paid her/his regular salary for the period of such duty but shall be required, under the provisions of the Charter, to turn over to the Port's Chief Financial Officer all fees which he/she receives as payment for such jury duty.

To be eligible for a leave of absence with pay for other than jury duty, the Port employee must have served the Port continuously for a period of not less than six months and her/his services must have been thoroughly satisfactory.

***Section 8.07 - Return to Duty Following Leave.*** Every leave of absence shall be upon the condition that the Port employee taking the leave shall, subject to these rules, have the definite and absolute right, upon her/his return to her/his Port employment on the termination of her/his leave, to be reinstated to a position in the same class as that occupied by her/him at the time of the commencement of such leave, and he/she shall be entitled to such other privileges as are provided for in these rules. Any Port employee who fails to return to perform her/his regular duties by the date indicated in her/his leave, provided such leave has not been extended by the Executive Director or his/her designee, may be terminated.

A Port employee whose probationary period is interrupted as a result of taking a leave of absence shall, upon return, be given credit for the portion of probationary service previously completed.

***Section 8.08 – Authorization to Approve Leaves.*** The Executive Director or his/her designee is authorized to act for the Personnel Director (as secretary to the Civil Service Board) in approving sick leaves, family death leaves, and all leaves of absence without pay.

***Section 8.09 - Military Leave of Absence.*** A military leave of absence shall be granted to a Port employee in accordance with applicable Federal (USERRA) and State (Military and Veteran's Code) laws and applicable Port/Union MOU, if any.

## **RULE 9 - SENIORITY, LAYOFF, CHANGE IN STATUS, RESIGNATIONS**

***Section 9.01 - Layoffs.*** Whenever there shall be need for a layoff, the staff shall be reduced in accordance with the procedure set forth in section 9.02 of these rules. In the event of a layoff involving a common class, the controlling principle shall require, for purposes of a Port-initiated layoff, that a Port incumbent first exhaust seniority-based bumping within the Port before the incumbent can use his/her seniority to bump a less senior City employee. Likewise, for a City-initiated layoff in a common class, the City incumbent must first exhaust seniority-based bumping within the City before the incumbent can use his/her seniority to bump a less senior Port employee.

Consistent with the controlling principle articulated above, Port-initiated layoffs shall be on a City-wide basis within each common class subject to a reduction in force; provided, however, that an incumbent who was selectively certified to a position in accordance with Section 5.03 may not be displaced by another employee lacking the skills required for the selective certification to the position. Among Port employees possessing the requisite skills for selective certification the provisions of section 9.02 shall apply. The criteria applied in determining the particular Port employee(s) to be moved or laid off and the order of layoff shall be those criteria as specified in section 9.02.

Port employees who are laid off shall have their names placed on the appropriate reinstatement list ranked by seniority from highest to lowest. Port employees on the reinstatement list shall be entitled to reappointment to positions in the same classes where such positions are to be refilled during the period of their eligibility on the reinstatement list, or to similar classes for which no reinstatement list exist, regardless of which appointing authority has the vacancy to be filled.

***Section 9.02 - Layoff Procedure.*** Whenever it becomes necessary to reduce Port staff under the provisions of section 9.01 of these rules, no permanent Port employee in the affected class shall be laid off while there are employees without status in the same class. Employees without status in such class shall be separated in the following order: (1) temporary; (2) probationary. Pursuant to City Charter section 9.02(e), "no...contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service." Any alleged violation(s) of the Charter section shall be adjudicated through the grievance process of the affected Memorandum of Understanding.

If further staff reductions are required after temporary and probationary Port employees in the affected class are separated, then the least senior permanent Port employee shall be laid off.

In conducting a layoff, the Executive Director or his/her designee shall create a seniority list of the Port employees in the affected classes, compiled on a Port-wide basis, in accordance with the method described in subsections (a) and (b) below. If the affected class has been deemed a City/Port common class, the Executive Director or his/her designee shall forward to the Personnel Director a seniority list for such class. If the Port incumbent in the position to be eliminated is more senior than another incumbent in the same class at the Port, then the least senior Port incumbent shall be moved to a position in

## Port Personnel Rules and Procedures

the same class in another city Department, provided that he/she has more seniority than the least senior City incumbent in such other City Departments, and if so, the least senior City incumbent citywide shall be laid off. If not, the least senior Port incumbent shall be laid off.

Conversely, in the event of a City-initiated layoff in a common class, if a City incumbent in a position to be eliminated is more senior than another incumbent in the same class at the City, then the least senior City incumbent shall be moved to a position in the same class at the Port Department provided he/she has more seniority than an incumbent in the same class at the Port, and if so, the least senior Port incumbent shall be laid off. If not, the least senior City incumbent shall be laid off.

An affected Port employee shall be notified in writing by certified mail or by direct submission at least ten (10) working days prior to the date of layoff, and the notice shall contain the reason for the layoff or movement to another position. Affected departments shall be provided with copies of the notices sent to laid off Port employees.

The method for computing seniority shall be as follows:

- (a) Seniority Credit: Credit in a class shall be granted at the rate of one point for each month of service in that class starting from the date of hire. Seniority credit shall be adjusted for any unpaid leaves of absence in excess of thirty (30) consecutive days, except for those leaves that by law or memorandum of understanding do not count against seniority. Suspensions shall not be deducted from seniority for the purpose of this paragraph. Credit in a class that has been abolished, combined, divided, or otherwise altered shall be granted at the same rate when the Executive Director or his/her designee determines that such class was equal to or higher in level than the affected class of layoff. If the Executive Director or his/her designee determines that such a class was lower in level than the affected class, credit for service in such class shall be computed at the rate of one-half point per month. Service that is less than full time (i.e. permanent part time) shall receive seniority points on a pro-rata basis.
- (b) Order of Layoff When Combined Scores are Equal: As between two (2) or more Port employees having the same score for seniority, the order of layoff shall be determined by giving preference for retention in the following sequences: (1) employee with greatest actual time in the class in which the layoff is being made and in classes with the same or higher maximum salary; (2) employee with greatest total time in Port and City service; (3) employee who received the highest score on the entrance examination in the class; (4) employee whose application for the position in the subject class was first received.
- (c) Reversion to Former Class: Port employees who possess permanent status in one class and who have been appointed to a position in another class, in the event of layoff from that class, shall have the right to be reinstated to a position in their former class. This right shall extend both to personnel with tenure in a class so affected, and to individuals serving probationary periods in such class at the time of layoff.

## Port Personnel Rules and Procedures

To implement the above process for reversion, the Port employee in the lower class with the least seniority, as calculated in subsections (a) and (b) above, shall be laid-off.

***Section 9.03 – Reinstatement List.*** Permanent Port employees who are laid off or revert to a former class will have their names kept on a reinstatement list for three (3) years from the date of layoff. Names shall be placed on the reinstatement list ranked by seniority on a Port-wide basis for Port initiated layoffs, from highest to lowest seniority. The reinstatement list will be used by the Executive Director or his/her designee when a vacancy arises in the same or lower class. The Executive Director or his/her designee shall use this list before any other type of appointment. The name of any permanent Port employee on a reinstatement list who has remained on the list for three (3) full years shall be removed from the list and that person shall lose all civil service status. The Executive Director or his/her designee, in her/his discretion, may extend the active period of the reinstatement list.

***Section 9.04 – Return of Laid-off Probationary Employees to Eligible Lists.*** Probationary Port employees who have been laid off will not have their names placed on a reinstatement list. Rather, they may have their names restored to the eligible list from which they secured appointment, in the order of their original general score on such list; provided, however,

- (a) If the eligible lists from which such persons received appointment have expired or been canceled, the probationary Port employee shall have no restoration rights;
- (b) All probationary Port employees who have been laid off and subsequently appointed to a new position in the same class shall complete their probationary period in that class. Probationary Port employees who are appointed to different class must serve the entire probationary period required in that class. If a probationary Port employee is appointed to a lower class in the same job series, then he/she will serve remaining portion of her/his probationary period.

***Section 9.05 – Resignation.*** Port employees are free to resign from their employment, but are encouraged to give at least two (2) weeks notice. Once a resignation becomes effective, it is irrevocable except that the Executive Director or his/her designee may, in her/his discretion, permit a resignation to be rescinded. The Executive Director or his/her designee may, in her/his discretion, require employees separating from Port employment to undergo an exit interview.

Whenever (a) an allegation is made that the resignation is due to undue pressure or threats, or (b) in the opinion of the Director of Human Resources, resignations within the Port are excessive, the Director may investigate the causes of such resignations and report the same to the Executive Director, the Board of Port Commissioners and the Civil Service Board.

***Section 9.06 - Retirement.*** Any person who is employed in the Port service who shall become eligible to retire, and whom shall be retired or pensioned under the provisions of

## Port Personnel Rules and Procedures

any present or subsequent retirement laws, shall be deemed, for the purposes of these rules, to have been separated from the Port service in good standing.

***Section 9.07 – Medical Separation.*** Subject to any applicable laws of the California Public Employees Retirement System (“CalPERS”), a Port employee who becomes unable to perform the essential assigned functions of her/his position due to a disability or other medical condition may be medically separated. Prior to medical separation, the Port will determine what accommodations, if any, will be reasonably provided to the Port employee in accordance with Port policy, applicable law and section 5.10 of these Rules, and may determine whether the employee may be eligible for disability retirement, if appropriate. Except by mutual consent, a Port employee shall not be medically separated while on any authorized leave of absence. The Port may medically separate an employee when the Port, through the interactive process as required by the federal Americans with Disabilities Act (ADA) and/or the state Fair Employment and Housing Act (FEHA), has determined that it cannot reasonably accommodate the employee and the employee is not eligible for a disability retirement under CalPERS.

Proof of the Port employee’s disability is required and is subject to verification by the Port. When the Port requests a medical opinion as verification of the Port employee’s disability, the Port shall pay the reasonable costs of the medical examination(s) requested. If the Port employee has passed her/his probationary period, a letter sent to the affected Port employee’s address of record via regular and certified mail, or hand delivered to the affected employee, shall constitute notification. Proof of service shall accompany the notice of intent. The notice shall: (a) inform the Port employee of the action intended, the reason for the action and the effective date; and (b) inform the Port employee of the right to respond and to whom to respond within ten (10) calendar days from the date of issuance of such notice of intent, in accordance with the instructions given by the Port in the written notice provided to the Port employee. After review of the Port employee’s timely response, if any, the Port shall notify the Port employee of any action to be taken. An effective date of separation shall be at least ten (10) calendar days after the date of issuance of the notice of intention to separate or timely receipt of the Port employee’s response, if any, whichever is later. Medical separation may be appealed to the Civil Service Board.

***Section 9.08 – Separation Due to Absence Without Leave.*** Absence from duty without proper authorization in excess of five (5) continuous working days shall constitute abandonment of the position and shall be reported to the Executive Director or his/her designee and recorded as an automatic resignation. The Executive Director or his/her designee shall notify the Port employee at her/his last known address by regular and certified mail and notify her/his emergency contact on the form prescribed by the Executive Director or his/her designee.

If the Port employee contacts the City’s Personnel Director within 30 days of the mailing of such notice and establishes to the satisfaction of the City’s Personnel Director that the absence was in fact authorized or that the absence and failure to seek or obtain authorization was due to unavoidable factors entirely beyond the control of the employee, the City’s Personnel Director may order such Port employee reinstated. The City’s

## Port Personnel Rules and Procedures

Personnel Director will notify the Port of the reinstatement and upon notification the Port shall reinstate the employee. Should the City's Personnel Director decline to reinstate the Port employee, he/she shall notify the affected Port employee in writing of the determination and the basis for his/her determination. The Port employee may appeal the matter to the Civil Service Board within 15 days of the date such letter is mailed or otherwise delivered. The decision of the Civil Service Board shall be final and not be reconsidered.

Failure to appeal as set forth above shall result in the Port employee being separated and the cancellation of all current examination and eligibility status.

***Section 9.09 – Termination of Seniority.*** Class seniority shall be terminated for Port employees who voluntarily separate from the Port and the break in service is two years or more.

### **RULE 10 - DISCIPLINARY ACTIONS, APPEALS AND HEARINGS**

***Section 10.01- Disciplinary Action.*** All Port employees holding positions in the Classified Civil Service shall be subject to suspension, fine and also removal from office or employment by the Executive Director or his/her designee, for misconduct, incompetence, or failure to perform their duties under or observe the rules and regulations of the Port department; but subject to the appeal of the aggrieved party to the Civil Service Board as herein provided.

The Executive Director or his/her designee may temporarily suspend any Port employee for incompetency, neglect of duty or disobedience of orders and furnish a copy of the report to the subordinate suspended, upon her/his request therefore. The Executive Director or his/her designee shall thereupon, if demanded by the subordinate suspended, hear evidence for and against her/him, and shall thereupon affirm or revoke such suspension according as he/she or it finds the facts to warrant.

Port employees in the competitive civil service may be discharged, demoted, fined, or suspended without pay for just cause.

When a Port employee in the competitive civil service has failed or fails to perform the duties of her/his position in a satisfactory manner, or has committed any act or acts to the prejudice of the public service, or has failed to perform any act or acts it was her/his duty to perform, or whose service rendered is below satisfactory standards, or who otherwise has become subject to disciplinary or other corrective measures, the Executive Director or his/her designee shall have the power and it shall be their duty to take action, subject to the provisions of the Charter and these rules, in one of the following ways:

- (a) To reprimand the employee and record such reprimand in her/his personnel file.
- (b) To suspend the employee without pay.
- (c) To demote the employee to a lower class of position than that currently filled by her/him.

## Port Personnel Rules and Procedures

- (d) To fine the employee.
- (e) To discharge the employee from the public service.

***Section 10.02 - Procedure in Disciplinary Actions.*** The Executive Director or his/her designee shall notify the City's Personnel Director, in the manner and form prescribed by her/him, whenever any Port employee is suspended without pay, indicating the reasons therefore and the duration of the suspension. In case of any suspension, the Port employee shall have the right of hearing or investigation by the Executive Director or his/her designee or the Civil Service Board, in accordance with the procedures described in the Charter and these rules and/or the employee's Port/Union MOU, if applicable.

***Section 10.03 - Appeal of Disciplinary Action.*** Permanent Port employees shall have the right to appeal from the final notice of discipline involving suspension, fine, demotion or discharge. The notice of appeal must be received by the Secretary to the Civil Service Board within ten (10) working days from the date the final notice of discipline was served upon the appellant, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final. The appeal shall address each of the reasons for the disciplinary action enumerated in the written notice and may provide any relevant additional information.

The appeal shall be submitted to the Secretary to the Civil Service Board. The Civil Service Board shall decide whether it shall hear the appeal itself or whether the appeal shall be heard by an independent Hearing Officer. In cases in which the appellant has requested a public hearing, the Civil Service Board shall hear the appeal.

***Section 10.04 - Procedures for Hearings by the Civil Service Board.*** In the event that the Civil Service Board decides to hear the appeal itself, the following procedures shall apply:

A hearing date will be set after the appeal is initially received by the Secretary to the Civil Service Board. The request for appeal must contain the following items: (1) Cover sheet, including appellant's name, address, and telephone number; name, title, address, telephone number of appellant's representative, if any (Representative's telephone number will suffice in the absence of appellant's number); (2) A list of available days for hearing dates; (3) An estimate of the number of hours required for case presentation.

Appellant (or his/her representative) and the Port Attorney must provide two (2) complete hearing packets to the Civil Service Board's secretary by at least one week prior to the scheduled hearing. Appellant's failure to provide such information may, at the Civil Service Board's discretion, result in the rescheduling of the hearing. Packets must include the following items: (1) A chronology of events; (2) An agreed upon Statement of Facts; and (3) Statement of Facts in Dispute.

The Port Attorney shall also present to the Civil Service Board a copy of the Notice of Intent to Impose Discipline, and Notice of Discipline with accompanying materials. In the event the Port Attorney and the Appellant's representative are unable to meet on the above items, the Appellant's representative must submit their version of the facts at least one week prior to the hearing.

## Port Personnel Rules and Procedures

The Port Attorney and the Appellant's representative are required to meet at least one hour prior to the hearing to finalize exhibit packets which must include the following: (1) A list of exhibits, if any; (2) Pre-marked exhibits (if any exhibits are to be submitted). Additional exhibits may be submitted during the hearing, if they were not available to a party prior to the hearing.

No documents submitted to the Civil Service Board for consideration shall be considered public records, unless consented to by all parties or otherwise required by law.

The hearing may be continued for good reason beyond the date originally scheduled or recessed to a future date agreeable to the Civil Service Board and the parties. However, if a continuance is requested by the appellant or her/his representative, and the Civil Service Board shall later sustain the appeal, the Civil Service Board may rule that the appellant shall receive no back pay for the period of time during which such continuance was granted.

Hearings shall be closed to the public unless the appellant requests a public hearing in writing. In the event that a hearing is public, upon motion of a directly interested party, the Civil Service Board may exclude from the hearing room any witnesses not at the time under examination, except that a party to the proceeding and her/his counsel cannot be excluded.

Hearings shall be tape-recorded. Copies of the tape will be available to the appellant, if desired, for no charge. Transcripts of the taped proceedings will be available upon request at the requesting parties' expense. Civil Service Board subpoenas will be issued upon the request of either party. Subpoenas may be secured by contacting the Secretary to the Civil Service Board.

The Civil Service Board shall convene the hearing, receive evidence through testimony and documents and make findings of fact and conclusions about the discipline. Technical rules of evidence shall not apply. However, all testimony and exhibits must be relevant to the issues in contention, and the Civil Service Board may exclude any evidence which it deems to be irrelevant. The Civil Service Board shall consider and rule on any objection by either party. Closing arguments shall be oral; provided, however that either party may elect to submit a closing brief. Briefs are to be submitted to the Civil Service Board within a time set by the Civil Service Board. Briefs submitted after the deadline shall not be considered by the Civil Service Board.

The Civil Service Board will make no assumptions of innocence or guilt. The Civil Service Board will be guided in its decision by the weight of the evidence as it appears to it at the hearing.

The Civil Service Board has the power to sustain, overrule, reduce or, consistent with due process, modify the discipline, award back pay and determine the extent of back pay to be awarded, if any, based on the circumstances, and take any other appropriate action. The Civil Service Board's determination will be issued in writing, within thirty (30) working days of the conclusion of the hearing, unless post-hearing briefs are to be submitted, in which case the Civil Service Board's determination will be issued within thirty (30) working days of timely receipt of the post-hearing briefs. Copies of the Civil Service Board's determination shall be forwarded to the appellant and her/his

## Port Personnel Rules and Procedures

representative and to the Executive Director or his/her designee and the Port Attorney's Office. The Civil Service Board may request that either or both parties present proposed findings of fact and conclusions of law within ten (10) working days of the Civil Service Board's determination. The opposing party shall have the right to agree or object to the proposed findings. The Civil Service Board's decision shall be the final administrative decision but is reviewable by writ of mandamus in accordance with applicable law.

***Section 10.05 - Procedures for Hearing by a Hearing Officer.*** In the event that an appeal is to be heard by a Hearing Officer, the following procedures shall apply:

(a) Hearing Officer Selection and Authority.

The Hearing Officer shall be selected by the Civil Service Board in accordance with selection procedures established by the Civil Service Board which ensure that the Hearing Officer is independent, neutral and un-biased.

Hearings shall be closed to the public. The costs of the Hearing Officer shall be borne by the Port. Hearings shall be tape-recorded. Copies of the tape will be available to the appellant, if desired, for no charge. Transcripts of the taped proceedings will be available upon request at the requesting parties' expense.

The Hearing Officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. Closing arguments shall be oral; provided, however that either party may elect to submit a closing brief following the presentation of closing arguments. Briefs are to be submitted to the Hearing Officer within twenty (20) calendar days of the close of the hearing. Briefs submitted after the deadline shall not be considered by the Hearing Officer.

The Hearing Officer shall render written findings and recommendations to the Civil Service Board within thirty (30) calendar days of the close of the hearing. If post-hearing briefs are submitted, the recommendation shall be submitted to the Civil Service Board within thirty (30) calendar days after timely receipt of the brief(s).

The Hearing Officer shall provide the Civil Service Board the following documents, which shall constitute the official hearing record: (1) A summation page delineating the case name; issue; brief summary of the case; and her/his recommendation; (2) a complete written report documenting the findings; (3) any documentary evidence, written motions and briefs submitted; (4) the cassette tape(s) of the hearing.

(b) Civil Service Board Responsibilities.

After receiving a Hearing Officer's recommendation, the Civil Service Board Secretary shall schedule the case for the next available Civil Service Board meeting. The Civil Service Board will make every effort to schedule a case within thirty (30) days of receiving the Hearing Officer's recommendation.

In reviewing a decision, the Civil Service Board shall review the hearing record and may review the recording of the hearing. The Civil Service Board may accept

## Port Personnel Rules and Procedures

or reject the Hearing Officer's recommendation. The Civil Service Board has the power to sustain, overrule, reduce or, consistent with due process, modify the original discipline, award back pay and determine the extent of back pay to be awarded, if any, based on the circumstances, and take any other appropriate action.

The Civil Service Board's determination will be issued in writing, within ten (10) working days of the conclusion of the Civil Service Board's review of the Hearing Officer's recommendation. Copies of the Civil Service Board's determination and the recommendation of the Hearing Officer shall be forwarded to the appellant and her/his representative and to the Executive Director or his/her designee and Port Attorney's Office. The Civil Service Board's determination shall be the final administrative decision but is reviewable by writ of mandamus in accordance with applicable law.

### ***Section 10.06 – Judicial Review of Final Administrative Decisions*** Issued by the Civil Service Board and Involving the Port of Oakland

(a) The provisions of Code of Civil Procedure ("CCP") Section 1094.6 are hereby made applicable to all final administrative decisions (as defined by CCP Section 1094.5(a)) of the Civil Service Board which involve the Port of Oakland. Judicial review of any such administrative decision may be had only if the petition for writ of mandate is filed within ninety (90) days after the decision becomes final; provided, that pursuant to the provisions of CCP Section 1094.6(d), if the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition may be filed shall be extended to not later than the thirtieth (30<sup>th</sup>) day following the date on which the record is either personally delivered or mailed by first class certified mail, return receipt requested, to the petitioner or his/her attorney of record, if he or she has one.

(b) As provided in CCP Section 1094.6(c), any person who requests preparation of the administrative record shall be responsible for payment of the actual costs of transcribing or otherwise preparing the record. Before commencing preparation of a transcript or other record, the officer or employee responsible for preparation shall estimate the actual total cost. Preparation of the record shall not commence until the person requesting preparation of the record has deposited the full amount of the cost estimate. If the deposit exceeds the actual cost, the difference shall be refunded. If the actual cost exceeds the estimate, the difference shall be paid when the record is delivered.

(c) The limitations period shall not be extended beyond ninety (90) days after the decision becomes final unless, pursuant to subsection (b) above, the petitioner

## Port Personnel Rules and Procedures

deposits the estimated actual total cost of preparing the transcript within ten (10) days after he or she has been furnished with the written estimate of such cost.

(d) Every final administrative decision as defined in subsection (a) above shall refer to CCP Section 1094.6 and the ninety (90) day limitations period and shall include, as an attachment, a copy of this section.

### **RULE 11 - PROHIBITIONS AND PENALTIES**

***Section 11.01 - Frauds Prohibited.*** Under all provisions of these Rules, no person shall, by representation or action, maliciously or corruptly by himself/herself or in cooperation with any other person or persons:

- (a) Willfully and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified pursuant to the City Charter or these rules pertaining to the competitive civil service, or the performance evaluation, or the service ratings of any employee, or aid in so doing, or willfully make any false representation concerning the same, or concerning any person examined;
- (b) Impersonate any other person, or permit or aid in any manner any other person to impersonate her/him in connection with any examination, appointment, or application, request for examination or other matters covered by these Rules;
- (c) Defeat, deceive, or obstruct any person in respect to her/his rights in relation to any examination, appointment in the competitive civil service or other matters covered by these Rules;
- (d) Furnish any person any special or secret information for the purpose of either improving or injuring the prospects or chances of such person in connection with any examination, appointment or other matters covered by these Rules;
- (e) Directly or indirectly give, render, pay, offer, solicit or accept money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the competitive civil service.
- (f) Make false accusations, falsify documents or make false representations regarding matters covered by these Rules.

***Section 11.02 - Penalty.*** Any person violating any of the provisions of this Rule or any rule hereunder shall be deemed guilty of a misdemeanor, and for any such offense may, upon conviction thereof, be suspended, reduced in grade, or discharged from the Port service.

## RULE 12 - INCOMPATIBLE ACTIVITY OF PORT EMPLOYEES

***Section 12.01 –Incompatible Activities; Incompatible Employment.*** Each officer and employee shall, during her/his hours of active duty, devote her/his whole time, attention and efforts to her/his Port office or Port employment, and he/she may not be required to perform any service except for the benefit of the Port. No officer or employee of the Port may engage in any employment, activity or enterprise which has been determined to be inconsistent, incompatible or in conflict with her/his duties or with the duties, functions and responsibilities of the Port department in which he/she is employed.

