

**MEMORANDUM OF UNDERSTANDING**

**between**

**SAN MATEO COUNTY HARBOR DISTRICT**

**and**

**OPERATING ENGINEERS LOCAL UNION NO. 3**



**February 21, 2024, through June 30, 2029**

San Mateo County Harbor District and Operating Engineers Local 3  
Memorandum of Understanding

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**Memorandum of Understanding**  
between  
**San Mateo County Harbor District**  
**A Political Subdivision of the State of California**  
and  
**Operating Engineers Union, Local 3**

This Memorandum of Understanding (MOU) is entered into pursuant to the provisions of Section 3500 et seq, of the Government Code of the State of California.

The San Mateo County Harbor District and the Operating Engineers Union, Local 3 have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment for the Employees in said representation unit and have freely exchanged information, opinions, and proposals and have reached agreement on all matters relating to the employment conditions and Employer-Employee relations of such Employees.

This MOU shall be presented to the Board of Harbor Commissioners of the San Mateo County Harbor District as the joint recommendation of the undersigned parties for salary and Employee benefit adjustments for the period commencing, February 21, 2024, and ending June 30, 2029.

## **1. RECOGNITION**

### **1.2 Union Recognition**

Operating Engineers Union, Local 3, hereinafter referred to as the "Union" is the recognized Employee organization for the following positions of the San Mateo County Harbor District:

- Assistant Harbormaster,
- Deputy Harbormaster, and
- Harbor Worker.

### **1.2 District Recognition**

The General Manager, or any person or organization duly authorized by the General Manager, is the representative of the San Mateo County Harbor District, hereinafter referred to as the "District", in Employer-Employee relations.

## **2. UNION SECURITY**

### **2.1 Fair and Non-Discriminatory Representation**

The Union agrees that it has the duty to provide fair and non-discriminatory representation to all employees in all classes in the units for which this section is applicable regardless of whether the employees are members of the Union.

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### **2.2 Certification**

The District will rely on a written certification from the Union requesting that the District deduct from employees' salaries or wages an amount equal to the Union's monthly dues or fees authorized by the Union Bylaws. The Union has and will obtain and maintain signed employee authorizations for said wage deductions and will represent to the District that each bargaining unit employee is affirmatively consenting to the dues deductions consistent with federal law. After providing the required certification, the Union will not be required to provide a copy of individual authorizations to the District unless a dispute arises about the existence or terms of the authorization. The Union will, however, each month provide the District with a list of all active Union members and non-members in the bargaining unit.

Based on the certification from the Union described above, the District will deduct, monthly, the amount of Union regular and periodic dues and fees and any special membership assessments as may be specified by the Union under the authority of an authorization card signed by the employee. Dues deduction for employees will only be made upon the written certification from the Union.

A written statement of the names and amounts deducted will be forwarded promptly to the Union office, at the address specified by the Union.

The District will provide the Union with a list of newly hired unit members.

The employees' earnings must be sufficient, after all other required deductions are made, to cover the amount of the deductions authorized by this Section. When an employee is in a non-pay status for an entire pay period, no deductions for union dues or fees will be made to cover that pay period. If an employee is in a non-pay status for part of the pay period such that employee's wages are not sufficient to cover the full deduction, the District will not deduct Union dues. All other required and authorized deductions have priority over the Union dues.

### **2.3 Change or Cancellation of Deductions**

The District will direct employees requesting to discontinue or change Union dues deductions to the Union. The District will rely on information provided by the Union regarding whether or the authorization for the Union dues deductions was properly discontinued or changed but will determine for itself if an employee is affirmatively consenting to Union dues deductions.

### **2.4 Itemized Record**

The Union shall keep an adequate itemized record of its financial transactions, and shall, upon request by the District, make available annually to the District and to bargaining unit members, within sixty (60) days after the end of its fiscal year, a detailed written financial report in the form of a balance sheet and an

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operating statement, certified as to its accuracy by its president and treasurer, or corresponding principal officer, or by a certified public accountant.

### **2.5 Indemnification**

The Union shall defend, indemnify, and hold harmless the District and its officers and employees from any claim, loss, liability, cause of action or administrative proceeding arising out of the operation of this Article. Upon commencement of such legal action, administrative proceeding, or claim, the Union shall have the right to decide and determine whether any claim, administrative proceeding, liability, suit or judgment made or brought against the District or its officers and employees because of any application of this Article shall or shall not be compromised, resisted; defended, tried or appealed. Any such decision on the part of the Association shall not diminish the Union's defense and indemnification obligations with this MOU.

The Union, upon its compromise or settlement of such action or matter shall timely pay the parties to such action all such sums due under such settlement or compromise. The Union, upon final order and judgment of a Court of competent jurisdiction awarding damages or costs to any employee, shall pay all sums owing under such order and judgment.

The District, immediately upon receipt of notice of such claim, proceeding or legal action shall inform the Union of such action, provide the Union with all information, documents, and assistance necessary for the Union's defense or settlement of such action and fully cooperate with the Union in providing all necessary employee witnesses and assistance necessary for such defense. The cost of any such assistance shall be paid by the Union.

## **3 UNION ACCESS TO BARGAINING UNIT MEMBER**

### **3.1 Bargaining Unit Member Contact Information**

To the extent required by Government Code Section 3558, the District will provide the Union with a list of names and contact information (listed below if on file) for any newly hired bargaining unit member within 30 days of the date of hire or by the first pay period of the month following hire. The District will also provide the Union the contact information for all bargaining unit members no later than 20 working days from the date of ratification of this agreement and then again on the last working day of September, January, and May each year this agreement is in force. The information will include the following information except for any information subject to exclusion pursuant to Government Code Section 6254.3(c):

- Employee name,
- Job title,
- Department,

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- Work location,
- Home address,
- Personal telephone numbers, and
- Personal email addresses on file with the District.

Each month, the Union will provide the District with a list of the names of all current bargaining unit members who are and who are not Union members.

### **3.2 Union Access to New Employee Orientation**

The District will notify each new bargaining unit eligible member that their classification is part of a bargaining unit represented by the Union, and the name of a representative of the Union. If requested, the District will provide the employee with a packet of information and an electronic membership application form supplied by the Union.

