

# Memorandum of Understanding



City of Hercules

*and*



**Teamsters Local 315  
Full Time Employees  
April 1, 2016 — June 30, 2017**

**Approved by Resolution 16-025**

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## **PREAMBLE**

General Teamsters Local No. 315, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America and representatives of the City of Hercules have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of employees in the miscellaneous full time employee bargaining unit, have exchanged freely information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

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

### **Article 1. Recognition**

#### 1.1 Union Recognition

The General Teamsters Local No. 315 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, hereinafter referred to as the "Union", is recognized as the employee organization as provided in the City's Employer-Employee Relations Resolution for all full time employees assigned to the classification listed in Attachment A.

#### 1.2 City Recognition

The City Manager, or where the authority has been delegated by the City Manager, the City Manager's representative is the representative of the City of Hercules, hereinafter referred to as the "City."

### **Article 2. No Discrimination**

The City agrees not to discriminate against any employee because of membership in the Union or because of any lawful activities on behalf of the Union. Union activities shall not interfere with the normal operation of the City. Neither the City nor the Union shall discriminate for or against any employee or applicant for employment on account of race, color, creed, national origin, age, sex, sexual orientation, physical disability, or mental disability which does not prevent an employee from meeting the minimum standards established.

### **Article 3. Union Security**

#### 3.1 Agency Shop

Employees who are covered under the terms of this Agreement shall be required to either join the Union or pay to the Union an Agency Fee as a condition of employment. If an employee has a bona fide religious objection to joining a Union, they shall submit an amount equal to the Agency Fee to a non-profit 501(c)3 charity which includes the American Cancer Society, American Red Cross and United Way. Proof of such payment shall be submitted to the Union upon request.

### 3.2 Authorization for Payroll Deduction

Upon being furnished with an appropriate authorization form executed by an employee, the City shall deduct from that employee's pay, in the amount stated, the following: (1) initiations, dues and assessments, as established by the Union and (2) contributions to DRIVE (Democratic Republican Independent Voter Education). Deductions shall be made twice per month from the employee's pay. Payments to the Union shall be made by the 15th of each month following the month for which the deductions have been made together with a list of the employees for whom deductions have been made. Payments to the Union shall be made to: Union Local 315, 2727 Alhambra Avenue, P.O. Box 3010, Martinez, CA 94553.

Deductions for the initiation fee shall be a minimum of \$350 and a maximum of \$550. Deductions for initiation fees shall be made over a three month period until paid in full. Dues or agency shop fees are 2.5 times the hourly rate of pay per month with a minimum of \$25 dollars per month.

The Union shall indemnify, defend, and hold the City, its officers, employees and agents harmless from any costs or liability resulting out of any and all claims, demands, suits or any, other action arising from the operation of this Section or from the use of the monies remitted to the Union, including, but not limited to the costs of defending against any such actions or claims.

## **Article 4. Union Representatives**

### 4.1 Attendance at Meeting by Employees

An employee who is the subject of investigatory interview which the employee reasonably believes may result in discipline, may request and shall be granted the right to have a shop steward or, or if no shop steward is available, a co-worker present during the interview.

### 4.2 Shop Stewards

The Union may appoint a maximum of six (6) shop stewards. The Union will notify the City of Hercules in writing with the names and any changes to shop stewards. Grievances which may arise and which cannot be adjusted on the job shall be reported to the Union by the steward; provided, however, in no event shall the steward or the Union order any changes, and no changes shall be made except with the consent of the City.

If an aggrieved employee desires the assistance of a steward as provided in the grievance procedure, the City shall afford said steward reasonable time off during work hours without loss of compensation or other benefits to investigate and take up said grievance. The steward shall obtain the approval of their Department Director or designee, before leaving his/her duties or work assignment for the purpose of investigating and/or processing a grievance. Reasonable efforts shall be made to grant such requests; however, they are subject to the operational needs of the City.

#### 4.3 Access to Work Locations

Reasonable access to employee work locations shall be granted to officially designated Union representatives, for the purpose of contacting members of the bargaining union concerning business within the scope of representation.

Any Union representative seeking access to work locations, as a courtesy, will notify the City Manager or his/her designee when reasonable the day before in advance with the time, date, and approximate length of meeting. Access shall be restricted so as not to interfere with the normal operations of the department or with established or security requirements. Any meetings or discussions with employees shall generally be limited to the employee's time before work, after work, break time or lunch hour unless it is necessary in the resolution of a grievance and approved by the City Manager or his/her designee.

The Union shall designate, in writing to the City Manager, the names of the representatives listed above.

#### 4.4 Bulletin Boards

The Union may provide the City with two bulletin boards with the dimensions of approximately 2'x 3' to be placed by the City in a mutually agreeable location. The Union may use these bulletin boards to post:

- a. Official Notices of Union Meetings;
- b. Official Notices of Union elections and results;
- c. Official Notices of Union appointments;
- d. Official Notices of grievances, resolutions and Union newsletters and bulletins;  
and
- e. Other Official Union Notices.

At mutually agreeable satellite locations, the Union may provide a clipboard with the above information clipped to it. These clipboards shall be located in break rooms or near logbooks.

#### 4.5 E-Mail Notices

With prior approval of the City Manager or his/her designee, that will not be unreasonably denied, the Union is permitted to send to its members E-Mail notices of Official Union Business as noted in Section 4.4.