The Executive Director or his/her designee shall declare the activities which will be considered inconsistent, incompatible or in conflict with, or inimical to, the duties of Port personnel. In making this determination, consideration shall be given to employment, activity or enterprise which: (a) involves the use for private gain or advantage of Port time, facilities, equipment and/or supplies, or the badge, uniform, prestige or influence of one's Port office or employment; or (b) involves receipt by the officer or employee of any money or other consideration for the performance of any act required of her/him as a Port officer or employee; or (c) involves the performance of an act in other than her/his capacity as Port officer or employee, which act may later be subject directly or indirectly, to control, inspection, review, audit or enforcement by her/him or by the agency in which he/she is employed. (Charter section 1201)

Port employees who violate section 12.01 may be subject to disciplinary action up to and including termination and, where appropriate, may be subject to prosecution under state or federal law.

***Section 12.02 – Community Activities.*** Port employees may participate in community or civic activities on their own time. When there is a possibility or appearance of an incompatibility between the employee's public duties and private interests, the employee must bring the situation promptly to the attention of the immediate supervisor for review and resolution. Managers and supervisors shall counsel employees as appropriate upon becoming aware of possible conflicts of interest.

## **RULE 13 – PUBLIC RECORDS**

*Section 13.01 - Records Open to the Public.* Except as provided in these rules, the California Public Records Act, and/or the rules and policies of the Board of Port Commissioners, the records of the Port's Human Resources Department, the minutes of the meetings of the Civil Service Board, annual and special reports, the classification and compensation plans, and the official roster are public records and shall be open to public inspection at the Port's Human Resources Department under reasonable conditions during business hours. However, the Executive Director or his/her designee may withhold employee personnel records and special reports if such records and reports are otherwise exempt from disclosure under applicable state and local laws.

To the extent permissible under the California Public Records Act and local law, material used or to be used in Port tests, confidential reports regarding applicants or eligibles, and the names and identity of special examiners who may be temporarily employed by the Port shall be considered confidential and not subject to disclosure to members of the public.

*Section 13.02 - Disposition of Records.* Minutes of Civil Service Board meetings shall be considered permanent records.

## **SAVINGS CLAUSE**

If any part of these Rules is determined to be illegal or unconstitutional, such part shall be severed from these Rules and the remaining Rules shall be given full force and effect.

## APPENDIX A - GUIDELINES FOR FILLING VACANCIES

All vacancies in authorized, non-sworn, classified and exempt positions shall be filled according to the following guidelines:

1. If a permanent vacancy occurs in an exempt position:
  - a. The duties may be reallocated among existing positions; or
  - b. The position may be left open; or
  - c. The position may be filled by appointment.
2. If a temporary vacancy or absence occurs in an exempt position:
  - a. The duties of the position may be reallocated temporarily among other positions; or
  - b. The position may be left open for the duration of the temporary vacancy or absence; or
  - c. The position may be filled by assignment of a current employee on an “acting” basis in accordance with pertinent Memorandum of Understanding and administrative policy; or
  - d. The position may be filled by a Temporary Contract Service Employee or an Exempt Limited Duration Employee.
3. If a permanent vacancy occurs in a classified position, and there is no eligible list:
  - a. The position may be left open; or
  - b. The position may be filled permanently by transfer or re-employment; or
  - c. The position may be filled by provisional appointment, not to exceed 120 days. If no eligible list is posted before the 120-day period expires, additional provisional appointment(s) of different individual(s) may be made; or
  - d. The position may be filled by assignment of a current Port employee on an “acting” basis, in accordance with relevant Memorandum of Understanding and administrative policy, pending completion of the recruitment process; or
  - e. The position may be filled by means of a temporary agency assignment, if appropriate, for a period not to exceed 120 days, pending completion of the recruitment process.
4. If a permanent vacancy occurs in a classified position, and an eligible list exists:
  - a. The position may be left open; or
  - b. The position may be filled permanently by transfer, re-employment or appointment from an eligible list.
  - c. If an active reinstatement list of laid off employees exists at the time of filling the vacancy this list must take priority over all other lists.
5. If a temporary vacancy occurs in a classified position, and there is no eligible list:

## Port Personnel Rules and Procedures

- a. The position may be left open for the duration of the vacancy; or
  - b. The duties of the position may be temporarily reallocated among existing positions; or
  - c. The position may be filled by provisional appointment, not to exceed 120 days. If no eligible list is posted before the 120 day period expires, additional provisional appointment(s) of different individual(s) may be made; or
  - d. The position may be filled by assignment of a current Port employee on an “acting” basis, depending on the length of the vacancy and in accordance with relevant Memorandum of Understanding provisions and administrative policy; or
  - e. The position may be filled by means of a temporary agency assignment, if appropriate, for a period not to exceed 120 days.
6. If a temporary vacancy occurs in a classified position and an eligible list exists:
- a. The position may be left open for the duration of the vacancy; or
  - b. The duties of the position may be reallocated temporarily among existing positions; or
  - c. The position may be filled by limited duration appointment from an eligible list; or
  - d. In the event that no person on the eligible list is willing to accept a limited duration appointment: (i) the position may be filled by provisional appointment not to exceed 120 days. Additional provisional appointment(s) of different individual(s) may be required if the temporary vacancy exceeds 120 days; or (ii) the position may be filled by assignment of a current Port employee on an “acting” basis in accordance with relevant Memorandum of Understanding provisions and administrative policy; or (iii) the position may be filled by means of a temporary agency assignment, if appropriate, for a period not to exceed 120 days.
7. If an absence occurs in a classified position and there is no eligible list for that classification:
- a. The position may be left open for the duration of the vacancy; or
  - b. The duties of the position may be temporarily reallocated among existing positions; or
  - c. The position may be filled by assignment of a current Port employee on an “acting” basis, depending on the length of the absence and in accordance with relevant Memorandum of Understanding provisions and administrative policy; or
  - d. The position may be filled by means of a temporary agency assignment, if appropriate, for a period not to exceed 120 days.
8. If an absence occurs in a classified position and an eligible list exists:
- a. The position may be left open for the duration of the absence; or
  - b. The duties of the position may be reallocated among existing positions; or

## Port Personnel Rules and Procedures

- c. The position may be filled by limited duration appointment from the eligible list.
- d. In the event that a limited duration appointment is not practical due to the brief nature of the absence or because no person on the list is willing to accept a limited duration assignment, the position may be filled by: (i) assignment of a current Port employee to the position on an “acting” basis, in accordance with relevant Memorandum of Understanding provisions and administrative policy; or (ii) the position may be filled by means of a temporary agency assignment, if appropriate, for a period not to exceed 120 days.

Port Personnel Rules and Procedures

**APPENDIX B – COMMON CLASSES**

Classifications in the classified service with positions at the City and the Port with the same class titles and class codes that were changed or modified after 1978, not following the prescribed prevailing Civil Service Rules at the time of the changes or modifications, shall be submitted to the Civil Service Board as soon after collective bargaining 2011 concludes, but no later than 90 days after collective bargaining is concluded.

As of the date of this addendum, the following classifications have been deemed as common classifications until the Port and City comply with the procedures ascribed above.

(list of the deemed classifications as listed below)

<u>PORT</u>	<u>CITY</u>
1. Account Clerk	Account Clerk II
2. Senior Account Clerk	Account Clerk III
3. Office Specialist I	Office Assistant II
4. Office Specialist II	Administrative Assistant I
5. Administrative Specialist	Administrative Assistant II
6. Carpenter	Carpenter
7. Gardener I	Gardener I
8. Gardener II	Gardener II
9. Gardener III	Gardener Crew Leader
10. Painter	Painter
11. Plumber	Plumber
12. Semiskilled Laborer	Public Works Maintenance Worker
13. Port Electrician*	Electrician*
14. Custodian	Custodian**

The Port and the City have agreed that the following two classifications are Port-specific due to the following reasons and therefore they are exempt from the above common classifications:

\*The Port Electrician – due to the “high voltage” experience required by the Port.

\*\*Custodian – due to FAA security requirements. Port custodians must be able to pass a Criminal History Records Check (CHRC), a ten-year background check, and be fingerprinted for FBI clearance in order to work in the Security Identification Display Area (SIDA) at the Oakland International Airport. Additionally, the Port and City have agreed that due to recruitment requirements, both the City and the Port agreed to conduct separate examinations to accommodate internal candidates (Port relief/990 custodians and City part-time custodians).

## Port Personnel Rules and Procedures

# **EXHIBIT D**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
SEIU LOCAL 1021  
AND  
THE PORT OF OAKLAND**

**July 1, 2015 – December 31, 2017**

TABLE OF CONTENTS

ARTICLE 1 - RECOGNITION - PARTIES TO M.O.U. .... 1

1.A INTRODUCTION ..... 1

1.B RECOGNITION..... 1

1.C NOTIFICATION OF NEW CLASSIFICATIONS ..... 1

1.C.1 NEW CLASSIFICATIONS..... 1

1.C.2 DISPUTES OVER ASSIGNMENTS. .... 2

ARTICLE 2 - MANAGEMENT AND UNION RIGHTS..... 2

2.A STEWARDS..... 2

2.A.1 NUMBER OF STEWARDS..... 2

2.A.2 LIST OF SUPERVISORS. .... 2

2.A.3 SCOPE OF STEWARDS..... 2

2.A.4 RELEASE TIME ..... 3

2.B UNION ELECTIONS ..... 3

2.C ACCESS TO WORK LOCATIONS..... 3

2.D USE OF MEETING SPACE..... 3

2.E NOTIFICATION OF RULES..... 4

2.F OBLIGATIONS TO NEW EMPLOYEES..... 4

2.G BULLETIN BOARDS ..... 4

2.H INFORMATION PROVIDED TO THE UNION ..... 4

2.I CONTRACTING OUT ..... 5

2.J WORK EFFORT ..... 9

2.K PUBLIC RELATIONS..... 9

ARTICLE 3 - UNION SECURITY ..... 9

ARTICLE 4 - DISCHARGE, DISCIPLINE, RESIGNATION, COACHING AND COUNSELING.....10

4.A	GOOD AND SUFFICIENT CAUSE.....	10
4.B	GROSS VIOLATIONS .....	10
4.C	PROGRESSIVE DISCIPLINE.....	11
4.D	COACHING AND COUNSELING .....	11
4.E	NOTICE OF RESIGNATION.....	11
4.F	EXIT INTERVIEW.....	11
	ARTICLE 5 - GRIEVANCE PROCEDURE.....	12
5.A	DEFINITION.....	12
5.B	RESOLUTION OF GRIEVANCES .....	12
5.B.1	OBJECTIVE OF GRIEVANCE SECTION. ....	12
5.B.2	ORAL PRESENTATION TO IMMEDIATE SUPERVISOR.....	12
5.B.3	FIRST STEP WRITTEN SUBMISSION TO IMMEDIATE SUPERVISOR. ....	12
5.B.4	SECOND STEP SUBMISSION TO DEPARTMENT MANAGER. ....	12
5.B.5	THIRD STEP SUBMISSION TO PORT.....	12
5.B.6	FOURTH STEP SUBMISSION TO ARBITRATION.....	13
5.B.7	ARBITRATOR SELECTION. ....	13
5.B.8	ARBITRATION PROCEDURES.....	13
5.B.9	CLARIFICATION OF GRIEVANCES.....	13
5.C	FOURTH STEP OPTION CIVIL SERVICE OPTION IN DISCIPLINE AND DISCHARGE .....	13
5.D	EXTENSION OF TIME LIMITS .....	14
5.E	PRESENCE AT HEARINGS .....	14
5.F	WITNESSES .....	14
5.G	APPLICABLE LAW PROCEDURES.....	14
5.H	WAIVER OF TIME LIMITS .....	15
5.I	AWARD PAYMENT SCHEDULE .....	15
	ARTICLE 6 - SENIORITY.....	15
6.A	DEFINITIONS.....	15

6.A.1	CLASSIFICATION SENIORITY.....	15
6.A.2	PORT DATE OF SENIORITY.....	15
6.B	SENIORITY AND BIDDING.....	15
6.B.1	VACATION LEAVE BIDDING.....	15
6.B.2	SHIFT BIDDING AND JOB BIDDING.....	15
6.C	SENIORITY AND OVERTIME.....	16
6.D	SENIORITY AND LEAVE.....	16
6.D.1	SENIORITY AND MILITARY LEAVE.....	16
6.D.2	SUSPENSION/TERMINATION OF SENIORITY FOR EMPLOYEES WHO FAIL TO RETURN TO WORK AFTER MILITARY LEAVE.....	16
6.D.3	SENIORITY AND OTHER LEAVES OF ABSENCE.....	16
6.D.4	SUSPENSION/TERMINATION OF SENIORITY FOR EMPLOYEES WHO VOLUNTARILY RESIGN.....	16
6.D.5	SUSPENSION/TERMINATION FOR EMPLOYEES WHO RETIRE.....	16
6.E	SENIORITY IN CASES OF IDENTICAL HIRING DATES.....	16
6.F	SENIORITY LISTS.....	16
	ARTICLE 7 - HIRING, LAYOFF AND REHIRING.....	17
7.A	PROBATIONARY PERIOD.....	17
7.A.1	LENGTH OF PROBATIONARY PERIOD.....	17
7.A.2	SERVICE RATINGS DURING PROBATIONARY PERIOD.....	17
7.B	ENTRY LEVEL RESIDENCY PREFERENCE.....	17
7.C	ELIGIBLE LISTS.....	17
7.C.1	ELIGIBLE LIST FOR ENTRY LEVEL APPOINTMENTS.....	17
7.C.2	ELIGIBLE LIST DURATION.....	17
7.D	VETERAN'S RIGHTS.....	18
7.E	REDUCTION IN FORCE.....	18
	ARTICLE 8 - PROMOTION, DEMOTION AND TRANSFER.....	19
8.A	PROBATION PERIOD UPON PROMOTION.....	19

8.B	SERVICE RATINGS DURING PROBATION.....	19
8.C	RETURN RIGHTS.....	19
8.D	PROMOTIONAL EXAMINATIONS .....	19
8.D.1	JOB VACANCY POSTING.....	19
8.D.2	JOB TRAINING AND ADVANCEMENT COMMITTEE.....	20
8.D.3	NON-DISCRIMINATION CLAUSE.....	20
8.D.4	NO RESIDENCY REQUIREMENT.....	20
8.D.5	ORAL BOARD.....	20
8.D.6	PROMOTIONAL PREFERENCE POINTS - YEARS OF SERVICE.....	20
8.D.7	PROMOTIONAL PREFERENCE POINTS - RESIDENT.....	20
8.D.8	PROMOTIONAL EXAMINATION INFORMATION.....	20
8.D.9	NOTIFICATION OF RECOMMENDATION FOR APPOINTMENT.....	21
8.E	ELIGIBLE LIST FOR PROMOTIONAL POSITION.....	21
8.F	DURATION OF PROMOTIONAL LIST.....	21
8.G	NON-SELECTION STATEMENT.....	22
8.H	SUPPLEMENTAL TRAINING PROGRAMS.....	22
8.I	TRANSFER LIST.....	22
	ARTICLE 9 - TRAINING AND EDUCATION .....	22
9.A	AVAILABLE EDUCATION COURSES.....	22
9.B	REIMBURSEMENT.....	23
9.C	APPROVAL PROCEDURE.....	23
9.D	HEAVY EQUIPMENT TRAINING COURSE AND DRIVING COURSE .....	23
9.E	PROFESSIONAL DEVELOPMENT.....	24
	ARTICLE 10 - SAFETY.....	24
10.A	PROMOTION OF SAFETY.....	24
10.A.1	SAFETY CHECKS.....	25
10.A.2	TRAINING.....	25

10.A.3 FRESH AIR SUPPLY.....	25
10.A.4 RESPIRATORS.....	25
10.A.5 HARD HAT/BUMP CAP USAGE.....	25
10.A.6 VDT AND WORD PROCESSING SAFETY.....	25
10.A.7 JACKETS.....	26
10.A.8 SAFETY SHOES.....	26
10.A.9 HANDLING OF RAW SEWAGE.....	26
10.B SAFETY COMMITTEES.....	26
10.B.1 PORT SAFETY COMMITTEE.....	26
10.B.2 PORT-UNION SAFETY COMMITTEE.....	26
10.B.3 PROPOSITION 65.....	27
10.C SAFETY LAWS, RULES AND REGULATIONS.....	27
10.D DOT REGULATIONS COMPLIANCE.....	27
ARTICLE 11 - EMPLOYEE RIGHTS AND AFFIRMATIVE ACTION.....	28
11.A PERSONNEL FILE.....	28
11.A.1 COPIES OF DEROGATORY ENTRIES.....	28
11.A.2 DEROGATORY ENTRIES.....	28
11.A.3 ENTRIES TO BE USED IN DISCIPLINARY PROCEEDINGS.....	28
11.A.4 REVIEW OF PERSONNEL FILE.....	28
11.A.5 UNION REVIEW OF PERSONNEL FILE.....	28
11.A.6 CONFIDENTIALITY OF PERSONNEL FILE.....	28
11.A.7 POSITIVE ENTRIES.....	29
11.B CIVIL RIGHTS AND AFFIRMATIVE ACTION.....	29
11.B.1 NO DISCRIMINATION.....	29
11.B.2 SUPPORT OF EQUAL EMPLOYMENT OPPORTUNITIES.....	29
11.B.3 EEO REPORT.....	29
11.B.4 PUBLICATION LIST.....	29

11.C	EMPLOYEE SERVICE RATINGS AND REPORTS .....	29
11.C.1	REPORTS OF PERFORMANCE.....	29
11.C.2	NINE MONTH PROBATIONARY PERIOD.....	29
11.C.3	SIX MONTH PROBATIONARY PERIOD.....	29
11.C.4	RETURN RIGHTS.....	30
11.C.5	REVIEWS BETWEEN ANNUAL PERFORMANCE APPRAISALS.....	30
11.C.6	EMPLOYEE SERVICE RATINGS.....	30
11.D	EQUAL PAY FOR WOMEN.....	30
ARTICLE 12 - WAGES .....		30
12.A	SALARIES .....	30
12.B	SALARY RATE INCREASE .....	31
12.B.1	STEP INCREASES.....	31
12.B.2	EFFECTIVE DATES OF STEP INCREASES.....	31
12.B.3	SATISFACTORY SERVICE.....	31
12.B.4	AIRPORT SERVICEMEN.....	31
12.B.5	RELIEF AIRPORT SERVICEMEN.....	31
12.B.6	AIRPORT ON-THE-JOB INJURY.....	31
12.B.7	STEP INCREASE DUE DATE.....	31
12.B.8	GARDENER III.....	32
12.C	CUSTODIAL ISSUES.....	32
12.D	RELIEF CUSTODIAN AND RELIEF TELEPHONE OPERATOR SENIORITY.....	32
ARTICLE 13 - HOURS, WORKING CONDITIONS AND OVERTIME.....		32
13.A	SHIFT DIFFERENTIAL.....	32
13.A.1	SHIFT DIFFERENTIAL CALCULATION.....	32
13.A.2	EXTENSION OF SWING SHIFT DIFFERENTIAL.....	32
13.A.3	CLASS A & B LICENSES.....	32
13.B	SPLIT SHIFTS .....	33

13.C	LUNCHES .....	33
13.D	CUSTODIAL FACILITIES AND EQUIPMENT.....	33
13.D.1	CUSTODIAL TRAINING.....	33
13.E	UNIFORMS AND PROTECTIVE CLOTHING .....	33
13.F	TOOLS.....	34
13.G	GARDENER'S SPRAY CERTIFICATE .....	34
13.H	MEAL PAY .....	34
13.I	REST PERIODS .....	34
13.J	ACTING PAY .....	35
13.J.1	JOB AUDITS.....	35
13.J.2	LEAD WORKER ASSIGNMENTS.....	35
13.K	REASSIGNMENT NOTIFICATION.....	35
13.L	OVERTIME .....	36
13.L.1	OVERTIME AND COMPENSATORY TIME OFF.....	36
13.L.2	DISTRIBUTION OF OVERTIME .....	36
13.L.3	OVERTIME CANCELLATION.....	36
13.L.4	SICK LEAVE/OVERTIME.....	36
13.M	COMPENSATORY BUY BACK .....	37
13.N	WORKER'S COMPENSATION.....	37
13.O	HOURS OF WORK.....	37
13.P	CALL BACK PAY .....	37
13.Q	CHILD CARE FACILITY.....	37
13.R	SHIFTS EXCEEDING TWENTY-FOUR (24) HOURS .....	38
13.S	WORK-RELATED COMMUNICATIONS.....	38
13.T	PARKING AT 530 WATER STREET .....	38
ARTICLE 14	- HOLIDAYS .....	38
14.A	DESIGNATED HOLIDAYS .....	38

14.B	HOLIDAY PAY .....	39
14.C	HOLIDAYS ON REGULAR DAY OFF .....	39
14.C.1	HOLIDAY ON NORMAL DAY OFF .....	39
14.C.2	HOLIDAY ON SUNDAY .....	39
14.D	CHRISTMAS EVE AND NEW YEAR'S EVE HALF SHIFT HOLIDAYS .....	39
ARTICLE 15 - VACATION .....		40
15.A	VACATION ACCRUAL .....	40
15.B	SENIORITY FOR VACATIONS .....	41
15.C	VACATION DEFERRAL .....	41
15.D	VACATION INCREMENTS .....	41
15.E	ILLNESS DURING VACATION .....	41
15.F	PAYDAY DURING VACATION .....	41
15.G	HOLIDAY DURING VACATION .....	42
ARTICLE 16 - LEAVES OF ABSENCE .....		42
16.A	SICK LEAVE .....	42
16.A.1	DEFINITION OF IMMEDIATE FAMILY .....	42
16.A.2	DOMESTIC PARTNERSHIP .....	42
16.A.3	ENTITLEMENT .....	43
16.A.4	UNUSED SICK LEAVE .....	43
16.A.5	PORT ATTENDANCE PROGRAM .....	43
16.A.6	FAMILY ILLNESS .....	45
16.A.7	SICK LEAVE BUY-BACK .....	45
16.A.8	MEDICAL AND DENTAL APPOINTMENTS .....	45
16.B	PERSONAL LEAVE .....	46
16.C	MATERNITY LEAVE .....	46
16.D	PARENTAL LEAVE .....	46
16.E	JURY DUTY LEAVE .....	47

16.F	MILITARY LEAVE .....	47
16.G	FAMILY DEATH LEAVE .....	47
16.G.1	SPECIAL CASES .....	47
16.G.2	ELIGIBILITY APPROVAL .....	47
16.G.3	EXCEPTIONAL HARDSHIP.....	47
16.H	PREMIUM PAY DURING PAID LEAVE.....	47
16.I	ON-THE-JOB INJURY LEAVE .....	48
16.I.1	ON-THE-JOB INJURY LEAVE .....	48
16.I.2	ON-THE-JOB INJURY BENEFITS.....	48
16.I.3	RETURN TO WORK .....	49
16.I.4	REHABILITATION AND RETRAINING.....	49
16.J	LEAVE OF ABSENCE WITHOUT PAY .....	49
16.K	LEAVE BENEFITS UNDER FMLA .....	49
16.L	EMPLOYEE ASSISTANCE PROGRAM (EAP).....	50
	ARTICLE 17 - INSURANCE BENEFITS.....	50
17.A	HEALTH PLANS.....	50
17.A.1	MEDICAL PLANS.....	50
17.A.2	RETIREE MEDICAL BENEFITS .....	51
17.A.3	MEDICAL BENEFITS FOR O.M.E.R.S. EMPLOYEES AND RETIREES .....	53
17.A.4	HEALTH CARE REFORM .....	53
17.A.5	FLEXIBLE BENEFITS .....	53
17.B	VISION CARE .....	53
17.C	DENTAL PLAN .....	53
17.C.1	PORT CONTRIBUTION TO DENTAL PLAN .....	53
17.C.2	DENTAL PLAN REVIEW .....	53
17.D	LIFE INSURANCE.....	54
17.E	DISABILITY INSURANCE .....	54

17.E.1 STATE DISABILITY INSURANCE.....	54
17.E.2 LONG TERM DISABILITY.....	54
17.F HEALTH BENEFITS LIMITATIONS DURING LEAVE WITHOUT PAY .....	54
17.G ALTERNATE MEDICAL COVERAGE, CASH IN LIEU .....	54
ARTICLE 18 - RETIREMENT .....	55
18.A EMPLOYER CONTRIBUTION .....	55
18.B EMPLOYEE CONTRIBUTIONS .....	55
18.C CURRENT P.E.R.S. BENEFITS .....	55
18.C.1 MILITARY SERVICES CREDITED AS PUBLIC SERVICE.....	55
18.C.2 FINAL COMPENSATION. ....	55
18.C.3 SURVIVOR CONTINUANCE.....	55
18.C.4 BENEFIT FACTOR.....	56
18.C.5 NOT ELIGIBLE TO RETIRE AT THE TIME OF DEATH. ....	56
ARTICLE 19 - JOINT LABOR/MANAGEMENT RELATIONS COMMITTEE .....	56
ARTICLE 20 - MISCELLANEOUS AND DURATION .....	57
20.A SEPARABILITY AND REVISIONS OF SEVERED POSITIONS.....	57
20.B REVIVING VACANT CLASSIFICATIONS .....	57
20.C MEMORANDUM IS ENTIRE AGREEMENT .....	57
20.D TERM OF AGREEMENT .....	58
ARTICLE 21 -- PAYROLL .....	58
21.A EMPLOYEE PAY STUBS .....	58
EXHIBIT A SIDE LETTER OF AGREEMENT REGARDING PERCENTAGE OF EMPLOYER CONTRIBUTION FOR NEW RETIREES AND FUTURE LEGISLATION.....	60
EXHIBIT B SIDE LETTER OF AGREEMENT REGARDING CONTRACTING OUT .....	62
EXHIBIT C SALARY TABLE.....	64

<b>EXHIBIT D</b>	
<b>SIDE LETTER OF AGREEMENT REGARDING SUSPENDED DRIVER'S LICENSE (PETA)</b> .....	<b>72</b>
<b>ATTACHMENT 1</b>	
<b>DECLARATION OF DOMESTIC PARTNERSHIP</b> .....	<b>77</b>
<b>ATTACHMENT 2</b>	
<b>NOTICE OF TERMINATION OF DOMESTIC PARTNERSHIP</b> .....	<b>78</b>
<b>ATTACHMENT 3</b>	
<b>STATEMENT OF FINANCIAL LIABILITY FOR DOMESTIC PARTNERSHIP</b> .....	<b>79</b>
<b>ATTACHMENT 4</b>	
<b>FAMILY MEDICAL LEAVE ACT (AN OVERVIEW)</b> .....	<b>80</b>

## **ARTICLE 1 - Recognition - Parties to M.O.U.**

### **1.A Introduction**

The representative of the Board of Port Commissioners (hereinafter referred to as "the Port") and of Service Employees International Union ("SEIU") Local 1021, AFL-CIO, ~~as successor to Local 790, Service Employees International Union, AFL-CIO~~ (hereinafter referred to as "the Union"), have met and conferred and have reached an understanding on the following matters, which they jointly have recommended to the Board of Port commissioners and to Local 1021 membership for ratification.

