

**AMENDMENT ONE**  
**to the**  
**SACRAMENTO INDEPENDENT HOTEL, RESTAURANT AND TAVERN**  
**EMPLOYEES PENSION PLAN**

**Recitals**

WHEREAS, the Board of Trustees of the Sacramento Independent Hotel, Restaurant and Tavern Employees' Pension Plan desires to amend the Plan to address various issues that have arisen as part of the submission of the Restated Plan to the IRS for a favorable determination letter;

WHEREAS, the Plan has complied with the DOL's benefit suspension rules, including the 40 hour in a month rule if a Participant reaches Normal Retirement Age and now desires to include such language in the Plan document more explicitly;

WHEREAS, because of the income levels of Participants in the Plan the IRS Top-Heavy rules have not been a concern for this Plan, the Amendment includes language effective to January 1, 2002 providing for a more liberal vesting rule if applicable (there has been no such situation);

THEREFORE, the Plan is amended as follows:

**Amendment**

The first sentence of Section 2.12(c) of the Plan is eliminated and replaced with the following:

Effective as of January 1, 2002, Employee does not include a leased employee. A "Leased Employee" means any person who is not an employee of the recipient and who provides services to the recipient if (A) such services are provided pursuant to an agreement between the recipient and any other (referred to as the "leasing organization" in the Code Section); (B) such person has performed such services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of at least one year, and (C) such services are performed under the primary director or control by the recipient.

Section 2.14 of the Plan is amended by adding the following statement:

The applicable provision providing the Employer contribution rate under the Collective Bargaining Agreement (cover page and pages 16-17 and 31 are attached as Appendix A.

Section 4.4(c)(2)A) has been restated to correct certain typos as follows:

An Employee whose failure to earn Future Service Credit is due to service in the Armed Forces of the United States in time of war or national emergency or pursuant to a national conscription law shall be allowed a grace period for the period that he or she retains re-employment rights under Federal Law, provided he or she makes himself or herself available for Covered Employment within ninety days after released from active duty, or

within ninety days after recovery from a disability continuing after his or her release from active duty, or as is otherwise required in accordance with applicable law.

Section 5.6 of the Plan is restated effective as of January 1, 2007, as follows:

Section 5.6 Suspension of Pension Benefits on Return to Industry Service

I. General Suspension Rules

(a) Before Normal Retirement. To be deemed retired before a Participant has attained Normal Retirement Age, a Pensioner must cease and refrain from work in Covered Employment as follows:

(1) Work in employment of the type performed by Employees covered by the Plan, also known as "Covered Employment;"

(2) Work which requires directly or indirectly the use of the same skills used by Employees covered by the Plan on the date the Pension became effective;

(3) Work in employment for compensation or wages of any kind or for profit in the Hotel, Restaurant and/or Tavern Employees Industry in the geographic area covered by the Plan;

(4) Work for profit as an owner or partner in any business directly or indirectly connected with the Hotel, Restaurant and/or Industry;

(5) Work which involved any supervision of Employees in the same trade or craft or directly or indirectly using the same skills as Employees covered by the Plan on the date the Pensioner retired.

(b) After Normal Retirement Date. To be deemed retired after the Participant has attained Normal Retirement Age, a Pensioner must refrain from employment at forty (40) hours or more in the jurisdiction of the Plan during any calendar month in:

(1) Work of the type performed by Employees covered by the Plan on the Pensioner's Pension Effective Date;

(2) Work which required directly or indirectly the use of the same skills employed by Employees covered by the Plan on the Pensioner's Pension effective date;

(3) Work in employment for compensation for wages of any kind or for profit in the Hotel, Restaurant and/or Tavern Industry;

(4) Work for profit as an owner or partner in any business directly or indirectly connected with the Hotel, Restaurant and/or Tavern Industry;

(5) Work which involved any supervision of Employees in the same trade or craft or directly or indirectly using the same skills as Employees covered by the Plan on the date the Pensioner retired.

(c) Determining Hours. For purposes of determining whether the Pensioner was employed during a period of time, the terms "hours" or "hours of service" include all hours for which compensation was received by the Employee whether for actual work, illness, incapacity (including disability), layoff, military duty or leave of absence. Compensation includes earnings of a Pensioner engaged in a trade for services rendered and/or rental of the equipment used periodically, routinely, or at any time by a person employed in the Hotel, Restaurant and/or Tavern Industry.