#### 4.6 Prior Notice Requirement

The City agrees to notify the Union ten (10) working days in advance of any Policy, Rule, or other change that will have an impact on the bargaining unit. The Union will then respond within ten (10) working days of receipt of Policy, Rule or other change. The first day will be considered as the day notice is received either through an e-mail, fax or letter.

#### 4.7 Meet and Confer in Good Faith

"Meet and confer" or "meeting and conferring" means that duly authorized City representatives and duly authorized representatives of the Union shall have a mutual obligation to meet and confer in good faith regarding specified matters within the scope of representation, in an endeavor to reach tentative agreement. Once a tentative agreement has been reached on any matter requiring ratification or City Council adoption the parties shall recommend ratification by the membership and adoption by the City Council. Nothing herein shall require either party to agree to any proposal or to make concessions.

### **Article 5. Recruitment**

#### 5.1 Recruitment Postings

The City agrees to post all bargaining unit positions internally for ten (10) workdays on the City website, e-mail and appropriate bulletin boards prior to the closing application date. The City encourages all qualified internal candidates to apply for promotional opportunities. The City may, at its discretion, prior to commencing a formal recruitment process for job vacancies, solicit employee interest for the position. At the discretion of the City, it may perform internal recruitments.

### **Article 6. Salary Plan and Wages**

#### 6.1 Manner of Payment

Employees shall be paid every other Friday. Routine paychecks shall be for the purpose of compensating for regular time, overtime, sick leave and vacation hours. Reimbursable expenses shall be paid on a separate check.

Overtime, vacation, and sick leave, shall be processed and paid or reported on the subsequent paycheck.

#### 6.2 Work in a Higher Classification

Eligible employees who are authorized in writing by the department head to work in a higher classification and salary range other than their own and who are required to temporarily perform substantial duties and assume the responsibilities of the position will receive out of class pay. To be eligible for out of class pay employees assigned to work in a higher classification must meet the minimum qualifications of the assigned position. Employees will be eligible for work in a higher classification on the first workday in a higher classification.

Compensation for work in a higher class shall be at either five percent (5%) above said employees' existing salary rate or the hourly rate equal to the minimum rate as provided in the salary range for the designated position, whichever is higher. Any out of class work for which premium compensation is provided requires advance written approval by the City Manager or designee.

Employees who are working in a higher classification that is outside the scope of this Agreement shall be covered by the general terms and conditions of employment of the higher classification. All wages, including sick, vacation, comp time and holiday shall be paid at the out of class pay rate.

Additional Duties pay of 5% for when an employee assumes limited duties of a higher classification as approved by the City Manager.

6.3 Wages

*Step increases shall be frozen for the term of this MOU.*

NOTE: Employees will receive a one-time non-PERSable retention payment of 7.5% of the gross annual salary. Employees are able to elect to direct payment to deferred comp or RHS account if desired. Employees will receive a 5% Cost Of Living Adjustment (COLA), retroactive to April 1, 2016. Employees will receive the retroactive pay as an amount added to the one-time retention payment.

6.4 Longevity Pay

In recognition for employee's continued service to the City, employees shall be entitled to receive longevity pay after the completion of:

10 years of service:	\$125.00 per month
15 years of service:	\$175.00 per month
20 years of service:	\$225.00 per month
25 years of service:	\$275.00 per month

Longevity pay shall be paid in 24 bi-weekly installments and shall be in addition to any other pay received under this Agreement.

6.5 Education Pay

Upon the approval of the City Manager, education incentive pay shall be paid in addition to regular pay when education is in addition to the minimum requirements of the job specifications in a related field. Proof of higher education must be from an accredited education institute and presented to the Human Resources Department for verification of degrees:

Associates Degree:	\$50.00 per month
Bachelors Degree:	\$100.00 per month
Masters Degree	\$150.00 per month

Education pay shall be paid in 24 bi-weekly installments and shall be in addition to any other pay received under this Agreement.

6.6 Incentive Pay

At the discretion of the Department Director and approval by the City Manager employees may be awarded at any time during the fiscal year incentive pay not to exceed 5% for extraordinary job performance.

**Article 7. Hours of Work/Workweek**

Until further notice, the standard workweek for full time Teamsters employees shall be thirty-six (36) hours per week, worked in units of nine (9) hours per day in four (4) consecutive days in a seven (7) day workweek which runs Saturday at midnight through the following Saturday at 11:59 p.m. Overtime for full time Teamsters employees will begin after 36 hours. This supersedes the previous practice of a 40-hour week that is described below:

When practical or feasible an employee will be given no less than thirty (30) days written notice in advance of a change in their assigned regular work week or shift schedule. The assignment of work weeks and shifts will be based on seniority provided the employee in the department has the minimum qualifications to perform the work.

**7.1 Lunch and Break Periods**

The time allowed for an unpaid lunch break shall be a minimum of thirty minutes and no more than one hour throughout the course of the workday.

Full-time employees who are scheduled to work eight or more hours in a day shall be permitted one fifteen minute paid rest period at approximately the middle of the morning, and another fifteen minute paid rest period at approximately the middle of the afternoon. Rest periods shall not be taken at the end of a workday to permit an employee to leave early, nor may rest periods be used at the beginning of a workday to allow an employee to report for work after their regular assigned starting time.

This MOU supersedes all applicable State law and regulations governing meal periods and rest periods.

