

## **SIDE LETTER BETWEEN CITY OF CAPITOLA AND CAPITOLA CONFIDENTIAL EMPLOYEES**

Pursuant the provisions of the Meyers-Milias-Brown Act (“MMBA”), this Side Letter of Agreement (“Side Letter Agreement”) is entered between the City of Capitola (“City”) and the Capitola Confidential Employees (“CE”) (collectively, “the Parties”).

WHEREAS, the Parties recognize the impacts of the COVID-19 pandemic on the City’s ability to provide essential services; and

WHEREAS, the Parties reaffirm their commitment to collaborative labor relations; and

WHEREAS, to meet needs of the incumbent employee, the number of hours worked by the Information Systems Specialist will be reduced.

WHEREAS, due to the reduction in hours, the Information Systems Specialist position will no longer to be FLSA Exempt; and

WHEREAS, the Parties have met and conferred in good faith, in accordance with the MMBA, concerning the terms and conditions of this Side Letter Agreement;

IT IS HEREBY AGREED AS FOLLOWS:

Section I.3 of the Confidential Employees MOU shall be amended to read:

### Overtime

All Confidential employees other than Human Resources Analyst and Information Systems Specialist, are exempt under

FLSA, and therefore not entitled to overtime compensation. The normal regular work week commences on Sunday and consist of forty (40) hours except that the regular work week of public works department personnel engaged in maintenance activities shall be as approved by the City Manager. Except for employees exempt under the FLSA, overtime will be compensated at the rate of one and one-half times the base rate of pay for all hours worked over 40 hours per week in a workweek. Such additional compensation shall, at the employee’s election, be either in cash or compensatory time off, in accordance with Labor Code section 204.3.

With regard to this section “hours worked” shall not include sick leave. Nor shall such a definition include vacation or compensated leave time off not scheduled in advance by at least ten working days. “Hours Worked” shall also not include workers compensation time off unless immediate treatment is required on the date of injury for the injury incurred, in which case overtime is allowed providing the

overtime accrued is an extension of the workday and the hours worked for the week exceed 40 hours.

Section II.3 of the Confidential Employees MOU shall be amended to read:

All Confidential Employees other than Human Resources Analyst and Information Systems Specialist, are entitled to ten days per year of administrative time off. Administrative Leave is non-cumulative. It may not be converted to cash. One year's worth of Administrative Leave becomes available on the first day of the calendar year. The exception is persons hired mid-year, in which case administrative leave is prorated for the applicable period.

Section V.1 of the Confidential Employees MOU shall be amended to read:

Fair Labor Standards Act

All positions other than Human Resources Analyst and Information Systems Specialist included in this Compensation Plan are covered by appropriate sections of the Fair Labor Standards Act of 1935, and are specifically subject to Rule No. 54.118 (salaried executive employees are not paid at a higher rate for what might otherwise be labeled "overtime", correspondingly, their salary is not reduced "for any week in which (s)he performs any work without regard to the number of days or hours worked." Accordingly, bi-weekly time sheets will not result in adjustments to the compensation for the period, but merely for yearly evaluation of whether the position is, after factoring in administrative leave, over or under staffed. However, time off for sick leave purposes shall be reported and reflected in the accumulated sick leave calculations.

This Side Letter Agreement is effective January 23, 2021. This Side Letter Agreement shall supersede any inconsistent provisions in the Parties' MOU and shall be incorporated into the MOU by this reference.

Capitola Confidential Employees

City of Capitola

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_