The term "work" shall be interpreted in the broadest manner. For example, "work" includes employment in which a salary (which includes payment based on an hourly, daily, weekly, bi-weekly, bi-monthly, monthly, annually or any other rate -- these examples are listed by way of illustration only) is paid, work in which the Pensioner is considered an "independent contractor," work in which the Pensioner shall receive a deferred benefit, and work in which the Pensioner received anything of value (or is to receive anything of value) in exchange for the services rendered.

## 2 Suspension of Benefits.

(a) Before Normal Retirement Age. If a Pensioner is employed in work of the type described above such person's pension payments shall be suspended for a period equal to the number of months during which he or she was so employed. Thus, if the Pensioner works one (1) hour in such prohibited employment during a calendar month, such Pensioner's pension benefits shall be suspended for that month.

(b) After Normal Retirement Age. If a Pensioner subsequently becomes employed in prohibited employment, his pension payments shall be suspended for any calendar month of such employment. Although the terms "suspended" is used, any benefits which are suspended are permanently withheld, which means that the pensioner will not receive these amounts or any actuarially increased benefit at a later date.

### (c) Notices.

(1) Notice to Pensioners. If benefits have been suspended and payment resumed, a new notification shall, upon resumption, be given to the Pensioner if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.

(2) Notification. No payment shall be withheld by the Plan pursuant to this Section unless the Plan notifies the Employee by personal delivery, first class mail, or other delivery method permitted under DOL Reg. § 2530.203-3, during the first calendar month or payroll period in which the Plan withholds payments that his or her benefits are suspended (or after notice of such work). Such notifications shall contain a description of the specific reasons why benefit payments are being suspended, description of the Plan provision relating to the suspension of payments, a copy of such provisions, and a statement to the effect that applicable Department of Labor regulations may be found in Section 2530.203-3 of the Code of Federal Regulations. In addition, the notice shall inform the employee of the Plan's procedures for affording a review of the suspension of benefits. Requests for such reviews may be considered in accordance with the claims procedure adopted by the Plan pursuant to Section 503 of ERISA and applicable regulations.

(3) Pensioner Notification to Plan/Verification Procedures. A Pensioner shall notify the Plan in writing within fifteen (15) days after starting any work of a type that is or may be prohibited under Subsections 8.1(a) or (b) herein above ("prohibited employment") and without regard to the number of hours of such work.

The Pensioner must also provide the Board of Trustees with access to reasonable information for the purpose of verifying employment, including without limitation, time sheets, logs or records, income tax returns, W-2 forms and any other employment or income-related records. A Pensioner must also comply with any request of the Trustees that said Pensioner request information from an Employer, contractor, subcontractor, union, government agency or other entity relating to any post-retirement employment.

(4) Notification of Termination of Prohibited Employment. A Pensioner whose pension has been suspended shall notify the Plan Office when prohibited employment has ended. The Board of Trustees shall have the right to withhold benefit payments until such notice is filed with the Plan.

(5) Status Determination. A Pensioner may request of the Plan Office a determination whether specific contemplated employment will be prohibited under the Plan. The Board of Trustees shall provide the Pensioner with its determination within a reasonable time so long as the Board of Trustees has been provided with sufficient information to make such a determination. The Plan claims and appeal procedure set forth in Article 10 shall apply to these determinations.

(6) Plan Determination--Notice to Pensioner. The Plan shall inform a Pensioner of any suspension of benefits by notice given by personal delivery or first class mail. Such notice shall include a description of the specific reasons for the suspension.

3. Plan Presumptions Relating to Prohibited Employment. Whenever the Board of Trustees or other Plan fiduciaries become aware that a Pensioner is or is likely to be engaged in prohibited employment and the Pensioner has not complied with the Plan's reporting and notice requirement with regard to such employment, the Trustees shall, unless it is unreasonable under the circumstances not to do so, act on the basis of a rebuttable presumption that the Pensioner had worked a period exceeding the Plan's minimum number of hours for that month. The Pensioner has the right to overcome any such presumption by establishing that his work was not of a type or duration that provides for suspension of benefits under this Plan.

4. Waiver of Suspension. The Trustees may, upon their own motion or on request of a Pensioner, waive suspension of benefits subject to such limitations as the Board of Trustees in its sole discretion may determine, including any limitations based on the Pensioner's previous record of benefit suspensions or noncompliance with reporting requirements under this Article. For example, the Trustees may determine that there is an emergency which requires additional Employees in the Hotel, Restaurant and/or Tavern Employees Industry.

5. Amount Suspended. As required by applicable law, the amounts suspended shall be the Participant's monthly benefit for a period equal to the number of months engaging in such prohibited employees.

(a) Life Annuity. For benefits payable periodically on a monthly basis for as long as a life (or lives) continues, such as a life annuity or a Qualified Joint and Survivor Annuity, an amount equal to the portion of or a monthly benefit payment derived from Employer contributions will be suspended.