**Article 8. Overtime, Call Back Pay and Premium Pay**

**8.1 General Overtime**

The City's policy is to avoid overtime work whenever possible. Overtime work may be performed, however, if it is approved in advance by the City Manager or Department Director. Such approval shall be provided to the employee within a reasonable time.

Overtime shall be paid at the rate of 1.5 times the regular hourly rate for all hours worked over 36 in the regular work week for all non-exempt classifications. An employee has the right to convert the overtime pay to compensatory time earned at the same rate as overtime or as straight time when the 36 hours per week requirement is met. Overtime shall be paid at the rate of double (2) times the regular hourly rate of pay for all hours worked over twelve (12) hours in a work day.

In any pay period during which an employee is using approved leave time and they

work “overtime” hours the employee can elect to reduce leave utilized during that pay period rather than being paid at straight time for anything up to 36 hours. In any work week during which an employee is using pre-scheduled and approved vacation or comp time, these hours are defined as “hours worked”.

To the extent practical, overtime work shall be distributed equally among qualified employees insofar as possible based on the minimum qualifications needed for the task and to be done on a rotated basis by department or division as designated by the direct supervisor and approved by the Department Director. Except for Holiday pay, time paid and not worked (e.g. sick leave, vacation, etc.) does not count toward the thirty-six hours necessary to receive overtime.

#### 8.2 Emergency Premium Pay

In an emergency preparedness situation, as designated by the City Manager or designee, all employees required to work in excess of their regular assigned shift shall receive premium pay at the rate of two (2) times the employee's regular base rate of pay for all hours worked in excess of assigned shift.

#### 8.3 No Pyramiding

There shall be no pyramiding of overtime. For example, if an employee's work hours qualify for overtime, the same work hours cannot qualify for any other premium pay.

#### 8.4 Standby

The City may, at its sole option, assign employees to standby based upon the needs of the City. Employees on standby must be available to respond to a call within 60 minutes. Employees assigned to standby shall be compensated as follows:

Weekday	\$25.00 per day, plus 2 hours base pay
Weekend	\$35.00 per day, plus 3 hours base pay
Holiday	\$45.00 per day, plus 3 hours base pay

If an employee on standby is called back to work, they shall be compensated under the call back provision.

#### 8.5 Call Back Pay

An employee called to work outside of and not continuous with, their regularly scheduled hours shall be paid a minimum of three (3) hours at the rate of one and one-half (1½) times the employees hourly pay rate. All work (other than the employee's regularly scheduled work hours) performed under the call back provision shall be compensated at one and one-half (1½) times the hourly rate of pay and double (2) times the hourly pay rate if worked in excess of twelve hours in a work day. Approved and appropriate leave time taken during the employees regular work schedule prior to or after call-back shall not preclude premium payment during the call back.

8.6 Compensatory Time

An employee may request to have compensatory time in the form of accrued compensatory time at time and one-half (1½) charged to his accrual bank if qualified in lieu of overtime pay. Under certain circumstances the City Manager may elect to choose overtime in lieu of compensatory time. An employee may not have more than 240 hours compensatory time at any time. Requests by an employee for the use of accrued compensatory time shall be subject to the convenience of the City to the extent authorized by law.

**Article 9. Uniforms**

When the City requires employees to wear a uniform including shirts, pants, vest, hats or other apparel the City will provide the uniform. The City will provide laundering of the uniform through a uniform service company at no cost to the employee.

Non-sworn police employees shall continue to receive a \$500 uniform purchase allowance consistent with Resolution 00-01. Payments shall be made twice a year in July and January.

9.1 Safety Equipment

The City will furnish all safety equipment that is required to perform the task or job at no cost to the employee.

9.1.1 Safety Shoes

The City will provide a reimbursement of up to \$200 per fiscal year for one pair of safety shoes for the following classifications: Building and Code Enforcement Inspectors and Public Works division employee classifications.

Additional classifications may be approved for reimbursement by the department director as deemed necessary.

**Article 10. Education/Tuition Reimbursement**

There will be a total of \$30,000 dollar annual allocation in the Education Reimbursement Program for all City employee groups

**Article 11. Holidays**

11.1 Proclaimed Holidays

All regular full time employees shall receive 13 designated holidays per fiscal year to be observed during each Fiscal Year (July 1-June 30). Employees normally scheduled to work on those days will be given the day off with pay provided they are eligible as set forth below. Floating Holidays may not be carried forward from one fiscal year to the next and are not compensable at the time of separation from City service.

- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day
- Day After Thanksgiving
- Christmas Eve Day
- Christmas Day
- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Two Floating Holidays

If any of these Holidays fall on a Sunday, the Monday following shall be observed as the holiday. If any of these Holidays fall on a Saturday, the preceding Friday shall be observed as the Holiday.

To be eligible for Holiday pay, employees must have either worked the workday before and the workday after the Holiday, or be in approved paid leave status the workday before and the work day after the Holiday. Employees on approved vacation or sick leave shall not be charged vacation or sick leave for the Holiday. Full-time employees shall receive eight hours of holiday pay for each holiday.