The District will provide the Union not less than ten (10) days' notice of the onboarding orientation meeting held between the Human Resources Department representatives and new bargaining unit employees, including the date, time and location of the orientation meeting. If a bargaining unit member's first day of work begins less than ten (10) days after the date the employee is hired, the 10-day notice requirement may be reduced, and the District will instead provide as much advance notice as reasonably possible of the orientation meeting.

The District will allow an Operating Engineers Local 3 unit member representative and/or a Operating Engineer Local 3 outside labor representative to spend up to thirty (30) minutes with the new unit member at the end of the onboarding orientation meeting in order to provide information and materials about the collective bargaining agreement and related matters. No representative of District management will be present during the Union's presentation.

## **4 UNION REPRESENTATIVES**

### **4.1 Employees of the Union:**

Employees of the Union may enter the premises of the District to observe whether the terms and conditions of this Agreement are being adhered to, provided that such activity shall not interfere with or delay the work of the employees of the District. Upon arrival, the Union's Employee(s) will advise the General Manager or the General Manager's designee, of the Union Employee's presence on the property.

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### **4.2 Authorized Representative**

Each year, on or before January 31, the Union will inform the District, in writing, of the Business Agent(s), representative(s) and steward(s) who are authorized to represent employees and to act on behalf of the Union.

### **4.3 Presence of Steward**

The release of shop stewards from work to perform their duties will depend on the District's operational needs as determined by the District. If the District requests the presence of a steward or, if it is mutually agreed that the presence of the shop steward is necessary for resolution of the issue, it will be without loss of pay.

### **4.4 Release of Unit Representative:**

A maximum of two (2) employees shall be released from work by the District to attend negotiations between the Union and the District. Reasonable time shall be allowed for this purpose with pay. No overtime shall be allowed for this purpose, unless approved by the General Manager in advance of the meeting. Absent unusual circumstances the Union will notify the General Manager or the authorized designee in writing at least one week in advance of the bargaining session of the names of the employees to be released to attend negotiations.

## **5 EMPLOYEE RIGHTS/DISTRICT RIGHTS**

### **5.1 Meyers-Milias-Brown Act**

The Union, on behalf of the Employees it represents, retains all of the rights granted to it by the Meyers-Milias-Brown Act.

### **5.2 Use of District Facilities**

Employees of the Union or their representatives may, with the prior approval of the District's General Manager, be granted use of District facilities for meetings of District Employees provided space is available.

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

### **5.3 Bulletin Boards**

The Union may use portions of District bulletin boards under the following conditions:

All materials must be dated and must identify the Union as the publisher. Unless special arrangements are made, materials posted will be removed thirty-one (31) days after the publication date.



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The District agrees to provide bulletin boards in reasonable locations and designate a reasonable portion thereof for Union use.

If the Union does not abide by these rules, it will forfeit its right to have materials posted on District bulletin boards.

### **5.4 Advance Notice**

#### **5.4.1 Fourteen-Day Notice**

Fourteen calendar day written notice shall be given to the Union and Stewards of any policy, ordinance, rule, resolution, or regulation relating to matters within the scope of representation proposed to be adopted by the District and be offered the opportunity to meet with the District's General Manager or properly authorized designee prior to the date of adoption. The Union's failure to respond within the 14 days will be deemed by the District as the Union having no objection to the change.

#### **5.4.2 Emergency Adoption Without Prior Notice:**

In the event of an emergency necessitating immediate action, the District's General Manager or designated representative shall notify the Union in writing within 72 hours of the adoption by the Board and upon request meet with the Union and Stewards within 14 calendar days of the adoption.

### **5.5 District Rights**

It's rights of the District, except as modified by this Agreement include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions, and board; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its Employees; take disciplinary action; relieve its Employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means, and personnel by which governmental operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and to exercise complete control and discretion over its organization and the technology of performing its work.

### **5.6 No Discrimination**

There shall be no discrimination based on race, creed, color, national origin, sex, sexual orientation, gender identity, or legitimate Union activities against any Employee or applicant for employment by the Union or by the District or by anyone employed by the District; and to the extent prohibited by applicable state and federal law, there shall be no discrimination because of age. There shall be no discrimination against any disabled person solely because of such disability unless that disability prevents the person from meeting the minimum standards established, with or without reasonable accommodation.



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## 6. DEFINITIONS

### 6.1 Callback

Anytime an employee is called back to work, outside their scheduled work hours.

### 6.2 Designated Person under EIB.

Any individual related by blood or whose association with the employee is the equivalent of a family relationship.

### 6.3 Extended Illness Bank (EIB)

Individual Employee Account with accrued hours designed for specific short-term illnesses or severe or long-term illness for self or family members (as defined by the California Family Rights Act (CFRA)) for continuity of pay.

### 6.4 Family Member under EIB

A child of any age, spouse, domestic partner, parent, parent-in-law, grandparent, grandchild, or sibling, or someone else related by blood or in a family-like relationship ("designated person") with a serious health condition.

### 6.5 Limited Duty

Includes work restrictions (modifications of work duties or tasks) determined and recommended by an Accepted Medical Provider who has been rendering treatment to the employee and who is qualified to render an opinion on the employee's physical abilities.

### 6.6 Limited Duty Accommodation

A reasonable accommodation allows an employee to continue to work in a job with accommodation for appropriate physical and/or mental requirements (as per accepted medical provider's instructions) while the employee recovers from an injury, illness or pregnancy, or while dealing with a medical condition.

### 6.7 Overtime

#### 6.7.1 12-hour shift schedule:

Overtime shall be defined as all-time worked by an Employee in excess of 12 hours on an employee's regularly scheduled workday, or forty (40) hours in an Employee's workweek.

#### 6.7.2 10-hour shift schedule:

Overtime shall be defined as all-time worked by an Employee in excess of 10 hours on an employee's regularly scheduled workday, or forty (40) hours in an Employee's workweek.

#### 6.7.3 Holiday Overtime

Time worked in excess of regularly scheduled shift on official holidays as recognized by the District.

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### 6.8 Paid Time Off (PTO) Bank

Individual Employee account containing accrued hours designated for vacation, holiday time off, the occasional sick day, or other personal needs.