It is understood the provisions herein set forth supersede previous Memoranda of Understanding between the Port and the Union and incorporate previously implemented items in such previous Memoranda to the extent still applicable.

The Port agrees to a single MOU for the Maintenance-Operations Unit and the Clerical-Administrative Unit, provided such differences which may have historically been developed shall not be changed without mutual agreement.

### **1.B Recognition**

The Port recognizes the Union as the exclusive bargaining representative, within the scope of representation as described in the Meyers-Milius-Brown Act, as amended, for such employees in the Maintenance-Operations Unit and the Clerical Administrative Unit, as described in Exhibit C, Salary Table. Hereinafter, the Maintenance-Operations Unit and the Clerical-Administrative Unit will be referred to as the M-O-C-A Unit, except as otherwise referenced.

### **1.C Notification of New Classifications**

**1.C.1 New Classifications.** The Union will be provided with copies of all new or revised class specifications for all classifications at the Port at least thirty (30) days prior to the establishment of such new or revised classifications. Such notification shall include the proposed classification(s), job description, title, and salary schedule, along with the reason(s) for the proposed establishment of such classification(s).

The Union may protest the assignment of such new or revised classification to a unit other than the unit represented by the Union. If such protest is filed, the Port and the Union shall meet to discuss the assignment of the classification to a specific unit.

Within fifteen (15) days of receipt of notification, the Union and the Port shall meet to discuss the assignability of said new classification(s) to the units.

If agreement is not reached by the parties during the fifteen (15) day period for discussion, the parties agree that the California State Mediation and Conciliation Service shall be brought in to resolve the dispute.

The Board of Port Commissioners shall not approve any new classifications in the units represented by Local 1021 until the Union has had the opportunity to discuss the proposed new classifications with Port management and has met and conferred on issues pertaining to wages, hours and working conditions of the new classification. This meet and confer obligation shall not include the content of the job specification.

**1.C.2 Disputes over Assignments.** Should there be a dispute over the proper assignment of such new classification(s), the State Conciliation Service shall be requested to resolve the dispute.

## **ARTICLE 2 - MANAGEMENT AND UNION RIGHTS**

### **2.A Stewards**

**2.A.1 Number of Stewards:** The Union may select a reasonable number of Stewards, with such number subject to the approval of the Port, from within the represented Unit in each geographic work location. The Union shall provide the Port with a current list of Stewards and Officers. Said list shall contain the employees' names, work locations, addresses and classifications. The Port shall provide the Union with a current listing of stewards recognized by the Port, with a copy to Port supervisors.

**2.A.2 List of Supervisors:** The Port shall provide the Union with a list of supervisors involved within the Unit, including any organizational charts which are available.

**2.A.3 Scope of Stewards.** A steward and/or officer may represent a member of the Unit covered by this Memorandum at the appropriate step of the Grievance Procedure concerning a dispute of the rights of a member under the terms of this Memorandum within the scope of representation. In keeping with Section 5.B.1, the expressed intent of the parties shall be that grievances shall be resolved at the lowest possible administrative level. When stewards are notified by a member that a problem or potential grievance is in the making, the steward shall request time off without loss of pay to investigate the potential grievance. Stewards shall request this time off as much in advance as possible, preferably twenty-four (24) hours in advance, and shall include the location, area of activity, the approximate time needed and the general nature of

Union business involved. Management shall grant the steward a reasonable amount of time off with pay to investigate the potential grievance.

**2.A.4 Release Time.** Effective July 1, 2015, the Port agrees to a pilot program for the term of this MOU, to allow the Chapter President to elect to use up to four hours of paid release time each week for union business. This pilot program shall be reviewed by the Union and the Port in June of each year, and only if both parties agree in writing to extend the program for another 12 months, shall it be extended for the next year.

## **2.B Union Elections**

Election of officers, stewards or negotiating committee members may be held on agreed-upon Port sites outside of work areas (e.g., break, meeting and lunch rooms), provided such election is all on the time of employees and does not take any time from work.

## **2.C Access to Work Locations**

Authorized representatives (as provided in Section 2.A.1 above) will be granted reasonable access to employee work locations to process grievances or contact members within the scope of representation, provided such representatives grant reasonable advance notice to appropriate supervisors or designees in such areas, and approval is granted, and provided such access does not unduly interfere with normal operations or with safety or security requirements. It is understood the Port shall not unreasonably deny such access.

The Port will provide the necessary badges and security clearance in accordance with the proscribed rules and regulations of any governmental agency having jurisdiction or other reasonable access to the employees that the authorized representative has requested to see. The Port shall provide the Union with applicable rules and changes thereto as soon as they become aware of them.

## **2.D Use of Meeting Space**

Upon request, the Port will approve the use of meeting space, if available, for a reasonable number of Union meetings, provided this does not interfere with operations or training, and provided meetings do not take place during the working hours of attendees.

If such consequences result from the use of Port facilities, the Union agrees to pay for any reasonable additional cost of security, damage, and cleanup connected with

such meetings, and will comply with Port regulations for the assignment and use of facilities.

#### **2.E Notification of Rules**

The Port shall provide the Union, upon request, with copies of rules, regulations or ordinances that are applicable within the scope of representation to any employee or employees in the represented Unit.

#### **2.F Obligations to New Employees**

The Port will continue reasonably to distribute to new employees within the Unit appropriate literature furnished by the Union.

The Port shall notify the Union Field Representative and Chapter President of a new hire on the first day of their employment, by e-mail and regular mail. The Port shall provide reasonable release time to the Chapter President to make a 30 minute presentation about SEIU, Local 1021 during the new employee orientation.

#### **2.G Bulletin Boards**

The Port shall provide bulletin board spaces for the use of the Union in all Port buildings where bargaining unit employees are assigned. Bulletin boards will be provided at the following locations; 1) Harbor Facilities; 2) Water Street, 3<sup>rd</sup> floor hallway; 3) North Field Building L-595 hallway by the men's and women's locker rooms; 4) Terminal Two, Airport custodian break room; 5) Airport Building M-102 2<sup>nd</sup> floor custodian break room; 6) Airport Building M-130 1<sup>st</sup> floor custodian break room; 7) Airport Building M-104 hallway; 8) Airport Building M-367 Airport Operations Center; 9) North Field Building L-107; 10) Building M-110 3<sup>rd</sup> floor, and other agreed upon sites. The Union will be provided with needed keys to access bulletin boards.

Any posted material shall be non-controversial in nature.

#### **2.H Information Provided to the Union**

The Port shall furnish the Union, on a bi-weekly basis, the name, classification title and work location of all newly hired (or separated) employees subject to this Agreement. The Port shall also furnish to the Union verification of dues deductions sent to the Union and of employee contributions transmitted to charitable organizations. The Port shall furnish the Union on a bi-weekly basis, as available, the Position Incumbent Listing.

## 2.1 Contracting Out

With respect to the provisions of Section 902 (e) of the Charter regarding contracting of service, it is agreed the Port will, notify the Union at least sixty (60) days prior to an action of the Board of Port Commissioners, except in the case of an emergency, in which case as much notice as is practicable will be given of such matters as may affect employees represented by the Union, provided that no such contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service. Past practices in contracting out of work will continue where Port employees cannot perform the work or where Port employees will not be displaced.

In addition to the notification required above, the Port will also notify the Union of its intent to contract out work at any newly acquired or newly constructed Port facility which is performed by SEIU Local 1021 members at existing facilities. The Port will notify the Union at least sixty (60) days prior to an action of the Port Commission, except in the case of an emergency, in which case as much notice as is practicable will be given.

Except for past practices in contracting out of work as described in paragraph 1 above, the notification to the Union described in paragraphs 1 and 2 will contain the following information:

- a) The cost of the proposed contract.
- b) The duration of the proposed contract.
- c) Whether the proposed contract is for a *one time* or *temporary* need.
- d) The *funding source* of the proposed contract, when such information is available.
- e) An *explanation* of why the proposed work is not being assigned to existing represented employees.

The Port may contract with individuals or organizations after a finding by the Board of Port Commissioners, as the jurisdiction may be, that the service is of a professional, scientific or technical nature and is temporary in nature, or after a finding by vote of two thirds (2/3) of the members of the Board of Port Commissioners that the performance of the service by contract, regardless of nature or term, is in the public interest because of economy or better performance; provided, that no such contract for service shall result in the loss of employment or salary by any person having permanent status in the competitive service.

The following categories of work shall be carved out from the notice obligation described in this article, unless the category of work evolves over the life of the contract such that it begins to fall within the scope of SEIU-represented classifications:

- a. Work falling within the following categories:

Fire, Medical, and Water Rescue Services (unless duties are within the scope of the Airport Operations Specialist classification)

Law Enforcement (unless duties are within the scope of the Airport Operations Specialist classification)

Passenger Shuttle Bus Operations

Ground Transportation Management (e.g. curbside management of taxis & door-to-door shuttles, and assistance in monitoring of off-site airport parking shuttles, rental car shuttles, and public buses; unless within the scope of the Airport Ground Transportation and Parking Operations Specialist classifications)

Parking Operations (unless duties are associated with routine maintenance of lots, such as repair of fencing and lighting or are within the scope of the Airport Utilities, Semiskilled Laborer and Port Maintenance Leader classifications)

City of Oakland - Special Services

Public Works Contract for Maintenance Dredging (unless pertaining to wharf maintenance and within the scope of the Diver or Surveyor classifications, except for instances where provisions 2.c. and 2.d. are applicable)

Professional Services associated with Maintenance Dredging (unless pertaining to wharf maintenance and within the scope of the Diver or Surveyor classifications, except for instances where provisions 2.c. and 2.d. are applicable)

City of Oakland - LLAD

JLS Common Area Maintenance

Crane Maintenance (unless pertaining to work around the base of the crane, crane rail or the wharf but not the crane; unless within the scope of Semi-Skilled Laborer and skilled crafts classifications)

MMP Sales Expense (unless the work falls within the scope of Port Equipment Driver or Power Equipment Operator

classifications, except for instances where provisions 2.c. and 2.d. are applicable)

MMP Material Intake Expense (unless the work falls within the scope of Port Equipment Driver or Port Equipment Operator classifications, except for instances where provisions 2.c. and 2.d. are applicable)

Financial Consultants (unless within the scope of Senior Account Clerk or Administrative Specialist classifications, except for instances where provisions 2.c. and 2.d. are applicable)

Equipment Rental Services

Information Technology Related Services

Security and Life Safety Related Services (unless within the scope of ID Badging Specialist, Security System Technician, or Airport Operations Specialist, except for instances where provisions 2.c. and 2.d. are applicable)

- (b) Capital improvement work identified in the Capital Needs Assessment and that is in excess of \$50,000 thousand dollars.
- (c) Work that is large scale, is substantially beyond the capacity of current available SEIU-represented employees, and is of a short duration (30 days or less)
- (d) Work that requires specialized skills and abilities not contained within the job descriptions of SEIU-represented classifications (e.g., elevator maintenance).
- (e) Where the following criteria is met: (i) the work is of an emergency nature, e.g., earthquake, fire, homeland security issues, etc., (ii) the contractors will only be used to supplement SEIU-provided services, and (iii) the Port has exhausted the overtime call out list. The Port shall provide written notice within five (5) business days of the emergency situation which satisfies these criteria, and documentation which evidences that the criteria are met.

For on-call contracts, the Port shall provide thirty (30) days notice prior to Board or Executive Director (or her/his designee) action regarding the general amount of on-call contracting authority. In connection with individual requests for on-call, monthly vendor services, or Purchase Order contracts, the Port may contract out the following areas of work after exhausting the SEIU overtime call out list, if SEIU-represented

employees in the relevant classifications are: (a) on extended leaves of absence subject to accommodation (ADA, WC), or participating in a program such as PETA, etc., to such an extent that the SEIU-represented employees are unable to perform the duties in question, or (b) involved in a critical assignment that cannot reasonably be abandoned or put on hold to perform the work in question:

HVAC	Gardening
Fencing	Overhead door repair
Roofing	Carpeting
Crack sealing	Plumbing
Electrician	

The Port shall use a "Contractor Request" form to initiate the use of on-call, monthly vendor contractor, or Purchase Order contracts for any particular job. Port management representatives (e.g. foreman, Sr. ESE's, Supervisors, Superintendents, etc.) shall record the opportunity presented to the SEIU staff to perform the work as described in paragraph 3. S/he is also responsible for sending simultaneously to the Union and to designated SEIU representatives an electronic copy of the "Contractor Request" form, on a daily basis. The Union will present the Port with a list of six (6) designated SEIU representatives of the Union's choosing who possess expertise in the particular areas of work listed above who must be given the electronic notice (for e.g., one representative will receive the gardening-related notices, or two representatives will receive the plumbing-related notices).

Within ninety (90) days after the execution of this settlement agreement, the parties agree to select and convene a committee (composed of four representatives, one Union spokesperson and three employees designated by Local 1021 and four management representatives designated by the Port). On a quarterly basis, the parties agree to meet to go over the last quarter's contractor request list, including any capital improvement projects that were awarded in the quarter, and discuss issues of contracting that the Union is concerned with and seek a mutually agreeable solution to them. However, this provision does not preclude the Union from filing a grievance at the time of a contracting out instance that allegedly violates this agreement. Parties may mutually agree to hire an outside facilitator (e.g. SMCS, FMCS, etc.) to facilitate discussion on contracting out issues.

The contracting out described above, including subparts 2(a) through 2(e), shall comply with Section 902(e) of the Charter of the City of Oakland.

At the beginning of the Port's annual budgetary process, the Port will provide the Union with a list of monthly vendors/contractors who are anticipated to perform services at the Port in the following fiscal year. Within twenty (20) calendar days following execution of this settlement agreement, and annually thereafter, the Port will provide the Union with a list of monthly vendors/contractors who performed services at the Port in the prior year.

The Port shall not retain any temporary employees, consultants, contract or agency employees who perform bargaining unit work for longer than one hundred and twenty (120) calendar days. The Port shall supply the Union with a monthly update of temporary employees, consultants or agency employees by name, department, date of hire, status and work performed. Temporary employees filling in for a specific employee on maternity leave shall not be subject to the 120 day limitation.

The Port shall not replace or exchange employees after one hundred and twenty (120) calendar days to avoid compliance with this provision.

Within ninety (90) days after the execution of the Memorandum of Understanding, the parties agree to select a sub-committee (composed of three people designated by Local 1021 and three people designated by the Port, plus the Chief spokesperson of each party should they need to attend), who with the assistance of the State Mediator will discuss ways in which the bargaining unit members might perform work that it is not normally assigned.

#### **2.J Work Effort**

The parties recognize that the Port must strive to provide the public and Port tenants with the best possible services within available resources. The Port and Union jointly recognize the responsibility of all employees of the Port, represented employees and management alike, to perform productively in order to provide specified services at specified levels. All employees will strive to provide services in a work atmosphere of respect and dignity with a sense of pride. Fair work rules and procedures shall be applied equally to all employees. To that end, the Union agrees to actively participate in the encouragement of all employees represented by the Union to work cooperatively with management and supervisory employees and work groups to which they are assigned.

#### **2.K Public Relations**

The Port and Union agree that Port employees have a responsibility to be responsive to the public and Port tenants. The parties agree that the image of the Port employee in the community must be improved if high levels of employee morale are to be achieved. To this end, the parties agree to mutually pledge their best efforts over the life of this agreement and continuously encourage employees to be courteous, helpful and industrious in all their public and tenant contacts and when in public or tenant view during the full duty period.

### **ARTICLE 3 - UNION SECURITY**

An employee in one of the classes included in the MOCA Unit, employed as of July 1, 1984 and thereafter during the term of this Agreement, shall, as a condition of continuing employment with the Port and, in the case of a newly hired employee, within thirty (30) calendar days of his/her employment, execute a payroll deduction authorization form as furnished by the Union, and thereby become and remain a member in good standing in the Union; or execute a payroll deduction authorization form as furnished by the Union, and thereby pay to the Union an initial fee equal to the regular initiation fee and, thereafter, a monthly service fee equal to the regular monthly Union dues; or, in the case of an employee who certifies he/she is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employee organizations, execute a payroll deduction authorization form as furnished by the Union, and thereby pay sums equal to Union dues, initiation fee, or service fees to (1) American Cancer Society, (2) American Heart Association, or (3) Sickle Cell Anemia Research and Education, Inc. (S.C.A.R.E.).

Upon seven (7) days' notice to the Port from the Union that an employee described above has failed to maintain his/her membership in good standing or has failed to maintain his/her current service fee payment or has failed to maintain his/her current charitable contribution payment to one of the three (3) charities designated above, then the Port shall: (1) counsel the employee of his/her obligation under the provision; and (2) inform the employee that further failure to maintain the appropriate payments shall subject him/her to discharge.

The Union shall indemnify and save harmless the Port, its officers and employees from and against any and all loss, damages, costs, expenses, claims, attorney fees, demands, actions, suits, judgments, and other proceedings arising out of any discharge action resulting from this provision.

#### **ARTICLE 4 - DISCHARGE, DISCIPLINE, RESIGNATION, COACHING AND COUNSELING**

##### **4.A Good and Sufficient Cause**

The right to discipline or discharge employees by the Port shall be exercised only for good and sufficient cause. The Port shall mail the Union Representative(s) a copy of all "Skelly" notices as far in advance as possible of intent to discipline given to represented employees as well, as all discipline appeal responses.

##### **4.B Gross Violations**

In the case of gross violation of rules, regulations or ordinances calling for immediate action (including as examples, but not limited to: theft of Port or other employee property; unprovoked assault on other workers or the public; willful and

reckless conduct endangering the health or safety of the public or other workers), discharge or discipline can take place with whatever procedures are proper under applicable law being exhausted prior to the implementation of discipline.

#### **4.C Progressive Discipline**

In serious cases calling for lesser discipline or such non-pay contemplated discipline which may be stayed, the principles of progressive discipline shall apply, including whatever procedures are proper under applicable law. Progressive discipline may include such of the following, as appropriate to the specific violation(s):

- (a) Verbal Warning
- (b) Written Warning
- (c) Written Reprimand
- (d) Suspension
- (e) Discharge

Employees are entitled to union representation at steps (a) through (e) of the disciplinary procedure. When agreed to by the parties, a "Plan for Improvement" shall be written and implemented by any disciplinary step other than discharge. The Plan for Improvement shall identify the employee's areas of deficient performance and the steps to be taken to bring performance up to acceptable levels.

#### **4.D Coaching and Counseling**

Coaching and counseling is encouraged to bring about effective communication prior to any disciplinary steps. Coaching and counseling is verbal communication designed to draw attention to management concerns with the expectation that such communication will be sufficient in and of itself to motivate an employee to change his or her behavior.

#### **4.E Notice of Resignation**

When an employee desires to resign, the employee shall submit to his/her department head a formal resignation in writing two (2) weeks in advance, where possible.

#### **4.F Exit Interview**

Upon receipt of an employee's resignation, the Director of Human Resources, or his/her designee, may conduct an exit interview to determine that an employee's resignation has been submitted in good faith and free from undue pressure or threat.

Said officer shall take into account any information furnished by the Union and/or an employee in a timely fashion in determining the necessity for such an interview.

## **ARTICLE 5 - GRIEVANCE PROCEDURE**

### **5.A Definition**

A grievance is herein defined as a dispute which involves the interpretation or application of this Agreement, the applicable personnel rules of the Port and/or disciplinary action taken.

### **5.B Resolution of Grievances**

**5.B.1 Objective of Grievance Section.** It is the expressed intent of the parties that grievances be resolved expeditiously at the lowest possible administrative level. Toward that objective, the following steps are provided:

**5.B.2 Oral Presentation to Immediate Supervisor.** The employee and/or Union Representative may present the grievance orally to the immediate supervisor within ten (10) working days of the occurrence of the dispute or within ten (10) working days from such time as the employee or Union should reasonably have been aware of this occurrence.

**5.B.3 First Step Written Submission to Immediate Supervisor.** Should the grievance remain unresolved under 5.B.2, or the employee so chooses, the employee and/or Union Representative may submit the grievance in writing to the immediate supervisor within the ten (10) working days stated in 5.B.2. The grievance shall state the specific section of the Memorandum of Understanding and/or the Personnel Rules alleged to be violated or disciplinary action taken, together with a brief statement of the facts in the case and the proposed remedy. The supervisor shall respond in writing, within ten (10) working days. The response shall be given to the employee and a copy sent to the Union Representative.

**5.B.4 Second Step Submission to Department Manager.** Should the grievance remain unresolved under 5.B.3, or is a class action grievance, the employee and/or Union Representative may, within ten (10) working days of receipt of the supervisor's response, submit the written grievance to the department manager to whom the supervisor immediately reports. The department manager shall respond in writing to the grievance within ten (10) working days after receipt of the grievance. The response shall be given to the employee and a copy sent to the Union Representative.

**5.B.5 Third Step Submission to Port.** Should the grievance remain unresolved under 5.B.4, the employee and/or Union Representative may, within ten (10)

working days of the Skelly hearing or the deadline for the department manager's response, submit the written grievance to the Port Employee Appeals Officer designated by the Port's Executive Director. The Skelly hearing officer shall make reasonable efforts to issue the Skelly decision within 30 calendar days of the Skelly hearing. If no decision is issued within 30 days, the Union may upon notification to the Port, decide to accept the notice of intent as the Skelly hearing decision. The Employee Appeals Officer shall meet with the Union Representatives within ten (10) working days of submission to schedule a hearing to resolve the dispute. The Employee Appeals Officer shall respond in writing within twenty (20) working days of the hearing. The response shall be given to the employee and copies sent to the Union Representative. If the union does not schedule a hearing on the grievance within (30) working days of receipt by the Employee Appeals Officer, the grievance shall be nullified.

**5.B.6 Fourth Step Submission to Arbitration.** Should the grievance remain unresolved under 5.B.5, either party may, within fifteen (15) working days of the deadline for the Employee Appeals Officer's response under 5.B.5 submit such grievance to an impartial arbitrator.

**5.B.7 Arbitrator Selection.** An impartial arbitrator shall be selected by mutual agreement from the names below, or if such agreement is not reached within 10 working days of the submission of the grievance to the arbitration step, by alternately striking names from the following list:

Robert R. Bergeson  
Robert Hirsch  
Wilma Radar  
Philip Tamoush  
Barry Winograd

The first party to strike shall be determined on an alternate basis.