#### 11.2. Additional Christmas Holidays

*For the term of this MOU and consistent with past practice, the majority of the City's offices will continue to be closed during the Christmas week. In lieu of holiday pay, employees who were otherwise eligible for holiday pay described below can select to use any unused, accrued vacation, sick or compensatory time available in order to receive pay for these days. Alternatively, employees can choose to take unpaid leave during these days.*

#### 11.3 Pay for Working on a Designated Holiday

An employee who is required by the City to work on a day that is a designated holiday in Section 11.1 is observed shall be paid eight hours of Holiday pay and shall be paid for the hours actually worked on the Holiday at the rate of time and one-half (1½). In lieu of pay for the time worked on the designated Holiday, the employee may add the time worked on the Holiday to their Compensatory Time Off accrual at the rate of time and one-half (1½) times hours actually worked.

### **Article 12. Leaves of Absence**

#### 12.1 Authorized Leaves of Absence without Pay

##### 12.1.1 Requesting Leave

The City Manager may upon the request/recommendation of the Department Director grant an employee an unpaid leave of Absence not to exceed three (3) months. Such leave shall be discretionary and based upon the needs of the City. Employees desiring to take time off without pay who have no leave balances available shall submit a request in writing to their Department Manager. Whenever possible, such request shall be submitted at least five (5) weeks or 20 working days in advance.

#### 12.1.2 Extension of Leaves

During the period of the Leave of Absence, an employee may request that the leave be extended by submitting such a request in writing to their Department Manager stating the reason for the extension. Such a request may be approved or disapproved by the City Manager as described in the above section. No Leaves of Absence exceeding one (1) year will be granted.

#### 12.1.3 Early Return From Leaves of Absence

An employee may request permission from the Department Director to return to work prior to the approved expiration of the leave. Approval of the Department Director and the City Manager for such early returns is discretionary.

#### 12.1.4 Failure to Return to Work from Leave of Absence

Failure of an employee to return to work on the approved date is grounds for disciplinary action up to and including dismissal. (See Article 15).

#### 12.1.5 Benefits During Leaves of Absence

Employees on leave of absence may continue their medical and insurance benefit coverage's by reimbursing the City directly for the amount of the insurance premiums in advance. Such reimbursement must be made in advance by the 30<sup>th</sup> day of the preceding month for the subsequent month for each month in which the employee wishes to receive coverage. Should the employee fail to submit payment on a timely basis, the Human Resources Department will send the employee a reminder notice. Coverage in any plan will be dropped if the employee is more than 30 days late in making a premium payment.

#### 12.1.6 Status of Employees on Authorized Leave of Absence

An authorized leave of absence does not represent a break in employment for a regular employee. Such an employee retains all accrued vacation, sick leave, and other rights as exist at the time when the leave of absence begins. However, only active full time service shall count towards accumulated seniority or to benefits that accrue according to time of service (including vacation and sick leave). Vacation, sick leave, holiday, and merit step salary increases and/or incentive increases do not accrue to an employee on leave during the period of such leave.

An employee returning from leave of absence returns to the same salary step or relative

placement in the pay range existing at the time when the employee returns to work.

Upon the recommendation of the Department Director and in the discretion of the City Manager, a probationary employee who has been granted an authorized leave of absence during the probationary period may be granted an extension of his or her probationary period by written agreement signed by the City Manager and the employee.

#### 12.2 Bereavement Leave

Bereavement Leave of up to 24 hours shall be provided to employees in the event of a death in the immediate family of the employee. In addition to the 24 hours of bereavement leave, employees may use accrued unused vacation or sick leave to extend their bereavement leave up to a total of 40 hours. At the discretion of the City Manager, additional time may be taken as vacation and/or sick leave or unpaid leave.

The immediate family of an employee is defined as: parents, step-parents, parents-in-law, spouse, domestic partner, child, step-child, brother, sister, grandparents, grandchildren, brother/sister-in-law, son/daughter-in-law, or legal guardian.

In special cases, the City Manager may approve a leave of absence for bereavement in other circumstances.

#### 12.3 Jury Duty

The City provides jury duty leave with pay for all regular full time employees who are called upon to serve for court jury duty according to the following provision:

1. An employee called for jury duty should immediately notify his/her department director by providing the jury summons indicating the date, time, and place.
2. If an employee is dismissed by the Court and three (3) hours or more remain in the workday, the employee is expected to report to work.
3. Employees' compensation for jury duty shall be limited to three (3) months (63 work days). Employees whose jury service is in excess of three (3) months (63 work days) may make a request to the City Manager for continued payment. Employee serving jury duty in excess of the above limit may use accrued unused vacation or Compensatory Time Off to continue pay.

#### 12.4 Military Leave

The City shall comply with all State and Federal requirements regarding military duty leave.

#### 12.5 Pregnancy Disability Leave (PDL)

Employees disabled due to pregnancy may be entitled to a leave of absence for the period of disability up to four months. Employees on PDL may utilize accrued unused

sick leave and vacation during the leave period. City shall comply with State and Federal laws.

12.6 Maternity and Paternity Leave

A maximum of five (5) accumulated sick leave days may be granted to an employee whose spouse is disabled due to pregnancy related factors. The five-day maximum leave may be extended at the discretion of the City Manager.

Employees may use accumulated vacation or compensatory time off for purposes of maternity or paternity leave; and thereafter, employees are eligible for an unpaid maternity or paternity leave that extends the total leave, time both paid and unpaid, to three (3) months after the date on which the mother was able to resume her duties.