### 6.9 Paid Time Off (PTO) Plan

The Paid Time Off (PTO) plan is a benefit designed to provide the Employee with paid personal time away from work to ensure continuity of pay.

### 6.10 Standby

Anytime an Employee is required to be available for duty, although not required to be on site. The opportunity to receive standby status will be based on seniority.

### 6.11 Workweek

The District's workweek is defined as Sunday at 0000 (12:00 Midnight) through Saturday at 2400 (12 midnight). The beginning and end time and day of the week of each Employee's schedule shall be posted by the Harbormaster (or designee).

## 7. OVERTIME PROCEDURES

### 7.1 Overtime Authorization

The General Manager, Director of Operations, Harbormaster, or Assistant Harbormaster must authorize all overtime in writing for all overtime suffered or permitted including Holiday Overtime, in advance of being worked where reasonable and practical. A log entry, by or directed by the General Manager, Director of Operations, Harbormaster or Assistant Harbormaster shall suffice for written authorization. An employee who violates this Section by working unauthorized overtime may be subject to discipline, up to and including termination.

### 7.2 Overtime Converted PTO

The District shall keep a separate accounting of overtime-converted PTO, and Employees must draw from the overtime-converted PTO bank first, before drawing from other PTO categories. Any converted PTO in the converted PTO bank on June 30<sup>th</sup> of each year will be paid out to the employee.

### 7.3 District's Right to Minimize Overtime

The District shall have the option of altering the working schedule to minimize the amount of overtime paid to Employees.

## 8. SALARIES AND OTHER COMPENSATION

### 8.1 Wage Increases

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**8.1.1 Fiscal Year 2023/2024**

Base Salary will increase to the amounts in the following table beginning the first full pay period following ratification of this MOU.

POSITION	Hourly Rate per Step					Salary Range	
	Step 1	Step 2	Step 3	Step 4	Step 5	Annual-Bottom	Annual-Top
Assistant Harbormaster	\$ 54.18	\$ 56.90	\$ 59.74	\$ 62.73	\$ 65.87	\$ 112,694.40	\$ 137,009.60
DHMB/Training Officer	\$ 47.76	\$ 48.92	\$ 51.26	\$ 53.71	\$ 56.30	\$ 99,340.80	\$ 117,104.00
Deputy Harbormaster B	\$ 45.48	\$ 46.59	\$ 48.82	\$ 51.16	\$ 53.61	\$ 94,598.40	\$ 111,508.80
Deputy Harbormaster A	\$ 36.69	\$ 38.52	\$ 40.45	\$ 42.47	\$ 44.59	\$ 76,315.20	\$ 92,747.20
Harbor Worker B	\$ 28.09	\$ 29.65	\$ 30.97	\$ 32.52	\$ 34.15	\$ 58,427.20	\$ 71,032.00

**Fiscal Year 2024/2025 through FY 2028/2029:**

Effective on the first full pay period following July 1 of Fiscal Year 2024/2025 through fiscal year Fiscal Year 2028/2029, the base salary will increase by the previous calendar year Annual (average) Cost of Living Allowance as published by the San Francisco-Oakland-Hayward Consumer Price Index for All Urban Consumers with a minimum of two percent (2%) and maximum of five and one-half percent (5.5%).

**8.2 One-Time Payment**

The District will make the following one-time payments to each employee:

- \$1,000 one-time payment effective the first pay period following the ratification of this MOU,
- \$1,000 one-time payment effective the first pay period following July 1, 2024
- \$1,000 one-time payment effective the first pay period following July 1, 2025
- \$1,000 one-time payment effective the first pay period following July 1, 2026
- \$1,000 one-time payment effective the first pay period following July 1, 2027
- \$1,000 one-time payment effective the first pay period following July 1, 2028

**8.3 Additional Pay**

**8.3.1 Deferred Compensation Plan/Flexible Spending Account**

District will provide an amount equal to three percent (3%) of base salary to each employee to fund their 457 deferred compensation account or their flexible spending account.

**8.3.2 Shift Differential**

Beginning the first full pay period following ratification of this MOU an Employee's rate of pay shall be \$2.80 for those hours worked between 6:00 p.m. and to 6:00 a.m. (1800-0600).

**8.3.3 Holiday Overtime Compensation**

Holiday overtime shall be paid at a rate of twice the regular hourly rate of base salary.

**8.3.4 Call Back**

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The Employee in call-back status shall be paid at one-and-one-half their regular wages or receive compensatory time at a rate of one-and-one-half hour for every hour worked, with a minimum of three (3) hours credit even though less time may have been worked.

Continuation of work beyond a previously scheduled work period is not deemed to be call back.

Voluntary schedule change between employees within the same pay period is not considered call-back. Voluntary schedule changes between employees may only take place during the same pay period as approved by the Harbormaster or Assistant Harbormaster.

Callback opportunities shall be based on seniority.

### **8.3.5 Standby Rate of Pay**

Employees in standby status will be compensated at the employee's regular rate of pay.

### **8.3.6 Rate of Overtime Compensation**

Overtime shall be compensated for at the rate of one-and- one-half (1.5) times the Employee's regular rate of pay. Regular rate of pay is calculated based on Fair Standards Labor Act (FLSA) regulations.

Overtime compensation may be converted to PTO at the option of the Employee at a rate of 1 hour of overtime for 1.5 hours of PTO, except that an Employee may not convert overtime to PTO once the employee has accrued 240 hours of converted PTO hours (which is the equivalent of 160 overtime hours worked).

## **9. PROBATION**

### **9.1 Initial Probation**

All original appointments shall be subject to a probationary period lasting not less than twelve (12) months of actual service and may be extended not to exceed six (6) additional months, or as provided in Section 10.

During or before such probationary period the Employee is expected to obtain the training and qualifications as outlined in the District Training Plan to be promoted to the position as a regular permanent Employee to which the probationary appointment was made.

During the initial probationary period an employee may be rejected at any time by the General Manager without cause and without the right of appeal. The department head or facility manager shall evaluate the performance of the probationary Employee and shall submit an evaluation report, after counseling the Employee on the evaluation, to the General Manager within 14 working days

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of the end of the third and sixth month of the Employee's probationary period, or more frequently if desired by the facility department head or facility manager or General Manager.