**5.B.8 Arbitration Procedures.** If arbitration is selected, it is agreed that the decision of the arbitrator shall be final and binding on all parties and that the arbitrator's fees and expenses incidental to the decision, such as a hearing room and transcript, if required, but excluding the cost of representation and witness fees, shall be borne equally by the parties. The arbitrator shall have no power to add to or subtract from the provisions of this Agreement or of the Personnel Rules.

**5.B.9 Clarification of Grievances.** The Port may request clarification from the Union regarding any part of the grievance process for individual grievances filed by bargaining unit members or Shop Stewards.

## **5.C Fourth Step Option Civil Service Option in Discipline and Discharge**

In the case of a grievance concerning discharge or disciplinary action against an employee, the Union or employee may elect to submit such grievance to the Civil Service Board instead of to an arbitrator. The filing of the grievance in accordance with the provisions of 5.B.3 shall satisfy the requirement of the Personnel Ordinance that the employee gives notice of intent to appeal a discharge or disciplinary action.

#### **5.D Extension of Time Limits**

Time limits in 5.B may be extended by mutual agreement of the parties. Failure by the employee or the Union to follow the time limits, unless so extended, shall nullify the grievance. Failure by the Port to follow the time limits, unless so extended, shall cause the grievance to be moved to the next step. For the purpose of this Article, working days mean the normal weekdays of work, Monday through Friday, excluding weekends and holidays.

#### **5.E Presence at Hearings**

The grievant may be present at any and all proceedings regarding his/her grievance. In the case of multiple grievants, a representative from among the grievants may be present at any and all proceedings regarding the grievance. The option of being present at such meetings shall be that of the employee. S/he shall not lose any compensation or other benefit for time spent for such appearances. By mutual agreement, any of the grievants in a multi-grievant situation may attend any of the grievance proceedings which occur during times they are not scheduled to work.

This section shall not be applicable when mutually agreed by the Port and Union Representatives.

#### **5.F Witnesses**

Individuals who may have direct knowledge of circumstances relating to the grievance may appear at the procedure. In the case of an employee appearance, he/she shall not lose any compensation or other benefit for actual time spent for such appearance.

#### **5.G Applicable Law Procedures**

No employee shall be placed in a non-pay status until any and all procedures under applicable law relating to that employee are fulfilled. At present, it is understood that "Skelly" procedures are currently required by applicable law before action can be taken by a public employer in certain specific situations.

## **5.H Waiver of Time Limits**

By mutual agreement, the parties may waive the time limits specified herein and proceed to immediate arbitration.

## **5.I Award Payment Schedule**

The Port shall make payments to the employee(s) for grievance resolutions or arbitration awards within thirty (30) calendar days of the date that the Port and the Union agree to the grievance resolution. However, in cases for which the arbitrator specifies the compensation award, the Port shall make payment to the employee(s) within thirty (30) calendar days of receipt of the ruling.

## **ARTICLE 6 - SENIORITY**

### **6.A Definitions**

**6.A.1 Classification Seniority.** Accrued time from date of entry into a position within a given classification, less unpaid leaves of absence in excess of thirty (30) consecutive days.

**6.A.2 Port Date of Seniority.** Accrued time from date of hire with the Port, less unpaid leaves of absence in excess of thirty (30) consecutive days.

### **6.B Seniority and Bidding**

**6.B.1 Vacation Leave Bidding.** Classification seniority shall apply to vacation leave bidding. (Also see Article 15.B.)

**6.B.2 Shift Bidding and Job Bidding.** Classification seniority shall apply to shift bidding and job bidding for the following classifications assigned to the Airport: Telephone Operators; Equipment Systems Engineers assigned to the Building Services Unit - Airport Facilities; and Airport Specialists. Classification seniority shall apply to shift bidding for Relief Telephone Operators bidding on relief shifts regularly scheduled for twenty four (24) hours or more per week.

Airport Custodians: Classification Seniority shall apply to shift bidding, days off, and zones (work areas). Management has the right to temporarily (for a period not to exceed five (5) consecutive days) reassign based on operational needs.

### **6.C Seniority and Overtime**

Classification Seniority shall apply to overtime distribution.

### **6.D Seniority and Leave**

**6.D.1 Seniority and Military Leave.** Classification and date of hire seniority shall accumulate during military leave, in accordance with state and federal law.

**6.D.2 Suspension/Termination of Seniority for Employees Who Fail to Return to Work After Military Leave.** Suspension and termination of seniority for employees who fail to return to work following military leave shall be in accordance with state and federal law.

**6.D.3 Seniority and Other Leaves of Absence.** Classification and date of hire seniority shall accumulate during periods of other paid leave.

**6.D.4 Suspension/Termination of Seniority for Employees Who Voluntarily Resign.** Classification seniority shall be terminated for employees who voluntarily resign.

**6.D.5 Suspension/Termination for Employees Who Retire.** Classification seniority shall be terminated for employees who retire.

### **6.E Seniority in Cases of Identical Hiring Dates**

In the event two (2) or more employees have the same seniority date, the order of seniority shall be determined in the following manner: (1) employee with greatest actual time in class; (2) employee with greatest total time in City service; (3) employee who received the highest score on the entrance examination in the class; (4) employee whose application for the position in the subject class was first received; (5) in the event that an application is not date stamped, and if employees have the same score on their entrance examination, then the employee with the lowest employee identification number will be considered more senior than the employee with a higher number.

### **6.F Seniority Lists**

The Port shall furnish the Union with an updated copy of the classification seniority lists every six (6) months. Such list shall be subject to correction upon protest by the Union. The list shall constitute the official seniority list for vacation leave bidding, shift bidding, job bidding and overtime distribution, and shall reflect the date of hire and

classification dates of employees covered by this MOU. If possible, the Port will provide the Union with a list detailing the seniority of each represented employee held in previous classifications.

## **ARTICLE 7 - HIRING, LAYOFF AND REHIRING**

### **7.A Probationary Period**

**7.A.1 Length of Probationary Period.** The probationary period of any employee filling an entry-level position shall not exceed nine (9) months in duration. In the case of an individual employee requiring further consideration, the Port, after providing documented compliance with article 7A.2 and jointly agreed to plan(s) of improvement as a result of report(s) of performance, may extend the probationary period by three (3) months.

**7.A.2 Service Ratings During Probationary Period.** An employee in a nine (9) month entry level position shall receive a Report of Performance for Probationary Employee at the end of the second, fifth and eighth months of service.

### **7.B Entry Level Residency Preference**

A City of Oakland resident competing in an entry level examination shall be given an additional five percent (5%) on his/her scores provided (s)he initially scores a passing grade on the examination. Residency shall be determined as of the date of certification of the Civil Service Eligible List for that examination. The Port will work with the City of Oakland to assure residency preference eligibility requirements are properly administered.

### **7.C Eligible Lists**

**7.C.1 Eligible List for Entry Level Appointments.** Whenever an entry level position in the classified Civil Service is to be filled for which no reinstatement list exists, the appointing authority shall receive a list of four (4) names. In the case of multiple vacancies, the appointing authority shall receive a list of four (4) names plus two (2) names for each additional vacancy to be filled provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

**7.C.2 Eligible List Duration.** Entry level eligibility lists are of one (1) year's duration unless changed by the City of Oakland.

#### **7.D Veteran's Rights**

Veteran's rights shall be governed by applicable law including the Vietnam Veterans Readjustment Act of 1974, as it may be amended from time to time.

#### **7.E Reduction in Force**

The Port shall attempt, insofar as possible, to accomplish any reduction in force by attrition rather than by layoff. The Port agrees to keep the Union advised of financial planning which contemplates reduction of personnel represented by the Union as soon as practical. The Port will provide the Union with a listing of classifications which may potentially be reduced at a future date. In the event that a reduction in force is required, it shall be carried out in accordance with the Port Personnel Rules and Procedures and the following principles:

- a) A reduction in force shall be effected on a City-wide basis for each classification to be reduced;
- b) Seniority in the affected class shall be a primary factor accomplishing such a reduction in force;
- c) At least two (2) weeks' notice of any reduction in force shall be provided by the Port to the affected employee, with a courtesy notice to the Union;
- d) In recall from layoff, the last person laid off shall be the first recalled;
- e) It is anticipated, in the case of a Port/City reduction in force, that any non-federally funded, permanent full-time employee in the classified service will not be required to take accrued vacation prior to lay-off;
- f) The Port shall meet and confer upon the request of the Union to consider any proposal(s) advanced as an alternative to layoff and/or the impact of layoff;
- g) With respect to Port-initiated lay-offs, the Port will provide notice to the Union of such impending lay-offs at least ten (10) working days prior to the issuance of any such lay-off notice to affected employees;
- h) No employee will be laid off while a temporary agency worker is assigned to perform the duties of the classification to which the employee to be laid-off is appointed.

## ARTICLE 8 - PROMOTION, DEMOTION AND TRANSFER

### 8.A Probation Period Upon Promotion

The probationary period of an employee filling a position from a promotional examination shall not exceed six (6) months in duration.

### 8.B Service Ratings During Probation

An employee in a six (6) month probationary period shall receive a Report of Performance for Probationary Employee at the end of the third and fifth months of service and annually thereafter.

### 8.C Return Rights

An employee proving unsatisfactory or electing to decline a promotional position during the probationary period shall have full return rights to her/his former classification without loss of seniority or other benefits.

### 8.D Promotional Examinations

**8.D.1 Job Vacancy Posting.** The Port agrees to post examination announcements for represented positions on the official Port bulletin board outside of the Port Personnel (Personnel and Employee Services) Department and the designated SEIU Union bulletin boards. Announcements for examinations conducted by the Port Personnel (Personnel and Employee Services) Department will be posted no later than ten (10) working days before the application filing date. Announcements for examinations conducted by the City of Oakland Personnel (Examination and Classification) Department will be posted one (1) day after receipt from the City of Oakland. In the event an examination announcement is received late from the City of Oakland, the Port will support the Union's efforts to extend the application filing date.

Examination announcements and application forms for represented positions will be available through the Port Personnel (Personnel and Employee Services) Department. The Port will also transmit and post, as soon as possible, copies of examination announcements for represented positions on the designated SEIU Union bulletin boards. In addition, the Port will transmit copies of examination announcements for represented positions to the Union Chapter President and Union stewards identified by the Union as soon as possible. The posting sites may be changed by mutual agreement.

The Port shall print the phone number that employees may call to find out about job vacancies and promotional opportunities in the Port and the City on paycheck stubs. The Port will transmit copies of examination announcements to the Union Business Agent at the Union Office.

**8.D.2 Job Training and Advancement Committee.** The Port and the Union agree to establish a Job Training and Advancement Committee comprised of three Union representatives, three Port staff members, and appropriate Administrative staff in ex officio status, who shall be responsible for making recommendations to Administration on the development and implementation of training programs for Port employees. All represented employees shall be encouraged to participate in any training programs developed from recommendations of this committee.

**8.D.3 Non-Discrimination Clause.** The parties agree to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination on account of "race", color, religious creed, national origin, age, sex, physical handicap, sexual orientation, veteran status, or protected union activity.

**8.D.4 No Residency Requirement.** There shall be no residency requirement for an employee to qualify for a promotional examination.

**8.D.5 Oral Board.** Except for filling unique and complex positions, no Port employee will sit as a voting member of an oral board for promotional examinations. A Port member may sit as a non-voting member for the purposes of serving as a resource person and maintaining the orientation of the oral board. No department representative shall be present during an oral promotional examination except as specified above.

**8.D.6 Promotional Preference Points - Years of Service.** An employee who has completed ten (10) or more years of City/Port service and who successfully completes in a promotional examination shall receive five (5) points added to her/his final examination score. An employee who has completed fewer than ten (10) full years of City/Port service and who successfully competes in a promotional examination shall receive an additional number of points not to exceed a maximum of five (5) added to her/his final examination score prorated in accordance with her/his number of years of City/Port service.

**8.D.7 Promotional Preference Points - Resident.** A City of Oakland resident competing in such examination shall be given an additional five (5) percent on her/his score provided (s)he initially scores a passing grade on the examination and has been a resident for a minimum of one (1) year as of the date of the job announcement for that examination.

**8.D.8 Promotional Examination Information.** The Port shall make information regarding promotional examinations available to Port employees at the earliest possible date. The Port will provide promotional examination information at

least one month in advance of the examination deadline unless extenuating circumstances prohibit.

Such information shall be posted, among other areas, on all Union bulletin boards and at other mutually agreed upon locations. The Port will make its best effort to establish a better liaison with the City of Oakland Personnel (Examination and Classification) Department in order to obtain more timely information regarding job opportunities available to Port employees.

When information regarding such Port job opportunities cannot be provided by the application deadline, the Port will attempt to obtain an extension of the deadline for those employees who, because the Port did not provide the information, did not get notice.

**8.D.9 Notification of Recommendation for Appointment.** Candidates for represented positions shall be advised of their status by the Personnel and Employees Services Department. Those candidates who participate in departmental interviews who are recommended for appointment shall be given written notification from the Personnel and Employee Services Department, notifying them that another candidate(s) has been recommended for appointment. The Union shall be notified when represented positions have been filled, and will be given the names of selected applicants in represented positions.

#### **8.E Eligible List for Promotional Position**

Whenever a promotional position in the classified Civil Service is to be filled for which no reinstatement list exists, the appointing authority shall receive a list of four (4) names. In the case of multiple vacancies, the appointing authority shall receive a list of four (4) names plus two (2) names for each additional vacancy to be filled provided, however, that a lesser number may be certified when there is not the required number on the eligible list. Individuals on the promotional eligible list shall be certified and considered for appointment before individuals on the original entrance and/or restricted eligible list(s).

#### **8.F Duration of Promotional List**

Promotional level eligibility lists are of two (2) years' duration, unless changed by the City of Oakland. Regarding duration of promotional lists, the Port and the Union agree to meet and confer with respect to any contemplated changes. The Port shall make recommendations of two (2) years' duration to the city on Port-unique represented classifications; exceptions of two (2) years' duration recommendations will be mutual agreement between the Port and the Union.

### **8.G Non-Selection Statement**

An employee otherwise qualified for selection for a promotional position who is not recommended for appointment to said position shall upon her/his request be given a written statement from the appropriate supervisor indicating the reason or reasons for her/his non-selection.

### **8.H Supplemental Training Programs**

In the event open/promotional examinations fail to provide successful candidates from among Port employees represented by the Union, the Port and the Union may meet to discuss whether specific on-the-job training or other training programs should be initiated to upgrade the skills of interested employees. Out of class pay for employees participating in promotional supplemental training agreed to by the Port and the Union shall be determined on a case by case basis, by mutual agreement between the Port and the Union.

### **8.I Transfer List**

The Port shall post notices of all Port vacancies in each location listed in Section 8.D.1 for a period of not less than ten (10) working days in order to afford employees interested in reassignment within the same classification an opportunity to apply for vacant positions. Each such notice shall describe the classification of the position to be filled, the physical location of the position, its starting and quitting time, and a general description of the work to be performed. If five or fewer employees request an interview, each employee shall be interviewed. If more than five employees request an interview, at least the most senior five shall be interviewed. In selecting the person to fill the vacancy, seniority shall be a factor in consideration.

## **ARTICLE 9 - TRAINING AND EDUCATION**

### **9.A Available Education Courses**

The Port wishes to encourage bargaining unit employees to take advantage of educational courses. Such educational courses must further the knowledge of the bargaining employees in the performance of their present duties or facilitate their advancement to high positions within their present fields of employment or to other fields of employment, within the parameters established through the Joint Labor Management Training Committee, at the Port. Such courses may be taken in the San Francisco-Oakland Bay Area or by correspondence.

## 9.B Reimbursement

The full costs of tuition, job-related certifications or licenses, required textbooks and classroom equipment will be refunded to employees who obtain prior approval and complete the course with a passing grade for up to a maximum of \$2,000 per fiscal year. Courses which are not eligible for credit, but are sponsored by a university extension center or service shall be considered satisfactorily completed upon evidence of attendance of that course. Textbooks will become the property of the employee upon approval of the refund. Classroom equipment is the property of the employee only with Port approval. If Port approval is not granted, the equipment shall become the property of the Port.

## 9.C Approval Procedure

"Request for Approval of Training Course" forms will be available in the Human Resources Division. Approval must be obtained in advance of taking the course. Approval of the department head and division director is required before submission of the approval request to the Director of Human Resources. All bargaining unit personnel are encouraged to make use of this program in order to upgrade their positions and increase their earning capacities.

## 9.D Heavy Equipment Training Course and Driving Course

The Port shall conduct a heavy equipment training course on Port time whenever there is an opening in the Power Equipment Operator classification at the Port or the Heavy Equipment Operator classification at the City of Oakland, open to Port employees in the following classifications: Port Equipment Driver and Port Maintenance Leader. The course shall provide for training and actual operating experience in order to assist the employees in competing and promoting to the higher paid position of Power Equipment Operator.

Additionally, if the Civil Service Board approves a Semi-Skilled Laborer's request to take the promotional examination for Power Equipment Operator, based on his/her previous experience, the Port shall include this Semi-Skilled Laborer in the heavy equipment training course.

The Port shall also conduct a driving course on Port time whenever there is an opening in the Port Equipment Driver classification at the Port, open to Semi-Skilled Laborers at the Port. The course shall provide for training and actual operating experience in order to assist the Semi-Skilled Laborers in competing and promoting to the higher paid position of Port Equipment Driver.

## **9.E Professional Development**

Upon presentation of proof of purchase, which specifically identifies the purchase, an employee shall be eligible for reimbursement for expenses incurred for Professional Development, not to exceed \$600.00 effective July 1<sup>st</sup> for each year of the contract, with the following exceptions and provisions.

1. For actual or anticipated expenditures which exceed the limit for any contract year, the employee will, with approval, be permitted to carry over all or part of the remaining expenditure to succeeding years as necessary to fund the designated purchase or expense.

2. Unused portions from any year may be carried forward to fund future anticipated expenditures provided, however, no portion shall be carried over beyond the duration of this Memorandum of Understanding.

3. An employee is not eligible for reimbursement of expenses for Professional Development until the employee has been employed for a period of nine (9) months.

Professional Development expenses for the purpose of this Article shall include, but not be limited to, books, subscriptions to professional journals or magazines, training, related tools and equipment (including computer hardware and/or software), applications and/or examination fees for registration or certification within his/her profession.

The purchase of laptops, mobile phones, and/or tablets for the purpose of upgrading their technology will not be eligible for reimbursement effective December 31, 2015, except for those employees who can verify that such electronics may be used to enhance existing job skills, or to prepare for promotional opportunities.

It is agreed that the Professional Development Expenditure is not a substitute for a Division's training budget.

## **ARTICLE 10 - SAFETY**

### **10.A Promotion of Safety**

The Port and the Union recognize the major importance of accident prevention, occupational health and the elimination of hazards to health and safety at the Port. The Port and Union agree to promote safe work habits and methods, identify and correct

hazards, establish and enforce safety rules, and promote safety consciousness in all employees.

**10.A.1 Safety Checks.** The Port agrees to conduct regular safety checks on the following: ARFF vehicles, hydraulic and braking systems on all vehicles, and heavy mechanized equipment, such as: loaders, backhoes, graders, dozers, cranes, dump trucks, lift booms and bucket trucks.

**10.A.2 Training.** Employees required to operate potentially hazardous equipment as defined in Section 10.A.1 shall be trained in the safe handling of same prior to operation. In addition, no employee shall operate any of the following equipment prior to reviewing recommended "safe operation" instructions: floor buffers and polishers, arc welders, chainsaws, pneumatic power tools, carpenter power tools, compressed air pumps and conveyor systems. This provision will not preclude supervised on-the-job training after "safe operation" instructions have been thoroughly reviewed.

**10.A.3 Fresh Air Supply.** Port employees working in enclosed underground areas including, but not limited to sewer pits and underground pull boxes shall be provided with a fresh air supply source.

**10.A.4 Respirators.** Gardeners, garage workers, carpenters and Equipment Systems Engineers shall be provided respirators designated by NIOSH as safe and appropriate for the work being performed.

**10.A.5 Hard Hat/Bump Cap Usage.** In compliance with State and Federal safety regulations, hard hats must be worn by maintenance and airport operations personnel whenever there is a possible threat to safety from flying, falling objects from above, or working around heavy equipment. Bump caps may be worn when more appropriate in specific incidences.

**10.A.6 VDT and Word Processing Safety**

(a) The Port will provide glare screens, wrist rests and adjustable document holders to Port employees assigned to work with video display terminals (VDTs) and word processing equipment with video displays, upon their request. This equipment will be ordered in accordance with Port purchasing procedures.

(b) Upon request by an employee assigned to work with a microcomputer or word processor equipped with a VDT, submitted to the Principal Port Safety Administrator, the Port will provide an ergonomics or industrial hygienist specializing in ergonomics to inspect the VDT workstation of the employee. The ergonomics will make written recommendations to the employee's supervisor with a copy to the employee, for adjustments and necessary equipment. The Port shall review the recommendations and provide employees with the appropriate equipment/adjustments.

**10.A.7 Jackets.** The Port will provide jackets to all field personnel, upon their request.

**10.A.8 Safety Shoes.** Where safety shoes are required to be worn in the performance of an employee's duties by either departmental or Port policy, or pursuant to applicable Cal-OSHA or OSHA regulations, the Port hereby agrees to furnish the appropriate safety shoes on an as needed basis, to all such personnel. However, any such employee may at his/her option purchase appropriate safety shoes of his/her own choice, in lieu of accepting Port furnished shoes. The Port agrees to reimburse each employee purchasing his/her own safety shoes, upon presentation of an original receipt, proof of the necessity for same, and in accordance with Port procedures for reimbursement of costs, an amount not to exceed \$232.50.

**10.A.9 Handling of Raw Sewage.** No employee shall be assigned to work with raw sewage until he/she has received proper health and safety orientation and any necessary training, and has been provided with proper safety equipment. The Port will provide vaccinations for Hepatitis A (HP A), Hepatitis B (HP B), Tetanus, and Typhoid. Any employee who refuses these vaccinations shall not be excused from performing work involving raw sewage.

## **10.B Safety Committees**

The Port and Union shall participate on the safety committees described below.

**10.B.1 Port Safety Committee.** The Union shall appoint three (3) members to participate in the Port's Safety Committee. The Port's Safety Committee shall also be comprised of not more than three (3) management members and at least one (1) but not more than three (3) members from each employee representational organization (e.g., WCE and IBEW). The Port's Safety Committee shall function for the purpose of inspecting, reviewing and recommending safety practices in the work areas at the Port.

A reasonable number of meetings of the above committee may be held, but not less than four (4) during the year, without a loss of pay to the Union members participating.

**10.B.2 Port-Union Safety Committee.** A Safety Committee comprised of at least one (1) but not more than three (3) Union and at least one (1) but not more than three (3) management members shall be established for the purpose of inspecting, reviewing and recommending safety practices in the work areas at the Port.

A reasonable number of meetings on the above committee may be held, but not less than four (4) during the year, without a loss of pay to the Union members participating.

**10.B.3 Proposition 65.** The Port will include in its required training programs safety issues related to Proposition 65 safety protocols and hazards.

The Parties agree to establish a Committee of four (4) Union-designated members and four (4) management-designated members to investigate and make recommendations to the Port on safety issues related to Proposition 65, including, but not limited to, exposure to jet fuel. This Committee may, at its option, engage a consultant to provide guidance, expertise, and recommendations on these issues.

The Committee shall make a reasonable effort to make recommendations within six months of the effective date of this Agreement.

### **10.C Safety Laws, Rules and Regulations**

The Port will adhere to all applicable safety laws and CAL-OSHA or OSHA rules and regulations. It is understood that among those subjects covered by CAL-OSHA or OSHA rules and regulations are: a hazard free workplace; safe tools and equipment; protective equipment; removing or guarding hazards; information and notices regarding CAL-OSHA or OSHA; and no discrimination against employees for exercising their lawful rights.

The parties further agree that the present state law regarding discrimination against employees relating to safety is as follows: No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, any occupational safety or health standard or any safety order of the division of standards board will be violated, where such violation would create a real and/or apparent hazard to the employee or his fellow employees. Any employee who is laid off or discharged in violation of this section or is otherwise not paid because he refused to perform work in the performance of which this code, any occupational safety or health standard or any safety order of the division or standards board will be violated and where such violation would create a real and apparent hazard to the employee or his fellow employees shall have a right of action for wages for the time such employee is without work as a result of such layoff or discharge; provided, that such employee notifies his employer of his intention to make such a claim within 10 days after being laid off or discharged and files a claim with the Labor Commissioner within 30 days after being laid off, or discharged or otherwise not paid in violation of this section.

### **10.D DOT Regulations Compliance**

It is understood that Port Equipment Drivers are governed by Department of Transportation (DOT) regulations and the Port shall ensure that there is compliance with DOT regulations without loss of any form of compensation or use of accrued leave time for Port Equipment Drivers.