(b) Other Benefits. If a benefit is payable in a form other than the form described in Subsection (a) above, an amount of the Employer-derived portion of benefit payments for a calendar month in which the Employee is employed in Section ERISA 203(a)(3)(B) service, equal to the lesser of the amount of benefits which would have been payable to the Employee if he had been receiving monthly benefits under the Plan since actual retirement based on a life annuity commencing at actual retirement age; or the actual amount paid or scheduled to be paid to the Employee for such month. Payments which are scheduled to be paid less frequently than monthly may be converted to monthly payments for purposes of the above sentence.

6. Resumption of Benefit Payments.

(a) Three-Month Rule If Notice Provisions Followed. In accordance with the applicable DOL Regulations, benefits shall be resumed no later than the first day of the third month after the calendar month which the employee ceases to be employed in ERISA Section 203(a)(3)(B) service. The initial payment upon resumption shall include the payment scheduled to occur in the calendar month when payments resume and any amounts withheld during the period between the cessation of section 203(a)(3)(B) service and the resumption of payments.

(b) Offsets. Overpayment attributable to payments made for any month or months for which the Pensioner had prohibited employment shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Pensioner attained Normal Retirement Age shall not exceed 25 percent (25%) of the pension amount, except the Board of Trustees may withhold the entire amount of the first pension payment due upon again becoming eligible for pension payments after a suspension, which may be as much as three months of benefits.

No deduction shall exceed the amount of overpayment subject to deduction. If a Pensioner dies before recoupment of overpayment has been completed, all deductions shall be made from the benefits payable to his surviving spouse, subject to the 25 percent limitation on the rate of deduction for any Beneficiary under the Plan (unless the parties agree otherwise).

7. Benefit Payments Following Suspension. The monthly pension when resumed after suspension shall be determined under subsection (i) or (ii) below, whichever is applicable. Nothing in this section shall be understood to extend any benefit increase or adjustment effective after the Pensioner's initial retirement to the amount of pension upon resumption of payment, except to the extent that it may be expressly provided by other Plan provisions.

(a) Resumption Before Normal Retirement Age. Upon resumption of benefits after a suspension of benefits, the Pensioner shall receive the same monthly benefit that he was receiving prior to such suspension of benefits; provided, however, that upon the Pensioner reaching Normal Retirement Age, his benefits must be actuarially increased by the value of any suspensions for any months when said Pensioner did not work at least forty (40) hours in prohibited employment.

(b) Resumption After Normal Retirement Age. Upon resumption of benefits after the Pensioner had already reached Normal Retirement Age, the amount of benefits shall be determined under this subsection if, upon resumption (the end of the first month for which payment is resumed), the Pensioner had attained Normal Retirement Age. The amount shall be determined as if it were then being determined for the first time, but on the basis of the Pensioner's Normal Retirement Age, reduced by the value of the benefits received during his earlier retirement and adjusted for the Joint Pension, if applicable.

8. Recovery of Benefits. If benefits are paid which should have been suspended under this Article, the amount of the improper payment shall be an obligation of the recipient to the Trust. The Board of Trustees, and their delegate, is authorized to request an immediate reimbursement from the retiree. Otherwise, such improper retirement payments may be recovered as follows:

(a) With respect to any payments due prior to a Participant's Normal Retirement Date, the amount may be deducted from any future benefits payable to the recipient or the surviving Beneficiary;

(b) With respect to any payments due the Pensioner on or after his Normal Retirement Date, recovery shall be subject to the following limits:

(i) In the case of an initial pension payment due following a suspension of benefits, 100% of such initial payment may be withheld;

(ii) For any other pension payment, 25% of such monthly pension benefit may be withheld.

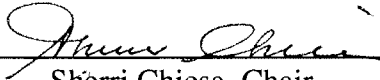
If any overpayment or other benefit improperly paid to a Participant or Retiree has not been fully recovered by the Plan at the time of the person's death, such benefits or overpayment may be deducted from death benefits payable at the time of the person's death.

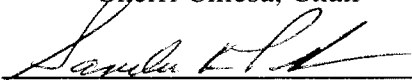
Section 12.6 is restated in its entirety to state as follows;

Effective as of January 1, 2002, if the Plan becomes Top-Heavy, a person will vest 100% after three years instead of the Plan's regular vesting schedule.

Except as if provided elsewhere in this Amendment, the effective date of this Amendment is January 1, 2011.

Approved: May 3, 2016

  
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Sherri Chiesa, Chair

  
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Sandra Parker, Co-Chair