12.7 School Leave

Any employee who is a parent, guardian or grandparent having legal custody of one or more children in kindergarten or grades 1 through 12 or attending a licensed day care facility shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, without pay, to participate in activities of the school of their child. Such employee must provide reasonable advance notice of the planned absence. The employee may use vacation and/or compensating time off to cover the absence. The City may require the employee to provide documentation from the school as verification that the employee participated in school activities on a specific date and at a particular time. If both parents, guardians and grandparents having custody, work for the City at the same work site, only the first parent requesting shall be entitled to leave under this provision.

12.8 Family and Medical Leave Act of 1993

The parties acknowledge the applicability of the Family and Medical Leave Act and the California Family Rights Act and intend to apply and implement this MOU so as to comply with both State and Federal Law.

12.9 Voting Leave

Consistent with the provisions of California law, employees shall be granted sufficient time to vote during municipal, primary and general elections.

**Article 13. Sick Leave**

All employees shall be eligible to accrue sick leave at the rate of 8 hours per month. Sick leave is to be used primarily for illness, injury or medical appointments for the employee or an immediate family member which requires an employee to be absent from work. The immediate family of an employee is defined as: parents, step-parents, parents-in-law, spouse, domestic partner, child, step-child, brother, sister, grandparents, grandchildren, brother/sister-in-law, son/daughter-in-law, or legal guardian.

After three consecutive sick days the City may require an employee to submit a doctor's statement and/or other reasonable verification stating the reason for the sick leave request.

13.1 Accumulation of Sick Leave

If an employee has 2080 hours (one year) of accrued unused sick leave, the employee shall cease earning sick leave until such time as their unused balance falls below 2080 hours.

13.2 Exhaustion of Sick Leave

In cases where an employee's request for sick leave would ordinarily be approved, but the employee has no accrued unused sick leave, the employee's compensatory time off balance shall be charged for the sick time, if none, then the employee's vacation leave shall be charged for the sick time, if none, then the employee may be placed on authorized unpaid leave.

13.3 Notification

Employees who are unable to report for work due to an illness or injury shall notify his or her supervisor (or designee) of their absence as early as reasonably possible but in no event later than the first one-half hour of their scheduled shift.

13.4 No Cash out

At time of termination, employees shall not be permitted to cash out accrued unused sick leave.

**Article 14. Vacation Leave**

14.1 Accrual Rate

Employees shall earn vacation every pay period at the following annualized rate.

- Start through 4 years of service – 96 hours
- 5 years through 9 years of service – 120 hours
- 10 through 15 years of service – 144 hours
- 16 through 19 years of service – 160 hours
- At 20 years plus of service – 176 hours

14.2 Accumulation of Vacation Leave

If employees reach 280 hours of accrued unused vacation, they shall cease earning any vacation until their vacation accrual falls below 280 hours. No vacation may be earned by an employee on an unpaid leave.

14.3 New Hire Probationary employees

New hired employees will serve a probationary period for their first twelve (12) months of employment. Upon completion of the twelve month period the new employee's seniority date of hire will revert back to his/her first date of hire within the previous twelve (12) months period.

Probationary employees shall earn vacation the same as non-probationary employees; however, probationary employees shall not be permitted to take vacation during their first six months of employment. If a probationary employee terminates prior to six months they shall receive their accrued unused vacation as cash payout at the time of termination.

#### 14.4 Vacation Sell Back

Consistent with City policy, employees may sell back up to 24 hours of their accrued unused vacation annually, once at any time during the fiscal year.

### **Article 15. Grievance Procedures and Discipline**

#### 15.1 Discipline and Discharge

The City may discharge or suspend a non-probationary regular full time employee for just cause. Discipline shall ordinarily be progressive in nature, oral reprimand, written warning, suspension, demotion, termination, except that in cases where the conduct of the employee warrants and earlier steps of progressive discipline may be omitted. Causes for disciplinary action shall include but are not necessarily limited to the following:

1. Fraud or dishonesty in securing appointment;
2. Unacceptable job performance; inefficiency, inexcusable neglect of duty or failure to perform duties;
3. Insubordination;
4. Dishonesty;
5. Possession of a container of alcohol where the seal is broken; use of alcohol on the job; being under the influence of alcohol or drugs while working; possession of illegal drugs on duty; or a violation of the City drug and alcohol policy;
6. Violation of City or departmental rules;
7. Misuse or misappropriating of City property or funds;
8. Negligence or misconduct resulting in damage to public property or waste of public supplies;
9. Failure to follow adopted safety practices, or failure to properly use required personal protective gear or equipment;
10. Discourteous or non-cooperative treatment of the public or other City personnel;
11. Acceptance of gifts or gratuities in exchange for the performance of services, functions and duties for which the employee is retained by the City;
12. Conviction of a crime which may impact the employees job duties;
13. Engaging in any employment, activity or enterprise, which is inconsistent, incompatible, or in conflict with the employee's performance of duties for which the employee is retained by the City;

14. Failure to maintain required licenses and certificates;
15. Failure to maintain eligibility for vehicle insurance coverage where driving is a requirement of the job classification. For purposes of this section "driving is a requirement of the job classification" when the job description for the classifications lists a driver's license as one of the requirements of the position;
16. Unauthorized disclosure of confidential information;
17. Absence from work without approval.

The City shall have the right to make reasonable rules and regulations and to change such rules and regulations, provided such rules and regulations are not in conflict with any of the provisions of this MOU.