## ARTICLE 11 - EMPLOYEE RIGHTS AND AFFIRMATIVE ACTION

### 11.A Personnel File

**11.A.1 Copies of Derogatory Entries.** It is agreed that an employee will be given a copy of entries of a derogatory nature when they are placed in his/her official personnel file.

**11.A.2 Derogatory Entries.** Derogatory entries in an employee's official personnel file are evaluated in terms of the seriousness of the action(s) or incident(s) described and the recency and repetitiveness of such action(s) or incident(s) for use in disciplinary proceedings. Entries describing action(s) or incident(s) which are of minor significance and/or which are not recent and/or which have not been repetitive will receive more limited consideration in disciplinary proceedings.

**11.A.3 Entries to Be Used in Disciplinary Proceedings.** Entries of a derogatory nature to be used in any disciplinary proceeding against an employee shall include only dated materials, issued within a reasonable time of the action(s) or incident(s), of which a copy has been provided to the employee and initialed at the time of receipt by the employee, or has been sent by certified mail and has been placed in the employee's official personnel file in connection with current action(s) or incident(s) resulting in disciplinary proceedings. If any employee refuses to initial, that refusal shall be noted on a copy, the Union advised, and the copy shall be placed in that employee's official personnel file.

The employee shall have the right to respond within two (2) weeks of notice of any material filed. Once the employee's response is received, it shall be attached to the material filed.

**11.A.4 Review of Personnel File.** An employee may review his/her official personnel file in the Personnel and Employee Services Department, and may make copies, at his/her own expense (except for original copies), of the documents contained therein. It is understood the Port may establish reasonable rules for the control of said files in the implementation of this provision.

**11.A.5 Union Review of Personnel File.** The employee may also authorize, in writing, the Union representative to inspect and copy his/her personnel file related to a dispute concerning the employee. One copy of each personnel file entry requested in connection with a dispute concerning the employee shall be provided to the Union Representative without charge.

**11.A.6 Confidentiality of Personnel File.** Material in personnel files shall be regarded as confidential and disclosed only in accordance with the provisions of the law.

**11.A.7 Positive Entries.** Information of a positive nature received by the Port pertaining to said employee shall be placed in the employee's personnel file upon request. The employee shall be advised of any such material received.

## **11.B Civil Rights and Affirmative Action**

**11.B.1 No Discrimination.** The Port and the Union agree that neither the Union nor the Port shall discriminate in respect to employment by reason of union activity, "race", color, creed, residency or national origin, age, sex, sexual preference, political affiliation or handicap.

**11.B.2 Support of Equal Employment Opportunities.** The Port and the Union reaffirm their mutual interest in and support of the Equal Employment Opportunity program of the Port and agree to meet from time to time, informally or formally, to discuss the program.

**11.B.3 EEO Report.** The Port shall provide the Union the semi-annual Equal Opportunity report, as it becomes available.

**11.B.4 Publication List.** The Port will provide the Union a list of publications directed to the "minority community" in which it advertises job opportunities. The Union will be afforded the opportunity to suggest publications for addition to said list.

## **11.C Employee Service Ratings and Reports**

**11.C.1 Reports of Performance.** Port agrees that an employee is entitled to a Report of Performance for Probationary Employee and/or Report of Performance for permanent Employee which outlines progress and performance in his/her classification. These reports shall serve primarily as a means (1) whereby an employee may regularly review his/her performance with his/her supervisor; (2) for ascertaining and encouraging the improvement in service by an employee; (3) for providing effective supervision of an employee; (4) for noting and complimenting outstanding achievement by an employee.

**11.C.2 Nine Month Probationary Period.** Refer to Section 7.A.2 entitled, "Service Ratings During Probationary Period".

**11.C.3 Six Month Probationary Period.** Refer to Section 8.B entitled, "Services Ratings During Probation".

**11.C.4 Return Rights.** An employee proving unsatisfactory or electing to decline a promotional position during the probationary period shall have full return rights to his/her former classification without loss of seniority or other benefits.

**11.C.5 Reviews Between Annual Performance Appraisals.** An employee having one or more areas of below-standard performance may have those areas reviewed and dealt with between the regular annual performance appraisals by use of oral and/or written descriptions of the deficiencies and the methods and schedules for bringing them to acceptable standards. Said reviews shall be made through utilization of disciplinary proceedings and shall be subject to the grievance procedure.

**11.C.6 Employee Service Ratings.** Where it is clearly established that sick leave was taken for a valid reason and the illness or injury is of a protracted nature (e.g., industrial injury, sickness or injury with confinement of more than three consecutive days' duration, etc.), said absence shall not be taken into account in the performance evaluation.

#### **11.D Equal Pay for Women**

The Port agrees that there shall be no distinction between wages paid to men and wages paid to women for the performance of comparable quality and quantity of work in the same operations and classifications.

### **ARTICLE 12 - WAGES**

#### **12.A Salaries**

**12.A.1** Effective the first day of the pay period containing July 1, 2015, all salaries of represented employees will be increased by four percent (4.0%).

**12.A.2** Effective the first day of the pay period containing July 1, 2016, all salaries of represented employees will be increased by two percent (2.0%).

**12.A.3** Effective the first day of the pay period containing July 1, 2017, all salaries of represented employees will be increased by two percent (2.0%).

## **12.B Salary Rate Increase**

**12.B.1 Step Increases.** Advancement within the salary schedule hereinafter fixed for the office or position of employment under which an employee serves shall be from Rate "a" to Rate "b" on the basis of six (6) months' satisfactory service in such office or position at Rate "a", from Rate "b" to Rate "c" to Rate "d" on the basis of one (1) year's satisfactory service in such office or position at Rate "c" and from Rate "d" to Rate "e" on the basis of one (1) year's satisfactory service in such office or position at Rate "d".

**12.B.2 Effective Dates of Step Increases.** Increase to the next higher rate, under said schedules shall become effective and the salary at such next higher rate shall become payable on the first day of the following pay period following completion of the required time of satisfactory service in the same office or position of employment, and thereafter each six months or one (1) years, as the case may be.

**12.B.3 Satisfactory Service.** "Satisfactory Service" is defined as consistently meeting performance expectations for a position. The employee knows and performs the job well and demonstrates full competency in the completion of assignments. Employees who have not been evaluated in the annual period described in Articles 12.A or 12.B.1 above, shall, for the purpose of said Articles, be presumed to have delivered satisfactory service.

**12.B.4 Airport Servicemen.** Notwithstanding any provisions hereinabove to the contrary, persons employed as Airport Servicemen who are found and determined by the City Physician to be physically qualified for assignment to crash and rescue work, shall be assigned to Rate "c" within their respective salary schedules upon appointment to said position and shall advance within their respective salary schedules upon appointment to said position and shall advance from Rate "c" to Rate "d" on the basis of six (6) months' satisfactory service in such service in such position at Rate "d"; subject however, to approval of the Executive Director or his designee as hereinabove provided.

**12.B.5 Relief Airport Servicemen.** The provisions of this section with respect to automatic advancement in salary shall not apply to persons employed as Relief Airport Servicemen.

**12.B.6 Airport On-The-Job Injury.** In those cases where an Airport Serviceman is found and determined by the City Physician not to be physically qualified for assignment to crash and rescue work and such disqualification results from an injury incurred in the line of duty, no reduction in compensation shall result.

**12.B.7 Step Increase Due Date.** The Employee Relations Officer shall advise department heads sufficiently in advance of the time when the department

head's recommendations are due with respect to automatic rate increases for employees with the department.

**12.B.8 Gardener III.** Any new employee who performs supervision or direction functions shall be paid an additional six percent (6%) of the regular pay of his/her own classification.

**12.C Custodial Issues.** The Port and Local 1021 agree that the problems related to the current workforce classifications performing airport custodial/janitorial services shall be resolved as follows:

(a) During the term of this MOU, all work areas and custodial functions (presently benchmarked for Fiscal Year 2005-06 as 84 shift lines — also referred to as zones/work areas) shall become filled by Custodians (full time). The shift lines may be adjusted according to business needs.

(b) For Fiscal Year 2015-16, the Port agrees to fill twelve (12) Custodian vacancies using a restricted/closed examination for permanent and temporary City of Oakland employees. For any permanent Custodians employed by the City who is hired by the Port from a restricted/closed eligible list, the Port will recognize longevity for purposes of vacation accrual, but not carry over vacation balances accrued at the City. The Port will post the positions within sixty (60) days of ratification of the Agreement and make reasonable efforts to fill the vacancies within six (6) months. The parties agree to meet starting in September 2015 to discuss necessary staffing levels for Custodians at the Airport.

**12.D Relief Custodian and Relief Telephone Operator Seniority.**

The Port will accrue seniority for relief custodians and relief telephone operators for the purpose of vacation and shift bidding.

**ARTICLE 13 - HOURS, WORKING CONDITIONS AND OVERTIME**

**13.A Shift Differential**

**13.A.1 Shift Differential Calculation.** Employees working the swing shift shall be paid a differential of five percent (5%). Employees working the graveyard shift shall be paid a differential of seven percent (7%).

**13.A.2 Extension of Swing Shift Differential.** The swing shift differential set forth above in 13.A.1 shall also be applicable to each employee working a shift commencing at or after 1:00 PM.

**13.A.3 Class A & B Licenses.** Should an employee lose her/his Class A or B license or have their license suspended because of violations sustained during

non-working hours or fail to procure a medical examiner's certificate then the Port and the Union shall meet to discuss the eligibility of the affected employee for an existing vacant position or soon to be existing vacant position.

For all represented employees in classifications that are required to possess a Class A or Class B driver's license the Port shall pay three percent (3.0%) in addition to their regular monthly salary.

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### **13.B Split Shifts**

An employee working a split shift shall be paid an additional six (6) percent or sixty-five (\$.65) per hour (whichever is greater) of the compensation fixed for the employee's service.

### **13.C Lunches**

An uninterrupted lunch period of no longer than one (1) hour nor less than one half (1/2) hour, shall be scheduled for employees at or near the midpoint of each scheduled work shift of five (5) or more hours, except for an employee whose work schedule provides a paid lunch period. Where a paid lunch period is provided to an employee, payment shall be based on the regular hourly rate of pay for such employee.

Employees with a scheduled work shift of five (5) or more hours will, in all cases, be afforded time to eat lunch. Employees may leave their work station during an unpaid lunch period provided they are back at the work station immediately following the end of said lunch period.

It is understood that Telephone Operators will take their lunch breaks in a manner similar to that of Airport Servicemen.

### **13.D Custodial Facilities and Equipment**

The Port will maintain improved custodial lounge facilities for the airport Custodians.

**13.D.1 Custodial Training.** The Port will twice annually provide training to custodial employees in the use of chemicals and equipment used on the job.

### **13.E Uniforms and Protective Clothing**

The Port will furnish and maintain appropriate uniforms and/or protective clothing for its field employees who are required to wear uniforms. The Port will maintain adequate rain gear and outdoor gear for airport Custodians required to work outdoors.

### **13.F Tools**

The Port will provide adequate hand tools required by Carpenters in the performance of their normal duties in the same manner as provided other craft workers employed by the Port. With respect to existing Carpenters, this provision shall apply only to replacement of existing tools supplied by the Carpenters and additional tools required by such Carpenters in performance of their duties. A sign-out system shall be maintained with respect to all tools supplied by the Port by which the employee will maintain responsibility for non-routine replacement of any such tools. The Port will provide adequate hand tools to Port Maintenance Leaders and Building Maintenance Engineers (Equipment Systems Engineers) for use in the performance of their normal duties. The Port will also provide equal locker space for both female and male custodians. The Port will not use gender differences in the allocation of supplies or locker space for Port custodians.

### **13.G Gardener's Spray Certificate**

The Port shall reimburse each Gardener for the cost and maintenance of the State mandated spraying license.

Also, the employee shall be paid an additional 6% of the regular pay of his/her classification for said certification as long as the certification remains valid.

### **13.H Meal Pay**

An employee working two (2) hours of overtime beyond his/her regular shift will be provided allowance for meals ("meal pay") at the rate of \$16.00 per meal. Effective July 1, 2002, the rate shall be increased to eighteen dollars (\$18.00) per meal. In the event the employee continues to work beyond such first two (2) hours and such is not part of his/her regular shift, the employee will be provided additional meal pay for each successive four (4) hour period so worked at the rate set forth above.

### **13.I Rest Periods**

A rest period of 15 minutes duration shall be scheduled at or about the midpoint of each half shift of three or more hours. Such scheduling shall be at the direction of the department head or authorized supervisor with no loss of pay or time off charged.

### **13.J Acting Pay**

An employee assigned to the duties and responsibilities of a budgeted position of higher classification other than his/her own for more than two (2) working days during a fiscal year shall be paid an additional six percent (6%) of the regular pay of his/her own classification, for the total number of working days he/she works in such higher classification during such fiscal year.

An employee who acts in a position of higher classification under this provision for a period of thirty (30) consecutive days or less, shall not receive acting pay during any period(s) of paid leave occurring during his/her acting assignment. However, an employee who acts in a position of higher classification under this provision for a period in excess of thirty (30) consecutive days shall receive acting pay during period(s) of paid leave occurring during his/her acting assignment, commencing with the thirty-first (31st) consecutive day of the acting assignment and continuing until said acting assignment is terminated.

When an employee performs duties that are clearly above and outside of the duties in the employee's job specification, the employee shall be paid an additional 6% of the regular pay for his/her own classification.

**13.J.1 Job Audits.** The Personnel and Employees Services Department shall complete all job audits within three (3) months of an employee's request of the same. The Supervisor of Personnel and Employee Services shall notify the employee and the Union of the results of the audit. Upon request of the Union, Management representatives of the Personnel and Employee Services Department shall meet with the employee and the Union representative to explain the results and hear any objections of the employee. The results of all Job Audits shall be subject to the approval of the Director of Human Resources.

**13.J.2 Lead Worker Assignments.** The Port agrees that lead worker experience will not be a minimum requirement for Janitor Foreman.

### **13.K Reassignment Notification**

The Port shall notify employees in writing at least one (1) week in advance of scheduled reassignments of employees to other work locations except in emergency situations or in instances where the employee has waived such notification. This Article shall not be applicable to maintenance employees within the Electrical and Mechanical section.

## 13.L Overtime

**13.L.1 Overtime and Compensatory Time Off.** Whenever an employee works in excess of his/her regular workday or regular workweek, he/she shall be compensated for such hours worked at time and one-half (1-1/2) the regular rate, or at the employee's option, may accrue compensatory time off at the same rate up to a maximum of sixty-four (64) hours, (ninety-six (96) hours including overtime credit); provided that such accrual is in accord with the Fair Labor Standards Act (FLSA) if applicable. Compensatory time off shall be taken by an employee at a time mutually agreed upon by the employee and his/her supervisor.

### 13.L.2 Distribution of Overtime:

- a) Overtime shall be distributed as equally as possible on a voluntary, rotational basis at the beginning of each fiscal year beginning with the most senior person in the classification within each geographical area. If the senior person works, his/her name rotates to the bottom of list. When overtime is declined the hours of overtime declined for that overtime opportunity will be added to the total amount of overtime for that person and he/she will be placed in numerical order on the overtime list. Notice of available overtime shall be given to affected employees as far in advance as is practical and possible.
- b) The Department Steward may review overtime records, subject to advance scheduling by the supervisor, and such steward may post overtime worked in his/her area.

**13.L.3 Overtime Cancellation.** The following applies only to Airport Servicemen and Reception Dispatch Clerks. When such an employee accepts an overtime assignment and then calls within two (2) hours or less prior to the start of that assignment to cancel his/her acceptance, that employee shall forfeit his/her opportunity for working overtime in the next rotation for overtime assignments. (Next rotation is defined in the next time overtime is available.)

If the employee cancels the overtime assignment or if the supervisor cancels the overtime assignment within two (2) hours prior to the overtime shift or work, the cancellation will either be documented by taped phone conversation or a form signed both by the employee and supervisor at the time of cancellation. Both parties shall receive a copy of this form.

**13.L.4 Sick Leave/Overtime.** In the event an employee calls in sick for his/her regularly scheduled shift, he/she shall not be eligible for overtime for an eight (8) hour period following their regularly-scheduled shift.

### **13.M Compensatory Buy Back**

Portions of accrued compensatory time may be compensated in cash upon the employee's request to the Port. A minimum of two (2) work days (hourly increments equal to the employee's work day) may be compensated in cash. Such leave buy back may be made payable to the employee once every three (3) months, except in cases of extreme emergency as approved by the department manager.

### **13.N Worker's Compensation**

Payment under this provision shall not be cumulative with any benefit which said employee may receive under the Labor Code of the State of California awarded as the result of the same injury. If, after the period of entitlement, the employee is still disabled, he/she may supplement any benefits paid under the Labor Code with his/her accumulated sick leave and vacation to the extent necessary to make up the difference between the amount of said award and his/her normal weekly pay for each week of continuing disability.

### **13.O Hours of Work**

The regular daily work schedule for the Maintenance/Operation employees shall be eight (8) hours; the regular work-week schedule shall be forty (40) hours (except in the case of certain craft workers who work on a reduced work schedule).

The regular daily work schedule for the Clerical/Administrative employees shall be seven and one-half (7 1/2) hours; the regular work-week schedule shall be thirty-seven and one-half (37 1/2) hours (except in the case of certain Airport personnel, such as Telephone Operators, whose regular daily work schedule is eight (8) hours with a paid lunch period of one-half (1/2) hour and whose regular weekly work schedule is forty (40) hours).

### **13.P Call Back Pay**

A minimum of four (4) hours of pay at time and one-half (1½) will be paid to employees called back to work for other than a regular shift. This section shall not apply to extension of time worked beyond a regular shift. (Included by side letter to previous Memorandum of Understanding.)

### **13.Q Child Care Facility**

The Port shall consider including space for on-site child care for the proposed new Port Office Building (Site A) and any future Port office buildings for the use of Port employees. The Union will be notified when the office buildings are in the planning stages.

A committee of two (2) representatives from the Union and two (2) representatives from Port management shall meet as the Port's Child Care/Elder Care Committee on Port time to develop recommendations to Port management on the feasibility of an on-site child care facility for Port employees, a tax credit plan for child care/elder care costs, and a method for disseminating information on child care/elder care and referral centers to Port employees.

### **13.R Shifts Exceeding Twenty-Four (24) Hours**

Any represented employee who works for twenty-four (24) hours straight and is scheduled to work the next succeeding eight (8) hour shift shall be given a paid leave of absence for that shift.

### **13.S Work-Related Communications**

Employees who currently are provided a cell phone by the Port may, at their option, return the Port cell phone and use their personal phone to respond to work-related communication during work hours. Employees who choose to use their personal cell phone to respond to work-related communication during work hours must provide their telephone number to their supervisor. Employees who choose to use their personal cell phone shall be reimbursed consistent with the voice plan reimbursement set forth in Port Administrative Procedures 563 – Use of Mobile Devices for Business Purposes.

### **13.T Parking at 530 Water Street**

The Port agrees to cover the cost of parking for employees who report at 530 Water Street on the first day of the month following ratification of the Agreement.

## **ARTICLE 14 - HOLIDAYS**

### **14.A Designated Holidays**

The following days of each year are designated as holidays:

- a) January 1st;
- b) The 3rd Monday in January, known as "Martin Luther King Jr.'s Birthday";
- c) February 12th, known as "Lincoln's Birthday";
- d) The 3rd Monday in February
- e) The last Monday in May;
- f) July 4th;

- g) The 1st Monday in September;
- h) September 9th, known as "California Admission Day";
- i) November 11th, known as "Veteran's Day";
- j) The Thursday in November appointed as "Thanksgiving Day";
- k) The Friday following Thanksgiving Day;
- l) December 25th;
- m) A floating holiday subject to the prior approval of the department head to be taken during the calendar year;
- n) ~~Christmas Eve/New Year's Eve - second half of employee's work shift as paid~~  
time off on both the above days;
- o) Every day appointed by the President, or Governor for a public fast, Thanksgiving or holiday.

#### **14.B Holiday Pay**

Any shift that includes five (5) or more hours on a holiday shall be considered a holiday shift and paid at the overtime rate of time and one-half of the employee's regular hourly rate of pay for that shift. In the event an employee works on a recognized holiday, the overtime pay or compensatory time off as elsewhere specified in this Agreement is in addition to the pay which the employee would otherwise receive for said holiday.

#### **14.C Holidays on Regular Day Off**

**14.C.1 Holiday on Normal Day Off.** In the event that a designated holiday falls upon a normal day off which is either a Saturday, as to an employee who works a Monday through Friday workweek, or either day off of his/her normal two days off, as to the employee whose workweek is one other than Monday through Friday, then either such event such employee, as the case may be, shall thereafter receive (1) additional day of compensatory time therefore; and each such employee who is required to work on such Saturday or either day off shall, in addition, receive compensation at the rate of time and one-half of regular rate of pay or compensatory time off.

**14.C.2 Holiday on Sunday.** In the event that a designated holiday falls upon a Sunday, as to an employee who works Monday through Friday workweek, then such employee shall receive the following Monday off therefore; and each such employee who is required to work on such Sunday shall, in addition, receive compensation at the rate of time and one-half of his/her regular rate of pay or compensatory time.

#### **14.D Christmas Eve and New Year's Eve Half Shift Holidays**

On the Christmas Eve/New Year's Eve half shift holidays designated above in 14.A, such time off shall be granted by the department head, subject to the needs of the Port. In the event that an eligible employee is not allowed time off as provided above, he/she shall be paid overtime for the number of hours worked at the rate of time and one-half his/her regular hourly rate of pay for the paid time off to which he/she is entitled under this provision, in addition to the pay which the employee would otherwise receive for said half shift.

For employees whose regular work week is Monday through Friday immediately prior to Christmas Day or New Year's Day, the following applies: If Christmas Eve and New Year's Eve fall on Saturday or Sunday, these employees shall be entitled to the second half of the work shift as paid time off on the Friday preceding such holidays. In the case of shift workers scheduled to work on such a Friday and who cannot be released from work, these employees shall be entitled to overtime pay or compensatory time off, at the option of the employee for the second half of their shift.

For employees whose work week is not Monday through Friday, and who are not scheduled to work on Christmas Eve and/or New Year's Eve, the following applies: These employees shall be entitled to the second half of the work shift as compensatory time earned on the day preceding such holidays.

## **ARTICLE 15 - VACATION**

### **15.A Vacation Accrual**

An employee shall accrue vacation leave from the date of his/her appointment by the Port on a monthly basis at the rates enumerated below. For the purpose of determining the amount of vacation entitlement, an employment year is defined as the period of one year from the anniversary date of such appointment by the Port;

(a) Two weeks (ten days) per year through the first four employment years;

(b) Three weeks (15 days) per year beginning with the fifth employment year and through the twelfth year, provided, however, that during the tenth (10th) full employment year an employee, on his/her anniversary date, shall accrue one (1) additional day as vacation for that year only;

(c) Eighteen days per year beginning at the thirteen employment year and through the nineteenth year; provided, however, that during the fifteen (15th) full employment year an employee, on his or her anniversary date, shall accrue one (1) additional day of vacation for that year only;

(d) Twenty days (four weeks) per year beginning the twentieth employment year and through the twenty-fifth year; provided, however, that during the twentieth and

twenty-fifth full employment years an employee, on his or her anniversary date, shall accrue one (1) additional day of vacation for those years only;

(e) Twenty-five days (five weeks) beginning the twenty-sixth employment year and each year thereafter.

For the purpose of computing the rate of accrual of vacation leave, a break in service of less than two (2) years shall have no effect. A break in service in excess of two (2) years shall mean that the employee so reemployed, for purposes of computing vacation leave, be treated as a new employee.

For the purpose of computing length of service in determining eligibility for vacation at the higher accrual rate, time spent on paid military leave as provided by the State of California Military and Veterans Code shall be counted as time spent in the service of the Port and the City.

#### **15.B Seniority for Vacations**

Vacation leave shall be determined according to seniority within classification in work units.

#### **15.C Vacation Deferral**

Unused vacation leave may be deferred from year to year, only to the extent of one year's accrual up through December 31<sup>st</sup> or paid off in January, except as otherwise approved by the department manager.

#### **15.D Vacation Increments**

Vacation leave may be utilized in any increment, consistent with departmental scheduling, providing an increment is no less than half a shift and such utilization of less than one week shall be limited to five days annually, except as otherwise approved by the department head.

#### **15.E Illness During Vacation**

In the event an employee is seriously ill during a vacation, such time shall be charged to sick leave at the employee's request upon satisfactory verification of the serious illness claimed.

#### **15.F Payday During Vacation**

If a pay day falls within an employee's scheduled vacation period, the employee shall be entitled to receive, prior to the start of such vacation period, upon his/her

request, any regular paychecks he/she would normally receive during said period, in accordance with established Port and City procedures. This provision shall apply to employees whose scheduled vacation is ten (10) or more consecutive working days.