DRAFT PENDING BOARD APPROVAL

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### **9.2 Promotional Probation**

All promotional appointments shall be subject to a probationary period lasting not less than six (6) months and which may be extended not to exceed six (6) additional months; or as provided in the District Training Plan.

An employee promoted to a position for a probationary period, if rejected for promotion by the General Manager, or the General Manager's designee, during that period, shall be returned to the lower job class, and reasons for the rejection shall be provided to the Employee in writing.

There shall be no appeal of the General Manager's, or the designee of the General Manager, decision to reject promotion from probation.

### **10. TRAINING**

The parties agree to discuss the matter of training. The District and Union agree to establish a committee consisting of the Training Coordinator, two (2) union representatives, two (2) management representatives and optional third-party facilitator to develop and agree to a District Operational Training Plan. The Plan shall be completed within 190 days from the date of ratification.

The parties agree to hold the first Training Committee meeting within 30 days of the ratification of this MOU.

### **11. PROMOTION**

Deputy Harbormaster A Step 1 through Deputy Harbormaster B Step 4, and Assistant Harbormaster Steps 1 through 4 may be promoted to the next Step on the Employees anniversary date provided the employee receives a satisfactory employee evaluation and has completed all required training as outlined in the Training Plan.

The increase in pay under this provision is effective the first day of the first pay period after the Employee's promotion date.

Employees may be promoted from Deputy Harbormaster B Step 4 and 5 to Assistant Harbormaster only when a vacancy occurs. The position shall not be considered vacant if the Incumbent is utilizing PTO or is otherwise away on a temporary basis. If an employee is designated in writing to serve in an Acting capacity during the vacant period, the Employee shall be paid at the salary level of Assistant Harbormaster, Step 1, or the Assistant Harbormaster Step that is at least 5% above Employee's current salary level, whichever is greater.

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### **12. EVALUATION AND PERFORMANCE REVIEWS**

The Harbormaster shall complete an annual Employee Performance Review for each Employee 30 days prior to the Employee's anniversary date. The evaluation, once complete, shall be reviewed by the Employee with the supervisor. The Employee shall have ten working days to review and provide feedback on the evaluation if they so desire. The evaluation is then forwarded to the Director of Operations for review and comment, if any. The General Manager is the final signature authority on all evaluations.

An Employee who fails to provide feedback on their evaluation within the ten working days forfeits their right to provide input and the evaluation shall be processed.

The Supervisor is not required to make changes to the evaluation based on the feedback but may if deemed appropriate.

An Employee's progress towards meeting the requirements of the Training Plan as detailed in the Employee's Individual Training Plan shall be documented in the annual evaluation.

If a performance review is not completed in a timely manner (30 days after the Employee's anniversary date unless an extension has been granted), the employee's performance for that period will be deemed satisfactory. Only the General Manager, Director of Operations, or Director of Administrative Services may grant an extension. An extension, if granted, must be documented in writing and forwarded to the employee and General Manager.

No Employee shall be adversely affected if the Employee's performance review is not completed in a timely manner as provided for elsewhere in this section.

Performance reviews will include, but is not limited to, the employee's performance, conduct, training, and teamwork during the evaluation period as well as an evaluation of achievement of performance goals agreed upon by the Employee and the Employee's supervisor at the start of the work period to which the performance review applies.

### **13. ADJUSTMENTS TO PAY SCHEDULE**

All adjustments to pay that occur shall be effective on the first day of the first pay period after the Employee's anniversary date.



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**14. PAY BASIS FOR BENEFITS AND CONTRIBUTIONS**

Salary, including all adjustments to the salary level such as all salary increases and other persable adjustments to pay, shall be used as the basis for CalPERS and any other plan that utilizes earnings as the basis for contributions.

**15. UNIFORMS**

When otherwise representing the District. The required uniform, along with any required uniform accessory items, shall be provided by the District, who shall provide for the cleaning, laundering and maintenance of said uniform. All uniforms and uniform accessory items provided by the District shall remain the property of the District and shall be returned when requested by the District's General Manager, or the General Manager's designee.

The Employee shall be responsible for maintaining safety shoes, deck shoes, and all uniform accessory items in good condition.

Footwear: The purchase of footwear must be preapproved by the Harbormaster. It is the preference of the District and OE3 that all footwear purchases be made using the District's purchase card. In the rare occasion a member must use their own funds, the employee will be reimbursed for said purchase if pre-approved by the Harbormaster.

District Uniform Policy will govern the issuance of uniforms, uniform accessory items and personal safety equipment, and their replacement intervals.

**16. HEALTH, WELFARE AND INSURANCE**

**16.1 Medical**

All employees covered under this MOU have the option to select one of the following plans offered by the Operating Engineers Public & Miscellaneous Employees Health and Welfare Trust. Each plan includes medical, Rx, dental (including orthodontics), vision coverage, and in CY2024 provides \$10,000 life, \$2,500 burial, and ARP. The Calander Year 2024 costs are:

CY 2024				
Plans	Individual	Two-part	Family	Employee (7%)
Kaiser A	\$1,062.00	\$2,094.00	\$2,722.00	\$74.34 / \$146.58 / \$109.54
Kaiser B	\$1,119.00	\$2,209.00	\$2,872.00	\$78.33 / \$154.63 / \$201.04
Anthem A	\$1,187.00	\$2,344.00	\$3,154.00	\$83.09 / \$164.08 / \$220.78
Anthem D	\$1,061.00	\$2,091.00	\$2,812.00	\$74.27 / \$146.37 / \$196.84

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Each employee shall pay 7% of the premium cost for health insurance; District will be responsible for 93% of the premium.

The District reserves the right to seek out and obtain comparable coverage in order to effect cost savings to the District. Any changes in plans or coverage shall require the District to meet and confer with the Union. Such changes in coverage or replacement plans shall be effective only upon the ratification of such changes by the parties to this Agreement.

Any regular, full-time employee who provides evidence of alternative health and medical insurance may opt to withdraw from the District's health and medical insurance program. If the District will affect savings as a result of not having to pay premiums for these employees who withdraw from the program, fifty percent (50%) of such savings based on the most inexpensive option available or a maximum of \$990.00, whichever is less, shall be returned to the individual in the form of a bonus payable concurrent with regular payroll.