The City reserves the right to require an employee who is reasonably suspected of being under the influence of alcohol or drugs while working to take an alcohol and/or drug test. Refusal to take the test will result in immediate termination. The City will bear the cost of any such test if not otherwise covered by insurance.

Non-probationary employees may utilize the grievance procedure to challenge disciplinary actions.

#### 15.2 Definition of a Grievance

A grievance is defined as a claim or dispute with the City by the Union, an employee or group of employees, involving an alleged violation by the City of the terms of this MOU. All grievances shall be handled strictly in accordance with this Grievance procedure, unless otherwise mutually agreed. Employees are encouraged to discuss all work related problems and seek resolution of those problems with their supervisor.

##### Step 1.

The Union shall have the right to present to the City in writing, within ten (10) working days from the time of the occurrence giving rise to the dispute, a grievance setting forth any claim, dispute or grievance arising under this MOU which the Union believes the City has violated. If the employer has not received a written grievance within ten (10) working days, the matter will be deemed waived, cannot be grieved any time in the future, and will not be subject to the arbitration procedure set forth in this section at any time in the future. However, the City and Union may mutually agree in writing to extend beyond ten (10) working days the Union's time to present a written grievance.

##### Step 2.

The parties will meet within ten (10) working days following the City's receipt of the written grievance. For the purpose of preparing for the grievance procedure, the parties will cooperate by providing any supporting documents that exist that are relevant to their position. The City will provide a written answer to the grievance within fifteen (15) working days after said meeting.

### Step 3.

In the event the grievance is not resolved, the parties may jointly agree to submit the dispute to grievance mediation. Said mediation to take place at a mutually agreed upon time not to exceed twenty (20) days following the last grievance meeting, unless such time limits are extended by mutual agreement between the parties. The grievance mediation will be conducted by the State Mediation and Conciliation Service.

### Step 4.

If neither party requests grievance mediation then in order to proceed to arbitration the Union must request arbitration within five (5) calendar days of the City's response in Step 2 or the date of the failed mediation. Except that discipline of a written reprimand shall not be subject to arbitration but shall stop at either step 2 or step 3.

## 15.3 Advisory Arbitration

### Section 1.

If arbitration is requested in accordance with the above requirements, the parties shall attempt to reach agreement upon selection of an arbitrator. If the parties are unable to agree upon an arbitrator within five (5) working days from the date of the request or agreement to arbitrate, either party may request the State Mediation and Conciliation Service to submit a list of arbitrator's names from which to select an arbitrator. The parties shall then alternate striking in sequence until only one name remains. The person whose name remains on the list shall be the arbitrator.

### Section 2.

Any dispute which is based on the events that occur after the termination of the MOU is expressly excluded from the jurisdiction of the arbitrator, unless the parties agree otherwise.

### Section 3.

No one arbitrator shall have more than one (1) grievance submitted to them, and under consideration by them, at any one time unless the parties hereto otherwise agree in writing. A grievance shall be deemed under consideration by an arbitrator until the arbitrator has rendered a decision in writing.

### Section 4.

On all non-disciplinary issues heard by an arbitrator, the decision and award of the arbitrator, within the limits herein described, shall be final and binding on the parties. For all disciplinary appeals heard by an arbitrator, the decision and award of the arbitrator, within the limits herein described, shall be final and binding on the parties.

### Section 5.

The arbitration fees, expenses, and administrative fees, shall be shared equally by the parties. Each party will bear its own legal expenses and costs incidental to the presentation of this case.

## **Article 16. Benefits**

### **16.1 Retirement**

The City agrees to keep in effect the terms of its current Retirement Plan with CalPERS. Full time employees shall receive the Public Employees Retirement System (PERS) benefit of 2% at age 55. The final compensation is the monthly average of the member's highest 36 consecutive month's full time equivalent monthly pay (no matter which CalPERS employer paid this compensation). The standard benefit available to all members is 36 months. Any unused sick leave accumulated at the time of retirement (only from the City of Hercules) will be converted to credited service at a rate of .004 years of service for each day of sick leave.

Teamsters employees hired prior to January 1, 2013 will pay the employee percentage of PERS contributions. The current total employee percentage is 7%. The City Employer Paid Member Contribution (EPMC) for the purpose of reportable compensation is 0%.

The PERS benefit formula and percentages paid by any Teamster employee hired on or after January 1, 2013 who are not already in a PERS recognized retirement system will change, in accordance with AB 340, signed into law on September 12, 2012. Teamsters employees hired on or after January 1, 2013 shall receive the PERS benefit formula of 2%@62, and shall pay the employee percentage of the PERS contribution. The current total employee percentage for employees hired on or after January 1, 2013 is 6.25%.

Final compensation is based on the employee's highest annual compensation earnable averaged over a consecutive 36-month period.

### **16.2 Deferred Compensation Program**

Employees may make voluntary contributions to the International City/County Management Association (ICMA) 457 Deferred Compensation Plan through payroll deduction subject to the limits, policies and conditions established by the ICMA and Federal Tax laws.

## **Article 17. Health and Welfare**

### **17.1 Medical, Dental and Vision**

The City will pay for the entire cost of all health insurance premiums for all full time employees and their dependents up to the Kaiser annual rate. If an employee chooses a health plan other than Kaiser the employee is responsible for the difference in premium. The excess amount over the Kaiser rate will be deducted through payroll

deductions through 24 pay periods. During the term of this Agreement, the City agrees that it will continue to provide the existing health insurance to eligible employees.