#### **15.G Holiday During Vacation**

In the event a holiday occurs during the period of authorized vacation leave, the work day which is the holiday shall be charged as a holiday and not as a day of vacation.

### **ARTICLE 16 - LEAVES OF ABSENCE**

#### **16.A Sick Leave**

**16.A.1 Definition of Immediate Family.** For purposes of this section (and Family Illness) immediate family shall be defined as mother, father, husband, wife, domestic partner, son, daughter, brother, sister, grandfather, grandmother, father-in-law and mother-in-law. A domestic partner shall be deemed a member of an employee's immediate family only for the limited purposes of granting the employee to whom the term applies time-off from work and for no other purposes, as specifically set forth in Section 16.A.2 of this MOU. Immediate family as used herein, includes the "step" relationships of the above described family members, respectively (step mother, step father, step son, etc.), except with respect to domestic partnerships.

**16.A.2 Domestic Partnership.** A domestic partnership is defined as a relationship between two cohabiting, unmarried and unrelated persons over 18 years of age who share common living expenses and who have resided together for at least six (6) months prior to the filing of a Declaration of Domestic Partnership form (Attachment "1") with the Port. An employee's domestic partner shall be deemed a member of the employee's immediate family for the sole purpose of granting the employee time-off from work under the provisions of this MOU for Family Illness (Section 16.A.6), Maternity Leave (Section 16.C), Parental Leave (Section 16D), and Family Death Leave (Section 16.G) to the same extent such rights are afforded employees with spouses. The entitlement of the employee to time-off from work set forth hereinabove shall terminate with the termination of the co-habitational relationship of the two persons named on a Declaration of Domestic Partnership filed with the Port or upon the filing of a Termination Statement (Attachment "2"), signed by either partner and filed with the Port, whichever occurs first. Any employee whose co-habitational relationship with a person identified on a Declaration of Domestic Partnership filed with the Port has ceased shall file a Termination Statement within five working days from the date of such termination.

**16.A.3 Entitlement.** Sick leave shall be accrued by an employee at the rate of one full working day per month of service to the Port/City except that sick leave shall not be credited until the completion of the first three months of service. Sick leave with pay which is not used shall be cumulative. Sick leave credits may be accumulated, not to exceed one hundred and fifty (150) working days, except as provided hereunder.

Craft workers in the classifications of Port Electrician, Plumber and Carpenter whose work week is thirty-six (36) or seventy-two (72) hours bi-weekly shall accrue sick leave at the rate of eight (8) hours per month.

**16.A.4 Unused Sick Leave.** In the event an employee has one hundred and fifty days of accumulated sick leave at the beginning of the calendar year, at the end of the calendar year he/she shall be credited with one day of vacation leave for each full six (6) days of sick leave in excess of one hundred fifty (150) days. Accrued sick leave remaining in excess of one hundred and fifty days after such conversion to vacation leave shall be removed from the official Port records.

#### **16.A.5 Port Attendance Program**

##### **General Statement**

The Port and the Union recognize the need to establish an Attendance Program to increase the understanding between employees and supervisors regarding attendance expectations. The following sets forth the attendance standards that will be used in the Port's Attendance Program:

The Port will agree that any employee who is currently in the progressive disciplinary mode as specified in Article 4.C of the MOU (i.e., Verbal, Written Warning, etc.) as a result of the attendance violation will have such disciplines prior to July 1, 1997 considered void for the purpose of any future discipline. The employee's attendance record will also be void and not considered for future discipline prior to July 1, 1997. The voiding of any disciplinary notations relative to attendance will be on a non-prejudice and one-time basis, and will have no impact on any existing pending grievances. (Note: Prior disciplinary records for attendance and any employee's attendance record will remain in the employee's personnel file, but cannot be used for future discipline after the approval of this MOU by the Board of Port Commissioners.)

##### **A. Attendance Standards**

1. Absence is any time an employee is scheduled to but does not report or leaves work after reporting for reasons not associated with department operations. This excludes unauthorized leave when an employee is not scheduled to work.
2. Sick leave must be for valid reasons such as: illness or disability of employee or immediate family, medical appointments for employee or

immediate family and personal leave as outlined in Section 16.B of this Memorandum of Understanding. However, the Port does not allow a certain number of sick days each year to be used however the employee wishes.

3. Other absences include those which are beyond the employee's immediate control (usually of emergency nature) and make coming to work impossible (not just inconvenient or difficult).
4. An employee's record will be reviewed by the supervisor and the when absent hours equal forty (40) hours and three (3) or more occurrences of absence charged to sick leave in the past twelve (12) month period. The purpose of this review is to determine whether an attendance problem may be present and if so, the appropriate steps, including a conference with the employee, needed to correct. It is understood that exceeding forty (40) hours per year is not in itself a problem, but merely a tool to review the reason for absences.
5. Judgment must be applied to the individual case. There is no set number of absent days that automatically makes an employee's attendance record a good record or a bad record. Each case must receive individual analysis and consultation. Supervisors must do their utmost to apply good managerial skills in determining good, satisfactory and unsatisfactory attendance. Good performance on the job becomes unsatisfactory because of frequent absences. Some of the factors which should be considered when evaluating attendance performance are: number of days absent, number of occurrences, reasons for absences, total number of sick leave days accrued as compared with current rate of utilization and absence frequency, and the existence of an absence pattern.

#### **B. Attendance Plan for Improvement**

If an employee fails to meet the attendance standards after the supervisor's and manager's review, the following Attendance Plan for Improvement will be implemented:

1. Coaching and Counseling
2. Medical Verification of Sick Leave Absence and Documentation in Employee's Personnel File
3. Suspension for Failure to Provide Medical Verification
4. Termination

#### **C. Incentives**

1. For employees working more than half-time, if you have accumulated at least sixty (60) days of sick leave on July 1st of the fiscal year, you may prior to

August 1st of the following fiscal year exercise one of the following options for sick leave earned, but not used during the fiscal year:

- a) Accumulate sick leave credits to the 150-day maximum
  - b) Convert sick leave earned over the basic requirement of sixty (60) days to vacation days, at the ratio of three (3) sick leave days to one (1) day of vacation, with a maximum of four (4) days vacation from converted sick leave;
  - c) Convert sick leave earned over the basic requirement of sixty (60) days to cash at the ratio of three (3) sick leave days to one (1) day of pay with a maximum of four (4) days, earned from converted sick leave;
  - d) A combination of the above.
2. If an employee's sick leave balance has increased by the number of days detailed below, between July 1st and June 30th of one fiscal year, the employee will receive the bonus amounts detailed below.

<u>Days</u>	<u>Bonus Amount</u>
7 - 9	\$50 or,
10	\$150 or,
11 - 12	\$200

**16.A.6 Family Illness.** Each employee who is otherwise eligible to take sick leave may, in the event of serious illness in his/her immediate family, take a maximum of the (10) working days' accumulated sick leave in any calendar year. Such family sick leave shall be charged against an employee's accumulated sick leave credits. Immediate family shall be defined as provided in Section 16.A.1 entitled "Definition of Immediate Family".

**16.A.7 Sick Leave Buy-Back.** Port agrees to compensate, in cash, employees leaving Port/City service after ten (10) years of employment uninterrupted by any single period of absence in excess of one year, for thirty-three and one-third percent (33 1/3%) of accrued sick leave.

**16.A.8 Medical and Dental Appointments.** The employee's supervisor must be notified at least twenty-four (24) hours in advance of medical or dental appointments scheduled during working hours. The employee must be able to verify such appointments by providing the supervisor with a written licensed medical professional's notice on the next scheduled work day after the appointment.

Appointments taking no more than two (2) hours of work time will be excused with no charge to sick leave. If appointments extend beyond two (2) hours, the entire time off will be charged to sick leave.

Medical and dental appointments may not be combined with other types of leave. Appointments should be scheduled so as to minimize impact on work hours.

#### **16.B Personal Leave**

Up to four (4) days of accumulated sick leave per year may be used by Port employees for urgent personal business. These four (4) days are not accumulative. However, if not used, this time will be counted as sick leave in which case it can be carried from year to year. Using sick leave for personal business is subject to the approval of the department manager. Urgent personal business is defined as necessary transactions that might affect an employee's economic well-being or personal welfare and which cannot be carried out during off-duty hours. At least forty-eight (48) hours prior notice shall be given except in case of extreme emergency.

The Port shall not request unreasonable verification of such personal leave requests and shall not breach the confidentiality of the employee who requests such leave.

#### **16.C Maternity Leave**

An employee granted maternity leave shall be returned to her same classification in the department, work location and shift most nearly approximating her former placement as determined by the Port based on the needs of the public service, with no loss of seniority or accrued benefits earned prior to the beginning of such leave and remaining on the books at the time the employee returns to work. It is understood that seniority and other benefits will not continue to accrue while an employee is off work on such leave. An employee who experiences temporary complications or disabilities during such paid leave of absence, seniority would continue to accrue.

The Port agrees to provide medical, dental and vision benefits for up to six (6) months for employees on unpaid maternity leave.

#### **16.D Parental Leave**

An employee not otherwise eligible for maternity leave will be eligible for parental leave without pay for up to six (6) months following the birth or legal adoption of his/her child in accordance with the procedures applicable to leaves of absence without pay set forth in this Memorandum of Understanding.

## **16.E Jury Duty Leave**

Leave of absence with pay may be granted to an employee for jury duty from which the employee cannot be excused. This section shall also apply to subpoenas sought by a U.S. Attorney or the State Attorney General's office and issued by federal or state courts and in cases involving felonies or to appear as a witness before the Grand Jury. The Port will maintain the employee's regular pay, provided that the employee shall be required to turn over to the Port fees which he/she receives as payment for such jury duty except for allowances (such as for transportation or meals) which shall be retained by the employee. This article applies to employees in a jury duty standby status.

## **16.F Military Leave**

Military Leave of Absence with pay shall be granted to employees in accordance with State and Federal law to present maximum of thirty (30) calendar days in a fiscal year.

## **16.G Family Death Leave**

**16.G.1 Special Cases.** In special or unusual cases the department head, with the approval of the Executive Director, may grant a family death leave to allow an employee to attend funeral or memorial services for someone other than those included within the definition of the immediate family under the provisions of this MOU. It is the intent of this provision to cover the kind of situation in which someone other than immediate kin has raised the employee, or due to unusual circumstances has a very close relationship with the employee. When such special case consideration is granted, the Union will be notified in writing.

**16.G.2 Eligibility Approval.** Upon approval of the department head or his/her designated representative, an employee may be granted family death leave with pay not to exceed five (5) working days. Such leave shall not be charged against vacation or sick leave to which an employee may be entitled but shall be in addition thereto. In order to be eligible for family death leave, an employee must have worked for the Port/City for a period of six (6) consecutive months. An employee may be requested to furnish satisfactory verification for his/her use of the family death leave.

**16.G.3 Exceptional Hardship.** In cases of exceptional hardship, the Port will consider granting an additional day of family death leave with pay and further additional days without pay. In such cases, the employee must receive written approval from his/her department head or the department head's designated representative prior to the employee's departure on such leave.

## **16.H Premium Pay During Paid Leave**

Shift differential and other premium pay shall be continued during paid leaves of absence (disability or on-the-job injury leaves shall be considered paid leave for the purposes of this Article), up to a maximum of thirty (30) calendar days, for an employee who is then regularly assigned to a position in which he/she is eligible for such differential or premium Pay.

In the case of employees on vacation, shift differential and other premium pay shall continue for the duration of such leave. For employees regularly working two (2) shifts on a rotating basis (e.g. Reservation Clerks), the shift differential during a paid leave of absence shall be at the rate of one half (1/2) of the applicable shift premium. For employees regularly working three (3) shifts on a rotational basis (e.g. Airport Servicemen), the shift differential during a paid leave of absence shall be at the rate of two-thirds (2/3) of the applicable shift premium.

For employees regularly working a swing or graveyard shift, the shift differential during a paid leave of absence shall be at the full rate of the applicable shift premium.

## **16.I On-The-Job Injury Leave**

**16.I.1 On-The-Job Injury Leave.** In the event an employee is injured in the performance of his/her duties, he/she will be entitled to receive full pay, beginning the first day of his/her absence due to his/her initial injury, for a total of ninety (90) calendar days without any charge against the employee's accumulated sick leave. This benefit will be in conjunction with usual Workers' Compensation benefits and not in addition to amounts of disability pay to which the employee is entitled under Workers' Compensation.

**16.I.2 On-The-Job Injury Benefits.** Employees on industrial injury leave, who are in a no-pay status and are receiving only temporary disability, shall continue to receive the same fringe benefits, with the exception of retirement, that they normally would receive had they not been injured. Employees on industrial injury leave who remain on paid status will continue to receive the same fringe benefits, including retirement. These fringe benefits include, but are not limited to, the following:

1. Vacation accrual at the normal rate.
2. Sick leave accrual at the normal rate.
3. Paid holidays at the normal rate.
4. Service credit for the purposes of computing class seniority, date of hire seniority and all other seniority related items.
5. Medical, dental and vision coverage at the continuing rate.

6. Life insurance coverage at the continuing rate.

**16.I.3 Return to Work.** When an employee who was off work as a result of an on-the-job injury is able to return to work and perform the duties and responsibilities of the position held before the injury, such employee shall be returned to a position in the same classification as that occupied by the employee at the time of the injury.

**16.I.4 Rehabilitation and Retraining.** The Port will adhere to applicable public law relating to participation in rehabilitation and retraining programs available to employees off work due to disability.

#### **16.J Leave of Absence Without Pay**

Department heads may give leave without pay not to exceed a total of thirty (30) working days in a calendar year. Leaves without pay may be granted for reasons which in the opinion of the Port, appear to be proper and in the best interest of the Port, such as:

- a) To permit the employee to receive additional education of such nature that will improve the employee's job performance and increase his/her worth to the Port;
- b) To permit the employee, because of his/her particular abilities or his/her outstanding competence, to assist another governmental jurisdiction and which in a direct way will enhance the prestige of the Port/City of Oakland;
- c) To permit the employee to take care of urgent or more important personal business which cannot feasibly be accomplished by someone else;
- d) To permit the employee to settle domestic problems;
- e) To permit the employee to take an exempt position in the Port/City service;
- f) To permit the employee to retain promotional and seniority rights to his/her permanent position upon accepting appointment to a classified position in the Port/City service under a program financed in whole or in part by Federal or tax-exempt foundations.

#### **16.K Leave Benefits Under FMLA**

The leave benefits required to be provided under the Family and Medical Leave Act of 1993 and the California Family Rights Act, as amended, shall be provided in conjunction with leave benefits described in this Memorandum of Understanding, not in

addition to such benefits except to the extent that these laws require the provision of leave benefits that exceed the leave benefits otherwise provided for in this Memorandum of Understanding. Attached hereto as Attachment "4", is a summary of the pertinent provisions of the Family and Medical Leave Act of 1993.

#### **16.L Employee Assistance Program (EAP)**

The Port will provide represented employees with Employee Assistance Program services under the Port's EAP. These will include confidential counseling and referral services and wellness information.

Prior to the renewal of the contract for the current Port provided Employee Assistance Program, the Port and the Union shall meet to consider alternatives to the existing Port plan.

### **ARTICLE 17 - INSURANCE BENEFITS**

#### **17.A Health Plans**

##### **17.A.1 Medical Plans.**

- a) The Port shall contribute an amount up to the premium cost for health plan coverage for each eligible full-time and part-time employee and such enrolled employee's eligible dependents in any of the health plans provided under PERS not to exceed one hundred percent (100%) of the monthly premium costs at the family rate provided by Kaiser Foundation Health Plan, Inc. for the Northern California Region, at the rates available through the Public Employees' Retirement System's health benefit plans.
- b) If an employee chooses to participate in a PERS health plan which is more expensive than the PERS Kaiser Northern California Health Plan, the excess cost shall be paid by the employee. These contributions shall be adjusted to reflect the changes, if any, in the PERS premiums.
- c) Employees shall have the right to inform the Port of an increase in their dependents at any time and have the amount contributed be adjusted accordingly, in accordance with PERS or the insurance carrier's rules. Employees shall be required to inform the Port of any reduction in dependents and a corresponding reduction in premium amounts contributed by the Port shall be made.

- d) Said monthly payments shall be for medical premium coverage only and any amount in excess of the actual cost of medical premium coverage shall not be refunded to the employee.

#### **17.A.2 Retiree Medical Benefits.**

- a) The Port shall contribute an amount up to the premium cost for health plan coverage for each eligible Port retiree and such enrolled Port retiree's eligible dependents in any of the health plans provided under PERS to which the Port retiree is eligible to participate not to exceed one hundred percent (100%) of the monthly premium costs at the family rate provided by Kaiser Foundation Health Plan, Inc. for the Northern California Region, at the rate available through the Public Employees' Retirement System's health benefit plans.
- b) If an eligible Port retiree chooses to participate in a PERS health plan which is more expensive than the PERS Kaiser Northern California health plan, the excess cost shall be paid by the retiree. These contributions shall be adjusted during the term described above to reflect the changes, if any, in the PERS premiums.
- c) Retirees shall have the right to inform the Port of an increase in their dependents at any time and have the amount contributed be adjusted accordingly, in accordance with PERS or the insurance carrier's rules. Port retirees shall be required to inform the Port of any reduction in dependents and a corresponding reduction in premium amounts contributed by the Port shall be made.
- d) Said monthly payments shall be for medical premium coverage only and any amount in excess of the actual cost of medical premium coverage shall not be refunded to the Port retiree.
- e) The payments for Port retirees, set forth in subsection "a" above, shall be made monthly from the date of retirement until the retiree ceases to participate in the PERS medical program.
- f) The payments described above in subsection "a" shall be made for eligible Port retirees and their eligible dependents in accordance with the provisions of the Public Employees Retirement Law of the State of California.
- g) These provisions shall take effect within 60 days after ratification of the MOU, or upon implementation by PERS, whichever is earlier.

- h) These provisions constitute the entire and sole agreement of the parties with respect to retiree medical benefits and all prior agreements of the parties are superseded by the terms of this MOU.

With respect to employees first hired by the Port on or after April 1, 2013 (herein referred to as "Retirees"), the Port shall pay a percentage of employer contributions for retiree medical coverage for a Retiree and his or her eligible dependents based on the provisions of Section 22893 of the California Government Code. Under these rules, a Retiree must have at least 10 years of credited service with a CalPERS agency, at least five of which are with the City/Port. Except otherwise required by Section 22893(b) of the California Government Code (providing for 100% of employer contributions for a Retiree who retired for disability or retired for service with 20 or more years of service credit), if the Retiree meets such requirements, the Port will pay a percentage of employer contributions for the Retiree based on the following:

<b>Years of Credited Service (at least 5 of which are at the City/Port)</b>	<b>Percentage of Employer Contribution</b>
<b>10</b>	<b>50</b>
<b>11</b>	<b>55</b>
<b>12</b>	<b>60</b>
<b>13</b>	<b>65</b>
<b>14</b>	<b>70</b>
<b>15</b>	<b>75</b>
<b>16</b>	<b>80</b>
<b>17</b>	<b>85</b>
<b>18</b>	<b>90</b>
<b>19</b>	<b>95</b>
<b>20 or more</b>	<b>100</b>

The Employer contribution will be adjusted by the Port each year but will not be less than the amount required by California Government Code Section 22892(b) plus Administrative fees and Contingency Reserve Fund Assessments.

Each person receiving this medical benefit must notify the Port within thirty (30) days of the retiree and/or eligible dependent becoming eligible for Medicare. Additionally, any such retiree and/or eligible dependent that become eligible for Medicare must enroll in Medicare as required by CalPERS.

With respect to employees who were hired by the Port on or after April 1, 2013 (other than (1) any former Port employee on a reinstatement list as January 1, 2013 pursuant to section 9.01 of the Personnel Rules and Procedures of the Port who is hired prior to January 1, 2013 and is reinstated to employment with the Port three (3) years from the date of layoff or (2) an employee who was employed by the Port before January 1, 2013 and who is reemployed into the same classification by the Port prior to the second anniversary of his or her separation from employment with the Port, in accordance with Section 5.01 of the Personnel Rules and Procedures of the Port), upon

the employee's retirement or other separation from service, beginning January 1, 2013 such retired or terminated employee shall not be entitled to dental, vision or the employee assistance program benefits upon ceasing to be an eligible employee of the Port except to the extent required under the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

#### **17.A.3 Medical Benefits for O.M.E.R.S. Employees and Retirees.**

Unless prohibited by PERS or by law, the medical plan coverages described in this Article 17 shall apply to active employees and persons retired or who retire under the Oakland Municipal Employees' Retirement System (OMERS).

#### **17.A.4 Health Care Reform.**

In the event of health care reform affecting the provisions of Article 17 (Insurance Benefits) of this Memorandum of Understanding, negotiations will be reopened and the parties will meet and confer with respect to same.

#### **17.A.5 Flexible Benefits.**

The parties agree to establish a committee to be composed of three (3) management representatives and three (3) Union representatives to explore and report on factors to be considered in implementing Internal Revenue Code 125 and/or 129 plans. Upon receipt of the committee's findings, the parties agree to meet and confer regarding the implementation of such plans.

#### **17.B Vision Care**

The Port agrees to contribute an amount equal to one hundred percent (100%) of the premium cost of employee and dependent coverage in an established Port vision care plan with a ten dollar (\$10.00) deductible.

#### **17.C Dental Plan**

Employees under this Memorandum of Understanding shall be entitled to the same dental and orthodontia coverage as currently provided by the Port for management and unrepresented employees.

**17.C.1 Port Contribution to Dental Plan.** The Port shall contribute an amount equal to one hundred percent (100%) of the cost of employee and dependent coverage under the dental plan.

**17.C.2 Dental Plan Review.** The Port and Union agree to review the present dental plan at any time during the term of this Agreement at which a reliable

dental plan is proposed which provides better coverage at the then existing premium costs, with a commitment by the carrier for premium stability.

#### **17.D Life Insurance**

The Port shall provide life insurance coverage for each eligible represented employee in an amount equal to one times the employee's annual salary, including an accidental death and dismemberment benefit of equivalent amount.

#### **17.E Disability Insurance**

**17.E.1 State Disability Insurance.** The Port shall pay the cost of State Disability Insurance (SDI) coverage in behalf of each represented employee.

**17.E.2 Long Term Disability.** The Port will provide a Long Term Disability policy which will provide coverage on the following basis: waiting period - 90 days or until sick leave is exhausted, whichever is longer; replace sixty percent (60%) of income unless funds are available for integration and then replace up to seventy percent (70%) of income.

#### **17.F Health Benefits Limitations During Leave Without Pay**

The Port shall pay its share of health benefit premiums that fall due in the first thirty (30) calendar days of an employee's unpaid leave of absence.

The Port will permit employees to continue health benefits while on leave after the first thirty (30) day so of a leave without pay. Arrangements must be made with the Payroll Personnel Section of the Human Resources Department to continue such coverage. The insurer will not automatically reinstate coverage upon the employee's return to work unless the employee has paid for coverage while on leave. When the employee does not pay for such coverage while on leave, he/she must wait for the applicable re-entry period to reinstate coverage.

#### **17.G Alternate Medical Coverage, Cash in Lieu**

If a worker has medical coverage from a family member, he/she may withdraw from the Port medical Program during the regular open enrollment period and receive 50% of the Kaiser North premium at the appropriate single, double or family rate, in cash from the Port on a monthly basis, upon the Port having received proof of the alternate coverage. Cash in lieu payments shall commence with the start of the benefit year, currently January 1, 1998.

## ARTICLE 18 - RETIREMENT

### 18.A Employer Contribution

The Port shall contribute, as the employer contribution, on behalf of an employee who is a member of the Public Employees' Retirement System, (P.E.R.S.), the designated percent of the regular salary for retirement purposes of such employee, as determined with applicable State law.

### 18.B Employee Contributions

**18.B.1** Effective the first day of the pay period containing July 1, 2013, employer paid member contributions ("EPMC") shall be terminated, and represented employees who are members of the Public Employees' Retirement System ("PERS") shall contribute 8% of their base salary, as determined in accordance with applicable law, to offset the EPMC.

**18.B.2** Effective the first day of the pay period containing July 1, 2013 and in exchange for represented employees paying the employee contribution (formerly paid by the employer and designated as EPMC as specified in 18.B.1), the Port will increase the base salary of represented employees by eight percent (8%). The intent of this provision is to have an equal swap whereby represented employees pay their employee contributions in exchange for an increase in their base salary by an equal amount.

### 18.C Current P.E.R.S. Benefits

The Port currently provides the following benefits as set forth in the City's agreement with Public Employee's Retirement System:

**18.C.1 Military Services Credited as Public Service.** Up to four (4) years of military service can be granted for time during which a member served continuously with the active Armed Forces or the Merchant Marine plus a record of rehabilitation, plus six (6) months thereafter. The member is required to contribute employee and employer contributions for any such period of military service, except that service rendered prior to September 1, 1970 may be granted at no cost to the member.