### **16.2 Longevity Health Insurance Premium Payment Program**

Any Employee hired prior to July 1, 2009, upon leaving District employment, shall be entitled to continue the individual's and dependent's then existing health, dental, and vision benefits, and life insurance, at District expense, provided that the individual meets all of the following conditions:

The individual's total service at the time of separation, for any reason is not less than twelve (12) years.

The individual was an Employee after January 1, 1981.

The employee was hired before July 1, 2009.

The individual was not terminated for good cause.

The District shall pay the premiums or other charges for qualifying individual's continuing coverage for health; dental, vision, and life Insurance benefits pursuant to the following formula: for each two (2) months of service of an individual, the District will pay one (1) month's premium for said health and welfare benefits and one (1) month's premium for said life insurance. The premium paid shall be that to provide, at the minimum, the standard health, dental, vision, and life insurance benefits provided to the individual and/or the employees dependents at the time the individual leaves District employment, plus any additions to coverage or increased policy limits provided to continuing Employees, subject to the provisions of the insurance itself which may limit the level of continuing benefits or coverage.

Thereafter, the individual may continue the health and welfare or insurance benefits by personal payment if authorized by the respective carriers. If a

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qualified individual dies before the District's obligation to pay premiums expires, the District will continue to pay the applicable premiums for the individual's domestic partner, spouse and/or dependents, if any, until the District's obligation expires.

If any individual who is otherwise eligible for these continuing benefits obtains similar benefits through any new employment or service with a public or private entity, other than benefits provided as a self-employed individual, the premiums paid by District for said benefit shall cease permanently, regardless of the cessation of said secondary employment benefit(s).

Any qualified individual has the right to demand that the District may direct payment of the cost of the then applicable health and welfare or life insurance premiums to any other carrier or provider of the individual's choosing. Such payments shall not exceed that which the District would have paid had the individual remained in the District's available programs.

This Section is subject to revision or elimination on the basis of future actions by the legislature of the State of California or the Board of Harbor Commissioners of the San Mateo County Harbor District. Should this Section be modified or eliminated all benefits previously earned and vested shall be maintained if permitted by Law.

This Section shall be changed only after the parties "meet and confer" and such changes shall not become effective until ratified by the parties.

Employees hired on or after July 1, 2009 shall not be entitled to receive benefits from the Longevity Health Insurance Premium Program. The District will provide information to the employees on retirement health insurance programs they may wish to purchase.

### **16.3 Medical Examination of Employees**

#### **16.3.1 Fitness for Duty**

The District will reasonably accommodate employees who cannot perform the full range of their duties due to disability as defined in state and federal anti-discrimination law. Notwithstanding the foregoing, if the General Manager has reason to believe that an Employee is not mentally or physically able to perform assigned duties, or may represent a risk to co-workers or the public, the General Manager may require the Employee to undergo a fitness for duty examination and to present a written report from a physician designated by the General Manager certifying the Employee's mental or physical competency to perform the Employee's essential job duties, with or without reasonable accommodation.

## **San Mateo County Harbor District and Operating Engineers Local 3 Memorandum of Understanding**

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### **16.3.2 Appeal**

An Employee who has a mental or physical disability which the District cannot reasonably accommodate, based upon a physician's medical opinion and an interactive process with the Employee, may appeal to the General Manager within ten (10) days of the date of a written notice of inability to accommodate. The General Manager shall appoint a medical specialist not in the District service to conduct a second fitness for duty evaluation and to report the findings in writing. Subject to budgetary limitations, this evaluation shall be conducted at the cost of the District. If sufficient funds are not available, the evaluation shall be at the cost of the person appealing medical rejection. The General Manager will review the findings of the medical specialist, conduct a further interactive process with the employee as warranted by the second fitness for duty report, and will determine whether the Employee's disability can be reasonably accommodated. The General Manager will provide the Employee written notice of the determination on the appeal.

### **16.3.3 Failure to Appeal**

Failure to appeal within the appeal periods provided above shall constitute a waiver of appeal and shall cause all appeal rights for the rejection in question to be lost.

### **16.4 Reasonable Accommodation**

An Employee who has a disability that the General Manager has determined cannot be accommodated, or an Employee whose appeal under this section is denied, may request the District to provide an employment accommodation for light duty consistent with applicable laws for a period of time not to exceed ninety (90) days.

At the conclusion of the period of light duty, the Employee shall undergo a fitness for duty examination by a physician who shall be selected by the General Manager from a list of three physicians provided by the San Mateo County Medical Association and reviewed by the General Manager and Operating Engineers Local No. 3.

The physician so selected shall be agreeable to both the General Manager and Operating Engineers Local No. 3. After reviewing the physician's fitness for duty report and conducting any further interactive process with the Employee as warranted by the report, the General Manager will determine whether the District can reasonably accommodate the Employee in the original job position.

If the Employee cannot be accommodated in the original job position, and the District is unable to provide a permanent, non-light duty employment accommodation, the General Manager shall give notice of intent to terminate employment, and if the Employee has sufficient years of service accrued, the

## **San Mateo County Harbor District and Operating Engineers Local 3 Memorandum of Understanding**

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employee may simultaneously apply for disability retirement through the Public Employees Retirement System.

The Employee has the right to appeal any final notice to terminate employment through the discipline appeal procedure of this MOU.

### **17. EXTENDED ILLNESS BANK (EIB)**

EIB may be used when an Employee or family member is in one of these circumstances:

Any absence to care for self or family member suffering from a short-term illness or injury for two or more days, with accepted medical provider's verification of illness/injury of employee or family member, or

The employee applies, qualifies, and is determined to be eligible for Family Medical Leave Act (FMLA) or CFRA and is:

Medically absent from work of for greater then two days with accepted medical provider's verification of illness/injury of employee or family member; or

When employee or family member is admitted to a hospital or has a surgical procedure performed in a hospital or a surgery center and cannot return to work per medical direction or employee must care for a family member; and an accepted medical provider's verification is submitted; or

Qualifies for State Disability; or

Is eligible for Workers' Compensation benefits.

EIB may not be used for regular or routine medical or dental appointments for self or family members.

### **18. RETIREMENT SYSTEM**

#### **18.1 California Public Employees Retirement System (CalPERS)**

##### **18.1.1 Classic Members**

The District contracts with CalPERS to provide the 2.5% @ 55 for Local Miscellaneous Members (Classic Members as defined by CalPERS) retirement plan. The District shall contribute to CalPERS at the rate required by law to maintain the Employer's contributions.

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18.1.2 PEPRA Members:

Members defined by CalPERS as PEPRA members will be provided a retirement benefit formula of Miscellaneous Employees 2% at age 62 with 3-year final compensation.

Employees shall pay the full employee's share of CalPERS as determined by CalPERS through payroll withholding; the District shall not pay any portion of the required employee contribution.

**19. PAID TIME OFF (PTO)**

Eligibility for PTO begins with the first day of employment in a regular, full-time status.

19.1 Accrual Rate

PTO hours accrue on a bi-weekly pay period. The accrual rates for PTO shall be as follows:

19.1.1 For employees hired before July 1, 2009 based on 80 hour pay period:

Length of Service in Months	Hours Accrued Each Pay Period	
01- 60	9.35	
61- 120	11.22	
121- 180	13.14	
181 - 240	15.12	
241+	17.16	

19.1.2 The PTO accrual rate for employees hired on or after July 1, 2009:

Length of Service in Months	Hours accrued each pay period	
0- 24	6.77	
25- 60	7.38	
61- 120	8.31	
121- 180	9.85	
181- 240	11.38	
241+	12.92	

19.2 Accrued PTO Carry Over

PTO can be carried over from year to year. An Employee may accrue a combined total of 480 hours of overtime, to include earned PTO, converted PTO and other PTO. An Employee will stop earning PTO and PTO converted overtime once the Employee has accrued 480 hours.

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### **19.3 Request for Scheduled PTO**

Accrued PTO will be granted upon approval by the Harbormaster, or designee. Unless otherwise agreed, the Employee must request PTO at least fourteen (14) days in advance. Employees using PTO for personal emergencies or other situations where scheduling is impractical shall notify the Harbormaster and/or Assistant Harbormaster at the earliest possible time of their inability to work.

PTO requests shall not be unreasonably denied.

PTO may be denied for, but not limited to, an operational need, to include ensuring proper shift staffing.

### **19.4 Rate of Pay for PTO**

The pay rate for PTO shall be at the straight time rate of pay exclusive of differentials and shall be payable on the same bi-weekly schedule as regular earnings in the regular paychecks.

Employee's shall use PTO benefits once EIB hours have been exhausted for a day when also receiving State Disability or Workers' Compensation benefits, the District's payment shall be integrated with those benefits so that the total payment for such day equals but does not exceed the Employee's regular pay for scheduled hours.

Upon separation from the District or retirement, all PTO hours accrued and unused will be paid to the Employee. EIB hours will not be paid upon separation. If an Employee leaves the District's employment for less than one (1) year and returns to an eligible status, EIB hours accrued prior to the Employee's departure will be reinstated.

### **19.5 Requests for Payment of Accrued PTO**

An employee may request payment of accrued PTO. Requests for payment of accrued PTO must be submitted to the General Manager at least two weeks prior to check issuance. An employee may request payment of PTO hours up to four times per calendar year. An employee can request up to the full 240 hours at once, or any lesser amount, but cannot exceed 240 total hours per fiscal year.

An employee must have at least 40 hours remaining after the requested payment of PTO hours can be approved.

## **20. EXTENDED ILLNESS BANK (EIB)**

EIB accrual rates are based on a bi-weekly pay period. EIB accrual rates shall be equivalent of 3.08 hours bi-weekly. There is no maximum of the number of



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EIB hours that may be accumulated. EIB hours accrued may be converted to service credit as permitted by law.

Accrued EIB may be granted upon approval by the Harbormaster or Assistant Harbormaster. Requests to take EIB shall be made fourteen (14) calendar days in advance of the requested time off, unless otherwise agreed to. Employees using EIB for personal emergencies or other situations where scheduling is impractical shall notify the Harbormaster or Assistant Harbormaster at the earliest possible time of their inability to work.

The pay rate for EIB shall be at the straight time rate of pay exclusive of differentials and shall be payable on the same bi-weekly schedule as regular earnings in the regular paychecks.

When an Employee elects to take EIB benefits for a day when also receiving State Disability or Workers' Compensation benefits, the District's payment shall be integrated with those benefits so that the total payment for such day equals but does not exceed the Employee's regular pay for scheduled hours.

**21. FLEXIBLE TIME**

The District desires and will strive for a flexible working schedule that will provide the maximum time off commensurate with District's staffing requirements. The intent of this Section is to provide the District with a mechanism for developing and adopting a work schedule that provides both the Employee and the District with maximum benefits. To the extent that the above schedule is unworkable, the District reserves the right to adopt an alternate schedule, after the parties "meet and confer" and ratify any such changes made.

**22. DISTRICT OBSERVED HOLIDAYS**

The thirteen authorized holidays are:

New Years Day	January 1
Martin Luther King's Birthday	3rd Monday in January
Lunar New Year	2 <sup>nd</sup> New Moon following Winter Solstice
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Juneteenth	June 19th
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day After Thanksgiving	4th Friday in November
Christmas Day	December 25

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When a Holiday falls on a Saturday the District observed Holiday will be on the proceeding Friday. When a Holiday falls on a Sunday the District observed Holiday will be on the following Monday.

District will pay employees who work on a District observed holiday their regular hourly rate of pay. Overtime worked on a District observed holiday shall be paid at double the hourly rate.

### **23. FLOAT HOURS – IN LIEU OF OBSERVED HOLIDAYS**

In lieu of taking off District observed holidays as specified in Section 22, Employees will receive 104 float hours which can be taken following the regular process for requesting time off. Fifty-two (52) of these hours will be credited to the employee with the first full pay period of each year, and fifty-two (52) with the first full pay period following July 1 of each year.

In addition, on the first full pay period in January, each employee will receive an additional 24 float hours, these hours are in addition to the 52 hours of holiday float hours.

Newly hired full-time OE3 covered employees will receive 4 Floating Holiday Hours credited to their bank for each pay period remaining until they reach one of the pre-established Floating Holiday distribution dates, January 1 or the first full pay period in July.

Holiday Float Hours may not be accumulated or carried over into the next calendar year.

### **24 LEAVE OF ABSENCE**

The General Manager may grant regular permanent Employees a Leave of Absence without pay for a period not to exceed, one (1) year, when such leave and the reasons therefore is requested by the Employee in writing and approved by the Employee's supervisor. A Leave of Absence without pay will not become effective until such time as all accumulated PTO is taken. The Employee shall return to work promptly on completion of the leave. Failure to do so will subject the Employee to termination of employment. Service credits and benefits shall not accrue while the Employee is on Leave of Absence without pay.

### **25. JURY DUTY**

The District recognizes the civic duty of an Employee to serve on an impaneled jury. Time actually served on a jury shall not be charged against PTO unless

## **San Mateo County Harbor District and Operating Engineers Local 3 Memorandum of Understanding**

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said service exceeds two (2) weeks. Beginning on the third week all time served will be charged against the Employees PTO account.

### **26. VOTING**

The District recognizes the civic duty of an Employee to vote. Time off , not to exceed two hours, for voting will be granted and will not be charged against PTO.

### **27. MILITARY DUTY**

The District recognizes the civic responsibility of an Employee to serve in the Reserve and National Guard Components. Compulsory Military Reserve or National Guard leave for regular scheduled summer training periods shall be granted in accordance with the laws of the State of California and the Federal Government. Employees called to active duty during periods of declared state or federal emergency shall be granted the appropriate leave of absence without pay.

The District will make efforts to accommodate the drilling requirements of the Employee when scheduling the Employee's work periods.

### **28. MATERNITY LEAVE**

The District shall grant maternity leave in accordance with the laws of the State of California and the Federal Government. Should the District develop a Maternity Leave plan which is more liberal than that required by the State of California or the Federal Government, the more liberal plan will apply.

### **29. FAMILY CARE LEAVE**

The District shall grant family care leave in accordance with the laws of the State of California and the Federal Government. Should the District develop a Family Care Leave plan which is more liberal than that required by the State of California or the Federal Government, the more liberal plan will apply.

### **30. INDUSTRIAL DISABILITY LEAVE**

Employees who suffer any disability arising out of and in the course of their employment, as defined by the Workers' Compensation Laws of the State of California, shall be entitled to disability leave while so disabled for the period of such disability to a maximum of one (1) year, or retirement, whichever occurs first. Compensation benefits shall be determined and paid in accordance with the Workers Compensation Laws of the State of California. Integration of PTO and Worker's Compensation will be in accordance with the Laws of the State of California and shall accommodate the Employee, if permitted by Law. The District reserves the right to withhold payment of any disability benefits until such

## **San Mateo County Harbor District and Operating Engineers Local 3 Memorandum of Understanding**

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time as a determination is made whether or not the illness or injury is covered by Workers' Compensation.

### **31. EMERGENCIES**

Employees not able to report to work because of an emergency must advise their Harbormaster or Assistant Harbormaster at the earliest possible time of their inability to report to work.

### **32. EMPLOYEE IN A LIMITED DUTY ACCOMMODATION STATUS**

An employee's employment status shall not be negatively affected by the mere act of being placed on "Limited Duty".

### **33. BEREAVEMENT LEAVE**

All regular full-time or regular part-time employees who have a family member taken by death shall receive up to forty (40) hours off with pay as bereavement leave to arrange and/or attend funeral activities.

If additional time is necessary, it shall be taken as PTO or unpaid leave if PTO has been exhausted with advance authorization by the appropriate Department Head.

The employee must notify their Harbormaster or Assistant Harbormaster upon making a determination to take Bereavement time off from work.

### **34. SEVERANCE**

In the event that the Employee is terminated from the employ of the District because of a reduction in force, general lay-off, dissolution of the District, or other similar, non-disciplinary reason beyond the control of the Employee, said Employee shall be entitled to Severance Pay as follows:

For each year of service, the Employee shall receive an amount equal to two (2) weeks' pay, to a maximum of one (1) years pay for twenty-four (24) years' service. The Severance Pay shall be computed at the highest salary achieved by the Employee over the last three (3) years of service.

The employee shall receive a payout of all accumulated PTO.

The District will provide professional placement services to the Employee as necessary to place Employee in a similar or superior position, for a period not to exceed six (6) months.

### **35. LAYOFF AND RE-EMPLOYMENT**

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See District Personnel Rules and Regulations

### **36. TRANSFERS**

#### **36.1 Decision to affect a transfer**

The General Manager determines if a staff transfer is necessary or desirable and decides to make a transfer pursuant to District Policy.

#### **36.2 Which Employee is transferred:**

The General Manager will first ask for volunteers, unless a specific transfer decision is necessary for reasons of economy and efficiency pursuant to District policy or for personnel reasons. If more than one person volunteers, seniority will prevail. If no one volunteers, the least senior Employee in the classification from the facility from which the transferred Employee is to come will be transferred.

#### **36.3 Employee requests for transfer**

Any Employee may request a transfer at any time. Consistent with District policy, the General Manager may approve such a transfer or not, depending upon the General Manager's determination of the District's needs and the impact of the requested transfer upon them.

#### **36.4 Employee refusal to transfer**

An Employee cannot refuse a transfer. An Employee may request not to be transferred, however, but must provide a specific and sound reason for desiring not to be transferred. The General Manager, having reviewed the request with the facility managers (Harbormasters), will make a final decision on the Employee request. If the request is accepted, the least senior Employee in the classification will be transferred.

#### **36.5 Prescheduled vacations of transferees**

Any prescheduled vacations of Employees' subject to transfer will be honored whenever possible. If a prescheduled vacation creates a staffing shortage at the facility to which the Employee is transferred from the General Manager will determine vacation based on first-come, first served.

#### **36.6 Training and advancement opportunities**

Training and/or advancement opportunities of Employees subject to transfer to the other District harbor facility will not be compromised, limited, or otherwise diminished.

#### **36.7 Retention of seniority of transferee**

All Employee will retain that level of seniority within the District.

### **37 ASSIGNMENT OF WORK SHIFTS**

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The facility manager (Harbormaster or designee), subject to General Manager's final decision, determines the shifts to be filled based on available staff. Shift allocations are determined based on time in grade, within the classification. The General Manager reserves the right to determine shift allocations for any or all Employees that best suits the District's needs.

## **38 DISCIPLINE**

The District shall reserve the right to discipline any Employee, up to and including suspension or discharge, for reasons stipulated and defined in the Personnel Policies and Procedures of the District. The reasons shall include, but not be limited to: Violation of District policies and ordinances, Violation of major safety rules or regulations, commission of a felony, failure to carry out a lawful order, willful negligence, willful destruction of District property, willful insubordination, and other charges and specifications involving safety of life or property. Action may be taken by the District against Employees for engaging in unlawful strikes, individual or group slowdowns or work stoppages, refusal to work when assigned, or for violating or ordering the violation of District rules, policies, ordinances, or this MOU.

### **38.1 Appeals**

If an Employee feels that they had been unjustly disciplined, they shall have the right to appeal their case through the grievance procedure. Such appeal must be filed with the General Manager by the Employee or the Union in writing, and within ten (10) business days from the date of the discipline, and unless so filed, the right of appeal is lost.

Any disciplined Employee shall be furnished the reason for the discipline in writing, along with any supporting documentation.

## **39 PERSONNEL FILES**

An Employee, or an Employee's representative designated in writing by the Employee, shall have access to the Employee's personnel files on request.

## **40 GRIEVANCE**

A Grievance shall be defined as any dispute arising during the term of the MOU that involves the interpretation or application of any provision of the MOU, or the appealed discipline against an Employee. District Ordinances, Resolutions, Rules and Regulations, etc., the subject of which is not specifically covered by the MOU is not subject to grievance. Employees have the same rights as other citizens to discuss the District Ordinances, Resolutions, Rules and Regulations, etc. at public hearings and forums convened for that purpose.

### **40.1 Grievance Procedures.**

## **San Mateo County Harbor District and Operating Engineers Local 3 Memorandum of Understanding**

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Grievances shall be heard and resolved according to the following procedure:

Any Employee who believes that they have a grievance shall first discuss said grievance with the Employee's immediate supervisor. Should the issue not be resolved by the immediate supervisor the Employee may directly approach the site manager (Harbormaster or Assistant Harbormaster) for discussion and possible resolution of the grievance. This procedure should be instituted in a timely manner, generally no later than ten (10) business days of the aggrieved incident.

If the grievance is not satisfied at the site level the Employee shall submit the grievance directly to the General Manager, in writing, who shall be required to respond to same within fifteen (15) business days. In addition to the written grievance from the Employee, the General Manager is required to obtain a written report from the respective site manager (Harbormaster or Assistant Harbormaster). The General Manager shall respond to the aggrieved Employee granting relief to the aggrieved employees' satisfaction or advise the Employee the aggrieved incident is being investigated.

The General Manager shall be required to adjust any grievance submitted to the General Manager's attention within one (1) month of receipt. Should the grievance not be adjusted to the satisfaction of the Employee, the Employee has the right of final appeal to the Board of Harbor Commissioners convened in a special meeting and sitting as the Personnel Board of the District. The decision of the Personnel Board shall be final.

Employees have the absolute right to Union representation at all levels of the grievance procedure. No grievance resolution shall be made that violates the specific terms and conditions of employment as provided in this MOU without the agreement of the Union.

### **40.2 Pay Claims**

All complaints involving or concerning payment or compensation shall be filed with the Director of Administrative Services in writing within thirty (30) days of occurrence forming the basis of the complaint.

## **41 DISTRICT'S PERSONNEL POLICIES AND PROCEDURES**

The District's General Manager and the Board of Harbor Commissioners are in the process of updating and systematizing the Personnel Policies and Procedures of the District. Insofar as possible, standardized procedures will be developed that will apply to all employees, including those covered by this MOU.

The General Manager shall inform the Union at least 14 days prior to implementing any proposed changes to existing policies and procedures. Upon such notification or upon the Union claim that such proposed changes are



## **San Mateo County Harbor District and Operating Engineers Local 3 Memorandum of Understanding**

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negotiable as defined by applicable law the District agrees to "meet and confer" to the full extent of the law prior to such changes being implemented for represented employees. Failure to respond within 14 days, the Union waives any right of the Union to object to the proposed policy or procedure.

### **42 OUTSIDE EMPLOYMENT**

No regular, full-time Employee shall engage in employment that constitutes a conflict of interest for the Employee or the District. No Employee shall engage in outside employment during their regular working hours. No item of the uniform that identifies the Employee as an Employee of the District shall be worn while in the employment of someone other than the District.

All outside employment requires the approval of the General Manager. The Employee shall submit requests for outside employment in writing to the General Manager. The General Manager shall discuss said outside employment with the Employee to determine the potential for conflict of interest. Approval shall not be unreasonably withheld.

### **43 SEVERABILITY OF PROVISIONS**

Should any section, clause, or provision of this MOU be declared illegal by final action of a court of competent jurisdiction, such invalidation of such section, clause, or provision shall not invalidate the remaining portions hereof, and such remaining sections, clauses, and provisions shall remain in full force and effect for the duration of this MOU.

Upon such invalidation, the parties agree to meet and confer concerning substitute provisions for those rendered or declared illegal.

### **44 PAST PRACTICES AND PRIOR MEMORANDA OF UNDERSTANDING**

Continuance of working conditions and practices not specifically authorized by Ordinance or Resolution of the Board of Harbor Commissioners is not guaranteed by this MOU as amended herein.

This MOU as amended herein shall supersede all existing and prior Memoranda of Understanding between the District the Union.

**Signatures on the following page.**

**San Mateo County Harbor District and Operating Engineers Local 3  
Memorandum of Understanding**

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Made and entered into this \_\_\_\_\_

**Operating Engineers  
Local Union No. 3**

**San Mateo County Harbor  
Harbor District**

\_\_\_\_\_  
Business Manager

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
President

\_\_\_\_\_  
Recording–Corresponding Secretary

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Public Employees Division – Director

\_\_\_\_\_  
Shop Steward

\_\_\_\_\_  
Shop Steward

DRAFT PENDING BOARD APPROVAL