#### 17.2 Medical Redirect

If an eligible regular full time employee elects no health coverage, and can demonstrate to the City on an annual basis that the employee has alternative health care coverage, the employee shall be entitled to any one of the following options:

1. The City will pay 50% of the eligible contribution into the employee's 457 Plan account; or
2. The City will pay to the eligible employee directly 50% of the eligible contribution in their paycheck effective the first day of the month following council approval, provided all paperwork has been received by the Human Resources department; or
3. At the employee's option, the City will pay for the employee's supplemental life insurance and the employee will receive the remainder of the eligible contribution under either option one or two above.

#### **Article 18. Life Insurance and Accident Death and Dismemberment**

The City agrees to provide to all full time employees \$40,000 benefit each for Life Insurance and Accidental Death and Dismemberment at no cost to the employee.

#### **Article 19. Parks and Recreation Credits and Child Care Enrollment**

*This program has been suspended for the term of this MOU.*

#### **Article 20. Computer Loan Program**

Eligible Employees: Regular full time employees that have completed their initial one year probation period with the City. Employee must maintain a balance of up to 40 hours of vacation and/or compensatory time until the loan is paid in full. The hours employee must maintain will vary depending on the amount borrowed.

Maximum Loan Amount: The City will loan employees a maximum of \$2,500 for the purchase of computer hardware and software. Employees may not have more than one loan outstanding at any time. If the purchase exceeds \$2,500, the remainder of the purchase is the responsibility of the employee.

Interest: No interest will be charged by the City on loans under this program.

#### **Article 21. Workers Compensation**

When an employee is on a leave of absence due to a worker's compensation claim all medical insurance will continue to be in force at no cost to the employee as long as the employee is on a City paid leave of absence.

#### **Article 22. Seniority**

Upon completion of the probationary period as defined in Article 14.3 an employee will attain seniority. Seniority shall be defined as the employee's length of service with the City, less any breaks in service (which includes unpaid leaves of absences), beginning from the date of hire to a job classification within the City.

In January of each year the City will post a seniority list in each department with the name, classification and date of hire for all employees. If any employee has an objection to their seniority date they must notify the City and the Union within thirty (30) days of posting of the seniority list.

**Article 23. Reduction in Force**

In the event that the City determines that it is necessary to make a reduction in force due to reduction in revenue or reduction in work, the City shall notify the Union in writing not less than 30 days prior to the proposed effective date of the reduction. Upon request from the Union, the City shall promptly meet and confer in good faith pursuant to California Government Code Section 3500 et. seq. including but not limited layoff and recall procedures. Once a tentative agreement has been reached, the parties shall recommend to the City Council and membership the adoption of the tentative agreement. If the City and the Union cannot agree on a procedure for the reduction in force, the issue will be submitted to the State Mediation Service for a recommended resolution.

**Article 24. Layoff and Recall**

A regular full time employee may be laid off, without prejudice, due to lack of funds or curtailment of work. No regular full time employee, however, may be separated or laid off while there are temporary employees serving in the same class or position in the City service, unless that employee has been offered the temporary work. When a Department Director is instructed by the City Manager to reduce the number of employees, layoff shall be made in accordance with the following rules below, (1) through (5) inclusive:

1. Layoffs shall be by job classification according to reverse order of seniority as defined by total full time City service.
2. The employee to be laid off may displace the least senior employee in the lateral or next lower classification in which the employee previously held permanent status, provided the displaced employee has less total City service. Total City service means as a full time employee.
3. An employee may demote or transfer to a vacant position in a classification for which the employee possesses the necessary skills as determined by the minimum qualifications and job specifications for the position.
4. The name of each laid off employee shall be entered, in order of seniority, on a Re-employment List for two (2) years.

5. A former employee appointed from a re-employment eligibility list shall be restored all rights accrued prior to being laid off, such as sick leave, vacation credits, and credit for years of service. However, a reemployed employee shall not be eligible for benefits for which she/he received compensation at the time of, or subsequent to the date the employee was laid off.

**Article 25. Americans with Disabilities Act (ADA)**

The City and the Union recognize that the City has an obligation under law to meet with individual employees who allege a need for reasonable accommodation in the work place because of a disability. If the City contemplates actions to provide reasonable accommodation for an individual employee, in compliance with the ADA, but the actions are in potential conflict with any provision of this MOU, the Union will be advised of any such proposed accommodation prior to implementation by the City.

The City will comply with all Federal and State requirements regarding Americans with Disabilities Act.

**Article 26. Separability of Provisions**

Should any section, or clause or provision of this MOU be declared illegal by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this MOU. In the event of such invalidations, the parties agree to meet and confer concerning substitute provision for the provisions rendered or declared illegal.

**Article 27. No Strike or Lockout**

During the term of this Agreement the Union agrees that there shall be no strike, slowdown or other concerted withholding of services from the City. The City agrees that during the term of this Agreement there shall be no lockout of employees.

**Article 28. Management Rights**

Except as limited by the express terms of this Memorandum of Understanding, the City retains all rights to manage all of the operations of the City.

**Article 29. Miscellaneous Provisions**

1. Short Term and Long Term Disability

The City agrees to continue its short term and long term disability insurance plan for the life of this agreement.