**18.C.2 Final Compensation.** Final compensation is the average full-time monthly pay rate and special compensation for the last 12 months for employees hired prior to June 9, 2012 or last consecutive 36 months of employment for employees hired on or after June 9, 2012.

**18.C.3 Survivor Continuance.** Survivor continuance provides the beneficiary a monthly allowance equal to one-half of what the employee's highest "service retirement" allowance would have been had they retired on the date of death.

Eligible recipients are the spouse or domestic partner, who have married or registered for at least one year, or if none; children under age 18 who have never been married, or if none; a parent who is at least age 62 and was a dependent of the employee at the time of death.

**18.C.4 Benefit Factor.** Benefit factor is a percentage of pay to which one is entitled for each year of service. It is determined by one's age at retirement and the retirement formula. The benefit factor increases with each quarter of year of attained age between ages 50 and 55 except for employees subject to PEPRA. The formulas are 2.7% @ age 55 for employees hired prior to June 9, 2012; 2.5% @ age 55 for employees hired on or after June 9, 2012; or 2.0% @ age 62 for new members hired on or after January 1, 2013 subject to PEPRA.

**18.C.5 Not Eligible to Retire at the Time of Death.** The beneficiary will receive a refund of the member's contributions plus interest, and up to six (6) months' pay (the sum of one month's salary rate for each year of current service to a maximum of six months).

## **ARTICLE 19 - JOINT LABOR/MANAGEMENT RELATIONS COMMITTEE**

**19.A.** The Port and the Union agree to establish a Labor Management Relations Committee for the purpose of exploring ways to improve the level of mutual respect between the parties and to establish methods for problem-solving of workplace issues.

Items and issues to be discussed shall include, but not be limited to, the following:

1. Training of Union members and stewards as well as Port forepersons, supervisors and managers, in the application of the MOU between the parties.
2. Ensuring fair and consistent application of the Port's Attendance Program as identified in the MOU between the parties.
3. Ensuring that programs and procedures specified in the MOU between the parties are implemented and maintained during the term of the MOU.
4. Developing and seeking to reach agreement concerning the application of seniority, as defined in the MOU, to lay-off, recall and transfers to and from classifications in the City of Oakland.
5. Developing ways to improve action level decision making, customer service and employee morale.

6. Consultant shall be retained for the first year to guide the committee. The consultant will be paid for both by the Port and the Union, at a ratio to be determined.
7. Any other issues of mutual concern.

The committee shall be comprised of twelve (12) members, six (6) designated by the Union and six (6) designated by the Port. One of the Union team members shall be the Union president. One of the Port team members shall be the Chief Administrative Officer or the Human Resources Manager. Time lost from the job shall be paid by the Port. The committee shall meet on a monthly basis or on a different schedule as determined by the parties.

**19.B.** The Port and Union agree that three (3) months after the ratification of this Memorandum of Understanding the Port and Service Employees International Union 1021 shall propose to the City of Oakland to meet to resolve issues regarding common classifications.

## **ARTICLE 20 - MISCELLANEOUS AND DURATION**

### **20.A Separability and Revisions of Severed Positions**

In the event any portion of this Memorandum is declared null and void by superseding federal or state law, the balance of this Memorandum shall continue in full force and effect, and the parties shall immediately commence negotiations to ensure that the superseded portions shall be rewritten to conform as nearly as possible to the original intent.

### **20.B Reviving Vacant Classifications**

In the event that the Port decides to post a position in a classification defined in the classified system not occupied by an incumbent as of the effective date of this Agreement, the Port shall notify the Union in writing thirty (30) days in advance of the posting and meet and confer upon request by the Union about the terms and conditions of employment.

### **20.C Memorandum is Entire Agreement**

It is understood and agreed that this Memorandum constitutes the entire agreement between the parties. Any changes in wages, hours or terms and conditions of employment beyond those set forth herein are subject to the requirements of meeting and conferring in good faith in accordance with the Meyers-Milias-Brown Act as amended.

## **20.D Term of Agreement**

This Memorandum shall become effective July 1, 2015, as adopted in the necessary implementing ordinances and resolutions and shall remain in effect for a period of thirty (30) months to and including December 31, 2017.

## **ARTICLE 21 – PAYROLL**

### **21.A Employee Pay Stubs**

Employee printed pay stubs will include all hours, categories of pay, and accruals that are available online. The Port will bear the cost, if any, to make the system adjustments.

When an employee is underpaid on their paycheck, they will notify payroll in writing. The Port will make reasonable efforts to process any corrections within the next pay period following notification.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed this 3<sup>rd</sup> day of December, 2015.

SEIU LOCAL 1021  
Bargaining Team

By: [Signature]  
Nato Green  
Chief Negotiator

By: [Signature]  
Dana MacPherson  
Area Field Director

By: [Signature]  
John Stead-Mendez  
Executive Director, Field & Programs

Port of Oakland  
Bargaining Team

By: [Signature]  
Joseph E. Wiley  
Chief Negotiator

By: [Signature]  
Christopher Boucher  
Director of Human Resources

Local 1021 Negotiations Team:

By: [Signature]  
Millie Cleveland  
Field Representative, SEIU 1021

By: [Signature]  
Kimberly Moses  
Chapter President

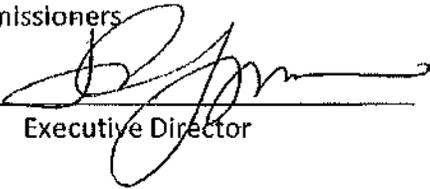
Port of Oakland Negotiations Team:

Farbod Pirouzmand

Jay Busby  
Terrance Calloway  
Leonard Castaneda  
Chuck Campbell  
Alfonso Loera  
Karl Mason  
Yvette Nixon  
Gino Valente

The above Memorandum of Understanding is hereby ratified and confirmed this 3<sup>rd</sup> day of December, 2015.

CITY OF OAKLAND, a Municipal Corporation, acting by and through its Board of Port Commissioners

By:   
Executive Director

Approved as to form and legality this 17th day of December, 2015.

  
\_\_\_\_\_  
Danny W. Wan, Port Attorney

Resolution No. 15-092  
P.A. # 2015-916

EXHIBIT A  
SIDE LETTER OF AGREEMENT REGARDING PERCENTAGE OF EMPLOYER  
CONTRIBUTION FOR NEW RETIREES AND FUTURE LEGISLATION

*1/22/13*      *1/22/13*

December 6, 2012

SIDE LETTER OF AGREEMENT BETWEEN SEIU LOCAL 1021 AND THE PORT OF OAKLAND

REGARDING

Percentage of Employer Contribution for New Retirees and Future Legislation

This letter of understanding reflects an agreement between the Port of Oakland ("Port" or "Employer") and SEIU Local 1021 ("SEIU").

1. Whereas the Port represented to SEIU during negotiations that PERS does not have an option, or schedule, allowing an employer to make contributions for retiree medical benefits over a 15 year period, but only over a twenty year period, as set forth in Government Code Section 22893 and Article 17.A.2 of this Memorandum of Understanding.
2. SEIU agreed to the Port's proposal concerning retiree benefits for new employees, in Article 17.A.2, under the condition that the parties would jointly use their best efforts to draft and pass legislation to require PERS to establish an optional 15 year schedule for an employer to make contributions toward retiree medical benefits as follows: 50% at 10 years, 60% at 11 years, 70% at 12 years, 80% at 13 years, 90% at 14 years, and 100% at 15 years
3. In the event such legislation is passed, the Port agrees to modify the schedule of employer contributions set forth in Article 17.A.2 to incorporate the fifteen year contribution schedule: specifically, employer contributions would be 50% at 10 years, 60% at 11 years, 70% at 12 years, 80% at 13 years, 90% at 14 years, and 100% at 15 years.

For the Union:		For the Port:	
<i>Melie Cleveland</i>	<i>Head Rep</i>		
Print name: <i>Melie Cleveland</i>	Date <i>12/17/12</i>	Deborah Ale Flint, Acting Executive Director	Date
		<i>Marsha Peterson</i>	<i>12-17-12</i>
Print name:	Date	Marsha Peterson, Labor Advisor to the Executive Director	Date
		<i>Farbod Pirduzmand</i>	<i>12/17/12</i>
Print name:	Date	Farbod Pirduzmand, HR Supervisor-Labor Relations	Date

**EXHIBIT B**  
**SIDE LETTER OF AGREEMENT REGARDING CONTRACTING OUT**

June 25, 2015

SIDE LETTER OF AGREEMENT BETWEEN SEIU LOCAL 1021 AND THE PORT OF OAKLAND

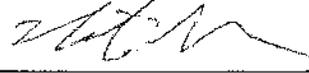
REGARDING

Contracting Out

This letter of understanding reflects an agreement between the Port of Oakland ("Port" or "Employer") and SEIU Local 1021 ("SEIU").

1. Any grievance filed alleging the Port has violated any provision of Article 2.1 – Contracting Out – shall be expedited in processing with the parties meeting within five (5) days to discuss the merits, and if resolution is not reached, the parties may agree that any arbitration under this side letter shall be held within 45 days of filing of the grievance.
2. Notwithstanding any provision of this Agreement, the Port shall provide notice of all contracting out of bargaining unit work. To the extent possible, such notice shall be provided in advance of the actual work being performed. If not reasonably possible to provide advanced notice, the Port shall provide notice within five (5) work days after the work has been performed.
3. The parties agree to meet quarterly consistent with the Committee provision of the MOU in an effort to resolve any ongoing dispute regarding contracting out issues.
4. Add "Electrician" to the categories of on-call contracts on the top of page 8 of Article 2.1 – Contracting Out of the current Memorandum of Understanding.

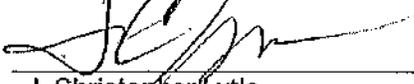
For the Union:

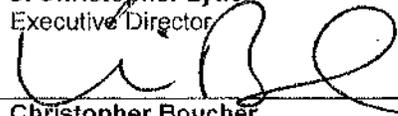
 11/10/15  
Print Name: \_\_\_\_\_ Date

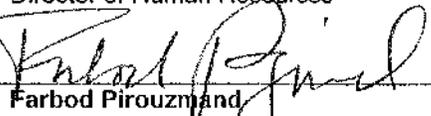
Kimberly Moses  11/12/15  
Print Name: \_\_\_\_\_ Date

Michelle Cleveland  11/12/15  
Print Name: \_\_\_\_\_ Date

For the Port:

 12/3/15  
J. Christopher Lytle  
Executive Director \_\_\_\_\_ Date

 11/25/15  
Christopher Boucher  
Director of Human Resources \_\_\_\_\_ Date

 11/17/15  
Farbod Pirouzman  
Human Resources Manager \_\_\_\_\_ Date

**EXHIBIT C  
SALARY TABLE**

Unit A

JOB TITLE		Step A	Step B	Step C	Step D	Step E
AP Properties Operations Assistant	Effective 7/1/2015	6267	6580	6907	7322	7764
	Effective 7/1/2016	6392	6712	7045	7468	7919
	Effective 7/1/2017	6520	6846	7186	7617	8077
AP Security Sys Tech	Effective 7/1/2015	5985	6283	6598	6994	7412
	Effective 7/1/2016	6105	6409	6730	7134	7560
	Effective 7/1/2017	6227	6537	6865	7277	7711
AP Security/ID Specialist	Effective 7/1/2015	4681	4918	5168	5463	5779
	Effective 7/1/2016	4775	5016	5271	5572	5895
	Effective 7/1/2017	4871	5116	5376	5683	6013
Account Clerk	Effective 7/1/2015	4934	5184	5444	5764	6094
	Effective 7/1/2016	5033	5288	5553	5879	6216
	Effective 7/1/2017	5134	5394	5664	5997	6340
Administrative Specialist	Effective 7/1/2015	6062	6364	6683	7083	7510
	Effective 7/1/2016	6183	6491	6817	7225	7660
	Effective 7/1/2017	6307	6621	6953	7370	7813
Airport Operations Assistant	Effective 7/1/2015	6267	6580	6907	7322	7764
	Effective 7/1/2016	6392	6712	7045	7468	7919
	Effective 7/1/2017	6520	6846	7186	7617	8077
Aviation Graphics Specialist	Effective 7/1/2015	6455	6776	7117	7543	7993
	Effective 7/1/2016	6584	6912	7259	7694	8153
	Effective 7/1/2017	6716	7050	7404	7848	8316
Building Services Assistant	Effective 7/1/2015	4869	5116	5375	5684	6014
	Effective 7/1/2016	4966	5218	5483	5798	6134
	Effective 7/1/2017	5065	5322	5593	5914	6257
Computer Operator	Effective 7/1/2015	5123	5381	5661	5989	6328
	Effective 7/1/2016	5225	5489	5774	6109	6455
	Effective 7/1/2017	5330	5599	5889	6231	6584

JOB TITLE		Step A	Step B	Step C	Step D	Step E
Data Entry Operator	Effective 7/1/2015	4646	4856	5123	5410	5729
	Effective 7/1/2016	4739	4953	5225	5518	5844
	Effective 7/1/2017	4834	5052	5330	5628	5961
Eng Document Control Speclst	Effective 7/1/2015	6062	6364	6683	7083	7510
	Effective 7/1/2016	6183	6491	6817	7225	7660
	Effective 7/1/2017	6307	6621	6953	7370	7813
Graphic Artist	Effective 7/1/2015	5235	5500	5782	6117	6465
	Effective 7/1/2016	5340	5610	5898	6239	6594
	Effective 7/1/2017	5447	5722	6016	6364	6726
Marine Billing/Traffic Asst	Effective 7/1/2015	6062	6370	6691	7072	7477
	Effective 7/1/2016	6183	6497	6825	7213	7627
	Effective 7/1/2017	6307	6627	6962	7357	7780
Marine Statistics Clerk	Effective 7/1/2015	4984	5240	5504	5818	6153
	Effective 7/1/2016	5084	5345	5614	5934	6276
	Effective 7/1/2017	5186	5452	5726	6053	6402
Office Specialist I	Effective 7/1/2015	4681	4915	5160	5469	5798
	Effective 7/1/2016	4775	5013	5263	5578	5914
	Effective 7/1/2017	4871	5113	5368	5690	6032
Office Specialist II	Effective 7/1/2015	5358	5628	5908	6284	6640
	Effective 7/1/2016	5465	5741	6024	6389	6773
	Effective 7/1/2017	5574	5856	6144	6517	6908
Permit Tech - P/T	Effective 7/1/2015	37.09	38.95	40.97	43.31	45.81
	Effective 7/1/2016	37.83	39.73	41.79	44.18	46.73
	Effective 7/1/2017	38.59	40.52	42.63	45.06	47.66
Permit Technician	Effective 7/1/2015	6029	6333	6653	7036	7438
	Effective 7/1/2016	6150	6460	6786	7177	7587
	Effective 7/1/2017	6273	6589	6922	7321	7739
Port Computer Operator	Effective 7/1/2015	5150	5413	5686	6015	6362
	Effective 7/1/2016	5253	5521	5800	6135	6489
	Effective 7/1/2017	5358	5631	5916	6258	6619

JOB TITLE		Step A	Step B	Step C	Step D	Step E
Port Deliveryperson*	Effective 7/1/2015	4443	4664	4889	5177	5476
	Effective 7/1/2016	4532	4757	4987	5281	5586
	Effective 7/1/2017	4623	4852	5087	5387	5698
Port Engineering Technician I	Effective 7/1/2015	5500	5780	6065	6419	6789
	Effective 7/1/2016	5610	5896	6186	6547	6925
	Effective 7/1/2017	5722	6014	6310	6678	7064
Port Engineering Technician II	Effective 7/1/2015	6277	6582	6917	7320	7740
	Effective 7/1/2016	6403	6714	7055	7466	7895
	Effective 7/1/2017	6531	6848	7196	7615	8053
Port Human Resource Clerk	Effective 7/1/2015	5041	5293	5557	5875	6218
	Effective 7/1/2016	5142	5399	5668	5993	6342
	Effective 7/1/2017	5245	5507	5781	6113	6469
Port Office Equipment Assist	Effective 7/1/2015	5235	5500	5782	6117	6465
	Effective 7/1/2016	5340	5610	5898	6239	6594
	Effective 7/1/2017	5447	5722	6016	6364	6726
Port Office Equipment Tech	Effective 7/1/2015	5866	6163	6473	6847	7244
	Effective 7/1/2016	5983	6286	6602	6984	7389
	Effective 7/1/2017	6103	6412	6734	7124	7537
Port Senior Computer Operator	Effective 7/1/2015	5991	6295	6611	6994	7395
	Effective 7/1/2016	6111	6421	6743	7134	7543
	Effective 7/1/2017	6233	6549	6878	7277	7694
Port Senior Engineering Tech	Effective 7/1/2015	7351	7721	8115	8574	9078
	Effective 7/1/2016	7498	7875	8277	8745	9260
	Effective 7/1/2017	7648	8033	8443	8920	9445
Reception Dispatch Clerk	Effective 7/1/2015	4387	4613	4850	5117	5413
	Effective 7/1/2016	4475	4705	4947	5219	5521
	Effective 7/1/2017	4565	4799	5046	5323	5631
Relief Telephone Operator	Effective 7/1/2015	27.60	28.89	30.49	32.14	34.08
	Effective 7/1/2016	28.15	29.47	31.10	32.78	34.76
	Effective 7/1/2017	28.71	30.06	31.72	33.44	35.46

JOB TITLE		Step A	Step B	Step C	Step D	Step E
Research Technician	Effective 7/1/2015	7170	7532	7910	8368	8848
	Effective 7/1/2016	7313	7683	8068	8535	9025
	Effective 7/1/2017	7459	7837	8229	8706	9206
Senior AP Security/ID Spec	Effective 7/1/2015	5041	5146	5562	5887	6223
	Effective 7/1/2016	5142	5249	5673	6005	6347
	Effective 7/1/2017	5245	5354	5786	6125	6474
Senior Account Clerk	Effective 7/1/2015	5661	5938	6244	6603	6987
	Effective 7/1/2016	5774	6057	6369	6735	7127
	Effective 7/1/2017	5889	6178	6496	6870	7270
Senior Secretary/Assist Sec	Effective 7/1/2015	6598	6932	7279	7691	8134
	Effective 7/1/2016	6730	7071	7425	7845	8297
	Effective 7/1/2017	6865	7212	7574	8002	8463
Senior Telephone Operator	Effective 7/1/2015	5071	5304	5592	5888	6240
	Effective 7/1/2016	5172	5410	5704	6006	6365
	Effective 7/1/2017	5275	5518	5818	6126	6492
Telephone Operator	Effective 7/1/2015	4781	5006	5276	5555	5890
	Effective 7/1/2016	4877	5106	5382	5666	6008
	Effective 7/1/2017	4975	5208	5490	5779	6128
Wharfinger	Effective 7/1/2015	9300	9683	10178	10720	11286
	Effective 7/1/2016	9486	9877	10382	10934	11512
	Effective 7/1/2017	9676	10075	10590	11153	11742

Unit B

JOB TITLE		Step A	Step B	Step C	Step D	Step E
AP Grd Trans & Pkg Ops Spec	Effective 7/1/2015	5041	5293	5557	5875	6218
	Effective 7/1/2016	5142	5399	5668	5993	6342
	Effective 7/1/2017	5245	5507	5781	6113	6469
AP Ops Specialist, Air/Land	Effective 7/1/2015	7725	8114	8524	9015	9535
	Effective 7/1/2016	7880	8276	8694	9195	9726
	Effective 7/1/2017	8038	8442	8868	9379	9921
Airport Operations Specialist I	Effective 7/1/2015	5500	5780	6065	6419	6789
	Effective 7/1/2016	5610	5896	6186	6547	6925
	Effective 7/1/2017	5722	6014	6310	6678	7064
Airport Operations Specialist II	Effective 7/1/2015	6267	6580	6907	7322	7764
	Effective 7/1/2016	6392	6712	7045	7468	7919
	Effective 7/1/2017	6520	6846	7186	7617	8077
A/P Parking Lot Assist/Monitor	Effective 7/1/2015	21.98	0	0	0	0
	Effective 7/1/2016	22.42	0	0	0	0
	Effective 7/1/2017	22.87	0	0	0	0
AP Term Maint Coord	Effective 7/1/2015	7532	7910	8303	8781	9284
	Effective 7/1/2016	7683	8068	8469	8957	9470
	Effective 7/1/2017	7837	8229	8638	9136	9659
Carpenter	Effective 7/1/2015	7109	7412	7744	8136	8556
	Effective 7/1/2016	7251	7560	7899	8299	8727
	Effective 7/1/2017	7396	7711	8057	8465	8902
Custodian	Effective 7/1/2015	4828	5025	5216	5456	5706
	Effective 7/1/2016	4925	5126	5320	5565	5820
	Effective 7/1/2017	5024	5229	5426	5676	5936
Diver*	Effective 7/1/2015	8458	8883	9333	9870	10440
	Effective 7/1/2016	8627	9061	9520	10067	10649
	Effective 7/1/2017	8800	9242	9710	10268	10862

JOB TITLE		Step A	Step B	Step C	Step D	Step E
Engineering Assistant*	Effective 7/1/2015	6492	6828	7173	7572	8010
	Effective 7/1/2016	6622	6965	7316	7723	8170
	Effective 7/1/2017	6754	7104	7462	7877	8333
Equipment Systems Engineer	Effective 7/1/2015	7773	8146	8561	9048	9574
	Effective 7/1/2016	7928	8309	8732	9229	9765
	Effective 7/1/2017	8087	8475	8907	9414	9960
Fire Prevention Sys Engr	Effective 7/1/2015	7773	8146	8561	9048	9574
	Effective 7/1/2016	7928	8309	8732	9229	9765
	Effective 7/1/2017	8087	8475	8907	9414	9960
Gardener I	Effective 7/1/2015	4406	4590	4773	4988	5220
	Effective 7/1/2016	4494	4682	4868	5088	5324
	Effective 7/1/2017	4584	4776	4965	5190	5430
Gardener II	Effective 7/1/2015	5078	5336	5604	5921	6265
	Effective 7/1/2016	5180	5443	5716	6039	6390
	Effective 7/1/2017	5284	5552	5830	6160	6518
Gardener II (PT)	Effective 7/1/2015	29.34	0	0	0	0
	Effective 7/1/2016	29.93	0	0	0	0
	Effective 7/1/2017	30.53	0	0	0	0
Gardener III	Effective 7/1/2015	5984	6256	6560	6889	7259
	Effective 7/1/2016	6104	6381	6691	7027	7404
	Effective 7/1/2017	6226	6509	6825	7168	7552
Gardener III (PT)	Effective 7/1/2015	39.77	0	0	0	0
	Effective 7/1/2016	40.57	0	0	0	0
	Effective 7/1/2017	41.38	0	0	0	0
Lead Custodian	Effective 7/1/2015	5118	5327	5528	5782	6046
	Effective 7/1/2016	5220	5434	5639	5898	6167
	Effective 7/1/2017	5324	5543	5752	6016	6290
Lead Painter	Effective 7/1/2015	8457	8809	9213	9652	10138
	Effective 7/1/2016	8626	8985	9397	9845	10341
	Effective 7/1/2017	8799	9165	9585	10042	10548

JOB TITLE		Step A	Step B	Step C	Step D	Step E
Maritime Pub Wks/Rail Sfty Spe	Effective 7/1/2015	8825	9257	9741	10306	10897
	Effective 7/1/2016	9002	9442	9936	10512	11115
	Effective 7/1/2017	9182	9631	10135	10722	11337
Painter	Effective 7/1/2015	7978	8309	8692	9106	9565
	Effective 7/1/2016	8138	8475	8866	9288	9756
	Effective 7/1/2017	8301	8645	9043	9474	9951
Plumber	Effective 7/1/2015	8442	8826	9221	9696	10189
	Effective 7/1/2016	8611	9003	9405	9890	10393
	Effective 7/1/2017	8783	9183	9593	10088	10601
Port Electrician	Effective 7/1/2015	8289	8698	9119	9611	10136
	Effective 7/1/2016	8455	8872	9301	9803	10339
	Effective 7/1/2017	8624	9049	9487	9999	10546
Port Electrician (PT)	Effective 7/1/2015	52.81	55.43	58.07	61.28	64.58
	Effective 7/1/2016	53.87	56.54	59.23	62.51	65.87
	Effective 7/1/2017	54.95	57.67	60.41	63.76	67.19
Port Equipment Driver*	Effective 7/1/2015	7061	7407	7795	8241	8717
	Effective 7/1/2016	7202	7555	7951	8406	8891
	Effective 7/1/2017	7346	7706	8110	8574	9069
Port Equipment Mechanic*	Effective 7/1/2015	7128	7488	7868	8321	8809
	Effective 7/1/2016	7271	7638	8025	8487	8985
	Effective 7/1/2017	7416	7791	8186	8657	9165
Port Equipment Service Worker*	Effective 7/1/2015	5500	5780	6065	6419	6789
	Effective 7/1/2016	5610	5896	6186	6547	6925
	Effective 7/1/2017	5722	6014	6310	6678	7064
Port Lead Repro Equip Oper	Effective 7/1/2015	6048	6354	6677	7055	7465
	Effective 7/1/2016	6169	6481	6811	7196	7614
	Effective 7/1/2017	6292	6611	6947	7340	7766
Port Maintenance Leader*	Effective 7/1/2015	7061	7407	7795	8241	8717
	Effective 7/1/2016	7202	7555	7951	8406	8891
	Effective 7/1/2017	7346	7706	8110	8574	9069

JOB TITLE		Step A	Step B	Step C	Step D	Step E
Port Repro Equip Operator	Effective 7/1/2015	4965	5212	5478	5792	6128
	Effective 7/1/2016	5064	5316	5588	5908	6251
	Effective 7/1/2017	5165	5422	5700	6026	6376
Port Senior Equipment Mechanic*	Effective 7/1/2015	7895	8291	8709	9214	9749
	Effective 7/1/2016	8053	8457	8883	9398	9944
	Effective 7/1/2017	8214	8626	9061	9586	10143
Power Equipment Operator*	Effective 7/1/2015	7458	7777	8117	8520	8950
	Effective 7/1/2016	7607	7933	8279	8690	9129
	Effective 7/1/2017	7759	8092	8445	8864	9312
Semiskilled Laborer	Effective 7/1/2015	6338	6622	6889	7223	7588
	Effective 7/1/2016	6465	6754	7027	7367	7740
	Effective 7/1/2017	6594	6889	7168	7514	7895
Senior Engineering Assistant	Effective 7/1/2015	7532	7910	8303	8781	9284
	Effective 7/1/2016	7683	8068	8469	8957	9470
	Effective 7/1/2017	7837	8229	8638	9136	9659
Sr Surveying and Mapping Tech	Effective 7/1/2015	7532	7910	8303	8781	9284
	Effective 7/1/2016	7683	8068	8469	8957	9470
	Effective 7/1/2017	7837	8229	8638	9136	9659
Youth Aide Class "BB" (PETA Program)	Effective 7/1/2015	23.91	0	0	0	0
	Effective 7/1/2016	24.39	0	0	0	0
	Effective 7/1/2017	24.88	0	0	0	0

\*Additional 3% for Class A or B License

EXHIBIT D  
SIDE LETTER OF AGREEMENT REGARDING SUSPENDED DRIVER'S LICENSE  
(PETA)



**PORT OF OAKLAND**

**LETTER AGREEMENT REGARDING SUSPENDED DRIVER'S LICENSE**

As the result of "Meet and Confer" between the Port of Oakland and Local 790 it was agreed that a voluntary program will be developed to accommodate employees whose driver's licenses have been suspended for conduct occurring off the job. This program is meant only for those classifications that require a driver's license in order to perform the job and is effective September 5, 1991.

**Program Criteria (this is a voluntary program)**

- the employee will be placed in a temporary position if the license suspension exceeds 30-days and for a maximum of one-year. The employee must use accrued vacation, personal or compensatory leave or request a leave of absence for license suspension of 30-days or less.
- the position does not have to be in the department to which the employee is permanently assigned
- employees affected by this program will be assigned to the Youth Aide BB exempt classification. This position will be entitled Permanent Employee on Temporary Assignment (PETA) with corresponding pay rate.
- an employee will be allowed to participate in this program no more than once every five years
- institution of this program will eliminate any existing procedure currently being utilized for the purpose of dealing with employees with suspended licenses; this program will not affect those employees who are presently participating in another license suspension procedure in the Port
- when an employee has had his/her license reinstated the employee shall revert to his/her permanent classification and prior pay rate

Affected Classifications (Local 790 Represented)

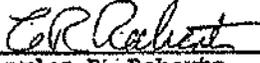
Airport Serviceman	Port Electrician
Carpenter	Port Equipment Driver
Custodian (some)	Port Equipment Mechanic
Deliveryman	Port Equipment Service Worker
Electrical Mechanical Technician	Port Maintenance Leader
Engineering Assistant	Port Senior Equipment Mechanic
Equipment Systems Engineers	Power Equipment Operator
Gardener I	Principal Drafting Technician
Gardener II	Relief P/T Custodian (some)
Gardener III	Semi-Skilled Laborer
Intermediate Drafting Technician	Senior Engineering Assistant
Painter	Parking and Meter Checker (some)
Plumber	Wharfinger

APPROVED:

United Public Employees  
Local 790, AFL-CIO

Port of Oakland

By: \_\_\_\_\_  
Thomas Carr  
Business Representative

By:   
Charles R. Roberts  
Executive Director

UNITED PUBLIC EMPLOYEES  
LOCAL 790

Affiliated with the Service Employees International Union, the largest AFL-CIO Union in California

October 4, 1991

PAUL VARACALLI  
Executive Director  
MARGARET BUTZ SHELIDA  
Deputy Executive Director  
522 Grand Avenue  
Oakland, CA 94610-3599  
Phone (415) 465-0120  
Fax (415) 481-6928  
240 Golden Gate Avenue  
San Francisco, CA 94102-3785  
Phone (415) 673-8753  
Fax (415) 567-6729

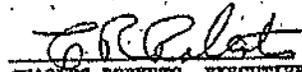
Re: SIDELETTER OF AGREEMENT-USE OF YOUTH AIDE  
CLASSIFICATION FOR PERMANENT EMPLOYEES ON  
TEMPORARY ASSIGNMENT (PETA) PROGRAM

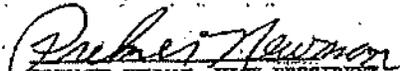
To confirm meetings between Local 790 and the Port of Oakland  
regarding the Permanent Employees on Temporary Assignment (PETA)  
Program; it is agreed:

1. The classification of Youth Aide BB  
will be used to facilitate the PETA  
Program.
2. Within the next year the Port of  
Oakland and Local 790 will meet and  
confer in an effort to obtain a  
permanent classification for the  
PETA Program in the Civil Service  
System.
3. On going efforts will be made by  
the Port of Oakland and Local 790  
to establish a maximum assignment,  
to the Youth Aide classification,  
for temporary employees of 1 year.

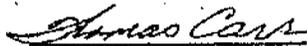
Signing of this sideletter will authorize the use and enforce-  
ment of the Port of Oakland Driver's License (PETA) Program.

  
SALINE H. GRIMES, PRESIDENT  
PORT OF OAKLAND CHAPTER-790

  
CHARLES ROBERTS, EXECUTIVE  
DIRECTOR/PORT OF OAKLAND

  
PRELMER NEWMAN, VICE PRESIDENT  
PORT OF OAKLAND CHAPTER-790

  
PAUL BELLAND, DIRECTOR OF  
HUMAN RESOURCES/PORT OF OAKLAND

  
THOMAS CARR, BUSINESS  
REPRESENTATIVE-LOCAL 790

YOUTH AIDE, CLASS BB  
Youth Aide, Class BB (PETA)

A. CLASS DEFINITION

This is unskilled work performing a variety of simple, routine, manual and clerical duties. Employees in this class are expected to be young persons with little or no substantial previous employment experience. Employees will be expected to work on a part-time basis during the regular school year and may work on a full-time basis during vacation periods. Incumbents in this position work under direct supervision, and their work is reviewed while in progress and upon completion. The main purpose of this position is to provide job opportunities to individuals from the local disadvantaged community and to allow for meaningful on-the-job training and work experience.

B. TYPICAL TASKS/DUTIES

A Youth Aide may be assigned to perform one or more of these specific tasks:

1. Works with skilled and unskilled workers engaged in constructing, maintaining and cleaning buildings, structures, paved surfaces, walks, fairways, landscape areas, utilities, and any other municipal areas within the City limits.
2. Services automobiles and other vehicles.
3. Collects and distributes inter-departmental mail, supplies, and documents.
4. Does simple typing and filing; collects materials.
5. Conducts occupancy surveys in various building structures.
6. Puts books and other material on shelves, and checks and rearranges shelves or files in alphabetical or numerical sequence.
7. Removes dirt, grease, and other foreign matter from museum artifacts as a preliminary step to further restoration.
8. Installs Museum exhibits in their respective displays.
9. Escorts visitors through establishments, such as Museum, Port or any other municipal facility.

C. KNOWLEDGE, SKILLS AND ABILITIES

To successfully perform the typical task and duties of the position, the knowledge, skills and/or abilities listed below are required.

1. Ability to perform simple clerical tasks.
2. Physical ability to do laborer work.

3. Ability to drive an automobile.
4. Ability and willingness to understand and follow instructions.
5. Ability to work with others and be courteous to the public.

**D. PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an employee to successfully perform this job.

While performing the duties pertaining to this position, the intern may be regularly required to extensively make use of close vision to read a variety of materials; have color vision sufficient to distinguish written or graphic materials annotated with high-lighting pens or inks; hear alarms; have fine motor control to manipulate keyboards and multi-button telephone sets; and have a range of motion sufficient to push, pull and place books, binders and other materials on level surfaces.

**E. WORK ENVIRONMENT**

The work environment described here is representative of those an employee encounters while performing this job.

The intern may work in-doors in an air conditioned office, with a mixture of natural, incandescent and fluorescent light. Typical noise levels are muted by acoustic ceilings, carpet and sound-deadening wall panels. The incumbent may work out-of-doors in a variety of weather conditions.

**F. EDUCATION AND EXPERIENCE**

This position requires education and experience reflecting possession of the required knowledge and skills. A typical combination would include enrollment in an accredited college or university.

**G. OTHER CHARACTERISTICS**

1. Eligible to participate in the PETA program.

JOB #:	10156
SALARY GRADE/SCALE:	8112A
STANDARD HOURS-DAY/WEEK:	7.5/Day-37.5/Week
JOB CLASS:	Exempt by Revolution
LEGAL SECTION:	00.18
FLSA:	Non-exempt
JOB CATEGORY (EEO-1):	Not specified
JOB GRADE:	Not specified
JOB TYPE:	Not specified
Classification Created: September 2, 1980 (Port Ordinance 2346)	

**ATTACHMENT 1  
DECLARATION OF DOMESTIC PARTNERSHIP**



**State of California  
Secretary of State**

FILE NO: \_\_\_\_\_

This Space For Filing Use Only

**DECLARATION OF DOMESTIC PARTNERSHIP**

Please read instructions on reverse side before completing form.

We the undersigned, do declare that we meet the requirements of Family Code section 297, which are as follows:

- Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.
- The two persons are not related by blood in a way that would prevent them from being married to each other in this state.
- Both persons are at least 18 years of age, OR if one or both persons are under 18 years of age, a certified copy of the court order(s) granting permission to the underage person(s) to establish a domestic partnership is attached.
- Both persons are members of the same sex, OR one or both of the persons is over 62 years of age and one or both meet the eligibility criteria under Title II of the Social Security Act as defined in United States Code, title 42, section 402(a) for old-age, insurance benefits or Title XVI of the Social Security Act as defined in United States Code, title 42, section 1381 for aged individuals.
- Both persons are capable of consenting to the domestic partnership.
- Both persons consent to the jurisdiction of the Superior Courts of California for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership or for legal separation of partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners ceases to be a resident of, or to maintain a domicile in, this state.

The representations are true and correct, and contain no material omissions of fact to the best of our knowledge and belief. Filing an intentionally and materially false Declaration of Domestic Partnership shall be punishable as a misdemeanor. (Family Code section 299(c).)

PARTNER 1	PARTNER 2
Printed Name (Last) _____ (First) _____ (Middle) _____	Printed Name (Last) _____ (First) _____ (Middle) _____
Signature of Partner as Stated Above _____	Signature of Partner as Stated Above _____
OPTIONAL Name Changes:	OPTIONAL Name Changes:
New Last Name _____	New Last Name _____
New Middle Name _____	New Middle Name _____
Date of Birth (required for name change) _____	Date of Birth (required for name change) _____

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

State of California \_\_\_\_\_  
County of \_\_\_\_\_

**NOTARIZATION IS REQUIRED**

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public \_\_\_\_\_ [SEAL]

SECRETARY OF STATE DP-1 (Rev. 01/2012)

**ATTACHMENT 2  
NOTICE OF TERMINATION OF DOMESTIC PARTNERSHIP**



**State of California  
Secretary of State**

FILE NO: \_\_\_\_\_

(Office Use Only)

**NOTICE OF TERMINATION OF DOMESTIC PARTNERSHIP**  
(Family Code section 299)

**Instructions:**

1. Complete and send to:  
Secretary of State, P.O. Box 942877  
Sacramento, CA 94277-6061  
(916) 663-3984
2. There is no fee for filing this Notice of Termination of Domestic Partnership.
3. Both registered domestic partners must sign the same Notice of Termination of Domestic Partnership form pursuant to Family Code section 299(e)(1). The signatures can be acknowledged at different times by different notaries public as long as a separate certificate of acknowledgment is attached to the form.

**We, the undersigned, do declare that:**

We are terminating our domestic partnership. We have read and understand the brochure prepared by the Secretary of State describing the requirements, nature, and effect of terminating a domestic partnership. We also declare that all of the conditions exist as specified in Family Code section 299(a).

Secretary of State File Number (if known): \_\_\_\_\_

Signature of Partner _____	Printed Name (Last) _____	(First) _____	(Middle) _____
Signature of Partner _____	Printed Name (Last) _____	(First) _____	(Middle) _____

**NOTARIZATION IS REQUIRED**

State of California \_\_\_\_\_  
County of \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public \_\_\_\_\_ [PLACE NOTARY SEAL HERE]

**RETURN TO** (Enter the name and the address of the person to whom a copy of the filed document should be returned.)

NAME [ \_\_\_\_\_ ]

ADDRESS [ \_\_\_\_\_ ]

CITY/STATE/ZIP [ \_\_\_\_\_ ]

**ATTACHMENT 3  
STATEMENT OF FINANCIAL LIABILITY FOR DOMESTIC PARTNERSHIP**

*Can a Domestic Partner be classified as a Dependent of a Taxpayer?*

Employee (taxpayer) Name: \_\_\_\_\_

Tax Year: 2012

**Note: In order for health benefits to be provided to a Domestic Partner on a tax-free basis, all of the answers listed below must be answered in the affirmative.**

- |   | <u>Yes</u>               | <u>No</u>                |
|---|--------------------------|--------------------------|
| a) Does the taxpayer intend to provide over one-half of the Domestic Partner's economic support for the current tax year beginning January 1 through December 31st?         | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Will the Domestic Partner be living with the taxpayer all year as a member of the taxpayer's household?  | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Is the Domestic Partner a U.S. Citizen, U.S. resident alien, U.S. national, or was the Domestic Partner a resident of Canada or Mexico for part of the current tax year? | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Domestic Partner's Name and Date of Birth _____  |                          |                          |
| Domestic Partner Name   |                          | DOB                      |

Employee is aware that if the Domestic Partner does not meet the criteria above, it is the Port of Oakland's interpretation of current tax law that employee will incur tax liabilities in connection with obtaining health care coverage for the Domestic Partner. Employee is responsible for any fees or taxes incurred by the Port of Oakland as a result of any false or misleading information provided in this document.

Employee agrees to be responsible for notifying the Port of Oakland Human Resource Department by December 1st of the current tax year, of any changes to the answers listed above.

Employee affirms under penalty of perjury of the laws of the State of California that the information provided above is true and accurate.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

ATTACHMENT 4  
FAMILY MEDICAL LEAVE ACT (AN OVERVIEW)

- Ensure that employees who need FMLA/CFRA leave are:
  - Not obstructed from exercising their right to take FMLA/CFRA leave
  - Not subjected to adverse employment action for absences attributed to such leave
  - Released properly to return to work
  - Returned to the same or equivalent position and other working conditions of employment

**HR - Payroll & Benefits Unit Responsibilities**

The duties of the Port's Human Resources - Payroll & Benefits Unit (HR - Payroll & Benefits) with regard to FMLA/CFRA administration include the following:

- Ensure compliance with FMLA, CFRA, and other legally required leaves of absence (including PDL)
- Distribute packets of information to employees who may need FMLA/CFRA leave
- Contact health care provider for clarification or authentication of certification form if necessary
- Determine FMLA/CFRA eligibility of employees who need leave due to FMLA/CFRA-qualifying absences
- Notify manager/supervisor on how to code time

**FMLA/CFRA Packet**

HR - Payroll & Benefits is responsible for providing employees with an FMLA/CFRA packet of information where necessary. This documentation, which includes an eligibility notice, must be provided to the employee within five (5) business days upon an employee's request for FMLA/CFRA leave or when HR - Payroll & Benefits acquires knowledge that an employee's leave may be for an FMLA/CFRA-qualifying reason.

Packets must be provided directly to all employees needing leave regardless of whether or not the employee actually qualifies for FMLA/CFRA leave. Employees have at least 15 calendar days (absent extenuating circumstances) from the receipt of the packet to return the required documentation in order to receive FMLA/CFRA benefits. This deadline may be extended if the employee has failed to

provide the information despite their diligent good-faith efforts. All FMLA/CFRA leave will be tracked by HR - Payroll & Benefits.

**HR - Payroll & Benefits Unit Contacts**

Stacie Chesnut  
HR Supervisor (Payroll & Benefits)  
(510) 627-3518  
schesnut@portofoakland.com

Sara Evers (Boyer)  
Port Assistant Management Analyst (LDA)  
(510) 627-1439  
severs@portofoakland.com

Fax: (510) 627-3511



**PORT OF OAKLAND**

**FAMILY AND  
MEDICAL LEAVE ACT  
AND  
CALIFORNIA FAMILY  
RIGHT ACT  
(FMLA/CFRA)**

**An Overview**

**A Supervisor's Practical Guide to  
the Family and Medical Leaves at  
the Port of Oakland**

This pamphlet is designed to provide managers and supervisors with practical guidance on issues and procedures pertaining to FMLA/CFRA benefits at the Port of Oakland. The guidance and information provided is not intended to serve as the official Port of Oakland policy. It is intended to assist in the application of FMLA/CFRA leave where appropriate. All applicable laws and policies will apply to matters of FMLA/CFRA administration.

Managers and supervisors are encouraged to contact Human Resources - Payroll & Benefits Unit to ensure a thorough review of any concerns that may arise regarding FMLA/CFRA issues.

The Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) are benefits that allow qualified employees to take up to 12 weeks of unpaid, job-protected leave during a rolling 12 month period, which is measured backwards from the date an employee uses any leave. FMLA/CFRA also requires that employees' group health benefits be maintained during periods of FMLA/CFRA leave. FMLA and CFRA leave run concurrently to the extent permitted by federal and California law, subject to certain exceptions described in this pamphlet.

FMLA/CFRA leave is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interests of employers and promote equal employment opportunity.

FMLA/CFRA applies to all public agencies, all public and private elementary and secondary schools, and private-sector companies with 50 or more employees. These covered employers must provide an eligible employee with up to 12 weeks of unpaid leave each year for any of the following reasons:

- Birth and care of the newborn child of an employee;
- Placement with the employee of a child for adoption or foster care;
- Care for an immediate family member (spouse, registered domestic partner, child, or parent) with a serious health condition;

- Medical leave when the employee is unable to work because of their own serious health condition;
- Qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

Employees are eligible for FMLA/CFRA leave if they have worked for their employer for at least 12 months, at least 1,250 hours over the past 12 months and at a location where the company employs 50 or more employees within 75 miles. Whether an employee has worked the minimum 1,250 hours of service is determined according to FLSA principles for determining compensable hours of work.

A covered employer also must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness that was incurred in the line of duty on active duty up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the service member.

The Port also complies with the California Pregnancy Disability Leave Law ("PDL"), which requires it to permit employees to take a reasonable leave of absence of up to four (4) months, as needed, for the period(s) of time the employee is actually disabled by pregnancy, childbirth, or related medical conditions. Time taken for PDL does not count against the 12 weeks of leave available for FMLA/CFRA leave. For more information on PDL, contact HR - Payroll & Benefits.

#### Summary of Administrative Policy (AP 413)

The Port allows eligible employees to take certain family and medical leaves of absence in accordance with the federal Family and Medical Leave Act and the California Family Rights Act. In certain situations, the federal law may apply where the state law may not, and vice versa. In any case, assuming the requisite conditions are met, employees will be eligible for the most liberal benefit available under either law. Employees are required to use all available accrued leave while on FMLA/CFRA leave. Please visit the Intranet for more information on the Port's policy.

#### Employee Responsibilities

Employees have responsibilities to fulfill if the leave taken is to be granted or designated as FMLA/CFRA leave. They may not waive their FMLA/CFRA rights.

- In general, employees must:
  - Submit leave request 30 days in advance of the need to take FMLA/CFRA leave when foreseeable
  - Obtain certification of a serious health condition and provide such certification to HR - Payroll & Benefits in a timely manner
  - Inform HR - Payroll & Benefits if the requested leave is for a reason for which FMLA/CFRA was previously taken or certified
  - Provide re-certification of a serious health condition upon request from HR - Payroll & Benefits
  - Maintain appropriate contact with HR - Payroll & Benefits regarding return-to-work status
  - Work with HR - Payroll & Benefits to coordinate leave with EDD payments, where applicable

Failure to provide information in a timely manner may result in the delay or denial of FMLA benefits. Noncompliance with policy may result in disciplinary action.

#### Manager / Supervisor Responsibilities

Managers and supervisors must establish themselves as a first step in the FMLA/CFRA leave process by knowing which types of absences indicate an FMLA/CFRA-related condition, while maintaining confidentiality.

In general, managers and supervisors must:

- Notify HR - Payroll & Benefits when an employee absence of more than three consecutive days of work indicates a potential need for FMLA/CFRA leave
- Retrieve completed FMLA/CFRA paperwork from employee, sign and submit to HR - Payroll & Benefits
- Ensure that an employee's FMLA/CFRA leave is submitted for processing

# **EXHIBIT E**

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**From:** Pulliam, Tabitha <TPulliam@oaklandca.gov>  
**Sent:** Wednesday, August 8, 2018 1:16 PM  
**To:** Millie Cleveland  
**Cc:** Michael Mitchell; Preece, Gregory; Aaron, Denise; Alfonso Loera  
**Subject:** RE: Civil Service Board-Hearing Request

Hi Millie,

This email serves as confirmation of your request to amend the Hearing form to include Rule 6.05 – Appeal of Probationary Release. I will process the form, and will notify the Secretary to the Board that your request has been received. Either I or another representative of the Board will reach out to you with further information.

Thank you so much for providing the documentation.

Tabitha

**From:** Millie Cleveland [mailto:millie.cleveland@seiu1021.org]  
**Sent:** Wednesday, August 08, 2018 1:05 PM  
**To:** Pulliam, Tabitha <TPulliam@oaklandca.gov>  
**Cc:** Michael Mitchell <mmitchell@portoakland.com>; Preece, Gregory <GPreece@oaklandca.gov>; Aaron, Denise <DAaron@oaklandca.gov>; Alfonso Loera <alfonsoeduardo@msn.com>  
**Subject:** RE: Civil Service Board-Hearing Request

Tabitha

The union is appealing the probationary release of Rosemary Arguello, Port Airport Operations Specialist I. The union will argue that her release violated 6.01, 6.04, and 6.05 of the Civil Service rules. Please note that I have amended the hearing request to include Rule 6.05. Please let me know if you need any additional information.

SEIU Local 1021 Union Field Representative Office (510) 350-4539 Cell (510) 710-0201

**From:** Pulliam, Tabitha [mailto:TPulliam@oaklandca.gov]  
**Sent:** Thursday, August 02, 2018 10:22 AM  
**To:** Millie Cleveland <millie.cleveland@seiu1021.org>; Millie Cleveland <millie.cleveland@seiu1021.org>  
**Cc:** Michael Mitchell <mmitchell@portoakland.com>; Preece, Gregory <GPreece@oaklandca.gov>; Aaron, Denise <DAaron@oaklandca.gov>  
**Subject:** RE: Civil Service Board-Hearing Request  
**Importance:** High

Hello Millie,

I received a Hearing Request for/from Rosemary Arguello-Martinez (attached) and you are listed as her Representative. I am reaching out to you because I need clarification on the specific reason for the hearing/appeal request. I see rules 6.04 and 6.01 are cited, so I assume this is an appeal of probationary release or a performance evaluation appeal? You

can simple respond to this email with the clear reason and cited personnel manual rule for the appeal, and I will add it to the original Request form.

Thank you and my regards,

Tabitha

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Tabitha Pulliam  
City of Oakland  
Human Resources Management Department  
150 Frank Ogawa Plaza, 2nd Floor  
Oakland, CA 94612

\* 510-238-6619

\* TPulliam@Oaklandca.gov

7 <https://www.oaklandca.gov/>

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