2. Employee Assistance Plan

The City agrees to continue an Employee Assistance Counseling Program for employees. Individuals eligible for coverage include employees and their household members. The term household members encompasses anyone living in the employee's household and can include, as examples, domestic partners, grandparents, sister or grandchildren.

### 3. Drug and Alcohol Policy

Hercules' policy is designed to promote a drug-free workplace and to comply with appropriate state and federal law.

In recognition of the public service responsibilities entrusted to the employees of Hercules, and because drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the City has adopted a policy on drug and alcohol testing. Please refer to your policies and procedures manual for a detailed outline of this policy.

### **Article 30. Term**

The term of this agreement shall be from April 1, 2016 through June 30, 2017.

ATTACHMENT A  
List of current classifications covered by this MOU

<b>Position</b>	<b>Status</b>
Accounting Technician I	Non-Exempt
Assistant Civil Engineer	Non-Exempt
Cable/Communication Technician	Non-Exempt
Information Systems Administrator	Non-Exempt
Maintenance Aide	Non-Exempt
Maintenance Worker I	Non-Exempt
Maintenance Worker II	Non-Exempt
Permit Technician	Non-Exempt
Police Assistant	Non-Exempt
Police Records Clerk	Non-Exempt
Recreation Coordinator	Non-Exempt
Recreation Supervisor	Non-Exempt
Recreation Technician	Non-Exempt
Senior Clerk I	Non-Exempt

**CITY OF HERCULES**

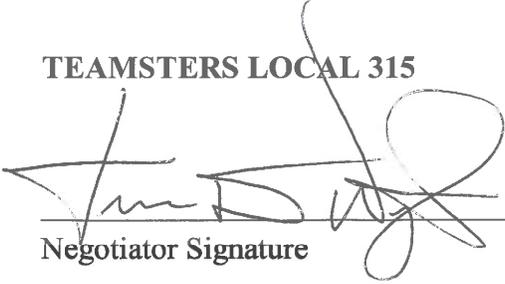


David Biggs  
City Manager

7/12/16

Date

**TEAMSTERS LOCAL 315**



Negotiator Signature

7-12-16

Date

Negotiator Signature

Date



Negotiator Signature

Date

Teamsters Secretary-Treasurer

Date

RESOLUTION NO. 16-025

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING MEMORANDUMS OF UNDERSTANDING WITH TEAMSTERS LOCAL 315 FULL TIME EMPLOYEES AND TEAMSTERS LOCAL 315 PART TIME EMPLOYEES**

WHEREAS, the City conducted negotiations with Teamsters Local 315 for represented Full Time and represented Part Time Employees; and,

WHEREAS, these negotiations have resulted in new Memorandums of Understanding with these employee groups; and,

WHEREAS, the MOUs will be effective retroactive to April 1, 2016; and

WHEREAS, approval of these new labor related items will result in both on-going and one-time costs; and

WHEREAS, the on-going costs will be \$73,555 and the one-time costs will be \$94,083; and

WHEREAS, the on-going costs will be incorporated into the Fiscal Year 2016-17 budget and the one-time costs will be funded from the available fund balance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hercules that the Council hereby approves and authorizes the City Manager to sign and implement the Memorandums of Understanding with Teamsters Local 315 for Full time and Part Time Employees, covering April 1, 2016 to June 30, 2017.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the twenty fourth day of May, 2016, by the following vote of the Council:

AYES: M. de Vera, C. Kelley, B. Kelly, S. McCoy, D. Romero

NOES: None

ABSENT: None



Dan Romero, Mayor

AMENDMENT TO  
APRIL 1, 2016 THROUGH JUNE 30, 2017  
MEMORANDUM OF UNDERSTANDING  
WITH TEAMSTERS LOCAL 315 AND ITS FULL TIME EMPLOYEES

The April 1, 2016 Memorandum of Understanding between the City of Hercules (“City”) and the Teamsters Local 315 and its full time employees (“Union”), is amended as follows:

**Section 6.3 Wages**

Salary step advancement

Salary step advancement shall be reinstated for the duration of this MOU.

It is the responsibility of the City to establish appropriate standards of performance for employees and to review the employees’ performance in meeting established standards. Employees will be evaluated as to whether the employee meets standards, exceeds standards or fails to meet standards. Employees evaluated as meeting or exceeding standards overall will receive a salary step advancement unless the employee is at the top step of the salary range.

Salary step advancement shall be implemented by anniversary of hire date, evaluation date, promotion date or last salary advancement; whichever is last or shall be implemented in a manner mutually agreeable to the Teamsters and the City.

An employee evaluated as failing to meet standards overall will receive no salary step advancement and such an employee’s evaluation will indicate the specific areas of improvement needed in order to meet standards overall. An employee evaluated as failing to meet standards overall will receive a follow-up evaluation not less than three (3) months nor more than six (6) months following the initial evaluation and will be granted a salary step advancement at that time if the employee’s performance is rated as meeting or exceeding standards overall.

Employee evaluations will be discussed with the employee and space will be provided on the evaluation form for the employee’s comments. The employee will be given a copy of the evaluation after all required signatures are obtained.

The changes recorded in this Amendment are effective July 1, 2016.

The other provisions of the Memorandum of Understanding shall remain as is.

AGREED TO BY:

For CITY OF HERCULES



David Biggs, City Manager

For Teamsters Full Time Employees:

