



PROCLAMATION CALLING A SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

**Tuesday, July 20, 2021
4:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89932150811>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 899 3215 0811. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Consent Calendar

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Memorandum Agreement: International Brotherhood of Electrical Workers Local 1245**
From: City Manager
Recommendation: Adopt two Resolutions:
 1. Revising Resolution No. 69,927-N.S that adopted successor two-year Memorandum Agreement with the International Brotherhood of Electrical Workers Local 1245 (hereinafter referred to as the “Union”) with a term of June 28, 2020 through June 30, 2022, authorizing the City Manager to execute and implement the revised terms and conditions of employment set forth in the Memorandum Agreement; and
 2. Approving a new salary resolution for Representation Unit C that implement the new salary levels negotiated in the new labor agreement and rescinding Resolution No. 68,671-N.S.**Financial Implications:** See report
Contact: LaTanya Bellow, Human Resources, (510) 981-6800

Consent Calendar

- 2. Memorandum Agreement: Service Employees International Union Local 1021 Maintenance and Clerical Chapters**
From: City Manager
Recommendation: Adopt two Resolutions:

 1. Approving a new three-year Memorandum Agreement with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters with a term of June 27, 2021 through June 26, 2024, and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new labor agreement; and
 2. Approving a new salary resolution for Representation Units D, J, K-1, and K-2 that implement the new salary levels negotiated in the Memorandum Agreement and rescinding Resolution No. 68,533-N.S.

Financial Implications: See report
Contact: LaTanya Bellow, Human Resources, (510) 981-6800

- 3. Memorandum of Understanding: Berkeley Police Association**
From: City Manager
Recommendation: Adopt two Resolutions:

 1. Approving a new two-year Memorandum of Understanding (MOU) with the Berkeley Police Association which includes cost of living adjustments and market adjustments to two classifications with a term of July 1, 2021 through June 30, 2023 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and
 2. Approving a new Classification and Salary resolution for Representation Units E and F that implement the salary adjustments reflected in the new MOU and rescinding Resolution No. 68,583,-N.S.

Financial Implications: See report
Contact: LaTanya Bellow, Human Resources, (510) 981-6800

- 4. Unrepresented Employees: Salary Adjustments and Update to Unrepresented Employee Manual**
From: City Manager
Recommendation: Adopt two Resolutions:

 1. Approving salary increases for the Unrepresented Employees in Units X-1; X-2; Z-1; Z-2; Z-3; Z-6; and Z-9, for the period July 20, 2021 through June 30, 2024 and rescinding Resolution No. 68,534-N.S. Classification and Salary Resolution; and
 2. Adopting as amended the Unrepresented Employee Manual to attach a three (3) year Agreement with terms and conditions with the Unrepresented Employees group with a term of July 20, 2021 to June 30, 2024 that includes a new Payroll Specialty Pay, Salary, Longevity Pay, Recognized Holidays, Employee Contribution Toward Pension, and revisions to Cash-In-Lieu Payments and Public Safety Uniform Allowance for compliance, and rescinding Resolution No. 69,538-N.S.

Financial Implications: See report
Contact: LaTanya Bellow, Human Resources, (510) 981-6800

Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 16th day of July, 2021.



Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Date: Thursday, July 16, 2021
Mark Numainville, City Clerk

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City's website at <http://www.cityofberkeley.info>. Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



Captioning services are provided at the meeting, on B-TV, and on the Internet.



Office of the City Manager

CONSENT CALENDAR
July 20, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: LaTanya Bellow, Director of Human Resources

Subject: Memorandum of Agreement: International Brotherhood of Electrical Workers Local 1245

RECOMMENDATION

Adopt two resolutions: 1. Revising Resolution No. 69,927-N.S that adopted successor two-year Memorandum Agreement with the International Brotherhood of Electrical Workers Local 1245 (hereinafter referred to as the “Union”) with a term of June 28, 2020 through June 30, 2022, authorizing the City Manager to execute and implement the revised terms and conditions of employment set forth in the Memorandum Agreement; and 2. approving a new salary resolution for Representation Unit C that implement the new salary levels negotiated in the new labor agreement and rescinding Resolution No. 68,671-N.S.

FISCAL IMPACTS OF RECOMMENDATION

The terms of the new Memorandum Agreement include a “me too” clause that if the City reaches agreement with the largest bargaining unit or extends the Unrepresented employees an across the board Cost of Living Adjustment (COLA) increase, wage increase, lump sum payment, or other benefit increase during the term of this agreement, the City agrees to apply the same increases to the Union; increase in Medicare eligible retiree premium assistance for single and two-party coverage to \$50 and \$100 per month, respectively; Thirty-two hours of Additional Floating Holiday effective the of first full pay period after Council adoption. The additional floating holiday hours are in direct response to the COVID 19 pandemic and expire, effective June 30, 2021.

The cumulative total cost for the new Memorandum Agreement is approximately \$106,180 over the term of the agreement (Fiscal Years 2021 & 2022). The funding for this Memorandum Agreement comes from the General Fund and other funding sources.

CURRENT SITUATION AND ITS EFFECTS

The City’s labor contract with the Union expired and was fully terminated as of June 28, 2020. In an effort to reach agreement on a successor Memorandum Agreement, representatives of the City and representatives of the Union held approximately 14 negotiating sessions beginning in May 5, 2020. The parties reached agreement on all outstanding economic issues on May 14, 2021. The Council adopted a Resolution No.

69,927 N.S. on June 15, 2021 approving the two-year contract with a provision If during any fiscal year during the term of this agreement, the City reaches agreement with the largest bargaining unit or extends the unrepresented employees an across the board Cost of Living Adjustment (COLA) increase, wage increase, lump sum payment, or other benefits increase the City agrees to apply these same increases to the salary ranges and/or benefits for those classifications covered by this MA as listed in Exhibit B.

Subsequently, the City reached agreement with the Service Employees International Union, Local 1021 Maintenance and Clerical Chapters that includes a four percent (4%) salary increase effective the first full pay period after Council adoption. Pursuant to the contract language in the successor IBEW contract, covered employees will also receive the 4% salary increases and one-time \$1000 lump sum payment.

While the labor contract expired and fully terminated on June 28, 2020, the laws governing collective bargaining agreements provide that the terms and conditions set forth in the expired contract remain in full force and effect until modified through the collective bargaining process. The collective bargaining process has now been completed and the parties have reached tentative agreement on all outstanding issues.

BACKGROUND

There are 15 budgeted positions represented by IBEW Local 1245 in one representational unit (Unit C). IBEW Local 1245 represents employees in the electrical occupations in the Public Works Department.

The City’s philosophy during negotiations with IBEW Local 1245 was to follow City Council policies to protect the City’s short and long-range economic health. City Council policies for labor negotiations include, but are not limited to, the following:

1. Assure that labor organizations and their members are treated fairly and with respect.
2. Negotiate in good faith and within the process established by the parties including honoring the traditional confidentiality of the negotiation process.
3. Negotiate contracts based on a “Total Compensation Package” model (changes in current and future salary, and health and welfare benefits) within the City’s overall financial conditions.

Major provisions of the new labor contract are as follows:

Term	June 28, 2020 through June 30, 2022
Salary Increase	4% increase, effective July 2021
Retiree Medical	Increase in Medicare eligible monthly premium assistance to \$50 for single and \$100 for two-party plans

One-time Lump Sum	\$1000, effective July 2021
Additional Floating Holidays	32 hours of additional floating holiday expiring June 30, 2021
Binding Arbitration	Binding arbitration for non-disciplinary grievances

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Representatives of the City worked within policies set by the City Council for guiding contract negotiations and staff met with the City Council in closed session to discuss and receive the policy direction and economic authority to settle this contract. The overall settlement must be within the City’s ability to pay based on projected revenue as well as demands for services across the spectrum of programs the City provides the community. I believe this settlement is in keeping with City Council’s direction to staff and is fair and equitable to the members of the Union.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, Human Resources, 981-6800

Attachments:

- 1: Resolution – Revised Memorandum Agreement: IBEW Local 1245
 - Exhibit A: Memorandum Agreement between the City of Berkeley and the International Brotherhood of Electrical Workers Local 1245 – A.F.L. – C.I.O. June 28, 2020 through June 30, 2022 (Edited Version)
 - Exhibit B: Memorandum Agreement between the City of Berkeley and the International Brotherhood of Electrical Workers Local 1245 – A.F.L. – C.I.O. – June 28, 2020 through June 30, 2022 (Clean Version)

2. Resolution: Approving a New Classification and Salary Resolution for International Brotherhood of Electrical Workers and Rescinding Resolution No. 68,671-N.S.
 - Exhibit A: International Brotherhood of Electrical Workers, Local 1245 Classification/Salary Resolution Period: July 25, 2021 through June 30, 2022

RESOLUTION NO. ##,###-N.S.

REVISED MEMORANDUM AGREEMENT: INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 1245; REVISING RESOLUTION 69,927 N.S.
ADOPTED JUNE 15, 2021

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the International Brotherhood of Electrical Workers, Local 1245 have met and conferred in good faith and have reached agreement on a new Memorandum Agreement that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum Agreement for the period June 28, 2020 through June 30, 2022 with the International Brotherhood of Electrical Workers, Local 1245, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit B.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum Agreement including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

BE IT FURTHER RESOLVED that this revised resolution provides for amendments to the Memorandum Agreement adopted on June 15, 2021.

Exhibit A: Memorandum Agreement between the City of Berkeley and the
International Brotherhood of Electrical Workers Local 1245 – A.F.L. –
C.I.O - June 28, 2020 through June 30, 2022 (Edited Version)

Exhibit B: Memorandum Agreement between the City of Berkeley and the
International Brotherhood of Electrical Workers Local 1245 – A.F.L. –
C.I.O. – June 28, 2020 through June 30, 2022 (Clean Version)



MEMORANDUM AGREEMENT

Between the

CITY OF BERKELEY

and the

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS
LOCAL 1245 - A.F.L. - C.I.O.

~~October 21, 2018~~ June 28, 2020 to ~~June 27, 2020~~ June 30, 2022

RESOLUTION NO. 68,670-N.S.

MEMORANDUM AGREEMENT: INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 1245

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the International Brotherhood of Electrical Workers Local 1245 have met and conferred in good faith and have reached agreement on a new Memorandum Agreement that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum Agreement for the period October 21, 2018 through June 27, 2020 with the International Brotherhood of Electrical Workers Local 1245, including changes in certain benefits on dates specified in the Memorandum Agreement which is attached hereto, made a part hereof and marked Exhibit A.

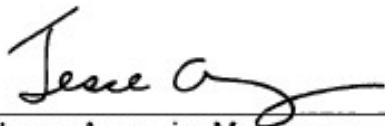
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum Agreement including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on November 27, 2018 by the following vote:

Ayes: Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Bartlett.



Jesse Arreguin, Mayor

Attest: 

Mark Numalville, City Clerk

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MEMORANDUM AGREEMENT
Between
CITY OF BERKELEY
and the
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
LOCAL 1245

ARTICLE 1 - ADMINISTRATION

SECTION 1: RECITALS

- 1.1 This Memorandum Agreement is entered into pursuant to the Meyers-MiliasBrown Act (Government Code, Sections 3500-3511), as amended, and has been jointly prepared by the parties.
- 1.2 The City Manager is the representative of the City of Berkeley (hereinafter referred to as "the City") in employer-employee relations as provided in Resolution No. 43,397-N.S., adopted by the City Council on October 14, 1969.
- 1.3 International Brotherhood of Electrical Workers, Local 1245, is the recognized employee organization for Representation Unit C (Electrical Occupations), which organization has been certified as such pursuant to said Resolution No. 43,397N.S. The employee positions in such Representation Unit are hereinafter set forth in Exhibit A attached hereto and made a part hereof, and International Brotherhood of Electrical Workers, Local 1245 (hereinafter referred to as "the Union") is recognized as the sole representative of employees assigned to such positions.
- 1.4 The parties have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment of the employees in said Representation Unit C, 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.
- 1.5 This Memorandum Agreement shall be presented to the City Council as the joint recommendation of the undersigned.
- 1.6 Section titles in this Memorandum Agreement are for identification purposes only and are not to be used for the purpose of interpreting either the intent or the meaning of the language of any section.

SECTION 2: PARTIES TO THE AGREEMENT

2.1 Exclusive Representation

The Union is the exclusive representative of all employees within Representation Unit C (Electrical Occupations) and shall continue to be recognized as such unless, in accordance with the provisions of Resolution No. 43,397-N.S. or said Resolution may be amended, the Union is no longer certified as the Recognized Employee Organization for employees in Representation Unit C.

2.2 Management Rights

The Union recognizes that the management of the City and its business and the direction of its working forces are vested exclusively in the City, and this includes, but it not limited to, the following: to direct and supervise the work of its employees, to hire, promote, demote, transfer, suspend, and discipline or discharge employees for just cause; to plan, direct, and control operations; to lay off employees because of lack of work or for other legitimate reasons; to introduce new or improved methods or facilities, provided, however, that all of the foregoing shall be subject to the provisions of this Agreement, arbitration decisions, or letters of agreement, or memorandums of understanding clarifying or interpreting this Agreement.

The City shall not by reason of the execution of this Agreement (a) abrogate or reduce the scope of any present plan or rule beneficial to employees, such as its vacation and sick leave policies or its retirement plan, or (b) reduce the wage rate of any employee covered hereby, or change the conditions of employment of any such employee to his disadvantage. The foregoing limitation shall not limit City in making a change in a condition of employment if such change has been negotiated and agreed to by City and Union.

SECTION 3: NO DISCRIMINATION

The City and Union agree that they will not discriminate against employees based on race, creed, color, ethnicity, ancestry, religion, political affiliation, gender, sexual orientation, age, national origin, marital or domestic partner status, gender identity or gender expression, parental status, pregnancy, disability or medical condition, Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law, or protected Union activity. Furthermore, the City and Union agree to comply with all applicable federal, state and local laws pertaining to nondiscrimination and equal employment opportunity.

The Union agrees that it will support programs for making members of minority groups and women aware of employment opportunities within the City's jurisdiction, and that it will work with the City to increase recruitment efforts of such minorities and women into

City service. The Union recognizes and supports the City of Berkeley's commitment to equal employment opportunity.

SECTION 4: UNION SECURITY

4.1 Union Security

4.1.1 An employee included in Unit C, may become and remain a member in good standing of the Union; or pay to the Union an initial fee equal to the regular initiation fee and, thereafter, a monthly fair share service fee equal to the regular monthly union dues and general assessments.

4.1.2 **Contracting Out:** The City will not hire any contractors, firm or individual which will result in the layoff of any employees covered under this Agreement.

4.1.3 **Subcontracting:** If the City intends to subcontract any electrical or communication work, the City will notify the Union in advance of any bid solicitation whose value is estimated to be \$25,000 or more. The City will notify the Union in advance by mailing a copy of the City Council Bid Notifications Report to the Union Stewards. Information will be sent to the Union at the same time it is forwarded to the City Council and will include nature of project, the name of department requesting the work, and the budget code. Upon written request from the Union, the City will provide a copy of the actual bid specifications.

For electrical or communication work estimated to cost less than \$25,000, the City will provide the Union Stewards a copy of the Council Awarded Contracts Report on a monthly basis.

4.2.3 **Indemnification:** The Union shall indemnify and save harmless the City, its officers and employees, from and against any and all loss, damages, costs, expenses, claims, attorneys' fees, demands, actions, suits, judgments and other proceedings arising out of any claims made by Unit C employees for deductions made in reliance on information provided by the Union.

4.2.4 **Union Reports:** The City shall furnish the Union, on a monthly basis, the name, date of hire, salary, classification and work location of all newly-hired employees subject to this Agreement.

4.3 New Employee Orientation

This provision shall apply to new hire employees appointed to classifications covered by this Agreement.

4.3.1 Onboarding: The parties acknowledge that the City provides a new employee orientation (onboarding) to each new employee hired by the City. As such, the Union will be provided with not less than 10 calendar days' advanced notice of the time, date, and location of the onboarding of any new employee represented by the Union. The Union will be given 30-minutes at the start of the new employee onboarding in a room designated by the City for no more than one (1) representative to present Union membership information. The City representative will excuse him or herself during the Union portion of the onboarding. The Union agrees in its portion of the onboarding not to engage in speech that could cause disruption or material interference with City activities.

The City will provide 30 minutes of Union Release Time to the Union representative presenting the Union membership information during the scheduled onboarding. The Union shall provide the Union representative's immediate supervisor with the Union representative's name at least five (5) days prior to the onboarding. The Union representative shall be released for this purpose unless unusual operation needs interfere with such release in which case the Union representative's immediate supervisor will provide a written explanation of why release could not be approved. If the Union representative is not released due to department operational needs, the Union representative may arrange an alternative date and time to meet with the newly hired employee within the first two (2) weeks of employment, subject to the 30-minutes onboarding and Union Release Time requirements as stipulated above.

4.3.2 Information Provided: On a quarterly basis (March, June, September, and December), the City will provide the Union with a digital file via email to the email address designated by the Union. The Union acknowledges and understands that the City is working diligently and in good faith to update its contact information database functionality to incorporate all the fields of contact information listed below. As a result, the City may not initially be able to provide the employee's work telephone number, personal phone number, and personal email address until the completion and implementation of the City's new Enterprise Resource Management Application (ERMA) system.

The City will provide the Union with the following information on file, to the extent the City has it on file:

- Name.
- Job Title.
- Department.
- Work Location.

- Home telephone number.
- Home address.
- Personal cellular telephone number (new hires hired on or after October 1, 2017).
- Work telephone number (*upon implementing ERMA*).
- Personal email addresses on file with the City (*upon implementing ERMA*).

Notwithstanding the foregoing, limited to the express purpose of the requirements of Government Code section 3558 only, an employee may opt out via written request to the City (copy to the Union) to direct the City to withhold disclosure of the employee's: Home address; home telephone number; personal cellular telephone number; personal email address; and date of birth.

SECTION 5: DEDUCTION OF UNION DUES

5.1 Deductions

The City shall deduct, once monthly, the amount of Union regular and periodic dues, service fees, or insurance premiums as may be specified by the Union under the authority of written notification by the Union certifying that the employee has provided written affirmed consent for deduction of union membership dues or fair share service fees.

Such deductions, together with a written statement of the names and amounts deducted, shall be forwarded promptly to the Union office.

5.2 Revocation

Upon receipt of a written notice from the Union to the Human Resources Department, the City shall cease deducting membership dues or fair share service fees from the designated employee.

5.3 Authorization Forms

The City may request verification of employee's authorization form giving affirmed consent to deduct dues or fees only if a legitimate dispute arises about the existence or term of the authorization.

5.4 Notice

Union agrees to give reasonable notice of dues change.

SECTION 6: UNION REPRESENTATIVES

6.1 Number of Representatives

The City shall allow two (2) representatives of the Union reasonable time off from work, without loss of compensation or other benefits, to represent its members in disputes which involve the interpretation or application of those rules, regulations, and resolutions which have been or may hereafter be adopted by the City Council to govern personnel practices and working conditions, including such rules, regulations, and resolutions as may be adopted by the City Council to effect memoranda of understanding which may result from the meeting and conferring process, and to represent its members in meeting and conferring in good faith for amendments to this Memorandum Agreement in the future, subject to the conditions set forth in Sections 6.2 (Maximum Representatives) and 6.3 (Notification).

All release time shall be recorded on time sheets and time cards with appropriate codes.

6.2 Maximum Representatives

Two (2) Union representatives shall be the maximum number who will be allowed concurrent time off.

6.3 Notification

The representatives shall notify the first non-bargaining supervisor a minimum of one workday in advance before leaving their work assignments except for emergency situations which require the immediate attention of said representatives (an emergency is defined as a safety problem or hazardous condition), but in no case shall an employee leave his or her job without notification of the first non-bargaining supervisor. Such request shall include the location, and area of activity, the approximate time needed and the general nature of the union business involved. Such request shall not be unreasonably denied. Failure to comply with notification and time recording rules may be grounds for denial of leave.

6.4 Union/Management Meetings

Quarterly meetings shall be held between the union and management. Release time shall be granted for up to two union representatives. Agendas for such meetings shall be set one week in advance between the Business Representative of the Union and the City Manager or their designees. Meetings within department may be held at the discretion of the department head.

6.5 Union Training

Conditional upon prior approval of the course content and upon receipt of certification of completion, if the employee is an elected official or steward of the Union, the City shall reimburse the employee for up to one-half of his or her regular work time spent in such training at the employee's permanent rate of pay, not to exceed twenty (20) hours of paid leave in a calendar year.

SECTION 7: SEPARABILITY OF PROVISIONS

In the event that any provisions of this Memorandum Agreement are declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of this Memorandum Agreement shall be null and void, but such nullification shall not affect any other provisions of this Memorandum Agreement, all of which other provisions shall remain in full force and effect.

SECTION 8: EXISTING MEMORANDUM AGREEMENT

Pursuant to Section A of the Memorandum of Understanding dated August 9, 1972 by and between the City and the Union, this Memorandum Agreement shall supersede all existing Memoranda of Understanding between the City and the Union. There is no guarantee that working conditions and practices will be continued if they are not included in this Memorandum Agreement or have not been or are not hereafter specifically authorized by ordinance or by resolution or the City Council.

SECTION 9: FINALITY OF RECOMMENDATIONS

The recommendations set forth herein are final. No changes or modifications shall be offered, urged, or otherwise presented by the Union, or the City Manager prior to October 20, 2018; provided, however, that nothing herein shall prevent the parties to this Memorandum Agreement from meeting and conferring and making modifications herein by mutual consent.

SECTION 10: DURATION

This Memorandum Agreement shall be effective upon ratification by the City Council except for those provisions which have been assigned other effective dates as herein set forth, and shall remain in full force and effect up to and including ~~October 20, 2018~~June 30, 2022. This Memorandum Agreement and all its rights, obligations, terms and provisions shall expire and otherwise be fully terminated at midnight ~~October 20, 2018~~June 30, 2022.

ARTICLE 2 - SALARIES, HOURS OF WORK AND COMPENSATION ISSUES

SECTION 11: SALARIES

11.1 Salary Rates

Salary rates for the period of ~~October 21, 2018~~June 28, 2020 through ~~June 27, 2020~~June 30, 2022, for all classes of positions in Representation Unit C shall be set according to the classifications and salary ranges assigned to those classifications listed in Exhibit "A" and attached hereto and made part hereof.

11.1.1 Salary Increase upon Council Approval: ~~Effective the first full pay period after Union ratification and Council approval on its regular agenda, the salary ranges for those classifications covered by this MA as listed in Exhibit A will receive a salary increase of three percent (3.0%) and shall be shown in Exhibit B.~~

~~Effective October 20, 2019, the salary ranges for those classifications covered by this MA as listed in Exhibit A will receive a salary increase of two (2) percent (2.0%) and shall be shown in Exhibit B.~~ Effective July 25, 2021, the salary ranges for those classification covered by this Agreement as listed in Exhibit A will receive a salary increase of four percent (4.0%) and shall be show in Exhibit A.

11.1.2 One-Time Payment: ~~Effective the first full pay period after Union ratification and Council approval on its regular agenda, all benefitted employees who are subject to this MA and are in paid status as of date of Council Approval, shall receive a one-time lump sum payment via separate check, of two thousand dollars (\$2,000), minus applicable local, state and/or federal taxes, and prorated for less than full-time benefitted employees. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice. A onetime non-pensionable lump sum payment of \$1,000.00 for each career bargaining unit employee shall be conferred and paid on August 13, 2021. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice.~~

11.2 Step Placement

Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class as set forth in Exhibit "B". The minimum rate for the class shall apply to employees upon original appointment to

the position except as may be determined by the City Manager within the negotiated wage ranges. Employees who have been laid-off and are rehired to the same classification shall be placed on the same wage step they were in when laid-off. Transfers shall not affect an employee's salary rate. Employees appointed to any of the positions set forth in Exhibit "B" and employed or working on a part-time basis shall be paid in proportion to the time worked and described in their appointment.

11.3 Maximum Salary Rate

No salary advancement shall be made so as to exceed the maximum rate established for the class to which the advanced employee's position is allocated. Advancement shall be in accordance with the compensation plan of the City and shall depend upon increased service value of an employee to the City as exemplified by recommendations of the department head, performance record, special training, length of service, and other pertinent evidence.

11.4 Effect of Leaves

An employee's pay increase shall not be affected by any leave of absence without pay if the employee is off the payroll for less than one hundred sixty (160) consecutive hours. If the employee is off the payroll for more than one hundred sixty (160) consecutive hours, the total amount of time off shall be made up before the employee shall be entitled to such pay increase.

11.6 Y-Rate

Any employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary, or occupying a position in a class, the salary rate or range for which is reduced, shall continue to receive his present salary. Such salary shall be designated as a Y rate. When an employee on a Y rate vacates his or her position, subsequent appointments to that position shall be made in accordance with Section 11.1 (Salary Rates).

11.7 Pay Frequency

Payment of salaries shall be made bi-weekly. Each pay period shall begin at 12:01 a.m. Sunday up to and including 12:00 midnight Saturday two weeks following. Each payment shall be made not later than the Friday following the end of each payroll period and shall include payment for all earnings during the previous payroll period.

11.7.1 Full-Time: Bi-weekly payment to full-time employees shall be made on the basis of the hourly rate, as set forth in Exhibit B, multiplied by the number of hours worked during the pay period.

11.7.1.1 **40 Hour Week:** For employees on a forty (40) hour week schedule, the annual salary shall be the product of the hourly salary times 2,080 hours.

11.7.1.2 **37.5 Hour Week:** For employees on a thirty seven and onehalf (37.5) hour work week schedule, the annual salary shall be the product of the hourly salary times 1,950 hours.

11.7.1.3 **Monthly Salary:** The monthly salary shall be the quotient of the annual salary divided by 12.

11.7.2 **Part-Time:** Bi-weekly payment to part-time employees in a class for which a monthly salary rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. The hourly rate for such part-time employees shall be computed in the same manner as for full-time employees.

11.7.3 **Intermittent:** Bi-weekly payment to intermittent employees in a class for which a monthly salary rate has been established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. The hourly rate for such intermittent employees shall be computed in the same manner as for full-time employees.

11.7.4 **Bi-Weekly Daily Rate:** Bi-weekly payment to employees in a class for which a daily rate rather than a monthly rate has been herein established shall be made on the basis of the actual days worked during the biweekly pay period multiplied by the daily rate.

11.7.5 **Bi-Weekly Hourly Rate:** Bi-weekly payment to employees in a class for which an hourly rate rather than a monthly rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period.

11.8 Higher Classification

The Department Head will work all employees within their career classifications. The departments may specifically assign an employee to work in a higher class. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments over one (1) week shall be approved in advance by the City Manager or his or her designee. Blanket authorizations for department will be issued on a yearly basis for applicable positions. To be eligible for higher-class pay, the employee must work a minimum of four (4) hours, meet the minimum qualifications, and perform the duties of the higher class. Employees meeting these requirements will be compensated at the lowest step of the higher classification which provides at least a five percent (5%) differential. The journeylevel employees will rotate the assignment on a monthly basis and perform

the necessary duties. In the event the offer of higher class is declined by the journeylevel employee assigned for that month, volunteers will be asked according to the rotation list. If there are no volunteers, the journey-level employee assigned for that month will be required to perform the necessary duties.

11.9 Temporary Appointment

When a temporary vacancy is to be filled in a classification for which there is an existing eligibility list, the City shall attempt to make the temporary appointment from that list.

11.10 Step Increases for Provisional Employees

An employee who holds a provisional appointment in a classification shall receive step increases in such classification as if the employee held a permanent appointment thereto.

11.11 End of Year Pay Period

For all salary and benefit purposes, the parties agree that the last day of the last pay period ending in the calendar year shall be the end of the year. For excess leave only, the end of the year shall be treated as the last day of the pay period nearest March 31st.

11.12 Overtime Underpayment

The City will include any payment of overtime, which was inadvertently omitted or miscalculated, in the following pay period's check.

11.13 Equity Studies

A list of comparison jurisdictions is established for the purpose of salary equity studies: Alameda County, Contra Costa County, Oakland, Palo Alto, Richmond, San Francisco, San Jose, San Leandro, Santa Clara, and Vallejo. Other jurisdictions may be added as required by agreement between the parties. Job classifications which fall below the median for these jurisdictions may be reviewed. It is the policy of the City that within available funding limits, equity adjustments which are in the interests of the service will be considered.

11.14 Step Increase

Step increases shall be effective for payroll purposes only on the first day of the pay period nearest to the actual anniversary date. Personnel records will maintain actual dates and will be used to resolve any discrepancies or questions that may arise.

11.15 Effective Date of Salary Adjustment

Any general future salary adjustments will be set to become effective on the first day of the pay period.

11.16 Reclassification

In the event the City reclassifies a position based on an employee initiated review from a lower level classification to a higher level classification, an incumbent occupying such position shall be reclassified without competitive examination provided he or she has performed the duties of the new classification for one (1) year and has not received an unsatisfactory evaluation during that period. All other employees shall be required to pass an examination for the higher classification and shall serve the normal probationary period. If a position is reclassified, the employee shall receive salary compensation retroactive to the date the position description questionnaire is submitted and verified as having been received by the department head. Position description questionnaires will be provided by the City. Employees may request one (1) job audit one (1) year after an initial job audit has been completed on their position. Thereafter one (1) job audit will be permitted every two (2) years.

Reclassification or reallocation of positions shall not be used as a mechanism, the sole purpose of which is to improperly circumvent the provisions of this Agreement, including provisions relating to layoff, transfer, demotion or promotion.

11.17 Premium Pay Differential - Working at Heights of 60 Feet or More

Assignments for working at heights of 60 feet or more will be on a voluntary basis. However, if all qualified employees decline the assignment, the City will be free to contract the work out to an outside service provider.

Employees who work at heights of 60 feet or more, including but not limited to performing maintenance of lights at San Pablo Park, shall receive Height Premium Pay Differential of one and one-half times (1½) times the normal hourly rate for all time performing such work. The Height Premium Pay Differential shall be reported to CalPERS as Height Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

11.18 Commercial Driver's License Premium

Employees required to possess and maintain a valid California Class A or Class B Commercial Driver's License as a condition of employment shall receive three percent (3%) differential to hourly rate. This differential shall be reported to CalPERS as Special Class Driver's License Pay. However, any hours worked on overtime are excluded from CalPERS reported "Compensation earnable" in California Government Code Section 20636.

11.19 Longevity Pay

Effective July 3, 2016 the first full pay period after Council approval on its Regular Agenda, employees completing nineteen twenty five (2519) years of service shall receive a three percent (3.0%) differential beginning with the anniversary date of

beginning of the twenty-fifth (205th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

SECTION 12: HOURS AND DAYS OF WORK

12.1 Hours and Days of Work

Hours and days of work shall be governed by rules established by the City Manager. (At the present time, the hours and days of work are as shown in Exhibit E (Hours and Days of Work))

12.2 Sunday and Graveyard Shifts

Regularly scheduled Sunday shifts and "graveyard" shifts, as defined in Section 14 (Shift Differential), shall be for eight (8) consecutive hours, including up to onehalf (½) hour for lunch.

12.3 Shift Assignment

Within a given classification, shift assignments shall first be offered to employees by classification seniority on a voluntary basis. In the event shift assignments are not filled voluntarily, such assignments will be made on the basis of inverse classification seniority.

12.3.1 Types of Shifts:

- a. **Swing shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 5:00 p.m. and 12:00 midnight of each workday.
- b. **Night shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 12:00 midnight and 7:00 a.m. of each workday.
- c. **Day shift** means any authorized work schedules between the hours of 7:00 a.m. and 5:00 p.m.

12.4 Classes during Shift Assignments

If an employee assigned to the swing or graveyard shift wishes to attend classes during the day, the employee shall notify the first non-bargaining supervisor of his or her intention to enroll in classes during the day and the completion date of the classes. The City will review the work program and advise the employee within 14 days whether or not the day classes will interfere with the shift assignments. If no conflict

exists, the City will not change the shift assignment until after the semester ends provided that the employee continues to be actively enrolled in the class.

12.5 Rest Period

Each employee shall be entitled to a rest period of fifteen (15) minutes during each one-half ($\frac{1}{2}$) shift worked.

12.6 Daylight Saving Time

12.6.1 Spring: In the Spring when transitioning to Daylight Saving Time (DST), employees working during the one (1) hour transition from Standard Time to DST will be paid only for actual hours worked. Employees working on a shift which includes the one (1) hour transition may be granted an option by the Department Head or his or her designee, to work an additional hour or use compensatory time, floating holiday, or vacation to make up the lost work hour.

12.6.2 Fall: In the Fall when transitioning from DST, employees working during the one (1) hour transition will be paid for all hours worked including overtime at one and one-half ($1\frac{1}{2}$) times the straight-time rate of pay for hours worked in excess of the regular workweek as set forth in Section 13 (Overtime) of this Agreement.

SECTION 13: OVERTIME

Employees required to work in excess of their basic work week or in excess of 8 hours in one day (excepting voluntary regular schedules of 9 or 10 hours) during any one week shall be compensated for such overtime services as follows:

13.1 Rate

The overtime rate shall be one and one-half ($1\frac{1}{2}$) times the regular hourly salary for the first four (4) hours of such excess and at two (2) times the regular hourly salary for the balance of such excess.

13.2 Department Head Discretion

Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's department head.

13.2.1 Compensatory Time Off: Compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half ($1\frac{1}{2}$) hours for each

overtime hour worked up to a maximum of sixty (60) hours of such compensatory time. Accumulation of compensatory time off in excess of sixty (60) hours may be allowed at the discretion of the department head. Utilization of compensatory time shall be at the discretion of the employee's department head. The times during the calendar year at which an employee shall take his or her compensatory time off shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. As used herein, sixty (60) hours is equivalent to ninety (90) hours of time off work.

13.3 Payoff of Overtime

In the event that an employee resigns or is terminated, he or she shall be entitled to compensation for his or her accumulated overtime.

13.4 FLSA Workweek

For the purpose of computing overtime, the work week shall be defined as beginning at 12:01 a.m. Sunday and ending at 12:00 midnight Saturday. Any applied benefited leave shall be included in the calculation of overtime.

13.5 Emergency Overtime

Employees who are called from their living quarters for emergency work or duty on days other than normal workdays, or on normal workdays outside of their regular work hours, shall be paid emergency overtime compensation for actual time worked; provided, however, that in any case of emergency overtime as herein provided the minimum time for which such overtime compensation shall be paid shall be four (4) hours; and provided further that if such overtime work is performed prior to the beginning of the regularly scheduled work period and such overtime continues into such regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked.

13.5.1 Overtime Earned Rest Period

If an employee has worked four (4) hours or more of overtime between the hours of 10:30 p.m. and 6:30 a.m. preceding the beginning of his/her regular work hours on a workday, he/she shall be entitled, except in an emergency, to a rest period to include two (2) hours of his/her workday without loss of his/her regular straight-time pay. If the overtime work period extends for six (6) hours or more of overtime between the hours of 10:30 p.m. and 6:30 a.m. preceding the beginning of his/her regular work hours on a workday, he/she shall be entitled, except in an emergency, to a rest period to include five (5) hours of his/her workday without loss of his/her regular straight-time pay. In the event that an employee, due to operational need, is required to work during an earned rest period during regular work hours, the employee will be paid for the earned rest period in addition to wages earned for hours worked.

13.6 Meals

The City will provide meals to employees during emergency assignments and when the employees work continuously for two (2) or more hours immediately before or after their regular shift of eight (8) or nine (9) hours for a total of ten (10) or eleven (11) hours. The employee shall earn an additional meal for every four (4) hours of continuous work after the first meal is earned or taken.

The City will reimburse the employees for the costs of the meal up to twenty five dollars (\$25) if no meals are provided.

13.7 Standby Pay

An employee assigned to standby shall receive ten (10) hours of overtime compensation in addition to any overtime worked while on standby.

13.7.1 Standby Week: For the purpose of this Section 13.7.1 (Standby Week), a week shall mean the seven (7) consecutive calendar days following assignment to standby service. In the case of emergencies, the Senior Supervisor or Superintendent may assign another employee to complete the standby week for the originally assigned employee. In that case, the ten (10) hours standby compensation will be pro-rated between the employees.

13.7.2 Missed Assignment while on Standby: If an employee misses an overtime assignment while on standby duty, he or she will not receive the standby pay for that day. If he or she misses a second call during the same standby period, he or she will forfeit all the standby pay for that period.

13.7.3 Consequences: If an employee develops a pattern of failing to perform the service when called, they will be subject to disciplinary action and the Union reserves the right to appeal any action.

13.7.4 Standby Vehicle: The City will provide the employee on standby duty with a vehicle. Said employee shall be responsible for taking all reasonable steps to insure the safety of the tools and equipment on that vehicle.

13.8 Emergency Overtime Assignments

All emergency overtime assignments including calling an employee other than the employee on scheduled standby status will be paid the minimum overtime compensation as defined in Section 13.5 (Emergency Overtime). In the event that the employee on scheduled standby is not called, and another employee has been called to perform the emergency overtime assignment, both the employee who

performed the assignment and the employee on scheduled standby status will receive the minimum overtime compensation.

13.8.1 Scheduled Overtime during Standby: The employee who is on scheduled standby status may perform scheduled overtime tasks on a voluntary basis. The standby premium shall not be pro-rated. If an emergency call occurs during the time that the employee is performing scheduled overtime tasks that call shall be paid at the time and one-half rate and not at the call back rate set forth in Section 13.5 (Emergency Overtime). If other City electrical employees are concurrently performing scheduled overtime tasks, the Senior Electrical Supervisor may, at his or her discretion, assign the work to electrical employees present within the City performing the scheduled overtime tasks at the regular overtime rate of pay. The employee who is on scheduled standby status who chooses to perform scheduled overtime shall defer to other employees who choose schedule overtime assignments pursuant to Section 13.9 (Overtime Offers).

13.9 Overtime Offers

The Department will offer Scheduled Overtime on a voluntary basis to employees with the least amount of overtime worked in accordance with the following provisions:

13.9.1 Posting of Overtime: The Department will post a Scheduled Overtime Sign-up List on the Division's bulletin board once every two weeks. Employees who wish to be considered for scheduled overtime during that time period must sign the list.

13.9.2 Scheduled Overtime Definition: Scheduled Overtime shall be defined as an overtime assignment scheduled at least 24 hours in advance.

13.9.3 Overtime Report: The Department will prepare and post a Report of Overtime Worked for employees on a calendar year basis beginning with a zero balance on January 1. The report will be updated after each pay period.

13.9.4 Overtime Assignments: As scheduled overtime assignments occur, the Department will offer the assignment to individuals on the list for the applicable time period beginning with the person on the sign-up list with the least amount of overtime worked during the calendar year. Notification of scheduled overtime assignments shall be made during work hours at the work place, and employees must be present at the work place to receive the overtime work assignment.

13.9.5 **Overtime Assignment Tie Breaker:** If employees have equal amounts of overtime, the scheduled overtime assignment shall be offered to employees in the same order as their names appear on the sign-up list.

SECTION 14: SHIFT DIFFERENTIAL

14.1 Swing Shift

Employees who regularly work a full shift of seven and a half (7½) hours or more on swing shift as defined in Section 12.3.1 (Types of Shifts), which includes more than four (4) hours between the hours of 5:00 p.m. and 12:00 midnight, shall be paid their regular salary plus seven and a half percent (7½%) of their regular monthly salary per month.

14.2 Night Shift

Employees who regularly work a full shift of seven and a half (7½) hours or more on night shift as defined in Section 12.3.1 (Types of Shifts), which includes more than four (4) hours between the hours of 12:00 midnight and 7:00 a.m. (night shift), shall be paid their regular salary plus ten percent (10%) of their regular monthly salary per month; provided, however, that in the case of any such employee who is regularly assigned to such night-shift work for less than an entire work week, the additional payment shall be made only for the portion of the work week worked on the night-shift assignment.

SECTION 15: NATURAL DISASTER/DECLARED EMERGENCY

If an emergency is formally declared by the City, county, state or national authority:

15.1 Call Outside Normal Working Hours

If an employee is called outside of normal working hours, the employee gets time and one-half (1½) the normal rate of pay for the first whole shift regardless of the number of hours worked. If the employee is not called from home the regular rules apply (i.e., overtime for hours worked above eight in a day).

15.2 Shift Differential

Thereafter, the first eight hours at regular rate and 7½% for hours worked between 5:00 p.m. and midnight; 10% for hours worked from midnight to 7:00 a.m. For hours greater than eight in a shift, the employee gets time and one-half (1½) the normal rate of pay but no shift differential on those hours above eight.

15.3 Reduction in Hours

There will be no reduction in the number of hours in the regular work week schedule.

15.4 Change in Assignments

If an employee is at work during the day when an emergency is declared and is assigned to work a night shift and is sent home, the employee will be compensated as follows:

15.4.1 If an employee has been at work for up to but not more than two (2) hours the employee will be paid for two (2) hours at the straight time rate.

15.4.2 If an employee has been at work for more than two (2) hours but not more than four (4) hours the employee will be paid for four (4) hours at the straight time rate.

15.4.3 If an employee has been at work for more than four (4) hours the employee will be paid for eight (8) hours at the straight time rate.

15.5 Hours Worked in Excess of 12-hours

An employee working more than twelve (12) hours in one continuous shift will be compensated at two (2) times the normal hourly rate.

ARTICLE 3 - LEAVES

SECTION 16: VACATION

16.2 Vacation Approval

The times during the calendar year at which an employee shall take his or her vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. Wherever practical, employees working in the same classifications within a division shall be given preference of vacation time by seniority. If the requirements of the service are such that a department head cannot permit an employee within his or her department to take an annual vacation leave or any part of such leave within a particular calendar year, the City Manager may permit such employee to take the deferred vacation during the following year.

16.3 Use of Incremental Vacation

Employees may, with advance supervisory approval, use vacation leave in increments of one hour.

16.4 Accrual Rate as of December 8, 1987

Effective December 8, 1987, the vacation accrual rate shall be modified as follows:

Vacation Accrual Schedule	Authorized Annual Workweeks of Vacation	Vacation Leave Credits in Work Days per Month of Service	Vacation Leave Credits in Hours Earned per Month of Service
Through the first three (3) calendar years of service (except as provided in Section 16.4 (Accrual Rates as of December 8, 1987) and 16.5	2 work weeks	0.833	6.667
Fourth (4 th) through eleventh (11 th) calendar years of service (except as provided in Section 16.5 below)	3 work weeks	1.25	10.00
Twelfth (12 th) through seventeenth (17 th) calendar years (except as provided in Section 16.5	4 work weeks	1.667	13.33
Eighteenth (18 th) through twenty-fourth (24 th) calendar years (except as provided in Section 16.5	5 work weeks	2.083	16.667
Twenty-fifth (25 th) and subsequent calendar years (except as provided in Section 16.5	6 work weeks	2.5	20.00

The authorized annual vacation leave for prior years is set forth in Exhibit D attached hereto and made a part hereof.

16.5 Accrual, Use, and Limitation for Employees with Less than 6-Months of Service

Each employee, during that portion of the calendar year in which he or she is originally appointed and during the next succeeding year, shall be entitled to vacation leave credits at the rate of 0.833 work days for each calendar month of service. Each such employee shall be entitled to take during these two (2) calendar years only such annual vacation leave as he or she earns.

16.6 Vacation Eligibility for Part-time, Intermittent, Leave Without Pay or Reemployed Employees

For an employee who has worked on a part-time or intermittent basis or who has been on leave of absence without pay for a total of six (6) months or more or who has been terminated and subsequently reemployed, the actual years of service with the City shall be used for the purpose of computing length of service in determining eligibility for vacation at the three (3), four (4), five (5) and six (6) weeks' rate.

16.6.1 Prorated Vacation for Intermittent or Part-Time Employees: Employees working on an intermittent or part-time basis who have worked half-time or more in the preceding calendar year without termination of employment shall be entitled to a prorated vacation leave based upon the actual years of service with the City and upon the actual amount of time worked in the preceding calendar year.

16.6.2 Effect of Military Leave on Vacation Eligibility: For the purpose of computing length of service in determining eligibility for vacation at the three (3), four (4), five (5) or six (6) weeks' rate, time spent on extended military leave shall be counted as time spent in the service of the City.

16.7 Maximum Vacation Accumulation

Employees may accrue vacation earned up to a maximum cumulative total of 320 hours. Once an employee accrues 320 hours vacation, the employee shall not accrue any additional vacation leave hours until his or her vacation leave balance is below the maximum 320 hours. Under no circumstances will an employee be allowed to accrue more than 320 hours vacation leave. As provided below, the City will advise employees and their supervisors when the employee has attained an accumulation of 280 hours. Supervisors should be flexible in granting vacation requests from employees who reach 280 hours. Provided further that with regard to employees who have reached 280 hours, no vacation request by such employee shall be unreasonably denied. No employee shall be denied vacation leave such that it causes him or her to reach the 320 hour limit.

Notification: To assist employees to remain below the 320 hours vacation leave maximum accumulation, the parties agree that no later than October 1 of each year of this Agreement, the City will provide the Union and Department Heads with a report identifying accumulated vacation hours of all employees. The City also agrees to notify all employees who have accrued 280 hours of vacation leave, as of this date, that they must take vacation leave to reduce their vacation leave to avoid reaching the 320 hour maximum accrual.

16.8 Prorated Vacation due to Extended Absence, Reemployment or Reinstatement

An employee who has returned from extended military leave or any other extended leave of absence without pay or who has been reemployed or reinstated shall be entitled, during the calendar year in which he or she returns to the City service, to a prorated vacation based upon the total years of service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, his or her vacation leave shall be as provided elsewhere in this Section 16 (Vacation).

An employee who is granted a leave of absence without pay and who is off the payroll for less than one hundred sixty (160) consecutive hours shall be entitled to a full vacation. If such an employee is off the payroll for one hundred sixty (160) consecutive hours, his or her vacation shall be as provided in the preceding paragraph of this Section 16.8 (Prorated Vacation due to Extended Absence, Reemployment or Reinstatement) or Section 16.9 (Payment of Vacation upon Termination or Extended Leave after Six Months of Service).

16.9 Payment of Vacation upon Termination or Extended Leave after Six Months of Service

If an employee, is terminated, or is granted an extended military leave or other extended leave of absence without pay, such employee, or his or her estate, shall be paid for vacation credits in excess of the actual amount of vacation leave taken or such employee, or his or her estate, shall reimburse the City for the actual amount of vacation leave taken in excess of vacation leave credits, as the case may be.

16.10 Calculation and Payment or Reimbursement of Vacation Credits upon Termination or Extended Leave

Upon termination, extended military leave, or other extended leave of absence without pay, vacation leave credits shall be totaled, and the actual amount of vacation leave taken, including any that may have been taken during the year in which the termination, extended military leave, or other extended leave of absence without pay occurs, shall be deducted from the total credits. If the credits exceed the actual amount of vacation leave taken, such employee, or his or her estate, shall be paid for the excess of credits on the basis hereinafter set forth. If the actual amount of vacation leave taken exceeds the credits, such employee, or his or her estate, shall reimburse the City on the same basis.

The basis for such payment by the City or for such reimbursement to the City shall be as follows:

The employee's hourly pay rate at date of termination, extended military leave, or other extended leave of absence without pay, multiplied by the excess of credits over vacation leave actually taken or excess of vacation leave actually taken over credits, as the case may be.

16.11 Lump Sum Payment of Vacation

Upon termination, extended military leave or other extended leave of absence without pay, payment for excess of vacation leave credits shall be made in one lump sum at time of termination, extended military leave, or other extended leave of absence without pay, or as soon thereafter as possible; provided, however, that an employee may elect to use excess vacation leave credits prior to termination, extended military leave, or other extended leave of absence without pay, to the extent permitted by this Section 16 (Vacation), and receive a lump sum payment

for the balance of leave credits, if any. An employee, or his or her estate, shall not be paid for vacation leave credits in excess of eight (8) calendar weeks. Notwithstanding the foregoing, accumulated but unearned vacation credit at the time of retirement shall be paid off in a lump sum.

16.12 Calculation of Vacation Based on Actual Paid Hours

All vacation benefits shall be calculated upon actual paid hours of work. This provision shall go into effect immediately upon implementation of necessary data processing and programming changes.

16.13 Vacation Accounting Procedures

The City may revise vacation accumulation provisions in order to standardize accounting procedures without effect on the amount of employees' vacation, subject to review and approval by the union.

16.14 Voluntary Time Off

The City will implement a voluntary time off (VTO) program, which may include a year-end holiday closure. It is understood by the parties that employee participation is completely voluntary and that employees who wish to work during such periods will be permitted to do so.

SECTION 17: HOLIDAYS

17.1 Holidays

Recognized holidays for employees in Representation Unit C shall be:

- 17.1.1 New Year's Day
- 17.1.2 Martin Luther King's Birthday (3rd Monday of January)
- 17.1.3 Lincoln's Birthday
- 17.1.4 Washington's Birthday (observed on the third Monday in February)
- 17.1.5 Malcolm X's Birthday (observed on Monday or Friday nearest May 19th)
- 17.1.6 Memorial Day (observed on the last Monday in May)
- 17.1.7 Independence Day
- 17.1.8 Labor Day (observed on the first Monday in September)
- 17.1.9 Indigenous Peoples' Day (observed on the second Monday in October)
- 17.1.10 Veteran's Day
- 17.1.11 Thanksgiving Day
- 17.1.12 Day after Thanksgiving Day
- 17.1.13 Christmas Day
- 17.1.14 Effective January 9, 2000, each employee shall be granted three (3) floating holidays each calendar year.

17.2 Floating Holidays

Any employee shall be granted three (3) floating holidays each calendar year. The days selected shall be by mutual agreement between the employee and the department head (or his or her designee). In the event mutual agreement cannot be reached on the selection of floating holidays, the employee shall have the three (3) days added to his or her accrued vacation time. Employees may take Floating Holidays in one (1) hour increments.

17.2.1 Additional Floating Holidays

For employees who were required to remain in the workplace from March 17, 2020 - June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the MOU.

City will use a specific pay code for the additional floating holiday, hours will be available June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not roll over to vacation if not used by June 30, 2021.

17.3 Floating Holiday Accrual upon Employment

In the first calendar year of employment, an employee hired before May 1 shall be entitled to three (3) floating holidays; and an employee hired on or after May 1, but before September 1, shall be entitled to two (2) floating holidays; and an employee hired on or after September 1, shall be entitled to one (1) floating holiday in that first calendar year.

17.4 Limitations

No monetary award shall be authorized for unused accumulated Floating Holidays for employees who terminate employment prior to the completion of six (6) months of continuous City service.

17.5 Holidays for Employees whose Work Week is Other than Monday through Friday

Employees whose work week is Monday through Friday shall be allowed all holidays with pay which fall within such work week. Those employees whose work week is other than Monday through Friday shall be entitled to the same number of holidays, with pay, during each calendar year as are allowed to employees whose work week is Monday through Friday. The procedure for allowing holidays for employees whose workweek is other than Monday through Friday shall be established by the City Manager. The provisions of this Section 17.5 (Holidays for Employees whose Work Week is Other than Monday through Friday) are not applicable to intermittent employees.

17.6 Work during a Holiday

An employee required to work on any day which is a holiday for employees whose work week is Monday through Friday shall be paid for the number of hours worked during such day at the rate of one and one-half (1½) times the straight-time rate, based upon his or her regular monthly salary, or shall be granted compensatory time off in an amount equal to one and one-half (1½) times the number of hours worked on such holiday. Any employee who works on Christmas day or Thanksgiving Day shall be paid double time for that day. The hours worked on such holiday and paid at the rate herein provided shall not be credited in computing the hours worked in the week for overtime purposes.

The holiday pay provided for shall be in addition to an employee's regular salary. In the event that the time worked on such a holiday is also overtime, as provided in Section 13 (Overtime) of this Memorandum Agreement, payment will be made for the hours worked either as overtime under said Section 13 (Overtime), or as holiday pay under this Section 17 (Holidays), but will not be made under both Sections.

17.7 Holidays for Part-Time Employees

Regularly scheduled part-time employees 1) who are assigned to a regular schedule of twenty (20) or more hours per week; 2) who have worked for the City as regular or part-time employees for one (1) or more years; and 3) who during such period of time have worked a minimum of 1,000 hours shall be entitled to the holiday pay for the number of hours which such employee would have worked had the holiday not occurred, provided such holiday occurs on a day which such employee is regularly scheduled to work.

SECTION 18: SICK LEAVE

18.1 Eligibility

Any employee shall be entitled to take sick leave with full pay in case of sickness, disability, or serious illness within the immediate family of the employee in accordance with the provisions of Sections 18.2 (Sick Leave Accrual) to 18.12 (Cessation of Accrual).

18.2 Sick Leave Accrual

Each employee shall be credited with one (1) working day of sick leave with full pay for each month of service.

For the purposes of this Section 18 (Sick Leave), a month of service shall mean thirty (30) consecutive calendar days in the case of employees working on a fulltime or

part-time basis, and shall mean 163 hours of work in the case of employees working on an intermittent basis.

18.3 Pro-rated Sick Leave for Part-Time Employees

An employee working on a part-time basis shall be entitled to use earned sick leave only on a pro rata basis; for example if an employee works half-time, he or she shall be paid for time off on sick leave on a half-time basis.

18.4 Sick Leave for Intermittent Employees

An employee who works on an intermittent basis shall be entitled to use earned sick leave only for those days on which he or she would have worked if he or she had not been sick; provided, however, that an employee working on an intermittent basis who works only when called shall be entitled to use earned sick leave only when he or she becomes sick after reporting to work in response to such call.

18.5 Maximum Accumulation

Such sick leave as provided in Section 18.2 (Sick Leave Accrual), when not used, shall be cumulative; but the accumulated unused period of sick leave shall not exceed two hundred (200) working days, regardless of the length of service. When the maximum of two hundred (200) working days has been reached, and thereafter part of said maximum has been used, the used part of said maximum may subsequently be replenished at the applicable rate provided in Section 18.2 (Sick Leave Accrual).

18.6 Payment upon Retirement/Termination

All accumulated sick leave shall be canceled when an employee terminates or is terminated, except as provided below for employees hired on or before June 30, 2013.

18.6.1 Employees Hired on or Before June 30, 2013: For employees hired on or before June 30, 2013 who retire or voluntarily terminate with a vested pension, and with between twenty (20) years and twenty-eight (28) years of benefited service shall be entitled to receive payment in an amount equal to thirty eight percent (38%) of their accrued sick leave days up to a maximum of the two hundred (200) day maximum accumulation. Provided further that any employee retiring on permanent disability arising out of and incurred in the course and scope of his employment with the City shall be entitled to receive payment at retirement for thirty eight percent (38%) of accumulated unused sick leave days but not, in any event, more than thirty eight percent (38%) of the two hundred (200) day maximum accumulation.

18.6.2 Payment After 28 Years of Service for Employees Hired on or Before June 30, 2013: Employees who were hired on or before June 30, 2013, who

terminate with at least twenty-eight (28) years of benefited City of Berkeley service or employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City with at least twenty-eight (28) years of benefited service shall be entitled to receive payment in an amount equal to fifty percent (50%) of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days.

18.6.3 Sick Leave Payout to 401(a) Plan for Employees Hired on or Before June 30, 2013: The City and the Union have met and conferred on an Internal Revenue Code Section 401(a) plan and trust agreement to address the liquidation of sick leave at time of retirement. This plan and trust agreement was originally negotiated with the Berkeley Fire Fighters Association/I.A.F.F. Local 1227 and has been submitted to the Internal Revenue Service for a Determination Letter and a Private Letter Ruling which are pending. If the City receives a positive response from the Internal Revenue Service, the plan and trust agreement will be extended to the employees in the bargaining unit. This will provide the employees with an irrevocable option to defer accrued but unused sick leave at time of retirement into a 401(a) plan or be paid out the balance of the accrued but unused sick leave less withholding of applicable federal and state taxes.

18.7 Annual Payment for Hours in Excess of Maximum for Employees Working Half-Time or More for Employees Hired on or Before June 30, 2013

Employees who regularly work one-half ($\frac{1}{2}$) time or more and who have attained the one hundred fifty (150) day maximum sick leave accumulation shall be entitled to receive payment for one-third ($\frac{1}{3}$) of the first twelve (12) days of sick leave for which they become eligible but do not use and would otherwise forfeit because of the one hundred fifty (150) day maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar year basis, and payment for such sick leave for any calendar year shall be made not later than January 22 of the following year. Such payment shall be made at the employee's salary rate in effect on the preceding December 31 and shall be made only in units of whole days and not for any fraction of a day.

18.8 Restoration of Sick Leave if Reemployed within Two Years

Accumulated sick leave, which has been canceled by reason of an employee's termination, shall be credited back to such employee if the employee returns to City employment within two (2) years of such termination.

18.9 Sick Leave Use/Family Illness

Sick leave shall not be considered as a privilege which an employee may use at his or her discretion but shall be allowed only in case of his or her sickness or disability or in the case of serious illness within the immediate family of the employee. Not

more than fifteen (15) working days in any calendar year may be taken as sick leave because of the illness of a member of the employee's immediate family, except for serious medical conditions covered under the provisions of Administrative Regulation 2.4 (Family Care Leave). The immediate family of an employee, for the purpose of this Section, shall be defined as: spouse, domestic partner, son, daughter, parent or dependent.

18.10 Prohibition for Use with Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that such injury is covered by the Workers' Compensation laws of the State of California, or other provision for payment for time off because of such injury is made by such other employer. In the event such injury is not covered by the Workers' Compensation laws of the State of California and no other provision for payment for time off because of injury is made by such other employer, sick leave in accordance with the provisions of this Section shall be allowed only if such outside employment has been approved by the City.

18.11 Notification Requirement

In order to receive compensation while absent on sick leave, the employee shall notify his department head prior to or within four (4) hours after the time set for beginning his or her daily duties, or as may be approved by the head of his or her department. The Union and the City recognize it is advantageous to both parties that calls should normally be made prior to the beginning of the work shift. Leave for non-emergency doctors' appointments shall be requested in advance. In specific instances the City may by written notice require an employee (s) to call in prior to the beginning of their shift in order to be eligible for sick leave.

18.12 Cessation of Accrual

An employee who is granted a leave of absence without pay and who is off the payroll for less than one hundred-sixty consecutive hours shall receive his or her earned sick leave credit. If the employee is off the payroll for one hundred-sixty (160) consecutive hours or more, he or she shall not earn sick leave credit for each two successive pay periods that he or she is off the payroll.

18.13 Workers' Compensation

All probationary and permanent employees of the City and provisional employees who have worked a total of four (4) months or more for the City, who have suffered any disability arising out of and in the course of their employment as defined by the Worker's Compensation Insurance and Safety Act of the State of California, and who are receiving or shall receive compensation from the insurance carrier for such disability, and during the first seven (7) days after such disability when compensation is not paid by the insurance carrier shall be entitled to remain absent from duty with pay until such time as they are able to return to duty or some other final disposition is made of their case; provided, however, that provisional

employees who have worked a total of four (4) months or more for the City shall be entitled to remain absent from duty with pay for the period they would have been permitted to remain provisional employees under their employment at the time of injury.

All employees, other than probationary and permanent employees and provisional employees who have worked a total of four (4) months or more, shall be entitled to such compensation as may be allowed them by the Workers' Compensation Insurance and Safety Act of the State of California.

18.13.1 Workers' Compensation Payments: Payments from the insurance carrier for disability arising out of and in the course of employment shall be paid to the employee. The amount of such payment or payments shall be deducted from the monies, which the employee received from the City. Payments from the insurance carrier, plus the monies paid to the employee by the City, shall be equivalent to the employee's regular full pay.

18.13.2 Workers' Compensation Leave and Salary Continuation: Payments under the Workers' Compensation law for temporary disability, or a recurrence thereof, arising out of and in the course of employment shall be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability net pay but shall not exclude any salary adjustments to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under state law, and the City will cease to pay the difference. However, salary continuation payments above the statutorily required temporary disability payments shall not be reported by the City to CalPERS as compensation. No time worked shall be part of the 365 calendar days of salary supplement paid by the City. This change shall not affect employees who are currently off the job with a work-related injury which occurred prior to July 1, 1979.

18.13.3 Calculation: The City shall continue to calculate salary continuation at pre-disability gross pay. The City may calculate salary continuation payments at pre-disability net pay at such time when they develop the capacity to administer it equitably. Any change in calculation shall not reduce employees' combination of disability payments and salary continuation payments below employees' pre-disability net pay.

The change in calculation shall not affect employees who are off the job with a work-related injury prior to the new calculation method being implemented.

18.13.4 **Workers' Compensation Related Absence of Less than Four (4) Hours:** An employee who is absent from work for a medical appointment or physical therapy for less than four (4) hours will have ½ day charged against his or her 365 day maximum period for receipt of salary continuation pre-disability net pay.

18.13.5 **Workers' Compensation Related Absence of Four (4) Hours or More:** An employee who is absent from work for a medical appointment or physical therapy for 4 hours or more will have 1 day charged against his or her 365 day maximum period for receipt of salary continuation predisability net pay.

18.13.6 **Calculation Based on Actual Paid Hours:** All sick leave benefits shall be calculated upon actual paid hours.

18.14 Light Duty

Assignments for temporarily disabled employees.

An employee who is absent by reason of industrial disability may be returned to work and given temporary light duties within his or her ability to perform. The duration of any such period of temporary work should be determined by the City. Employees should be compensated at the rate of pay of their regular classification while engaged in such temporary duties, and such work assignments are to incorporate the following provisions:

18.14.1 **Modified Duty Accommodation:** The City shall accommodate, when feasible, employees covered by this memorandum under the provisions of workers' compensation, and such work assignments are to incorporate the following provision:

18.14.1.1 The assignment shall be consistent with medical limitations as determined by the physician of record.

18.14.1.2 The Assignment shall be within the City of Berkeley and may include hours and days of work other than the employee's regular assignment.

18.14.2 **Modified Duty Accommodation for Non-Industrial Disabilities:** The City may accommodate an employee disabled with a non-industrial disability by providing a modified work assignment in that employee's classification. To be eligible for such a modified assignment, the employee must provide the Human Resources Department with a medical statement from his or her treating physician that clearly states the medical limitations and abilities of the employee. If modification of

that position does not serve the best interests of the City, other classifications may be considered, subject to the approval of the Human Resources Director. Compensation will be provided at the level of the classification in which the temporarily disabled employee works during the disability. The employee must meet standards of satisfactory performance for the duration of the work assignment.

18.14.3 Modified Duty for Pregnancy-Related Disability: In the case of a medically certified, pregnancy-related disability, in which the normal duties clearly threaten the health and safety of the employee or the unborn child, the Human Resources Department will endeavor to place the employee in a position which best serves the interest of the City with no loss of pay, but in no event will such placement exceed 5 months in duration.

18.14.4 Light Duty Assignments: Availability of light duty job assignments shall be discussed upon request at the monthly Labor-Management Meetings.

18.15 Control Program for Sick Leave Use

The City may establish a reasonable program for the control of abuse of sick leave and absenteeism, subject to Union review and comment.

18.16 Bonus Time for Unused Sick Leave

For every six (6) months of perfect sick leave attendance the employee will receive eight (8) hours of bonus time. A leave of absence from work pursuant to workers' compensation is counted as an absence from work in the same manner as sick leave for the purpose of this bonus. This bonus time will be prorated for part-time employees. Such bonus time can be used for any leave purpose covered by this Memorandum Agreement. Such bonus time shall be counted as vacation leave credits for purposes of determining eligibility for carry-over and cash payment.

18.17 State Disability Insurance

Except as provided in 18.17.1.3 below, any employee who is absent due to personal illness for more than 7 calendar days (or for any period of time if hospitalized) may apply for State Disability Insurance Benefits.

18.17.1 State Disability Integration: After such employee has been absent from work due to personal illness for six (6) consecutive work days, if the employee applies and is eligible for State Disability Insurance, the City shall integrate the employee's pay with the employee's State Disability benefits in the following way:

18.17.1.1 The City will determine the weekly SDI benefit amount based on the amount of wages earned with the City of Berkeley in the SDI base period.

18.17.1.2 The weekly SDI benefit will be subtracted from the employee's normal weekly wages and the amount necessary to bring the total of State Disability plus wages to 100% will be deducted from any accumulated sick leave, vacation leave and compensatory time available to the employee. The integration with vacation leave and compensatory time is optional but will be automatically implemented after sick leave has expired unless written notification is received from the employee, as discussed below.

18.17.1.3 The employee must notify the payroll clerk, in writing, to stop integration of State Disability Insurance payments with vacation leave or compensatory time. Upon receipt of notification, the payroll clerk will cease integration of any future leave for that incident of illness.

18.17.1.4 The employee must show the State of California form (Disability Insurance Notice of Computation) to his or her payroll clerk to verify dates covered by SDI and the amount to be paid. The employee must inform their payroll clerk of all SDI payments. Any employee entitled to State Disability Insurance shall receive in addition thereto such portion of his or her accumulated leave as will meet, but not exceed, the standard earnings of the employee for his or her normal workweek, up to a maximum of five (5) days.

SECTION 19: FUNERAL LEAVE

In the case of death within the immediate family of an employee (who is not excluded from such benefit pursuant to Chapter 4.04.120 of the Berkeley Municipal Code (Personnel Ordinance) which is attached hereto as Exhibit C (City of Berkeley Municipal Code Chapter 4.04.120) and made a part hereof, such employee shall be entitled to remain absent from duty with pay in order to attend the funeral or memorial service for a period not exceeding three (3) working days or, in the case of a funeral or memorial service conducted out of the State of California, for a period not exceeding five (5) working days. For the purpose of this Section, the immediate family of an employee shall be defined as: husband, wife, domestic partner, mother, father, sister, brother, child, grandmother, grandfather, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law, step-parent, step-sibling, step-child, aunts and uncles, nieces and nephews.

Leave of absence with pay because of death in an employee's immediate family is allowed for the purpose of attending the funeral or memorial services, and such leave shall not be charged against vacation or sick leave that an employee may be entitled to but shall be in addition thereto. Employees may request, and the City will make reasonable efforts to accommodate requests, for employees to supplement bereavement leave by using accrued vacation, compensatory time, or floating holiday. All accrued leave (and/or sick leave, if applicable) shall be utilized prior to taking a leave of absence without pay.

Funeral Leave for Persons Other than Immediate Family: In special cases, with the approval of the department head, the City Manager may grant a death leave to allow an employee to attend funeral or memorial services because of a death of a person not included within the definition of the immediate family.

SECTION 20: **MILITARY AND MARITIME LEAVE**

Military and Maritime Leave shall be governed by the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and any regulations promulgated to implement the Act and the California Military and Veteran's Code.

If an employee voluntarily extends his or her military leave in excess of two (2) weeks, the amount of pay received by the employee for his or her military duty shall be deducted from his or her regular pay for such period.

SECTION 21: **PARENTAL LEAVE**

21.1 Eligibility:

Employees with one (1) or more years of employment with the City (or equivalent in the case of part-time employees) shall be entitled to parental leave as follows:

A continuous parental leave of up to one year will be granted to any employee with one year (full-time) or more years of employment with the City (or equivalent in the case of part-time employees) upon the birth of a child or the legal adoption of a child who is five years or younger, provided that:

21.1.1 Commencement of Parental Leave: The one year parental leave must commence no later than 13 months from the date of birth or adoption and must expire no later than 25 months from the date of birth or adoption, and.

21.1.2 **Notice Requirement:** Employees exercising their rights under this provision must provide the City at least 45 calendar days notice prior to the anticipated commencement date of the parental leave, unless a shorter notice is approved for good cause.

21.1.3 **Use of Sick Leave:** The employee, at his or her option, may request that all or any portion of sick leave (up to a maximum of two hundred (200) days) or vacation leave that he or she has accumulated be paid in the same manner as it would if he or she had been absent due to illness or on vacation during the leave. In the event both parents are employed by the City, nothing in the Personnel Rules and Regulations shall prohibit both employees from taking simultaneous parental leave.

21.1.4 **Verification Requirement:** The foregoing leave shall be granted upon medical certification of pregnancy or the presentation of legal evidence of adoption.

21.1.5 **Life and Health Insurance Coverage Upon Exhaustion of Leave:** During approved parental leave, after all earned leaves are exhausted, (except sick leave) the City agrees to maintain life and health insurance coverage for duration of the approved leave subject to any regular participation requirement of the employee. Thereafter the City agrees to continue coverage for the employee at the employee's expense.

SECTION 22: LEAVE OF ABSENCE WITHOUT PAY

22.1 Department Head Authority

Upon the request of the employee, a department head may grant a leave of absence to an employee within his or her department without pay for a period not to exceed fifteen (15) working days. No leave without pay shall be granted for more than fifteen (15) working days except upon the written request of an employee and approval of the City Manager. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge.

22.2 Union Sponsored Training

A leave of absence without pay shall be granted at the request of an employee and the Union for the purpose of the employee's attending a training course sponsored by the Union. The maximum duration of such leave shall not exceed two (2) consecutive payroll periods in a calendar year.

22.3 Exhaustion of Accrued Time

Leaves of absence without pay shall be granted only after the employee has utilized all accrued vacation and any other time owed to the employee, except sick leave.

SECTION 23: JURY DUTY LEAVE

An employee who is called or required to serve as a trial juror shall be entitled to be absent from work with pay during the period of jury service or while required to be present in court as a result of a call to jury duty. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any unusual constraints (e.g., time to call in, time to report for jury service) made by the court that affect the employee's ability to simultaneously fulfill his or her jury duty service and employment obligations; and the supervisor will attempt to accommodate the employee based on the operational needs of the department. Absence from work to perform jury duty service shall apply to employees who work swing and graveyard shifts for those days on jury duty. An employee who serves jury duty on his or her day off shall be granted an equivalent number of days off during his or her normal workweek. Employees are required to submit a written proof of jury duty service issued by the court in order to receive payment for Jury Duty Leave. The employee will keep any payment received for jury service including mileage reimbursement.

23.1 Court Time

The City will guarantee a minimum of three (3) hours pay for every court appearance required by an employee in the conduct of official City of Berkeley job duties on the employee's scheduled day off and three (3) hours minimum if on a workday but outside scheduled working hours. In addition, employees assigned to court phone standby in the conduct of official City of Berkeley job duties will be compensated by earning compensatory time as follows: Duty day, outside of scheduled working hours, one hour minimum compensatory time and hour for hour thereafter. Day off, two-hour minimum compensatory time and hour for hour thereafter.

ARTICLE 4 - HEALTH AND WELFARE BENEFITS

SECTION 24: HOSPITAL-MEDICAL, DENTAL, AND VISION COVERAGE

24.1 Medical Coverage

The City shall pay the cost of health insurance coverage for employees who are not excluded from such benefit pursuant to Chapter 4.04.120 of the Berkeley Municipal Code (Personnel Ordinance) which is attached hereto as Exhibit C (City of Berkeley Municipal Code Chapter 4.04.120) and made a part hereof, and who have such coverage under any group health insurance plan authorized by the City Council. The present level of benefits under the Kaiser Plan shall be maintained at City expense for the duration of this Memorandum Agreement. Medical benefits are extended to full-time employees, spouse of the employee or domestic partner, and IRS dependent up to age 26.

The City is committed to providing at least one fully paid employer provided health insurance option for employees and eligible dependents. The Union acknowledges the City's policies as stated above.

24.2 Maximum Medical Premium Payments

24.2.1 Effective January 1, 2003, the City will transfer employees who chose to maintain Kaiser medical plan coverage from the Kaiser V-5 Plan into the Kaiser S-1 Plan. Effective January 1, 2003, the City will transfer employees who chose to maintain Health Net HMO coverage from the Health Net W-2 Plan to the Health net C9A Plan.

24.2.2 For employees hired on or after January 1, 2003, the maximum amount the City shall be required to pay for medical insurance premiums shall be the applicable Kaiser rate (i.e., single party, two-party, or family) regardless of the City sponsored health plan selected by the employee.

24.2.3 For employees in a probationary or career benefited status as of January 1, 2003, the City will continue to pay 100% of the health care premium costs (employee and any dependents) for the health plan the employee is enrolled in as of this date as long as the employee remains employed in the bargaining unit. After January 1, 2003, if the employee transfers health coverage to a different health plan, the employee will assume responsibility for paying the difference, if any, between the Kaiser monthly premium rate (i.e., single-party, two-party, or family) and the plan chosen by the employee from that date forward.

24.2.4 Effective January 1, 2009, the amount the City contributes each calendar year toward the payment of health insurance premiums, in accordance with Section 24.2 (Maximum Medical Premium Payment), will increase by the lesser of twenty percent (20%) (single, two-party, family) or the amount of the Kaiser HMO premium amount (single, twoparty, family) in effect on that date.

24.2.5 Effective January 1, 2014, for those employees who are enrolled on October 31, 2012 in the Health Net Point of Service (POS) health plan (Payroll Benefit Code Description HJ, HK, and HL) the City shall pay medical insurance premiums at the applicable rate for the Health Net HMO plan (i.e., single; 2-party, or family). If the employee chooses to remain enrolled in the Health Net POS Plan on or after January 1, 2014, the employee will assume responsibility for paying the difference between the Health Net POS and the Health Net HMO monthly premium rate (single; 2-party, or family). Provided further that if at any time after January 1, 2014 the employee transfers health coverage from Health Net POS to the Kaiser health plan, the maximum amount the City shall be required to pay for medical insurance premiums shall be the applicable Kaiser rate (i.e., single 2-party; or family) even if the employee subsequently enrolls in a different City sponsored health plan.

24.2.6 **Meet & Confer:** The Parties agree to meet and confer with the City, commencing no sooner than January 1, 2017. The negotiations shall be on developing comparable and less expensive health plan options as a means of reducing or ensuring that the City shall not be required to pay any penalties associated with the Excise Tax. This meet and confer process will be subject to normal rules of collective bargaining, including applicable impasse, strike or lock-out procedures.

Any changes resulting from a review of employee health insurance or other health related benefits will be subject to meet and confer between the Union and the City, except as otherwise provided in Section 24.5 (Change in Insurance Carrier).

24.3 Dental Coverage

The City shall provide a dental care program for employees who are not excluded from such benefit by Chapter 4.04.120 of the Berkeley Municipal Code (Personnel Ordinance) which is attached hereto as Exhibit C (City of Berkeley Municipal Code Chapter 4.04.120) and made a part hereof. The present level of benefits under the Dental Program shall be maintained at City expense for the duration of this Memorandum. Dental benefits are extended to full-time employees, spouse of the employee or domestic partner, and IRS dependents up to age 26.

24.3.1 Effective January 1, 2000, the dental plan is improved from 90% coverage to 100% coverage.

24.3.2 Effective January 1, 2003, the annual maximum dental benefit will be increased to \$4000 per year, the lifetime maximum orthodontia benefit will be increased to \$4000, and the annual cleanings will be increased from two (2) to four (4). Effective January 1, 2016, the number of annual cleanings will be decreased from four (4) to three (3).

24.4 Vision Coverage

Effective January 1, 2003, the City shall provide a Vision Care Program for employees covered by this Agreement. The annual maximums for this benefit are as follows:

Benefit	Benefit Frequency
Exam	12-Months
Lenses	12-Months
Frames	24-Months
Contact Lenses**	12-Months
**Note: Benefits for Contact Lenses are in lieu of benefits for lenses and frames.	

The maximum amount the City shall be required to pay for the Vision Care Program shall be the applicable Vision Services Plan (\$25 Plan B) rate (i.e., employee only, employee plus spouse, employee plus one (1) child; employee plus family).

If during the term of this Agreement the premiums for such Vision Care Program are increased, the amount the City contributes shall increase no more than five percent (5%) above the previous calendar year's contribution amount towards the payment of the monthly premium.

Recognizing that the "vision exam" portion of the Vision Care Program duplicates existing benefit provided under Medical Coverage Section 24.1 (Medical Coverage) and 24.2 (Maximum Medical Premium Payments), the Union and the City agree to revisit the Vision Care Program during the term of this Agreement with the expectation that it may be possible to identify a plan that provides a "Hardware Only" benefit (Lenses every 12-months; Frames every 24-months). Such "Hardware Only" plan shall be at a lower City and employee cost than the present Vision Services Plan (\$25 Plan B).

24.5 Change in Insurance Carrier

Before the City acts to change an insurance carrier during the term of this Agreement, the City shall give the Union thirty (30) days notice of its intention to change carriers and shall, upon written request, meet with the Union to discuss the reasons for

such change. The final determination of insurance carriers shall be at the sole discretion of the City.

24.6 Domestic Partner Coverage

If an employee chooses to complete and submit an Affidavit of Domestic partnership and sign up for medical and/or dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

24.7 Part-Time Employees and Prorated Benefits

All career and grant-funded, benefited employees working less than full time shall receive prorated rather than full fringe benefits and shall pay, by payroll deduction, a pro rata portion of the health and dental insurance premiums.

24.8 Commencement of Medical, Dental, and Vision Benefits

Medical, dental, and vision benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status.

24.9 Health Insurance In-Lieu Payments

Effective January 1, 2019, for employees who show proof of alternate medical coverage, the City will compensate the employee \$576.00 per month, prorated for less than full-time employees, as provided in Section 24.7 (Part-Time Employees and Prorated Benefits). In order to include in-lieu payments in the regular rate of pay for the correct overtime calculation, the City must provide in-lieu payments on the bi-weekly payroll cycle. This benefit shall be frozen at this amount for the term of this agreement.

24.10 Group Life Insurance

Effective January 1, 2016, the City shall provide group life insurance, by a carrier of the City's choice, in the amount of \$100,000 which shall include a standard accidental death and dismemberment provision of a like amount. In addition, the employee may purchase additional life insurance up to a maximum of \$300,000 at a rate offered by the City's insurance carrier and subject to any medical exam as required by the insurance carrier. Life insurance shall become effective the first day of the calendar month following the date of hire, and shall continue until the last day of the calendar month in a pay status.

24.11 Pre-Tax Status

When employees are required to contribute to the cost for medical, dental, or vision insurance, those contributions will continue to qualify as pre-tax expenses under the provisions of IRS Section 125.

SECTION 25: RETIREE MEDICAL COVERAGE

The City and Union have agreed that the City will make available retiree health insurance coverage under certain terms and conditions described below. The retiree medical benefit described below is the plan tentatively agreed to during multi-union bargaining during the summer of 1998. The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

The City will begin to provide the retiree medical coverage set forth in this Section on July 1, 1998. An employee's entitlement to any and all benefits provided by the City under this retiree medical cover plan are subject to the funding limitations set forth in sub-Section 25.8 (City Funding of Retiree Health Benefit).

25.1 Amendment of Retiree Health Premium Assistance Plan III, effective January 23, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after June 21, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of the successor Memorandum of Understanding, the City shall amend the Retiree Health Premium Assistance Plan III as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this Section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree and/or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City and the Union agree that the City will also amend the Retiree Premium Assistance Plan III to allow eligible retirees who retired prior to June 21, 2015 to enroll in a non-City sponsored health plan.

25.2 Eligibility

An employee is eligible for the retiree health insurance coverage set forth in subSection 26.2 (Provisional Appointments to a Higher Classification) below if he or she meets all the following criteria:

- 25.2.1 retires on or after July 1, 1998,
- 25.2.2 is vested with CalPERS,
- 25.2.3 has at least eight (8) years of CalPERS qualifying service with the City,
- 25.2.4 is at least age 55.

25.3 Pre Age 65 Retiree Health Insurance

25.3.1 Beginning July 1, 1998: The City shall make available health insurance coverage to the employee and his or her spouse or domestic partner. The City will pay on the employee’s behalf no more than \$166.26 per month for an employee electing single party health coverage and no more than \$332.52 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee’s behalf will be based on the employee’s total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percent of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

The employee will pay the difference between the City’s monthly contribution and the actual monthly insurance premium charged by the health plan he or she has elected for retiree medical coverage. If during the term of this Agreement, the premiums for such health insurance are increased, the

amount the City contributes shall increase no more than 4.5% above the previous year's contribution. No increases in the amount the City contributes shall occur before July 1, 1999. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

- 25.3.2 **Effective June 28, 2009:** For employees who retire on or after June 28, 2009, the City will pay on the employee's behalf no more than \$358.19 per month for an employee electing single party health coverage and no more than \$716.38 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.3 **Effective June 27, 2010:** For employees who retire on or after June 27, 2010, the City will pay on the employee's behalf no more than \$424.31 per month for an employee electing single party health coverage and no more than \$848.61 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.4 **Effective June 26, 2011:** For employees who retire on or after June 26, 2011, the City will pay on the employee's behalf no more than \$468.40 per month for an employee electing single party health coverage and no more than \$936.80 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.5 **Effective June 24, 2012:** For employees who retire on or after June 24, 2012, the City will pay on the employee's behalf no more than \$589.48 per month for an employee electing single party health coverage and no more than \$1,178.96 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.6 **Effective June 23, 2013:** For employees who retire on or after June 23, 2013, the City will pay on the employee's behalf no more than \$666.00 per month for an employee electing single party health coverage and no more than \$1,332.01 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.

25.3.7 Effective June 22, 2014: For employees who retire on or after June 22, 2014, the City will pay on the employee's behalf no more than \$720.97 per month for an employee electing single party health coverage and no more than \$1441.94 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.

25.3.7.1 Retiree Health Premium Assistance Plan Benefit as of June 30, 2017: As of June 30, 2017, the maximum amount the City will pay the health care service provider, which were increased in accordance with Section 25.3 (Pre Age 65 Retiree Health Insurance), total \$1,517.40 for two party coverage for the retiree and spouse or domestic partner or \$758.70 for single party coverage.

25.4 Retiree Benefits for Employees Age 65 and Over

Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his or her eligibility for the retiree medical benefits set forth in subSection 25.3 (Pre Age 65 Retiree Health Insurance) ceases. On reaching age 65, the City will make available health insurance coverage in addition to Medicare. When an employee or retiree reaches age 65, the City will contribute no more than ~~\$16,1750.00~~ per month on the employee's behalf for single party health insurance coverage and no more than ~~\$32,34100.00~~ per month for two party health coverage. If during the term of this Agreement, the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year's contribution.

The City will take such actions under the provisions of Section 218(g) of the Social Security Act to permit employees who are not currently paying employee portion of the Medicare Tax with a one-time opportunity to choose to be covered by the Medicare Tax. If the employee chooses to be covered by the Medicare Tax the choice cannot be revoked at a later date.

The City shall include in its next actuarial request, the impact on the City if the City were to amend its Retiree Health Premium Assistance Plan III to provide the following benefit levels:

Single Party Health: \$200.00
Two Party Health: \$400.00

~~The Parties agree to meet and Confer over the increased benefits no later than June 30, 2019.~~

25.4.1 Retiree Health Premium Assistance Plan Benefit as of June 30, 2017:

As of June 30, 2017, the maximum amount the City will pay the health care service provider, which were increased in accordance with Section 25.4 (Retiree Benefits for Employees Age 65 and Over), total \$62.59 for two party coverage for the retiree and spouse or domestic partner or \$31.30 for single party coverage.

25.5 Termination by City of Retiree Medical Benefit

Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under this Section.

25.6 Retiree Medical Benefit for Employees Retiring Between the Ages of 50 and 55

An employee who is at least 50 years of age, but less than 55, and has at least eight years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in sub-Section 25.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in group health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

25.7 Employees Retiring with a CalPERS Approved Disability Retirement

If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in sub-Section 25.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

25.8 City Funding of Retiree Health Benefit

City contributions to the retiree medical benefit will begin on July 1, 1998. Funding of this benefit will be set aside in a trust to be established by the City.

The retiree medical benefit will be funded by a charge of 0.25% of payroll in each year of this Agreement, so that contributions are at 1% of the payroll in the fourth year of the Agreement. The City will fund the benefit at approximately 1% of the payroll

for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

Effective June 28, 2009, a total charge of twenty six thousand, six hundred and forty (\$26,640) of employee payroll will be charged in the final three years of the Agreement so that contributions are at 1.764% in the final year of the Agreement. The purpose of the 0.764% increase in payroll contributions is to fund Pre Age 65 Retiree Health Insurance.

25.9 Actuarial Study

The Union understands and acknowledges that the City conducted an actuarial study to determine the percentage of payroll it needed to set aside each year and the rate of return of 7% it must achieve to fund the retiree health benefit provided in this Section. The City will conduct an actuarial study by an outside actuary of the retiree medical plan prior to June 30, 2002. After that time, the City will conduct an actuarial study by the outside actuary of the retiree medical plan every two to three years to review the funding status of the program. The outside actuary will be selected by mutual agreement of the parties. The Union and City agree that if the Actuary concludes that the City's funding of this benefit by contribution of 1% of the payroll for all miscellaneous employees is insufficient to fully fund the retiree medical benefits, the City shall not be required to increase its funding for this benefit to more than 1% of the payroll for miscellaneous employees. In the event that there are insufficient funds in the trust to cover all retirees' monthly health premiums, the City and the Union agree to meet and confer regarding the City's distribution of its 1% contribution.

ARTICLE 5 – TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 26: PROBATIONARY PERIOD

26.1 Duration and Effect of Military Leave on Probationary Period

Original and promotional appointments from employment lists shall be tentative and subject to a probationary period of: one (1) year (full time equivalent exclusive of all leave and light duty completed within 18 months) upon original appointment to the unit; employees promoted within the unit are subject to a probationary period of six (6) months (half time equivalent exclusive of all leave and light duty completed within one year); in addition, employees in trainee programs with specified training, evaluation or probation periods shall be governed by the applicable provisions of such program. Probationary employees who are granted military leaves of absence shall complete the balance of their probationary period within a period of six (6) months following their return to City service. No provision of this Section shall be interpreted to preclude the City from establishing new classifications, which may require a probationary period of more than six (6) months.

26.2 Provisional Appointments to a Higher Classification

If, before completing the required probationary period, an employee is provisionally appointed to a higher class in the same or a related series of classes, the time served in such higher class shall be counted toward completion of the probationary period in the lower class.

26.3 Report Requirement

If the service of the probationary employee has been satisfactory to the department head, the department head shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such probationer in the service is desired. If such service has been unsatisfactory, the department head shall file with the Director of Human Resources such a statement in writing with the recommendation to the City Manager that the employee be rejected.

26.4 Rejection during Probationary Period

During the probationary period, an employee may be rejected at any time without right of appeal or hearing in any manner. An employee rejected from a position to which he has been promoted shall be reinstated to the position from which he was promoted unless charges are filed and he is discharged as provided in Section 31 (Discharge). Career City employees who are rejected during their probationary period in a promotional position or fail to complete the training requirements of a training program (academics or OJT) shall revert to their prior classification.

26.5 Rejections Subject to Disciplinary Appeal

A promoted employee may not grieve his or her rejection from probationary period/training. However, an employee disciplined for cause while on promotional probationary period shall have access to the disciplinary appeal procedure.

26.6 Probationary or Temporary Employee Assignments

No probationary or temporary employee will be assigned as the only ground worker with an Electrician until such employee has completed one (1) month of familiarization with aerial truck equipment.

SECTION 27: TRANSFER

A transfer may be made at any time by the City Manager. Transfer shall not be used to effect a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided elsewhere in this Memorandum Agreement. No person shall be transferred to a position for which he or she does not possess the minimum qualifications. An employee with permanent status who is transferred from one class to another class shall assume permanent status in the class to which the employee is transferred.

SECTION 28: PROMOTION

Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established.

If, in the opinion of the City Manager, the best interests of the service can be served by an open, competitive examination instead of a closed, promotional examination, and if there is not already a promotional list for the higher position, which list has not been abolished and from which the vacancy could be filled, then the City Manager may instruct the Director of Human Resources to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and publication of an eligibility list.

Interview of Employees: A City employee who is on a closed promotional or open competitive list shall have the option to interview for the vacancy. A City employee who is unsuccessful and who so requests shall be advised of steps he or she may take to increase his or her competitive standing for future promotional opportunities.

Employees who have qualified for promotional lists shall be considered for promotion based on the following factors: previous work performance, previous training and experience, merit, ability, and seniority.

SECTION 29: DEMOTION

The City Manager may demote an employee who so requests it, or whose ability to perform his or her required duties falls below standard, or for disciplinary purposes. No employee shall be demoted to a class for which he does not possess the minimum qualifications as determined by the Director of Human Resources.

Notice of the demotion shall be given the employee not later than four (4) weeks prior to the effective date of demotion and a copy of said notice filed with the Director of Human Resources. Any employee who has been demoted shall be entitled to receive a written statement of the reasons for such action.

An employee with permanent status who is demoted shall assume permanent status in the class to which he or she is demoted.

Upon request of the employee, demotion may be made to a vacant position as a substitution for layoff. In such cases, the employee shall be restored to his or her former position without further examination whenever such position is again to be filled.

SECTION 30: SUSPENSION

The City Manager may suspend an employee from his position at any time for the good of the service, for a disciplinary purpose, or for other just cause. Suspension without pay shall not exceed twenty (20) working days, nor shall any employee be penalized by suspension for more than twenty (20) days in any fiscal year. Any employee who has been suspended shall be entitled to receive a written statement of the reasons for such action.

For the good of the service, a department head may suspend an employee for not more than three (3) working days for any one offense. Such suspension shall be reported immediately to the City Manager.

SECTION 31: DISCHARGE

An employee may be discharged at any time by the City Manager, but if the probationary period has been completed then such discharge must be for just cause. Any employee

who has been discharged shall be entitled to receive a written statement of the reasons for such action.

SECTION 32: **RESIGNATION**

An employee wishing to leave the competitive service in good standing shall file with the department head, at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Director of Human Resources with a statement by the department head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the notice required shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the department head immediately.

SECTION 33: **REINSTATEMENT**

A permanent or probationary employee who has resigned with a good record may be reinstated within two (2) years to his or her former position, if vacant, or to a vacant position in the same or comparable class without further competitive examination. This Section shall not be interpreted as a guarantee of reinstatement to an employee who has resigned with a good record and requests reinstatement within two (2) years.

SECTION 34: **NOTICE OF TERMINATION**

Department head shall notify the Director of Human Resources of all terminations of employment before or within two (2) days after the termination has taken place. Such notice shall be on forms provided by the Director of Human Resources and shall indicate the effective date and reasons for termination and a statement certifying whether or not the employee's services have been satisfactory.

ARTICLE 6 - GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

SECTION 35: **GRIEVANCES**

35.1 Definition

A grievance is any dispute which involves the interpretation or application of those rules, regulations, and resolutions which have been or may hereafter be adopted by the

City Council to govern personnel practices and working conditions, including such rules, regulations, and resolutions as may be adopted by the City Council to effect memorandum agreements which result from the meeting and conferring process.

A grievant may be any member of the bargaining unit covered by the terms of this Agreement, or the grievant may designate the Union to act on his or her behalf, or the Union itself may file a grievance on behalf of a member or group of members. Grievances must be filed in a timely manner. Grievances that are filed by the Union on behalf of a member or group of members, or when a grievant designates the Union to act on his or her behalf, are subject to settlement at any step of the grievance procedure at the Union's sole discretion.

A member of the bargaining unit that files a grievance where the Union is not representing or acting on the grievant's behalf, may only utilize this grievance procedure through step 3. The Union retains the sole discretion to refer which, if any, grievances to move to arbitration.

The parties agree that disclosure to the other party of all relevant information available to them is critical to the successful resolution of grievances at the lowest possible step of the grievance procedure. The parties therefore agree to disclose to each other the relevant information in their possession related to the grievance. Further, the parties agree to comply with reasonable grievance related information requests from the other party in a timely manner.

35.2 Procedure

Grievances shall be processed in the following manner:

35.2.1 Informal Step: An employee who believes that he or she has a grievance (and / or the employee's steward or Union representative) may discuss the complaint with the Deputy Director of Public Works, or with such subordinate management official as the Deputy Director may designate. If the issue is not resolved informally, the formal procedures hereinafter specified may be invoked.

35.2.2 First Formal Step: Any informal grievance which has not been resolved by the Deputy Director of Public Works or his or her designee, must be filed in writing to the Deputy Director of Public Works within thirty (30) days from the date the informal discussion was initiated. The written grievance must state specific issues involved, the decision rendered at the informal step, and the remedy sought. The Deputy Director or his or her designee shall have five (5) days to respond in writing to the formal, written grievance.

35.2.3 **Second Formal Step:** Any formal grievance which has not been resolved by the Deputy Director of Public Works or his or her designee, may be referred to the Director of Public Works or his or her designee within thirty (30) days from the date of the Deputy Director's formal written response, or if more than five (5) days have elapsed since the grievance was presented at the Deputy Director's level.

35.2.3.1 **Referral to Department Director:** The grievance may be referred to the Director's level and shall include a copy of the original grievance, the decision rendered at the Deputy Director's level, and a clear, concise statement of the reasons for the referral.

The Director of Public Works may designate a personnel representative to investigate the merits of the complaint, to meet with the complaining employee (and/or the employee's steward or Union representative); if the grievant is not the Union itself, to meet with the officials of the Union; and to settle such grievance or to make recommendations thereon to the City Manager in his or her capacity as an employee relations officer. The Director of Public Works shall issue a formal written decision within five (5) days of receipt of the grievance or if a meeting is held with the employee and his or her Union, the meeting must be held within ten (10) days of receiving the referral. The Director of Public Works or his or her designee shall issue a written decision within five (5) days from his or her meeting with the complaining employee and/or Union representative. If the issue is not resolved the grievance may be referred to the Third Formal Step within thirty (30) days of receipt of the response from the Director of Public Works.

35.2.4 **Third Formal Step:** Any grievance which has not been resolved by the procedures hereinabove set forth may be referred to the City Manager by the grievant, the Union, or the Director of Public Works. Any such referral shall be in writing including a copy of the original grievance, the decision rendered at the Director's level, and a clear, concise statement of the reasons for the referral. The City Manager shall designate a Human Resources representative to investigate the merits of the complaint, and upon request from the employee or the union, that representative to meet with the complaining employee (and/or the employee's steward or Union representative), if the grievant is not the Union itself, to meet also with the officials of the Union, and to settle such

grievance or to make recommendations thereon to the City Manager in his or her capacity as an employee relations officer.

The City Manager shall issue a decision within ten (10) days of receipt of the grievance referral or within ten (10) days of the meeting, or if a meeting is held with the employee and/or the Union, the meeting must be held within ten (10) days of the referral. Grievances filed by a bargaining member where the Union is not representing or acting on the grievant's behalf, shall end at this step and no further right of appeal exists. The City Manager's decision shall be final.

Union controlled grievances: If the issue is not resolved, the grievance may be referred to Arbitration by the Union pursuant to Section 35.2.5 (Arbitration: The Union retains the sole discretion to move a grievance to arbitration) below within thirty (30) days of receipt of the City Manager's response. Provided further that the Union shall forward to the City the Union's portion of the State Mediation and Conciliation Services (SMCS) fee within sixty (60) days of receipt of the City Manager's response. Failure by the Union to meet this sixty (60) days deadline for both referral to Arbitration and payment of the SMCS fee shall be deemed as a full and complete waiver by the Union to appeal the City Manager decision to Arbitration and the City Manager decision shall be final and binding on all parties.

35.2.5 Arbitration: The Union retains the sole discretion to move a grievance to arbitration. Any grievance which has not been resolved by the procedures hereinabove set forth may be referred by the Union, or the City to an impartial arbitrator who shall be designated by mutual agreement between the Union and the City—, using the State Mediation and Conciliation Services (SMCS) to provide a list of five (5) arbitrators. The City and the Union will alternately strike a name until one remains. The remaining name will be the arbitrator. The fees and expenses of the arbitrator, the State Mediation and Conciliation Services (SMCS) and of the court reporter shall be shared equally by the Union and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any. Arbitrator decisions on matters properly before them shall be final and binding on both parties. ~~Arbitrator decisions on matters before them which do not pertain to the suspension or discharge of an employee shall be in the form of a recommendation to the City Manager who may accept or reject said decision. In the event of said rejection then, as to that particular grievance, and the fees and expenses of the arbitrator, SMCS, and of the court reporter shall not be shared by the Union, and full payment thereof shall be the sole responsibility of the City.~~

The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigation she or he deems appropriate, and shall render a final and binding decision to the parties which will end the formal grievance process.

35.2.5.1 Arbitrator Jurisdiction: No arbitrator shall entertain, hear, decide, or make recommendations on any dispute involving a position over which a formally recognized employee organization has jurisdiction unless such dispute falls within the definition of a grievance as hereinabove set forth in Section 35 (Grievances).

35.2.5.2 No Modifications: Proposals to add to or change this Memorandum Agreement or written agreements or addenda supplementary hereto shall not be arbitrable, and no proposal to modify, amend, or terminate this Memorandum Agreement, nor any matter arising out of or in connection with such proposal, may be referred for arbitration under this Section; and no arbitrator shall have the power to amend or modify or recommend amendment or modification of this Memorandum Agreement or any written agreements or addenda supplementary hereto or to establish or recommend establishment of any new terms and conditions of employment.

35.2.5.3 Timeliness of Award: No arbitrator will be selected hereunder who does not agree to render an award not later than thirty (30) calendar days after the close of the hearing. By mutual agreement between the City and the Union, the arbitrator may render an award immediately upon the conclusion of the presentation of evidence.

35.3 EEO Complaints

Any grievance which in any way affects the implementation of the City's Equal Employment Opportunity Policy shall not be subject to arbitration. The decision as to whether or not implementation of the Equal Employment Opportunity Policy is in any way involved shall be made by the City Manager in his or her sole discretion. If, in his or her judgment, any grievance which involves the Equal Employment Opportunity Policy, the Equal Employment Opportunity and Diversity Officer shall notify the Union to that effect in writing within seven (7) days of the date upon which the grievance is received in the Human Resources Department and, in such notification, refer to that Section of the Equal Employment Opportunity Complaint Investigation & Resolution Procedure which is involved; provided, however, that

such notice may come at any time prior to arbitration if additional factors come to the attention of the Equal Employment Opportunity and Diversity Officer on the basis of which he or she considers it appropriate to change his or her original determination.

35.4 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. In such cases, no adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed or thirty (30) days from the date when an employee may reasonably be expected to have learned of said claimed violation. Only grievants which allege that employees are not being compensated in accordance with the rules, regulations, and resolutions of the City Council or in accordance with the understanding contained in any Memorandum Agreement which has resulted from the meeting and conferring process shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and, if not detailed in the memorandum agreement which results from such meeting and conferring process, shall be deemed withdrawn until the meeting and conferring process is next open for such discussion.

35.4.1 Response Time Limits: The Director of Human Resources or his or her designee shall issue a decision in writing within twenty (20) days from the time he or she received the compensation grievance in writing. The grievant or the Union may refer the decision to the Third Formal Step (Section 35.2.4 - Third Formal Step) of this Memorandum Agreement) within twenty (20) days of receipt of the written decision.

35.5 Changes or Interpretations

No changes in this Memorandum Agreement or interpretation thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the City Manager and the Union.

35.6 Extension of Timelines

Timelines noted in this Section may be extended for cause upon mutual agreement between the City and the Union.

35.7 Days

All references in this Section 35 (Grievances) to "days" shall mean normal working days except as otherwise noted.

35.8 Grievances Challenging Disciplinary Action

- 35.8.1 Any grievance involving any disciplinary action up to as three (3) day suspension will be filed at the Director level.
- 35.8.2 All grievances involving demotion, discharge, or suspension of greater than three (3) days will be filed at the City Manager's level of the grievance procedure. If the issue is not resolved within fifteen (15) days of referral to this step, the procedures hereinafter specified may be invoked.
- 35.8.3 No grievance involving the suspension or discharge of an employee will be entertained unless it is filed in writing with the City Manager within five (5) working days of the time at which the affected employee was notified of such action in writing. If the City Manager, in pursuance of the procedures outlined in Section 35.2.4 (Third Formal Step) above, resolves a grievance which involves suspension or discharge, he or she may agree to payment for lost time or to reinstatement with or without payment for lost time.
- 35.8.4 Arbitrator decisions on matters properly before them which pertain to the suspension or discharge of an employee shall be final and binding on both parties, to the extent permitted by the Charter of the City.

ARTICLE 7 – GENERAL PROVISIONS

SECTION 36: GENERAL PROVISIONS

36.1 Personal Conduct

36.1.1 No employee shall accept appointment to the deputyship or assistantship of any county or state office or position, or otherwise incur an obligation of civil public service outside his or her regular municipal employment without first obtaining the recommendation of the head of his or her department and of the City Manager.

36.1.2 No employee shall be disciplined for off-the-job activities which do not affect his or her job performance.

36.1.3 Employees shall so arrange their personal financial affairs so that the demands of creditors and collection agencies shall not impose a recurring burden upon the offices of the City Manager, the department head, or the Director of Human Resources for the purpose of making collections.

36.1.4 Full-time City employees may not carry on concurrently with their public service any private business or undertaking, attention to which affects the time or quality of their work or which casts discredit upon or creates embarrassment for the City government.

36.1.5 No official or employee who wears a badge or other official insignia as evidence of his or her authority and identity shall permit such badge or insignia to be used or worn by any other person of the same or another department or otherwise to leave his possession without approval by the head of this department. The department head shall not grant such approval except as to persons regularly and formally appointed by the City Manager to the position designated by the badge or insignia.

36.2 Rain Gear

The City will provide rain gear for employees in Representation Unit C assigned to work in inclement weather.

36.3 Tools

Each employee shall continue to be responsible for providing tools of the trade or other equipment, but shall receive a flat annual tool replacement allowance each July 1.

New employees hired before or after July 1 will be entitled to a prorated tool replacement allowance payable the following July 1 after employment.

- 36.3.1 **Allowance:** Effective July 1, 2015, the tool replacement is five hundred dollars (\$500). Tool allowances shall be paid at the end of the fiscal year in which they are earned.

36.4 Shoes

Effective June 18, 2017, all classifications covered by this MA shall be eligible for reimbursement of up to two hundred dollars (\$200.00) per fiscal year for the cost of safety shoes. Employees receiving this reimbursement must wear safety shoes on duty.

- 36.4.1 **Reimbursement:** Employees shall be required to submit a reimbursement request, along with receipts verifying the purchase of safety shoes within sixty (60) days of purchase. Reimbursements will be paid within forty-five (45) days of complete reimbursement requests.

36.5 Training

- 36.5.1 **Responsibility:** Responsibility for developing training programs for employees shall be assumed by the City Manager. Such training programs may include lecture courses, demonstrations, assignment of reading matter, or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of municipal employees in the performance of their duties. The City shall endeavor to provide training for all new technology purchased by the City and maintained by members of this Agreement.

- 36.5.2 **Advancement/Promotional Consideration for Special Training Courses:** Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed with the Director of Human Resources by the department head.

- 36.5.3 **Mileage and Tuition Reimbursement:** The City shall reimburse all employees for mileage and tuition expenses related for attendance at job-related courses. Provided that the employee must have prior authorization from his or her department head and the course has been approved by the City.

- 36.5.4 **Education Leave:** The City shall allow up to forty (40) hours off with pay per year to employees:

36.5.4.1 Who are required to obtain a license (excluding Class C driver's licenses) issued by the State of California and, in order to do so, must take courses which were not offered as a part of their basic curriculum or,

36.5.4.2 Who are required to obtain continuing education as a condition of license renewal; provided the license is required by the City for the employment or continued employment of the employee and that no more hours than are required by the State shall be granted. Employees seeking time off to take courses for an initial license must provide verification that the course was not offered as a part of their basic curriculum.

Employees who take classes during non-scheduled work hours in order to retain a job required license or to meet continuing education requirements shall be allowed time off from work on an hour-for-hour basis without loss of compensation or other benefits.

36.5.4.3 To obtain education and training related to job skills to enhance performance, or to qualify for promotion, at the discretion of the department head.

36.5.5 Management/Union Meetings: The City and Union agree that it is beneficial to both parties to discuss and develop training for all classifications. The Director of Public Works and the Union shall meet on a quarterly basis to discuss and review progress made in addressing initial employee orientation, new equipment training, and vendor training.

36.5.6 Commercial Driver's License: The City shall provide the necessary training for employees to obtain a California Class B driver's license when such license is a requirement of their job classification and a condition of employment. Employees who fail to obtain the required California Class B driver's license after training will be subject to rejection from the probationary period pursuant to Section 26.4 (Rejection during Probationary Period) of this Memorandum Agreement.

36.6 Use of Automobiles

The City Manager shall govern the use of City-owned automotive equipment and privately-owned automotive equipment by such rules and regulations as he or she may establish. Compensation shall be given in the form of a cash allowance for the use of private-owned automobiles on City business if such use has been

authorized in advance by the City Manager. The cash allowance will be equal to the amount established by the Internal Revenue Service, and will change as necessary to comply with IRS Standard Mileage Rate.

36.7 Safety

36.7.1 Safety Committee: The City and the Union will make every effort to maintain excellent health and safety standards. No employee shall be required to perform work with unsafe equipment or in situations which are injurious to his or her health or safety. To further these purposes, the City shall maintain an ongoing safety program which shall include committees comprised of representatives from the Union and appropriate supervisory personnel.

36.7.2 Rainy Weather Assignments: The City shall endeavor to avoid assigning non-emergency, routine work in rainy weather, which would constitute a safety hazard.

36.8 YMCA Group Membership

The City shall offer employees a low or no-cost group membership in the Berkeley Central YMCA. As of July 1, 1999, the City will pay 75% of the membership fee. If the monthly fee is increased to more than \$60, the employee share will be capped at \$30 per month; the City will pay the balance. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding.

Use of the YMCA membership by a City of Berkeley employee, as provided for in this Agreement, is non-compensable, is not a part of the employee's work-related duties, is not required for employment and is not condoned as part of a physical fitness program, or required to remain top physical conditioning for the employee's job performance.

The City of Berkeley or its Claims Administrator may not be liable for any injury that arises out of a City of Berkeley employee's participation in and use of a YMCA membership.

36.9 Annual Performance Evaluation

The City may implement a program of annual performance evaluation. Such evaluations shall be conducted by the employee's immediate supervisor and reviewed by additional levels of supervision. Each employee may make written comments on the evaluation, which shall be made a part of the employee's personnel records.

ARTICLE 8 - PUBLIC EMPLOYEES RETIREMENT SYSTEM

SECTION 37: PAYMENT OF EMPLOYEES' PERS CONTRIBUTIONS

37.1 Miscellaneous Designation

The City shall continue participation under the Miscellaneous Employees Plan of the California Public Employees' Retirement System, (CalPERS).

37.2 "Classic Employees" Definition

Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

37.3 "New Member" Definition

"New Members are as defined in the Public Employees' Pension Reform Act of 2013 (PEPRA), Government Code Section 7522.04(f).

37.4 CalPERS Retirement Formula for "New Members" as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)

"New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the retirement formula set forth in PEPRA.

37.5 CalPERS Retirement Formula and Employer Paid Member Contribution for Classic Employees (i.e. current employees and employees who do not qualify as "New Members" under PEPRA)

Current employees and other employees who do not qualify as "New Members" under PEPRA shall continue to be entitled to the 2.7% at age 55 retirement formula benefit, and the City shall continue the contribution of eight percent (8%) to CalPERS on behalf of the employee.

37.6 CalPERS New Members Normal Share of Cost

New Members as defined by PEPRA who are hired on or after January 1, 2013 shall pay 50% of the normal share of cost required by PEPRA. New Members shall receive any other additional optional CalPERS benefits that the City provides to Classic Employees as allowed by PEPRA.

37.7 Reporting of Contributions

Effective July 3, 1994, contributions made pursuant to Section 37.5 above have been reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The member contributions made by the City shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked, or education incentive pay; nor shall such contribution be taken into account in determining the level of any other benefit which is a function of or percentage of salary. Pursuant to California Government Code Section 20691, the City shall not increase, reduce or eliminate payments of the normal contributions on behalf of the employee without engaging in the meet and confer process with the Union.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this Section or any penalty that may be imposed therefore.

37.8 City Contracts with CalPERS

The City's contract with CalPERS includes the following optional benefits:

37.8.1 Classic Employees – One Year of Final Compensation: Classic Employees as defined in Section 37.2 ("Classic Employees" Definition) above and as provided in Government Code Section 20042 (July 9, 1978).

37.8.2 New Members – Three Years Final Compensation: Provided further that New Members as defined by PEPRA hired on or after January 1, 2013 shall be eligible to receive retirement allowance based on three (3) highest consecutive years of compensation under the plan as provided under the California Public Employees' Pension Reform Act of 2013, or as subsequently amended.

37.8.3 Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973).

37.8.4 Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).

37.8.5 Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).

37.8.6 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973).

37.8.7 Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

37.8.8 2% @ 55 for Local Miscellaneous Members as provided in Section 21354 (June 30, 1992).

37.8.9 Military Service Credit as Public Service as provided in Section 21024 (April 9, 1999).

37.8.10 Public Service Credit for Peace Corps or AmeriCorps/VISTA Service as Provided in Section 21023.5 (April 14, 2000).

37.9 Index Level 1959 Survivor Benefit

The City intends to amend its contract with CalPERS to provide the Indexed Level of the 1959 Survivor Benefit as provided in Section 21574.5 when administratively feasible.

37.10 Classic Members' Pension Contribution through 20516 a Contract Amendment

37.10.1 **July 3, 2016:** Effective July 3, 2016, employees will contribute one and one-quarter percent (1.25%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis, in exchange for the City granting the salary increase set forth in Section 11.1.5 (July 3, 2016 - Salary/PERS Exchange) of this MA. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

37.11 New Members' Pension Contributions through 20516 a Contract Amendment

37.11.1 **July 3, 2016:** Effective July 3, 2016, in addition to the contributions in Section 37.4 (CalPERS Retirement Formula for "New Members" as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)), New Members will contribute one and one-quarter percent (1.25%) towards the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions as pre-tax via automatic payroll deduction, in exchange for the City granting the salary increase set forth in Section 11.1.5 (July 3, 2016 - Salary/PERS Exchange) of this MA. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

37.11.2 The parties recognize that the CalPERS 20516 amendment that allows employee contributions toward the employer rate is in addition to the

required 50% of the normal cost of “New Members” benefits and made in consideration of additional salary increases in Section 11.1.5 (July 3, 2016 - Salary/PERS Exchange) above (a total of 1% salary increases in exchange for employees paying a total of 1.25% towards CalPERS pension cost).

SECTION 38: SUPPLEMENTAL RETIREMENT/DISABILITY INSURANCE PLAN

Effective January 1, 1983, the majority of miscellaneous employees under the City's contract with the State of California Public Employees Retirement System who were covered by the integrated Social Security Program voted to withdraw from participation in the Federal Social Security Program. In lieu of Social Security payments, the City has agreed to pay an amount equal to that percent of individual pay (6.7% payable on the first \$32,400 of salary paid in the calendar year) which had been paid by the City to Social Security as of December 31, 1982 to a Supplemental Retirement and Income and Long Term Disability Insurance Plan for those employees previously covered under the integrated PERS/Social Security Plan. Provisions of this plan are described in Berkeley Municipal Code Chapter 04.36.101 (Supplemental Retirement and Income Plan I) as amended and Berkeley Municipal Code Chapter 04.38.101 (Supplemental Retirement and Income Plan II) as amended. All employees hired after July 22, 1988 are in SRIP II. All employees hired prior to July 22, 1988 are in SRIP I unless they chose to enroll in SRIP II prior to December 17, 1988.

ARTICLE 9 - LAYOFF PROCEDURE

SECTION 39: LAYOFF

The layoff policy for the City of Berkeley is intended to provide the maximum employment protection of the City staff should a layoff become necessary. The policy also aims to minimize the impact such a layoff might have on the City's affirmative action accomplishments.

39.1 Announcement of Layoff

39.1.1 Notification: The City Council, City Manager, and department head shall make every reasonable effort to manage and budget the City's resources effectively and to plan for the delivery of City services in a manner which will avoid the necessity of laying off career City employees. If a reduction in the work force for more than thirty (30) calendar days is necessitated by, but not limited to, the following: a material change in duties and organization, adverse working conditions, return of employee from leave of absence, or shortage of work or funds, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

39.1.2 Freezing of Vacancies: Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the competitive service in similar and related classifications to those likely to be targeted for layoff, as well as all related full-time, benefited, temporary positions which are expected to last six (6) months or more, and notify all department heads that such current and anticipated vacancies will be frozen until further notice in order to implement the provisions of Section 39.6 (Flexible Placement Program).

39.2 Seniority Service Date

39.2.1 All service in the employ of the City shall be counted toward the establishment of an employee's seniority service date, including, for example, permanent, probationary, provisional, temporary (full-time and intermittent), seasonal, and exempt employment, as well as leaves of absence for obligatory military service while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the seniority service date. Time off as a result of formal disciplinary action will be subtracted from the seniority service date.

- 39.2.2 The auditor's office will maintain up-to-date and current seniority dates for all City employees holding probationary and permanent appointments.

39.3 Establishment of Seniority Lists

39.3.1 Whenever a layoff of one or more career employees becomes necessary, as defined above, such layoffs shall be made according to City-wide classification seniority lists. Upon receiving notification that the City Manager must proceed with a possible reduction in the work force, and following receipt of information concerning the specific positions, programs, and departments involved, the Human Resources Department will immediately establish separate probationary and permanent seniority lists for each classification targeted for layoff.

39.3.2 The names of all City employees holding permanent and probationary appointments in a given classification will be listed on the appropriate list in descending order by seniority service date. Employees on both lists shall be laid off on the basis of their seniority service date, i.e., employees with the least amount of total service shall be laid off first. All emergency, temporary, and provisional employees working in classifications similar to those identified for layoff must be terminated prior to the layoff of probationary or permanent employees. Employees on the probationary seniority list for a specific classification will be laid off prior to employees on the permanent seniority list for that classification.

39.3.3 Probationary or permanent employees temporarily acting out of classification and holding a provisional appointment in another classification will only be listed on a seniority list of the classification in which they hold permanent or probationary status targeted for layoff.

39.3.4 If two (2) or more employees on a seniority list have an identical seniority service date, the tie shall be broken in the following order:

39.3.4.1 Time in classification - the employee having least time in the classification shall be released first;

39.3.4.2 By lot.

39.4 Employee Retreat Rights

- 39.4.1 Before an employee with permanent or probationary status may be released from employment with the City of Berkeley, the Human Resources Department must consider the employee's right to retreat to lower level classifications through which he or she was originally promoted or any subsequently created intermediate level career classification which provides normal progression through the classification series. Retreat rights shall also extend to employees who have not previously been promoted through a classification but for whom the classification is a natural progression or beginning in the classification series.
- 39.4.2 In the process of retreating, the same rules concerning the length of service, classification seniority lists, etc., apply as in the first stage of the layoff process. In order to retreat, the targeted employee must be higher on the seniority list for the classification into which he or she is retreating than at least one of the incumbents on the probationary or permanent seniority list for that classification.
- 39.4.3 If an employee is qualified for retreat into more than one classification with comparable salary ranges, or if a vacancy exists in a classification to which an employee is entitled to retreat, the options shall be discussed with the employee and due consideration shall be given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee.
- 39.4.4 The retreating employee has a right to be retained in the highest salary range possible which is equal to or less than his or her present salary range. An employee involved in layoff does not have a right of mandatory placement to positions with a higher salary range, i.e., promotion.

39.5 Employee Notification

- 39.5.1 Emergency, temporary, intermittent, seasonal, etc., employees shall be notified individually, in writing, of pending layoff as soon as possible, but no definite time period is required. However, at least two (2) weeks notification is desirable if possible.
- 39.5.2 Provisional employees shall be notified individually, in writing, of pending layoff as soon as possible, with no less than fifteen (15) calendar days notification if targeted for release or reassignment.
- 39.5.3 Permanent, probationary, and career-exempt employees should be notified individually in writing of pending layoffs as soon as possible, with no less

than thirty (30) calendar days notification if targeted for release or reassignment.

If an employee fails to accept a bona fide offer of reassignment within ten (10) calendar days after the offer has been made, he or she forfeits further right to employment retention. Acceptance of a reassignment does not remove the right of appeal under Section 39.9 (Appeal Procedure).

35.5.4 An employee who is transferred in lieu of layoff when his or her position has been eliminated shall have automatic return rights to the previous position if it is restored within one (1) year of the date of the transfer. If an employee with a full time position is offered a reduction in hours in that position or in a lower classification, the employee may elect to be targeted for layoff for purpose of consideration under Section 39.6 (Flexible Placement Program.) If there is no flexible placement available for the employee, the employee may accept the reduction in hours, in lieu of layoff.

39.6 Flexible Placement Program

39.6.1 In order to minimize the negative impact of layoff, the City Manager will, as previously stated in Section 39.1.2 (Freezing of Vacancies), impose a citywide freeze on all appropriate vacancies as soon as it has been determined that a layoff of career City employees may be necessary.

39.6.2 Following the release of all emergency, temporary, and provisional employees in classes similar to those targeted for layoff, and as soon as employees targeted for layoff have been identified and the provisions under Sections 39.4 (Employee Retreat Rights) have been carried out, the Human Resources Department will review and identify the frozen vacant classifications into which employees ultimately targeted for layoff may be placed on the basis of total experience and education. In making this decision, a waiver of minimum qualification standards, and/or the substitution of related experience and education may be made, with an understanding on the part of management and supervisory personnel that adequate on-the-job training, which can be completed within no more than six (6) months, will be provided to facilitate job adjustment and to compensate for the waiver of qualification standards if that has occurred.

This shall be called the qualification period. The employee shall be advised of their progress after two months and four and six months in the new classification. If at the end of the qualification period the department head notifies the Human Resources Department that the employee is

unable to adequately perform the assignment or fails a test for the position administered by Human Resources then the employee shall be subject to the layoff process.

39.6.3 Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off, except that the City Manager may authorize the offer of a flexible placement to position with a maximum salary of no more than five (5) percent above the salary range as the classification from which layoff is targeted, when it is in the best interest of the City service to do so. Whenever flexible placement is made to a classification with a greater salary range, the appointment shall be probationary, in accordance with the terms of that classification.

39.6.4 Offers to positions under the Flexible Placement Program shall be made according to seniority service date and in accordance with the probationary and permanent seniority list certification process outlined in Section 39.3 (Establishment of Seniority Lists). All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times.

39.6.5 If an employee fails to accept a bona fide written offer of an alternative job within ten (10) calendar days after the offer has been made, he or she forfeits further rights to employment retention. Acceptance of an alternative job under the Flexible Placement Program in no way jeopardizes an employee's standing on the reemployment priority lists on which his or her name has been placed in accordance with Section 39.7 (Reemployment Lists).

39.7 Reemployment Lists

39.7.1 The names of all probationary and permanent employees released from positions in the competitive service as a result of layoff must be placed on reemployment priority lists for those classifications from which they were separated, as well as all other classifications to which they have retreat rights in accordance with Section 39.4 (Employee Retreat Rights).

39.7.2 A reemployment priority list shall remain in effect for three (3) years.

39.7.3 Departments with vacancies in any classification for which there is an active reemployment priority list must use the reemployment priority list to fill their positions and may not use any other recruitment or appointment

method to fill a vacancy until appropriate reemployment lists have been exhausted.

39.7.4 When a vacancy occurs in a class for which there is a reemployment priority list, the name of the employee on the appropriate reemployment priority list with the highest seniority date shall be certified to the selecting official. Employees so certified from the reemployment priority list must be appointed to the existing vacancy.

39.7.5 If a former employee fails to accept a bona fide written offer of reemployment within fifteen (15) calendar days, his or her name will be removed permanently from the reemployment priority list from which the offer was made. Failure to accept an offer of reemployment to the classification with the highest salary range for which the employee is eligible for reemployment will result in automatic removal from all reemployment priority lists. However, the employee may decline (or accept) reemployment to lower salary range classifications without jeopardizing his or her standing on the reemployment priority list for the classification from which he or she was originally terminated.

39.7.6 Upon reappointment to the classification from which the employee was originally separated or demoted, the employee has the right to be placed at the step of the salary range which the employee held at the time of layoff or demotion.

39.8 Career Exempt Employees

Only those employees holding full-time, benefited, exempt positions, who in the past have achieved permanent status and have been continuously employed without a break in service between their career and exempt appointment, have the right to retreat to previously held career classifications, placement on the reemployment priority lists, and all other provisions governing layoff procedures. For the purpose of layoff, such employees shall be referred to as "career-exempt."

39.9 Appeal Procedures

Any permanent, probationary, or career-exempt employee who is laid off, demoted, or reassigned as a result of layoff who believes that the layoff procedure has been improperly administered as it pertains to the employee's case may appeal the action under Section 35 (Grievances). In addition, employees may, at all times before, during, and subsequent to layoff, review all records, including seniority lists, reemployment priority lists, documentation pertaining to appointments under the Flexible Placement Program, etc., which pertain to their classification and their rights under the provisions of the layoff policy.

39.10 Reemployment Priority Rights

If it is determined that a vacancy has been filled by a non-reemployment priority list eligible in a classification for which a reemployment priority list existed and which included available applicants at the time, the former employee with reemployment rights shall be hired and given retroactive pay from the date that the vacancy occurred. The employee who was originally hired to fill the vacancy shall continue to be retained in City employment, provided he or she has completed the probationary period.

SIGNATURE PAGE

Executed this ___ day of _____, 2021, by the Employer and Employee representatives whose signatures appear below for their respective organizations.

FOR INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, LOCAL 1245

FOR THE CITY OF BERKELEY

Tom Dalzell, Business Manager

Dee Williams-Ridley, City Manager

Charley Souders, Business Representative

LaTanya Bellow, Director of Human
Resources

Greg Marwick, Steward

Andrew Brozyna, Deputy Director of
Public Works

Tom Hartman, Negotiation Committee

Alicia Platt, Senior Human Resources
Analyst

Amani Manning, Assistant Human
Resources Analyst

EXHIBIT A - Hourly Salary Schedule

As of December 2, 2018 (3.0% Salary Increase)

Job Code	Rep Unit	Classification Title	FLSA	Step 1	Step 2	Step 3	Step 4	Step 5
32020	C	COMMUNICATIONS TECHNICIAN	N	0	0	44.2005	46.3264	48.4402
52180	C	ELECTRICAL PARTS TECHNICIAN	N	0	32.3190	34.4065	36.2108	37.1260
51030	C	ELECTRICIAN	N	0	0	44.2005	46.3264	48.4402
51100	C	LEAD COMMUNICATION TECHNICIAN	N	0	0	47.2545	49.3934	51.7651
51080	C	LEAD ELECTRICIAN	N	0	0	47.2545	49.3934	51.7651

EXHIBIT B - Hourly Salary Schedule

As of ~~October~~ July 2025, 2019-2021 (24.0% Salary Increase)

Job Code	Rep Unit	Classification Title	FLSA	Step 1	Step 2	Step 3	Step 4	Step 5
32020	C	COMMUNICATIONS TECHNICIAN	N	0	0	45.0845 <u>46.8878</u>	47.2529 <u>49.1430</u>	49.4090 <u>51.3853</u>
52180	C	ELECTRICAL PARTS TECHNICIAN	N	0	32.9654 <u>34.2840</u>	35.0947 <u>36.4983</u>	36.9350 <u>38.4124</u>	37.8686 <u>39.3832</u>
51030	C	ELECTRICIAN	N	0	0	45.0845 <u>46.8878</u>	47.2529 <u>49.1430</u>	49.4090 <u>51.3853</u>
51100	C	LEAD COMMUNICATION TECHNICIAN	N	0	0	48.1996 <u>50.1275</u>	50.3813 <u>52.3965</u>	52.8004 <u>54.9124</u>
51080	C	LEAD ELECTRICIAN	N	0	0	48.1996 <u>50.1275</u>	50.3813 <u>52.3965</u>	52.8004 <u>54.9124</u>

Note: Employee's monthly salary will depend upon the number of hours worked. Employees hired before January 9, 2000, have an option (discussed in detail in Exhibit E (Hours and Days of Work)) to work either a 37.5-hour work week or a 40-hour work week. Employees hired after January 9, 2000 work a 40-hour per week schedule.

EXHIBIT C

CITY OF BERKELEY MUNICIPAL CODE CHAPTER 4.04.120

4.04.120 Exemption from Career Service (At-Will Employees).

The provisions of this chapter shall apply to all positions in the service of the city except:

- A. The city manager, assistant city manager, deputy city manager, assistant to the city manager, police review commission officer, police review commission investigator, and assistant to the mayor;
- B. Assistant, associate and senior management analyst when appointed to the city manager's department or to the Budget Unit of the Management and Administrative Services Agency; and secretary to the mayor, administrative secretary and secretary when appointed to the mayor's office;
- C. All department heads, health officer, and supervising psychiatrist;
- D. Persons employed seasonally in the summer camps;
- E. Persons employed as reserve or emergency employees during the period of national emergency as provided in the ordinance creating such employment;
- F. All persons who are paid at an hourly rate with the exception of library aides. Persons appointed as hourly Library Aides shall be part of the career service with the exception of those hired to fill temporary positions of six months or less.

Persons appointed to these positions which are exempt from the career service shall serve at the pleasure of the appointing authority and may be demoted, suspended, or otherwise rejected at any time without cause and without right of appeal or hearing in any manner. Except that, any employee in the career service promoted or transferred to a position not included in the career service and made exempt from the career service shall be reinstated to his or her career appointment from which he or she was promoted or transferred if within six months of appointment to a position not included in the career service, action is taken to dismiss him or her, unless charges are filed and the employee is discharged in accordance with this chapter and the rules established hereunder for positions in

the career service. All employments designated in this Section shall be entitled to only those benefits provided for at-will employees in the personnel rules and regulations or in applicable memoranda agreements.

EXHIBIT D – Service Vacation Leave

Years During Which Service Rendered	Number of Years of Service	AUTHORIZED ANNUAL VACATION LEAVE (IN CALENDAR WEEKS)
All years prior to 01/01/1950		2
01/01/1950 through 12/31/1956	First 10 years of service	2
	Years of service in excess of 10	3
01/01/1957 through 12/31/1961	First 5 years of service	2
	6 through 25 years of service	3
	Years in excess of 25	4
01/01/1962 through 12/31/1965	First 5 years of service	2
	6 through 20 years of service	3
	Years of service in excess of 20	4
01/01/1966 through 06/30/1970	First 5 years of service	2
	6 through 20 years of service	3
	21 through 25 years of service	4
	Years of service in excess of 25	5
Subsequent to 06/30/1970	First 5 years of service	2
	6 through 15 years of service	3
	16 through 25 years of service	4
	Years of service in excess of 25	5
Effective 01/01/1981	First 4 years of service	2
	5 through 12 years of service	3
	13 through 20 years of service	4
Effective 07/01/1984	First 3 years of service	2
	4 through 11 years of service	3
	12 through 17 years of service	4
	18 and subsequent years of service	5
Effective 12/08/1987	First 3 years of service	2
	4 through 11 years of service	3
	12 through 17 years of service	4
	18 through 24 years of service	5
	25 and subsequent years of service	6

EXHIBIT E - HOURS AND DAYS OF WORK

The hours and days of work applicable to employees in Representation Unit C, as set by the City Manager, are presently as follows:

1. Hours per Day

Field Operations: Working arrangements may vary as to daily schedules under the reduced workweek.

Flexible Hours: On a job-by-job basis, with prior approval of the Senior Electrical Supervisor, a crew may schedule a workday, or workdays, other than the normal workday schedule of 7:00 a.m. to 3:30 p.m.

2. Hours per Week (Basic)

Field Operations: 40 hours. However, employees in Representation Unit C as of January 9, 2000 have the option of retaining a 37.5-hour per week work schedule. An employee will have an option to change his work schedule to 40 hour per week at the beginning of a payroll period. An employee will have a one-time option to revert to a 37.5 hour per week work schedule at the beginning of a payroll period. After exercising this one time option, if the employee chooses to change his work schedule to 40 hours per week, the employee must maintain this work schedule for the balance of his career in this Representation Unit. All persons hired on or after January 9, 2000 will work a 40-hour per week schedule and will not be permitted to change his or her work schedule to 37.5 hours per week.

The parties may agree in writing to alternative work schedules other than those set forth in this Agreement, such as a 9-80 work schedule which produces an 80-hour pay period with the hours worked in nine work days. The City will take into consideration its operational needs, including the impact of potential overtime, in deciding whether to approve an alternate work schedule. However, such alternate work schedule will not be unreasonably denied.

3. Work Week

The work week will begin at 12:01 a.m., Sunday and end at Saturday midnight. Regular days off will be considered to be Saturday and Sunday.

EXHIBIT F - IMPLEMENTING THE REDUCED WORK SCHEDULE

NOTE: This Exhibit F applies only to employees hired before January 9, 2000 who are permitted to work a 37.5 hour per week work schedule subject to the conditions set forth in Exhibit E (Hours and Days of Work).

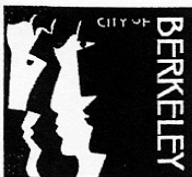
The City and the Union agree that the implementation of the reduced work schedule which is to be effective June 29, 1986 will be as follows:

That one-fourth of the Electrical Division employees will be off every fourth Monday on a staggered basis. This time would be treated as a scheduled day off and could not be adjusted or moved. A yearly schedule would be set up at the beginning of the year so that each employee would know what days he would have off. Since the agreed upon reduced work schedule does not calculate evenly into one day off every four weeks, it is proposed that an additional day off (Friday) be given once every 16 weeks. This agreement very closely approximates the reduced work schedule. Any discrepancies would be credited to the employee's vacation at the end of the contract year.

For Fair Labor Standards Act purposes, the workweek is defined as 40 hours.

Sick leave, vacation, and other compensable leaves of absences shall be based on the 40 hour work week.

When a scheduled day off falls on a holiday, the next regularly scheduled work day shall be observed as the scheduled day off.



Office of the City Manager

EXHIBIT G

DIRECTIVE PROHIBITING UNAUTHORIZED CONSTRUCTION

July 31, 2001

To: Department Directors

From: Weldon Rucker  City Manager

Subject: **DIRECTIVE PROHIBITING UNAUTHORIZED CONSTRUCTION
OR FACILITY MAINTENANCE WORK IN CITY FACILITIES**

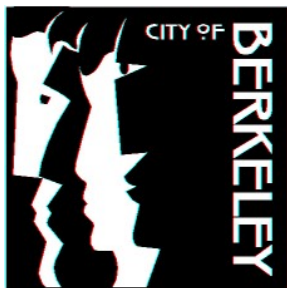
It has come to my attention that some construction, building maintenance and electrical work is being improperly performed at various facilities that are either owned or leased by the City. Because this work can affect the health and safety of all City employees and can result in a significant potential liability for the City, it is absolutely essential that any such work be done by competent and experienced individuals. Even if licensed contractors are brought in to do the work, they may not be fully aware of how their work will impact other City projects or facilities. Furthermore, already scarce City funds are wasted when Public Works has to correct improper or hazardous work performed by unauthorized individuals or contractors. Accordingly, such construction and maintenance work must only be performed by properly trained and supervised Public Works maintenance staff or contractors selected by, and under the direction of, the Public Works Department.

Therefore, I am reminding and directing all department directors to ensure that absolutely no construction, building maintenance or electrical work be performed in any City owned or leased facilities by contractors or anyone else not under the direction of Public Works. All construction and facility maintenance work is to be referred to the Public Works Department.

For routine maintenance, minor repairs, or minor physical modifications, contact the Public Works Customer Service representative at 644-6620. For larger construction projects, contact Public Works Capital Improvement Projects at 981-6330. Public Works can then make appropriate decisions as to whether construction or maintenance work should be performed by City employees or by outside contractors, utilities, or agencies.

Thank you, in advance, for your full compliance with this direction.

cc: City Manager's Office



MEMORANDUM AGREEMENT

Between the

CITY OF BERKELEY

and the

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS
LOCAL 1245 - A.F.L. - C.I.O.**

June 28, 2020 to June 30, 2022

RESOLUTION NO. 68,670-N.S.

MEMORANDUM AGREEMENT: INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 1245

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the International Brotherhood of Electrical Workers Local 1245 have met and conferred in good faith and have reached agreement on a new Memorandum Agreement that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum Agreement for the period October 21, 2018 through June 27, 2020 with the International Brotherhood of Electrical Workers Local 1245, including changes in certain benefits on dates specified in the Memorandum Agreement which is attached hereto, made a part hereof and marked Exhibit A.

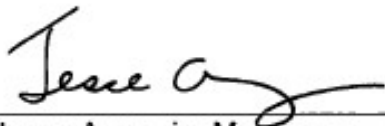
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum Agreement including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on November 27, 2018 by the following vote:

Ayes: Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Bartlett.



Jesse Arreguin, Mayor

Attest: 

Mark Numalville, City Clerk

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MEMORANDUM AGREEMENT
Between
CITY OF BERKELEY
and the
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
LOCAL 1245

ARTICLE 1 - ADMINISTRATION

SECTION 1: RECITALS

- 1.1 This Memorandum Agreement is entered into pursuant to the Meyers-MiliasBrown Act (Government Code, Sections 3500-3511), as amended, and has been jointly prepared by the parties.
- 1.2 The City Manager is the representative of the City of Berkeley (hereinafter referred to as "the City") in employer-employee relations as provided in Resolution No. 43,397-N.S., adopted by the City Council on October 14, 1969.
- 1.3 International Brotherhood of Electrical Workers, Local 1245, is the recognized employee organization for Representation Unit C (Electrical Occupations), which organization has been certified as such pursuant to said Resolution No. 43,397N.S. The employee positions in such Representation Unit are hereinafter set forth in Exhibit A attached hereto and made a part hereof, and International Brotherhood of Electrical Workers, Local 1245 (hereinafter referred to as "the Union") is recognized as the sole representative of employees assigned to such positions.
- 1.4 The parties have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment of the employees in said Representation Unit C, 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.
- 1.5 This Memorandum Agreement shall be presented to the City Council as the joint recommendation of the undersigned.
- 1.6 Section titles in this Memorandum Agreement are for identification purposes only and are not to be used for the purpose of interpreting either the intent or the meaning of the language of any section.

SECTION 2: PARTIES TO THE AGREEMENT

2.1 Exclusive Representation

The Union is the exclusive representative of all employees within Representation Unit C (Electrical Occupations) and shall continue to be recognized as such unless, in accordance with the provisions of Resolution No. 43,397-N.S. or said Resolution may be amended, the Union is no longer certified as the Recognized Employee Organization for employees in Representation Unit C.

2.2 Management Rights

The Union recognizes that the management of the City and its business and the direction of its working forces are vested exclusively in the City, and this includes, but it not limited to, the following: to direct and supervise the work of its employees, to hire, promote, demote, transfer, suspend, and discipline or discharge employees for just cause; to plan, direct, and control operations; to lay off employees because of lack of work or for other legitimate reasons; to introduce new or improved methods or facilities, provided, however, that all of the foregoing shall be subject to the provisions of this Agreement, arbitration decisions, or letters of agreement, or memorandums of understanding clarifying or interpreting this Agreement.

The City shall not by reason of the execution of this Agreement (a) abrogate or reduce the scope of any present plan or rule beneficial to employees, such as its vacation and sick leave policies or its retirement plan, or (b) reduce the wage rate of any employee covered hereby, or change the conditions of employment of any such employee to his disadvantage. The foregoing limitation shall not limit City in making a change in a condition of employment if such change has been negotiated and agreed to by City and Union.

SECTION 3: NO DISCRIMINATION

The City and Union agree that they will not discriminate against employees based on race, creed, color, ethnicity, ancestry, religion, political affiliation, gender, sexual orientation, age, national origin, marital or domestic partner status, gender identity or gender expression, parental status, pregnancy, disability or medical condition, Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law, or protected Union activity. Furthermore, the City and Union agree to comply with all applicable federal, state and local laws pertaining to nondiscrimination and equal employment opportunity.

The Union agrees that it will support programs for making members of minority groups and women aware of employment opportunities within the City's jurisdiction, and that it will work with the City to increase recruitment efforts of such minorities and women into

City service. The Union recognizes and supports the City of Berkeley's commitment to equal employment opportunity.

SECTION 4: UNION SECURITY

4.1 Union Security

4.1.1 An employee included in Unit C, may become and remain a member in good standing of the Union; or pay to the Union an initial fee equal to the regular initiation fee and, thereafter, a monthly fair share service fee equal to the regular monthly union dues and general assessments.

4.1.2 **Contracting Out:** The City will not hire any contractors, firm or individual which will result in the layoff of any employees covered under this Agreement.

4.1.3 **Subcontracting:** If the City intends to subcontract any electrical or communication work, the City will notify the Union in advance of any bid solicitation whose value is estimated to be \$25,000 or more. The City will notify the Union in advance by mailing a copy of the City Council Bid Notifications Report to the Union Stewards. Information will be sent to the Union at the same time it is forwarded to the City Council and will include nature of project, the name of department requesting the work, and the budget code. Upon written request from the Union, the City will provide a copy of the actual bid specifications.

For electrical or communication work estimated to cost less than \$25,000, the City will provide the Union Stewards a copy of the Council Awarded Contracts Report on a monthly basis.

4.2.3 **Indemnification:** The Union shall indemnify and save harmless the City, its officers and employees, from and against any and all loss, damages, costs, expenses, claims, attorneys' fees, demands, actions, suits, judgments and other proceedings arising out of any claims made by Unit C employees for deductions made in reliance on information provided by the Union.

4.2.4 **Union Reports:** The City shall furnish the Union, on a monthly basis, the name, date of hire, salary, classification and work location of all newly-hired employees subject to this Agreement.

4.3 New Employee Orientation

This provision shall apply to new hire employees appointed to classifications covered by this Agreement.

4.3.1 Onboarding: The parties acknowledge that the City provides a new employee orientation (onboarding) to each new employee hired by the City. As such, the Union will be provided with not less than 10 calendar days' advanced notice of the time, date, and location of the onboarding of any new employee represented by the Union. The Union will be given 30-minutes at the start of the new employee onboarding in a room designated by the City for no more than one (1) representative to present Union membership information. The City representative will excuse him or herself during the Union portion of the onboarding. The Union agrees in its portion of the onboarding not to engage in speech that could cause disruption or material interference with City activities.

The City will provide 30 minutes of Union Release Time to the Union representative presenting the Union membership information during the scheduled onboarding. The Union shall provide the Union representative's immediate supervisor with the Union representative's name at least five (5) days prior to the onboarding. The Union representative shall be released for this purpose unless unusual operation needs interfere with such release in which case the Union representative's immediate supervisor will provide a written explanation of why release could not be approved. If the Union representative is not released due to department operational needs, the Union representative may arrange an alternative date and time to meet with the newly hired employee within the first two (2) weeks of employment, subject to the 30-minutes onboarding and Union Release Time requirements as stipulated above.

4.3.2 Information Provided: On a quarterly basis (March, June, September, and December), the City will provide the Union with a digital file via email to the email address designated by the Union. The Union acknowledges and understands that the City is working diligently and in good faith to update its contact information database functionality to incorporate all the fields of contact information listed below. As a result, the City may not initially be able to provide the employee's work telephone number, personal phone number, and personal email address until the completion and implementation of the City's new Enterprise Resource Management Application (ERMA) system.

The City will provide the Union with the following information on file, to the extent the City has it on file:

- Name.
- Job Title.
- Department.
- Work Location.

- Home telephone number.
- Home address.
- Personal cellular telephone number (new hires hired on or after October 1, 2017).
- Work telephone number (*upon implementing ERMA*).
- Personal email addresses on file with the City (*upon implementing ERMA*).

Notwithstanding the foregoing, limited to the express purpose of the requirements of Government Code section 3558 only, an employee may opt out via written request to the City (copy to the Union) to direct the City to withhold disclosure of the employee's: Home address; home telephone number; personal cellular telephone number; personal email address; and date of birth.

SECTION 5: DEDUCTION OF UNION DUES

5.1 Deductions

The City shall deduct, once monthly, the amount of Union regular and periodic dues, service fees, or insurance premiums as may be specified by the Union under the authority of written notification by the Union certifying that the employee has provided written affirmed consent for deduction of union membership dues or fair share service fees.

Such deductions, together with a written statement of the names and amounts deducted, shall be forwarded promptly to the Union office.

5.2 Revocation

Upon receipt of a written notice from the Union to the Human Resources Department, the City shall cease deducting membership dues or fair share service fees from the designated employee.

5.3 Authorization Forms

The City may request verification of employee's authorization form giving affirmed consent to deduct dues or fees only if a legitimate dispute arises about the existence or term of the authorization.

5.4 Notice

Union agrees to give reasonable notice of dues change.

SECTION 6: UNION REPRESENTATIVES

6.1 Number of Representatives

The City shall allow two (2) representatives of the Union reasonable time off from work, without loss of compensation or other benefits, to represent its members in disputes which involve the interpretation or application of those rules, regulations, and resolutions which have been or may hereafter be adopted by the City Council to govern personnel practices and working conditions, including such rules, regulations, and resolutions as may be adopted by the City Council to effect memoranda of understanding which may result from the meeting and conferring process, and to represent its members in meeting and conferring in good faith for amendments to this Memorandum Agreement in the future, subject to the conditions set forth in Sections 6.2 (Maximum Representatives) and 6.3 (Notification).

All release time shall be recorded on time sheets and time cards with appropriate codes.

6.2 Maximum Representatives

Two (2) Union representatives shall be the maximum number who will be allowed concurrent time off.

6.3 Notification

The representatives shall notify the first non-bargaining supervisor a minimum of one workday in advance before leaving their work assignments except for emergency situations which require the immediate attention of said representatives (an emergency is defined as a safety problem or hazardous condition), but in no case shall an employee leave his or her job without notification of the first non-bargaining supervisor. Such request shall include the location, and area of activity, the approximate time needed and the general nature of the union business involved. Such request shall not be unreasonably denied. Failure to comply with notification and time recording rules may be grounds for denial of leave.

6.4 Union/Management Meetings

Quarterly meetings shall be held between the union and management. Release time shall be granted for up to two union representatives. Agendas for such meetings shall be set one week in advance between the Business Representative of the Union and the City Manager or their designees. Meetings within department may be held at the discretion of the department head.

6.5 Union Training

Conditional upon prior approval of the course content and upon receipt of certification of completion, if the employee is an elected official or steward of the Union, the City shall reimburse the employee for up to one-half of his or her regular work time spent in such training at the employee's permanent rate of pay, not to exceed twenty (20) hours of paid leave in a calendar year.

SECTION 7: SEPARABILITY OF PROVISIONS

In the event that any provisions of this Memorandum Agreement are declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of this Memorandum Agreement shall be null and void, but such nullification shall not affect any other provisions of this Memorandum Agreement, all of which other provisions shall remain in full force and effect.

SECTION 8: EXISTING MEMORANDUM AGREEMENT

Pursuant to Section A of the Memorandum of Understanding dated August 9, 1972 by and between the City and the Union, this Memorandum Agreement shall supersede all existing Memoranda of Understanding between the City and the Union. There is no guarantee that working conditions and practices will be continued if they are not included in this Memorandum Agreement or have not been or are not hereafter specifically authorized by ordinance or by resolution or the City Council.

SECTION 9: FINALITY OF RECOMMENDATIONS

The recommendations set forth herein are final. No changes or modifications shall be offered, urged, or otherwise presented by the Union, or the City Manager prior to October 20, 2018; provided, however, that nothing herein shall prevent the parties to this Memorandum Agreement from meeting and conferring and making modifications herein by mutual consent.

SECTION 10: DURATION

This Memorandum Agreement shall be effective upon ratification by the City Council except for those provisions which have been assigned other effective dates as herein set forth, and shall remain in full force and effect up to and including June 30, 2022. This Memorandum Agreement and all its rights, obligations, terms and provisions shall expire and otherwise be fully terminated at midnight June 30, 2022.

ARTICLE 2 - SALARIES, HOURS OF WORK AND COMPENSATION ISSUES

SECTION 11: SALARIES

11.1 Salary Rates

Salary rates for the period of June 28, 2020 through June 30, 2022, for all classes of positions in Representation Unit C shall be set according to the classifications and salary ranges assigned to those classifications listed in Exhibit "A" and attached hereto and made part hereof.

11.1.1 Salary Increase upon Council Approval: Effective July 25, 2021, the salary ranges for those classification covered by this Agreement as listed in Exhibit A will receive a salary increase of four percent (4.0%) and shall be show in Exhibit A.

11.1.2 One-Time Payment: A onetime non-pensionable lump sum payment of \$1,000.00 for each career bargaining unit employee shall be conferred and paid on August 13, 2021. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice.

11.2 Step Placement

Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class as set forth in Exhibit "B". The minimum rate for the class shall apply to employees upon original appointment to the position except as may be determined by the City Manager within the negotiated wage ranges. Employees who have been laid-off and are rehired to the same classification shall be placed on the same wage step they were in when laid-off. Transfers shall not affect an employee's salary rate. Employees appointed to any of the positions set forth in Exhibit "B" and employed or working on a part-time basis shall be paid in proportion to the time worked and described in their appointment.

11.3 Maximum Salary Rate

No salary advancement shall be made so as to exceed the maximum rate established for the class to which the advanced employee's position is allocated. Advancement shall be in accordance with the compensation plan of the City and shall depend upon increased service value of an employee to the City as exemplified by recommendations of the department head, performance record, special training, length of service, and other pertinent evidence.

11.4 Effect of Leaves

An employee's pay increase shall not be affected by any leave of absence without pay if the employee is off the payroll for less than one hundred sixty (160) consecutive hours. If the employee is off the payroll for more than one hundred sixty (160) consecutive hours, the total amount of time off shall be made up before the employee shall be entitled to such pay increase.

11.6 Y-Rate

Any employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary, or occupying a position in a class, the salary rate or range for which is reduced, shall continue to receive his present salary. Such salary shall be designated as a Y rate. When an employee on a Y rate vacates his or her position, subsequent appointments to that position shall be made in accordance with Section 11.1 (Salary Rates).

11.7 Pay Frequency

Payment of salaries shall be made bi-weekly. Each pay period shall begin at 12:01 a.m. Sunday up to and including 12:00 midnight Saturday two weeks following. Each payment shall be made not later than the Friday following the end of each payroll period and shall include payment for all earnings during the previous payroll period.

11.7.1 **Full-Time:** Bi-weekly payment to full-time employees shall be made on the basis of the hourly rate, as set forth in Exhibit B, multiplied by the number of hours worked during the pay period.

11.7.1.1 **40 Hour Week:** For employees on a forty (40) hour week schedule, the annual salary shall be the product of the hourly salary times 2,080 hours.

11.7.1.2 **37.5 Hour Week:** For employees on a thirty seven and onehalf (37.5) hour work week schedule, the annual salary shall be the product of the hourly salary times 1,950 hours.

11.7.1.3 **Monthly Salary:** The monthly salary shall be the quotient of the annual salary divided by 12.

11.7.2 **Part-Time:** Bi-weekly payment to part-time employees in a class for which a monthly salary rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. The hourly rate for such part-time employees shall be computed in the same manner as for full-time employees.

11.7.3 **Intermittent:** Bi-weekly payment to intermittent employees in a class for which a monthly salary rate has been established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. The hourly rate for such intermittent employees shall be computed in the same manner as for full-time employees.

11.7.4 **Bi-Weekly Daily Rate:** Bi-weekly payment to employees in a class for which a daily rate rather than a monthly rate has been herein established shall be made on the basis of the actual days worked during the biweekly pay period multiplied by the daily rate.

11.7.5 **Bi-Weekly Hourly Rate:** Bi-weekly payment to employees in a class for which an hourly rate rather than a monthly rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period.

11.8 Higher Classification

The Department Head will work all employees within their career classifications. The departments may specifically assign an employee to work in a higher class. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments over one (1) week shall be approved in advance by the City Manager or his or her designee. Blanket authorizations for department will be issued on a yearly basis for applicable positions. To be eligible for higher-class pay, the employee must work a minimum of four (4) hours, meet the minimum qualifications, and perform the duties of the higher class. Employees meeting these requirements will be compensated at the lowest step of the higher classification which provides at least a five percent (5%) differential. The journeylevel employees will rotate the assignment on a monthly basis and perform the necessary duties. In the event the offer of higher class is declined by the journeylevel employee assigned for that month, volunteers will be asked according to the rotation list. If there are no volunteers, the journey-level employee assigned for that month will be required to perform the necessary duties.

11.9 Temporary Appointment

When a temporary vacancy is to be filled in a classification for which there is an existing eligibility list, the City shall attempt to make the temporary appointment from that list.

11.10 Step Increases for Provisional Employees

An employee who holds a provisional appointment in a classification shall receive step increases in such classification as if the employee held a permanent appointment thereto.

11.11 End of Year Pay Period

For all salary and benefit purposes, the parties agree that the last day of the last pay period ending in the calendar year shall be the end of the year. For excess leave only, the end of the year shall be treated as the last day of the pay period nearest March 31st.

11.12 Overtime Underpayment

The City will include any payment of overtime, which was inadvertently omitted or miscalculated, in the following pay period's check.

11.13 Equity Studies

A list of comparison jurisdictions is established for the purpose of salary equity studies: Alameda County, Contra Costa County, Oakland, Palo Alto, Richmond, San Francisco, San Jose, San Leandro, Santa Clara, and Vallejo. Other jurisdictions may be added as required by agreement between the parties. Job classifications which fall below the median for these jurisdictions may be reviewed. It is the policy of the City that within available funding limits, equity adjustments which are in the interests of the service will be considered.

11.14 Step Increase

Step increases shall be effective for payroll purposes only on the first day of the pay period nearest to the actual anniversary date. Personnel records will maintain actual dates and will be used to resolve any discrepancies or questions that may arise.

11.15 Effective Date of Salary Adjustment

Any general future salary adjustments will be set to become effective on the first day of the pay period.

11.16 Reclassification

In the event the City reclassifies a position based on an employee initiated review from a lower level classification to a higher level classification, an incumbent occupying such position shall be reclassified without competitive examination provided he or she has performed the duties of the new classification for one (1) year and has not received an unsatisfactory evaluation during that period. All other employees shall be required to pass an examination for the higher classification and shall serve the normal probationary period. If a position is reclassified, the employee shall receive salary compensation retroactive to the date the position description questionnaire is submitted and verified as having been received by the department head. Position description questionnaires will be provided by the City. Employees may request one (1) job audit one (1) year after an initial job audit has been completed on their position. Thereafter one (1) job audit will be permitted every two (2) years.

Reclassification or reallocation of positions shall not be used as a mechanism, the sole purpose of which is to improperly circumvent the provisions of this Agreement, including provisions relating to layoff, transfer, demotion or promotion.

11.17 Premium Pay Differential - Working at Heights of 60 Feet or More

Assignments for working at heights of 60 feet or more will be on a voluntary basis. However, if all qualified employees decline the assignment, the City will be free to contract the work out to an outside service provider.

Employees who work at heights of 60 feet or more, including but not limited to performing maintenance of lights at San Pablo Park, shall receive Height Premium Pay Differential of one and one-half times ($1\frac{1}{2}$) times the normal hourly rate for all time performing such work. The Height Premium Pay Differential shall be reported to CalPERS as Height Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

11.18 Commercial Driver's License Premium

Employees required to possess and maintain a valid California Class A or Class B Commercial Driver's License as a condition of employment shall receive three percent (3%) differential to hourly rate. This differential shall be reported to CalPERS as Special Class Driver's License Pay. However, any hours worked on overtime are excluded from CalPERS reported "Compensation earnable" in California Government Code Section 20636.

11.19 Longevity Pay

Effective the first full pay period after Council approval on its Regular Agenda, employees completing nineteen (19) years of service shall receive a three percent (3.0%) differential beginning with the anniversary date of beginning of the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

SECTION 12: HOURS AND DAYS OF WORK

12.1 Hours and Days of Work

Hours and days of work shall be governed by rules established by the City Manager. (At the present time, the hours and days of work are as shown in Exhibit E (Hours and Days of Work))

12.2 Sunday and Graveyard Shifts

Regularly scheduled Sunday shifts and "graveyard" shifts, as defined in Section 14 (Shift Differential), shall be for eight (8) consecutive hours, including up to onehalf ($\frac{1}{2}$) hour for lunch.

12.3 Shift Assignment

Within a given classification, shift assignments shall first be offered to employees by classification seniority on a voluntary basis. In the event shift assignments are not filled voluntarily, such assignments will be made on the basis of inverse classification seniority.

12.3.1 Types of Shifts:

- a. **Swing shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 5:00 p.m. and 12:00 midnight of each workday.
- b. **Night shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 12:00 midnight and 7:00 a.m. of each workday.
- c. **Day shift** means any authorized work schedules between the hours of 7:00 a.m. and 5:00 p.m.

12.4 Classes during Shift Assignments

If an employee assigned to the swing or graveyard shift wishes to attend classes during the day, the employee shall notify the first non-bargaining supervisor of his or her intention to enroll in classes during the day and the completion date of the classes. The City will review the work program and advise the employee within 14 days whether or not the day classes will interfere with the shift assignments. If no conflict exists, the City will not change the shift assignment until after the semester ends provided that the employee continues to be actively enrolled in the class.

12.5 Rest Period

Each employee shall be entitled to a rest period of fifteen (15) minutes during each one-half ($\frac{1}{2}$) shift worked.

12.6 Daylight Saving Time

- 12.6.1 **Spring:** In the Spring when transitioning to Daylight Saving Time (DST), employees working during the one (1) hour transition from Standard Time

to DST will be paid only for actual hours worked. Employees working on a shift which includes the one (1) hour transition may be granted an option by the Department Head or his or her designee, to work an additional hour or use compensatory time, floating holiday, or vacation to make up the lost work hour.

12.6.2 Fall: In the Fall when transitioning from DST, employees working during the one (1) hour transition will be paid for all hours worked including overtime at one and one-half (1½) times the straight-time rate of pay for hours worked in excess of the regular workweek as set forth in Section 13 (Overtime) of this Agreement.

SECTION 13: OVERTIME

Employees required to work in excess of their basic work week or in excess of 8 hours in one day (excepting voluntary regular schedules of 9 or 10 hours) during any one week shall be compensated for such overtime services as follows:

13.1 Rate

The overtime rate shall be one and one-half (1½) times the regular hourly salary for the first four (4) hours of such excess and at two (2) times the regular hourly salary for the balance of such excess.

13.2 Department Head Discretion

Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's department head.

13.2.1 Compensatory Time Off: Compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half (1½) hours for each overtime hour worked up to a maximum of sixty (60) hours of such compensatory time. Accumulation of compensatory time off in excess of sixty (60) hours may be allowed at the discretion of the department head. Utilization of compensatory time shall be at the discretion of the employee's department head. The times during the calendar year at which an employee shall take his or her compensatory time off shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. As used herein, sixty (60) hours is equivalent to ninety (90) hours of time off work.

13.3 Payoff of Overtime

In the event that an employee resigns or is terminated, he or she shall be entitled to compensation for his or her accumulated overtime.

13.4 FLSA Workweek

For the purpose of computing overtime, the work week shall be defined as beginning at 12:01 a.m. Sunday and ending at 12:00 midnight Saturday. Any applied benefited leave shall be included in the calculation of overtime.

13.5 Emergency Overtime

Employees who are called from their living quarters for emergency work or duty on days other than normal workdays, or on normal workdays outside of their regular work hours, shall be paid emergency overtime compensation for actual time worked; provided, however, that in any case of emergency overtime as herein provided the minimum time for which such overtime compensation shall be paid shall be four (4) hours; and provided further that if such overtime work is performed prior to the beginning of the regularly scheduled work period and such overtime continues into such regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked.

13.5.1 Overtime Earned Rest Period

If an employee has worked four (4) hours or more of overtime between the hours of 10:30 p.m. and 6:30 a.m. preceding the beginning of his/her regular work hours on a workday, he/she shall be entitled, except in an emergency, to a rest period to include two (2) hours of his/her workday without loss of his/her regular straight-time pay. If the overtime work period extends for six (6) hours or more of overtime between the hours of 10:30 p.m. and 6:30 a.m. preceding the beginning of his/her regular work hours on a workday, he/she shall be entitled, except in an emergency, to a rest period to include five (5) hours of his/her workday without loss of his/her regular straight-time pay. In the event that an employee, due to operational need, is required to work during an earned rest period during regular work hours, the employee will be paid for the earned rest period in addition to wages earned for hours worked.

13.6 Meals

The City will provide meals to employees during emergency assignments and when the employees work continuously for two (2) or more hours immediately before or after their regular shift of eight (8) or nine (9) hours for a total of ten (10) or eleven (11) hours. The employee shall earn an additional meal for every four (4) hours of continuous work after the first meal is earned or taken.

The City will reimburse the employees for the costs of the meal up to twenty five dollars (\$25) if no meals are provided.

13.7 Standby Pay

An employee assigned to standby shall receive ten (10) hours of overtime compensation in addition to any overtime worked while on standby.

13.7.1 Standby Week: For the purpose of this Section 13.7.1 (Standby Week), a week shall mean the seven (7) consecutive calendar days following assignment to standby service. In the case of emergencies, the Senior Supervisor or Superintendent may assign another employee to complete the standby week for the originally assigned employee. In that case, the ten (10) hours standby compensation will be pro-rated between the employees.

13.7.2 Missed Assignment while on Standby: If an employee misses an overtime assignment while on standby duty, he or she will not receive the standby pay for that day. If he or she misses a second call during the same standby period, he or she will forfeit all the standby pay for that period.

13.7.3 Consequences: If an employee develops a pattern of failing to perform the service when called, they will be subject to disciplinary action and the Union reserves the right to appeal any action.

13.7.4 Standby Vehicle: The City will provide the employee on standby duty with a vehicle. Said employee shall be responsible for taking all reasonable steps to insure the safety of the tools and equipment on that vehicle.

13.8 Emergency Overtime Assignments

All emergency overtime assignments including calling an employee other than the employee on scheduled standby status will be paid the minimum overtime compensation as defined in Section 13.5 (Emergency Overtime). In the event that the employee on scheduled standby is not called, and another employee has been called to perform the emergency overtime assignment, both the employee who performed the assignment and the employee on scheduled standby status will receive the minimum overtime compensation.

13.8.1 Scheduled Overtime during Standby: The employee who is on scheduled standby status may perform scheduled overtime tasks on a voluntary basis. The standby premium shall not be pro-rated. If an emergency call occurs during the time that the employee is performing scheduled overtime tasks that call shall be paid at the time and one-half rate and not at the call back rate set forth in Section 13.5 (Emergency Overtime). If other City electrical employees are concurrently performing scheduled overtime tasks, the Senior Electrical Supervisor may, at his or her discretion, assign the work to electrical employees present within the

City performing the scheduled overtime tasks at the regular overtime rate of pay. The employee who is on scheduled standby status who chooses to perform scheduled overtime shall defer to other employees who choose schedule overtime assignments pursuant to Section 13.9 (Overtime Offers).

13.9 Overtime Offers

The Department will offer Scheduled Overtime on a voluntary basis to employees with the least amount of overtime worked in accordance with the following provisions:

13.9.1 Posting of Overtime: The Department will post a Scheduled Overtime Sign-up List on the Division's bulletin board once every two weeks. Employees who wish to be considered for scheduled overtime during that time period must sign the list.

13.9.2 Scheduled Overtime Definition: Scheduled Overtime shall be defined as an overtime assignment scheduled at least 24 hours in advance.

13.9.3 Overtime Report: The Department will prepare and post a Report of Overtime Worked for employees on a calendar year basis beginning with a zero balance on January 1. The report will be updated after each pay period.

13.9.4 Overtime Assignments: As scheduled overtime assignments occur, the Department will offer the assignment to individuals on the list for the applicable time period beginning with the person on the sign-up list with the least amount of overtime worked during the calendar year. Notification of scheduled overtime assignments shall be made during work hours at the work place, and employees must be present at the work place to receive the overtime work assignment.

13.9.5 Overtime Assignment Tie Breaker: If employees have equal amounts of overtime, the scheduled overtime assignment shall be offered to employees in the same order as their names appear on the sign-up list.

SECTION 14: **SHIFT DIFFERENTIAL**

14.1 Swing Shift

Employees who regularly work a full shift of seven and a half (7½) hours or more on swing shift as defined in Section 12.3.1 (Types of Shifts), which includes more than four (4) hours between the hours of 5:00 p.m. and 12:00 midnight, shall be paid their

regular salary plus seven and a half percent (7½%) of their regular monthly salary per month.

14.2 Night Shift

Employees who regularly work a full shift of seven and a half (7½) hours or more on night shift as defined in Section 12.3.1 (Types of Shifts), which includes more than four (4) hours between the hours of 12:00 midnight and 7:00 a.m. (night shift), shall be paid their regular salary plus ten percent (10%) of their regular monthly salary per month; provided, however, that in the case of any such employee who is regularly assigned to such night-shift work for less than an entire work week, the additional payment shall be made only for the portion of the work week worked on the night-shift assignment.

SECTION 15: NATURAL DISASTER/DECLARED EMERGENCY

If an emergency is formally declared by the City, county, state or national authority:

15.1 Call Outside Normal Working Hours

If an employee is called outside of normal working hours, the employee gets time and one-half (1½) the normal rate of pay for the first whole shift regardless of the number of hours worked. If the employee is not called from home the regular rules apply (i.e., overtime for hours worked above eight in a day).

15.2 Shift Differential

Thereafter, the first eight hours at regular rate and 7½% for hours worked between 5:00 p.m. and midnight; 10% for hours worked from midnight to 7:00 a.m. For hours greater than eight in a shift, the employee gets time and one-half (1½) the normal rate of pay but no shift differential on those hours above eight.

15.3 Reduction in Hours

There will be no reduction in the number of hours in the regular work week schedule.

15.4 Change in Assignments

If an employee is at work during the day when an emergency is declared and is assigned to work a night shift and is sent home, the employee will be compensated as follows:

- 15.4.1 If an employee has been at work for up to but not more than two (2) hours the employee will be paid for two (2) hours at the straight time rate.

15.4.2 If an employee has been at work for more than two (2) hours but not more than four (4) hours the employee will be paid for four (4) hours at the straight time rate.

15.4.3 If an employee has been at work for more than four (4) hours the employee will be paid for eight (8) hours at the straight time rate.

15.5 Hours Worked in Excess of 12-hours

An employee working more than twelve (12) hours in one continuous shift will be compensated at two (2) times the normal hourly rate.

ARTICLE 3 - LEAVES

SECTION 16: VACATION

16.2 Vacation Approval

The times during the calendar year at which an employee shall take his or her vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. Wherever practical, employees working in the same classifications within a division shall be given preference of vacation time by seniority. If the requirements of the service are such that a department head cannot permit an employee within his or her department to take an annual vacation leave or any part of such leave within a particular calendar year, the City Manager may permit such employee to take the deferred vacation during the following year.

16.3 Use of Incremental Vacation

Employees may, with advance supervisory approval, use vacation leave in increments of one hour.

16.4 Accrual Rate as of December 8, 1987

Effective December 8, 1987, the vacation accrual rate shall be modified as follows:

Vacation Accrual Schedule	Authorized Annual Workweeks of Vacation	Vacation Leave Credits in Work Days per Month of Service	Vacation Leave Credits in Hours Earned per Month of Service
Through the first three (3) calendar years of service (except as provided in Section 16.4 (Accrual Rates as of December 8, 1987) and 16.5	2 work weeks	0.833	6.667

Fourth (4 th) through eleventh (11 th) calendar years of service (except as provided in Section 16.5 below)	3 work weeks	1.25	10.00
Twelfth (12 th) through seventeenth (17 th) calendar years (except as provided in Section 16.5)	4 work weeks	1.667	13.33
Eighteenth (18 th) through twenty-fourth (24 th) calendar years (except as provided in Section 16.5)	5 work weeks	2.083	16.667
Twenty-fifth (25 th) and subsequent calendar years (except as provided in Section 16.5)	6 work weeks	2.5	20.00

The authorized annual vacation leave for prior years is set forth in Exhibit D attached hereto and made a part hereof.

16.5 Accrual, Use, and Limitation for Employees with Less than 6-Months of Service

Each employee, during that portion of the calendar year in which he or she is originally appointed and during the next succeeding year, shall be entitled to vacation leave credits at the rate of 0.833 work days for each calendar month of service. Each such employee shall be entitled to take during these two (2) calendar years only such annual vacation leave as he or she earns.

16.6 Vacation Eligibility for Part-time, Intermittent, Leave Without Pay or Reemployed Employees

For an employee who has worked on a part-time or intermittent basis or who has been on leave of absence without pay for a total of six (6) months or more or who has been terminated and subsequently reemployed, the actual years of service with the City shall be used for the purpose of computing length of service in determining eligibility for vacation at the three (3), four (4), five (5) and six (6) weeks' rate.

16.6.1 Prorated Vacation for Intermittent or Part-Time Employees: Employees working on an intermittent or part-time basis who have worked half-time or more in the preceding calendar year without termination of employment shall be entitled to a prorated vacation leave based upon the actual years of service with the City and upon the actual amount of time worked in the preceding calendar year.

16.6.2 Effect of Military Leave on Vacation Eligibility: For the purpose of computing length of service in determining eligibility for vacation at the three (3), four (4), five (5) or six (6) weeks' rate, time spent on extended military leave shall be counted as time spent in the service of the City.

16.7 Maximum Vacation Accumulation

Employees may accrue vacation earned up to a maximum cumulative total of 320 hours.

Once an employee accrues 320 hours vacation, the employee shall not accrue any additional vacation leave hours until his or her vacation leave balance is below the maximum 320 hours. Under no circumstances will an employee be allowed to accrue more than 320 hours vacation leave. As provided below, the City will advise employees and their supervisors when the employee has attained an accumulation of 280 hours. Supervisors should be flexible in granting vacation requests from employees who reach 280 hours. Provided further that with regard to employees who have reached 280 hours, no vacation request by such employee shall be unreasonably denied. No employee shall be denied vacation leave such that it causes him or her to reach the 320 hour limit.

Notification: To assist employees to remain below the 320 hours vacation leave maximum accumulation, the parties agree that no later than October 1 of each year of this Agreement, the City will provide the Union and Department Heads with a report identifying accumulated vacation hours of all employees. The City also agrees to notify all employees who have accrued 280 hours of vacation leave, as of this date, that they must take vacation leave to reduce their vacation leave to avoid reaching the 320 hour maximum accrual.

16.8 Prorated Vacation due to Extended Absence, Reemployment or Reinstatement

An employee who has returned from extended military leave or any other extended leave of absence without pay or who has been reemployed or reinstated shall be entitled, during the calendar year in which he or she returns to the City service, to a prorated vacation based upon the total years of service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, his or her vacation leave shall be as provided elsewhere in this Section 16 (Vacation).

An employee who is granted a leave of absence without pay and who is off the payroll for less than one hundred sixty (160) consecutive hours shall be entitled to a full vacation. If such an employee is off the payroll for one hundred sixty (160) consecutive hours, his or her vacation shall be as provided in the preceding paragraph of this Section 16.8 (Prorated Vacation due to Extended Absence, Reemployment or Reinstatement) or Section 16.9 (Payment of Vacation upon Termination or Extended Leave after Six Months of Service).

16.9 Payment of Vacation upon Termination or Extended Leave after Six Months of Service

If an employee, is terminated, or is granted an extended military leave or other extended leave of absence without pay, such employee, or his or her estate, shall be paid for vacation credits in excess of the actual amount of vacation leave taken or such

employee, or his or her estate, shall reimburse the City for the actual amount of vacation leave taken in excess of vacation leave credits, as the case may be.

16.10 Calculation and Payment or Reimbursement of Vacation Credits upon Termination or Extended Leave

Upon termination, extended military leave, or other extended leave of absence without pay, vacation leave credits shall be totaled, and the actual amount of vacation leave taken, including any that may have been taken during the year in which the termination, extended military leave, or other extended leave of absence without pay occurs, shall be deducted from the total credits. If the credits exceed the actual amount of vacation leave taken, such employee, or his or her estate, shall be paid for the excess of credits on the basis hereinafter set forth. If the actual amount of vacation leave taken exceeds the credits, such employee, or his or her estate, shall reimburse the City on the same basis.

The basis for such payment by the City or for such reimbursement to the City shall be as follows:

The employee's hourly pay rate at date of termination, extended military leave, or other extended leave of absence without pay, multiplied by the excess of credits over vacation leave actually taken or excess of vacation leave actually taken over credits, as the case may be.

16.11 Lump Sum Payment of Vacation

Upon termination, extended military leave or other extended leave of absence without pay, payment for excess of vacation leave credits shall be made in one lump sum at time of termination, extended military leave, or other extended leave of absence without pay, or as soon thereafter as possible; provided, however, that an employee may elect to use excess vacation leave credits prior to termination, extended military leave, or other extended leave of absence without pay, to the extent permitted by this Section 16 (Vacation), and receive a lump sum payment for the balance of leave credits, if any. An employee, or his or her estate, shall not be paid for vacation leave credits in excess of eight (8) calendar weeks. Notwithstanding the foregoing, accumulated but unearned vacation credit at the time of retirement shall be paid off in a lump sum.

16.12 Calculation of Vacation Based on Actual Paid Hours

All vacation benefits shall be calculated upon actual paid hours of work. This provision shall go into effect immediately upon implementation of necessary data processing and programming changes.

16.13 Vacation Accounting Procedures

The City may revise vacation accumulation provisions in order to standardize accounting procedures without effect on the amount of employees' vacation, subject to review and approval by the union.

16.14 Voluntary Time Off

The City will implement a voluntary time off (VTO) program, which may include a year-end holiday closure. It is understood by the parties that employee participation is completely voluntary and that employees who wish to work during such periods will be permitted to do so.

SECTION 17: HOLIDAYS

17.1 Holidays

Recognized holidays for employees in Representation Unit C shall be:

- 17.1.1 New Year's Day
- 17.1.2 Martin Luther King's Birthday (3rd Monday of January)
- 17.1.3 Lincoln's Birthday
- 17.1.4 Washington's Birthday (observed on the third Monday in February)
- 17.1.5 Malcolm X's Birthday (observed on Monday or Friday nearest May 19th)
- 17.1.6 Memorial Day (observed on the last Monday in May)
- 17.1.7 Independence Day
- 17.1.8 Labor Day (observed on the first Monday in September)
- 17.1.9 Indigenous Peoples' Day (observed on the second Monday in October)
- 17.1.10 Veteran's Day
- 17.1.11 Thanksgiving Day
- 17.1.12 Day after Thanksgiving Day
- 17.1.13 Christmas Day
- 17.1.14 Effective January 9, 2000, each employee shall be granted three (3) floating holidays each calendar year.

17.2 Floating Holidays

Any employee shall be granted three (3) floating holidays each calendar year. The days selected shall be by mutual agreement between the employee and the department head (or his or her designee). In the event mutual agreement cannot be reached on the selection of floating holidays, the employee shall have the three (3) days added to his or her accrued vacation time. Employees may take Floating Holidays in one (1) hour increments.

17.2.1 Additional Floating Holidays

For employees who were required to remain in the workplace from March 17, 2020 - June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the MOU.

City will use a specific pay code for the additional floating holiday, hours will be available June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not roll over to vacation if not used by June 30, 2021.

17.3 Floating Holiday Accrual upon Employment

In the first calendar year of employment, an employee hired before May 1 shall be entitled to three (3) floating holidays; and an employee hired on or after May 1, but before September 1, shall be entitled to two (2) floating holidays; and an employee hired on or after September 1, shall be entitled to one (1) floating holiday in that first calendar year.

17.4 Limitations

No monetary award shall be authorized for unused accumulated Floating Holidays for employees who terminate employment prior to the completion of six (6) months of continuous City service.

17.5 Holidays for Employees whose Work Week is Other than Monday through Friday

Employees whose work week is Monday through Friday shall be allowed all holidays with pay which fall within such work week. Those employees whose work week is other than Monday through Friday shall be entitled to the same number of holidays, with pay, during each calendar year as are allowed to employees whose work week is Monday through Friday. The procedure for allowing holidays for employees whose workweek is other than Monday through Friday shall be established by the City Manager. The provisions of this Section 17.5 (Holidays for Employees whose Work Week is Other than Monday through Friday) are not applicable to intermittent employees.

17.6 Work during a Holiday

An employee required to work on any day which is a holiday for employees whose work week is Monday through Friday shall be paid for the number of hours worked during such day at the rate of one and one-half (1½) times the straight-time rate, based upon his or her regular monthly salary, or shall be granted compensatory time off in an amount equal to one and one-half (1½) times the number of hours worked on such holiday. Any employee who works on Christmas day or Thanksgiving Day shall be paid double time for that day. The hours worked on

such holiday and paid at the rate herein provided shall not be credited in computing the hours worked in the week for overtime purposes.

The holiday pay provided for shall be in addition to an employee's regular salary. In the event that the time worked on such a holiday is also overtime, as provided in Section 13 (Overtime) of this Memorandum Agreement, payment will be made for the hours worked either as overtime under said Section 13 (Overtime), or as holiday pay under this Section 17 (Holidays), but will not be made under both Sections.

17.7 Holidays for Part-Time Employees

Regularly scheduled part-time employees 1) who are assigned to a regular schedule of twenty (20) or more hours per week; 2) who have worked for the City as regular or part-time employees for one (1) or more years; and 3) who during such period of time have worked a minimum of 1,000 hours shall be entitled to the holiday pay for the number of hours which such employee would have worked had the holiday not occurred, provided such holiday occurs on a day which such employee is regularly scheduled to work.

SECTION 18: SICK LEAVE

18.1 Eligibility

Any employee shall be entitled to take sick leave with full pay in case of sickness, disability, or serious illness within the immediate family of the employee in accordance with the provisions of Sections 18.2 (Sick Leave Accrual) to 18.12 (Cessation of Accrual).

18.2 Sick Leave Accrual

Each employee shall be credited with one (1) working day of sick leave with full pay for each month of service.

For the purposes of this Section 18 (Sick Leave), a month of service shall mean thirty (30) consecutive calendar days in the case of employees working on a fulltime or part-time basis, and shall mean 163 hours of work in the case of employees working on an intermittent basis.

18.3 Pro-rated Sick Leave for Part-Time Employees

An employee working on a part-time basis shall be entitled to use earned sick leave only on a pro rata basis; for example if an employee works half-time, he or she shall be paid for time off on sick leave on a half-time basis.

18.4 Sick Leave for Intermittent Employees

An employee who works on an intermittent basis shall be entitled to use earned sick leave only for those days on which he or she would have worked if he or she had not been sick; provided, however, that an employee working on an intermittent basis who works only when called shall be entitled to use earned sick leave only when he or she becomes sick after reporting to work in response to such call.

18.5 Maximum Accumulation

Such sick leave as provided in Section 18.2 (Sick Leave Accrual), when not used, shall be cumulative; but the accumulated unused period of sick leave shall not exceed two hundred (200) working days, regardless of the length of service. When the maximum of two hundred (200) working days has been reached, and thereafter part of said maximum has been used, the used part of said maximum may subsequently be replenished at the applicable rate provided in Section 18.2 (Sick Leave Accrual).

18.6 Payment upon Retirement/Termination

All accumulated sick leave shall be canceled when an employee terminates or is terminated, except as provided below for employees hired on or before June 30, 2013.

18.6.1 Employees Hired on or Before June 30, 2013: For employees hired on or before June 30, 2013 who retire or voluntarily terminate with a vested pension, and with between twenty (20) years and twenty-eight (28) years of benefited service shall be entitled to receive payment in an amount equal to thirty eight percent (38%) of their accrued sick leave days up to a maximum of the two hundred (200) day maximum accumulation. Provided further that any employee retiring on permanent disability arising out of and incurred in the course and scope of his employment with the City shall be entitled to receive payment at retirement for thirty eight percent (38%) of accumulated unused sick leave days but not, in any event, more than thirty eight percent (38%) of the two hundred (200) day maximum accumulation.

18.6.2 Payment After 28 Years of Service for Employees Hired on or Before June 30, 2013: Employees who were hired on or before June 30, 2013, who terminate with at least twenty-eight (28) years of benefited City of Berkeley service or employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City with at least twenty-eight (28) years of benefited service shall be entitled to receive payment in an amount equal to fifty percent (50%) of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days.

18.6.3 Sick Leave Payout to 401(a) Plan for Employees Hired on or Before June 30, 2013: The City and the Union have met and conferred on an Internal Revenue Code Section 401(a) plan and trust agreement to address the liquidation of sick leave at time of retirement. This plan and trust agreement was originally negotiated with the Berkeley Fire Fighters Association/I.A.F.F. Local 1227 and has been submitted to the Internal Revenue Service for a Determination Letter and a Private Letter Ruling which are pending. If the City receives a positive response from the Internal Revenue Service, the plan and trust agreement will be extended to the employees in the bargaining unit. This will provide the employees with an irrevocable option to defer accrued but unused sick leave at time of retirement into a 401(a) plan or be paid out the balance of the accrued but unused sick leave less withholding of applicable federal and state taxes.

18.7 Annual Payment for Hours in Excess of Maximum for Employees Working Half-Time or More for Employees Hired on or Before June 30, 2013

Employees who regularly work one-half ($\frac{1}{2}$) time or more and who have attained the one hundred fifty (150) day maximum sick leave accumulation shall be entitled to receive payment for one-third ($\frac{1}{3}$) of the first twelve (12) days of sick leave for which they become eligible but do not use and would otherwise forfeit because of the one hundred fifty (150) day maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar year basis, and payment for such sick leave for any calendar year shall be made not later than January 22 of the following year. Such payment shall be made at the employee's salary rate in effect on the preceding December 31 and shall be made only in units of whole days and not for any fraction of a day.

18.8 Restoration of Sick Leave if Reemployed within Two Years

Accumulated sick leave, which has been canceled by reason of an employee's termination, shall be credited back to such employee if the employee returns to City employment within two (2) years of such termination.

18.9 Sick Leave Use/Family Illness

Sick leave shall not be considered as a privilege which an employee may use at his or her discretion but shall be allowed only in case of his or her sickness or disability or in the case of serious illness within the immediate family of the employee. Not more than fifteen (15) working days in any calendar year may be taken as sick leave because of the illness of a member of the employee's immediate family, except for serious medical conditions covered under the provisions of Administrative Regulation 2.4 (Family Care Leave). The immediate family of an employee, for the purpose of this Section, shall be defined as: spouse, domestic partner, son, daughter, parent or dependent.

18.10 Prohibition for Use with Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that such injury is covered by the Workers' Compensation laws of the State of California, or other provision for payment for time off because of such injury is made by such other employer. In the event such injury is not covered by the Workers' Compensation laws of the State of California and no other provision for payment for time off because of injury is made by such other employer, sick leave in accordance with the provisions of this Section shall be allowed only if such outside employment has been approved by the City.

18.11 Notification Requirement

In order to receive compensation while absent on sick leave, the employee shall notify his department head prior to or within four (4) hours after the time set for beginning his or her daily duties, or as may be approved by the head of his or her department. The Union and the City recognize it is advantageous to both parties that calls should normally be made prior to the beginning of the work shift. Leave for non-emergency doctors' appointments shall be requested in advance. In specific instances the City may by written notice require an employee (s) to call in prior to the beginning of their shift in order to be eligible for sick leave.

18.12 Cessation of Accrual

An employee who is granted a leave of absence without pay and who is off the payroll for less than one hundred-sixty consecutive hours shall receive his or her earned sick leave credit. If the employee is off the payroll for one hundred-sixty (160) consecutive hours or more, he or she shall not earn sick leave credit for each two successive pay periods that he or she is off the payroll.

18.13 Workers' Compensation

All probationary and permanent employees of the City and provisional employees who have worked a total of four (4) months or more for the City, who have suffered any disability arising out of and in the course of their employment as defined by the Worker's Compensation Insurance and Safety Act of the State of California, and who are receiving or shall receive compensation from the insurance carrier for such disability, and during the first seven (7) days after such disability when compensation is not paid by the insurance carrier shall be entitled to remain absent from duty with pay until such time as they are able to return to duty or some other final disposition is made of their case; provided, however, that provisional employees who have worked a total of four (4) months or more for the City shall be entitled to remain absent from duty with pay for the period they would have been permitted to remain provisional employees under their employment at the time of injury.

All employees, other than probationary and permanent employees and provisional employees who have worked a total of four (4) months or more, shall be entitled to

such compensation as may be allowed them by the Workers' Compensation Insurance and Safety Act of the State of California.

18.13.1 Workers' Compensation Payments: Payments from the insurance carrier for disability arising out of and in the course of employment shall be paid to the employee. The amount of such payment or payments shall be deducted from the monies, which the employee received from the City. Payments from the insurance carrier, plus the monies paid to the employee by the City, shall be equivalent to the employee's regular full pay.

18.13.2 Workers' Compensation Leave and Salary Continuation: Payments under the Workers' Compensation law for temporary disability, or a recurrence thereof, arising out of and in the course of employment shall be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability net pay but shall not exclude any salary adjustments to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under state law, and the City will cease to pay the difference. However, salary continuation payments above the statutorily required temporary disability payments shall not be reported by the City to CalPERS as compensation. No time worked shall be part of the 365 calendar days of salary supplement paid by the City. This change shall not affect employees who are currently off the job with a work-related injury which occurred prior to July 1, 1979.

18.13.3 Calculation: The City shall continue to calculate salary continuation at pre-disability gross pay. The City may calculate salary continuation payments at pre-disability net pay at such time when they develop the capacity to administer it equitably. Any change in calculation shall not reduce employees' combination of disability payments and salary continuation payments below employees' pre-disability net pay.

The change in calculation shall not affect employees who are off the job with a work-related injury prior to the new calculation method being implemented.

18.13.4 Workers' Compensation Related Absence of Less than Four (4) Hours: An employee who is absent from work for a medical appointment or physical therapy for less than four (4) hours will have ½ day charged against his or her 365 day maximum period for receipt of salary continuation pre-disability net pay.

18.13.5 Workers' Compensation Related Absence of Four (4) Hours or More:

An employee who is absent from work for a medical appointment or physical therapy for 4 hours or more will have 1 day charged against his or her 365 day maximum period for receipt of salary continuation predisability net pay.

18.13.6 Calculation Based on Actual Paid Hours: All sick leave benefits shall be calculated upon actual paid hours.

18.14 Light Duty

Assignments for temporarily disabled employees.

An employee who is absent by reason of industrial disability may be returned to work and given temporary light duties within his or her ability to perform. The duration of any such period of temporary work should be determined by the City. Employees should be compensated at the rate of pay of their regular classification while engaged in such temporary duties, and such work assignments are to incorporate the following provisions:

18.14.1 Modified Duty Accommodation: The City shall accommodate, when feasible, employees covered by this memorandum under the provisions of workers' compensation, and such work assignments are to incorporate the following provision:

18.14.1.1 The assignment shall be consistent with medical limitations as determined by the physician of record.

18.14.1.2 The Assignment shall be within the City of Berkeley and may include hours and days of work other than the employee's regular assignment.

18.14.2 Modified Duty Accommodation for Non-Industrial Disabilities: The City may accommodate an employee disabled with a non-industrial disability by providing a modified work assignment in that employee's classification. To be eligible for such a modified assignment, the employee must provide the Human Resources Department with a medical statement from his or her treating physician that clearly states the medical limitations and abilities of the employee. If modification of that position does not serve the best interests of the City, other classifications may be considered, subject to the approval of the Human Resources Director. Compensation will be provided at the level of the classification in which the temporarily disabled employee works during the disability. The employee must meet standards of satisfactory performance for the duration of the work assignment.

18.14.3 **Modified Duty for Pregnancy-Related Disability:** In the case of a medically certified, pregnancy-related disability, in which the normal duties clearly threaten the health and safety of the employee or the unborn child, the Human Resources Department will endeavor to place the employee in a position which best serves the interest of the City with no loss of pay, but in no event will such placement exceed 5 months in duration.

18.14.4 **Light Duty Assignments:** Availability of light duty job assignments shall be discussed upon request at the monthly Labor-Management Meetings.

18.15 Control Program for Sick Leave Use

The City may establish a reasonable program for the control of abuse of sick leave and absenteeism, subject to Union review and comment.

18.16 Bonus Time for Unused Sick Leave

For every six (6) months of perfect sick leave attendance the employee will receive eight (8) hours of bonus time. A leave of absence from work pursuant to workers' compensation is counted as an absence from work in the same manner as sick leave for the purpose of this bonus. This bonus time will be prorated for part-time employees. Such bonus time can be used for any leave purpose covered by this Memorandum Agreement. Such bonus time shall be counted as vacation leave credits for purposes of determining eligibility for carry-over and cash payment.

18.17 State Disability Insurance

Except as provided in 18.17.1.3 below, any employee who is absent due to personal illness for more than 7 calendar days (or for any period of time if hospitalized) may apply for State Disability Insurance Benefits.

18.17.1 **State Disability Integration:** After such employee has been absent from work due to personal illness for six (6) consecutive work days, if the employee applies and is eligible for State Disability Insurance, the City shall integrate the employee's pay with the employee's State Disability benefits in the following way:

18.17.1.1 The City will determine the weekly SDI benefit amount based on the amount of wages earned with the City of Berkeley in the SDI base period.

18.17.1.2 The weekly SDI benefit will be subtracted from the employee's normal weekly wages and the amount necessary to bring the total of State Disability plus wages to 100% will be deducted from any accumulated sick leave,

vacation leave and compensatory time available to the employee. The integration with vacation leave and compensatory time is optional but will be automatically implemented after sick leave has expired unless written notification is received from the employee, as discussed below.

18.17.1.3 The employee must notify the payroll clerk, in writing, to stop integration of State Disability Insurance payments with vacation leave or compensatory time. Upon receipt of notification, the payroll clerk will cease integration of any future leave for that incident of illness.

18.17.1.4 The employee must show the State of California form (Disability Insurance Notice of Computation) to his or her payroll clerk to verify dates covered by SDI and the amount to be paid. The employee must inform their payroll clerk of all SDI payments. Any employee entitled to State Disability Insurance shall receive in addition thereto such portion of his or her accumulated leave as will meet, but not exceed, the standard earnings of the employee for his or her normal workweek, up to a maximum of five (5) days.

SECTION 19: FUNERAL LEAVE

In the case of death within the immediate family of an employee (who is not excluded from such benefit pursuant to Chapter 4.04.120 of the Berkeley Municipal Code (Personnel Ordinance) which is attached hereto as Exhibit C (City of Berkeley Municipal Code Chapter 4.04.120) and made a part hereof, such employee shall be entitled to remain absent from duty with pay in order to attend the funeral or memorial service for a period not exceeding three (3) working days or, in the case of a funeral or memorial service conducted out of the State of California, for a period not exceeding five (5) working days. For the purpose of this Section, the immediate family of an employee shall be defined as: husband, wife, domestic partner, mother, father, sister, brother, child, grandmother, grandfather, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law, step-parent, step-sibling, step-child, aunts and uncles, nieces and nephews.

Leave of absence with pay because of death in an employee's immediate family is allowed for the purpose of attending the funeral or memorial services, and such leave shall not be charged against vacation or sick leave that an employee may be entitled to but shall be in addition thereto. Employees may request, and the

City will make reasonable efforts to accommodate requests, for employees to supplement bereavement leave by using accrued vacation, compensatory time, or floating holiday. All accrued leave (and/or sick leave, if applicable) shall be utilized prior to taking a leave of absence without pay.

Funeral Leave for Persons Other than Immediate Family: In special cases, with the approval of the department head, the City Manager may grant a death leave to allow an employee to attend funeral or memorial services because of a death of a person not included within the definition of the immediate family.

SECTION 20: **MILITARY AND MARITIME LEAVE**

Military and Maritime Leave shall be governed by the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and any regulations promulgated to implement the Act and the California Military and Veteran's Code.

If an employee voluntarily extends his or her military leave in excess of two (2) weeks, the amount of pay received by the employee for his or her military duty shall be deducted from his or her regular pay for such period.

SECTION 21: **PARENTAL LEAVE**

21.1 Eligibility:

Employees with one (1) or more years of employment with the City (or equivalent in the case of part-time employees) shall be entitled to parental leave as follows:

A continuous parental leave of up to one year will be granted to any employee with one year (full-time) or more years of employment with the City (or equivalent in the case of part-time employees) upon the birth of a child or the legal adoption of a child who is five years or younger, provided that:

21.1.1 Commencement of Parental Leave: The one year parental leave must commence no later than 13 months from the date of birth or adoption and must expire no later than 25 months from the date of birth or adoption, and.

21.1.2 Notice Requirement: Employees exercising their rights under this provision must provide the City at least 45 calendar days notice prior to the anticipated commencement date of the parental leave, unless a shorter notice is approved for good cause.

21.1.3 **Use of Sick Leave:** The employee, at his or her option, may request that all or any portion of sick leave (up to a maximum of two hundred (200) days) or vacation leave that he or she has accumulated be paid in the same manner as it would if he or she had been absent due to illness or on vacation during the leave. In the event both parents are employed by the City, nothing in the Personnel Rules and Regulations shall prohibit both employees from taking simultaneous parental leave.

21.1.4 **Verification Requirement:** The foregoing leave shall be granted upon medical certification of pregnancy or the presentation of legal evidence of adoption.

21.1.5 **Life and Health Insurance Coverage Upon Exhaustion of Leave:** During approved parental leave, after all earned leaves are exhausted, (except sick leave) the City agrees to maintain life and health insurance coverage for duration of the approved leave subject to any regular participation requirement of the employee. Thereafter the City agrees to continue coverage for the employee at the employee's expense.

SECTION 22: LEAVE OF ABSENCE WITHOUT PAY

22.1 Department Head Authority

Upon the request of the employee, a department head may grant a leave of absence to an employee within his or her department without pay for a period not to exceed fifteen (15) working days. No leave without pay shall be granted for more than fifteen (15) working days except upon the written request of an employee and approval of the City Manager. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge.

22.2 Union Sponsored Training

A leave of absence without pay shall be granted at the request of an employee and the Union for the purpose of the employee's attending a training course sponsored by the Union. The maximum duration of such leave shall not exceed two (2) consecutive payroll periods in a calendar year.

22.3 Exhaustion of Accrued Time

Leaves of absence without pay shall be granted only after the employee has utilized all accrued vacation and any other time owed to the employee, except sick leave.

SECTION 23: JURY DUTY LEAVE

An employee who is called or required to serve as a trial juror shall be entitled to be absent from work with pay during the period of jury service or while required to be present in court as a result of a call to jury duty. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any unusual constraints (e.g., time to call in, time to report for jury service) made by the court that affect the employee's ability to simultaneously fulfill his or her jury duty service and employment obligations; and the supervisor will attempt to accommodate the employee based on the operational needs of the department. Absence from work to perform jury duty service shall apply to employees who work swing and graveyard shifts for those days on jury duty. An employee who serves jury duty on his or her day off shall be granted an equivalent number of days off during his or her normal workweek. Employees are required to submit a written proof of jury duty service issued by the court in order to receive payment for Jury Duty Leave. The employee will keep any payment received for jury service including mileage reimbursement.

23.1 Court Time

The City will guarantee a minimum of three (3) hours pay for every court appearance required by an employee in the conduct of official City of Berkeley job duties on the employee's scheduled day off and three (3) hours minimum if on a workday but outside scheduled working hours. In addition, employees assigned to court phone standby in the conduct of official City of Berkeley job duties will be compensated by earning compensatory time as follows: Duty day, outside of scheduled working hours, one hour minimum compensatory time and hour for hour thereafter. Day off, two-hour minimum compensatory time and hour for hour thereafter.

ARTICLE 4 - HEALTH AND WELFARE BENEFITS

SECTION 24: HOSPITAL-MEDICAL, DENTAL, AND VISION COVERAGE

24.1 Medical Coverage

The City shall pay the cost of health insurance coverage for employees who are not excluded from such benefit pursuant to Chapter 4.04.120 of the Berkeley Municipal Code (Personnel Ordinance) which is attached hereto as Exhibit C (City of Berkeley Municipal Code Chapter 4.04.120) and made a part hereof, and who have such coverage under any group health insurance plan authorized by the City Council. The present level of benefits under the Kaiser Plan shall be maintained at City expense for the duration of this Memorandum Agreement. Medical benefits are extended to full-time employees, spouse of the employee or domestic partner, and IRS dependent up to age 26.

The City is committed to providing at least one fully paid employer provided health insurance option for employees and eligible dependents. The Union acknowledges the City's policies as stated above.

24.2 Maximum Medical Premium Payments

24.2.1 Effective January 1, 2003, the City will transfer employees who chose to maintain Kaiser medical plan coverage from the Kaiser V-5 Plan into the Kaiser S-1 Plan. Effective January 1, 2003, the City will transfer employees who chose to maintain Health Net HMO coverage from the Health Net W-2 Plan to the Health net C9A Plan.

24.2.2 For employees hired on or after January 1, 2003, the maximum amount the City shall be required to pay for medical insurance premiums shall be the applicable Kaiser rate (i.e., single party, two-party, or family) regardless of the City sponsored health plan selected by the employee.

24.2.3 For employees in a probationary or career benefited status as of January 1, 2003, the City will continue to pay 100% of the health care premium costs (employee and any dependents) for the health plan the employee is enrolled in as of this date as long as the employee remains employed in the bargaining unit. After January 1, 2003, if the employee transfers health coverage to a different health plan, the employee will assume responsibility for paying the difference, if any, between the Kaiser monthly premium rate (i.e., single-party, two-party, or family) and the plan chosen by the employee from that date forward.

24.2.4 Effective January 1, 2009, the amount the City contributes each calendar year toward the payment of health insurance premiums, in accordance with Section 24.2 (Maximum Medical Premium Payment), will increase by the lesser of twenty percent (20%) (single, two-party, family) or the amount of the Kaiser HMO premium amount (single, twoparty, family) in effect on that date.

24.2.5 Effective January 1, 2014, for those employees who are enrolled on October 31, 2012 in the Health Net Point of Service (POS) health plan (Payroll Benefit Code Description HJ, HK, and HL) the City shall pay medical insurance premiums at the applicable rate for the Health Net HMO plan (i.e., single; 2-party, or family). If the employee chooses to remain enrolled in the Health Net POS Plan on or after January 1, 2014, the employee will assume responsibility for paying the difference between the Health Net POS and the Health Net HMO monthly premium rate (single; 2-party, or family). Provided further that if at any time after January 1, 2014 the employee transfers health coverage from Health Net POS to the Kaiser health plan, the maximum amount the City shall be required to pay for medical insurance premiums shall be the applicable Kaiser rate (i.e., single 2-party; or family) even if the employee subsequently enrolls in a different City sponsored health plan.

24.2.6 **Meet & Confer:** The Parties agree to meet and confer with the City, commencing no sooner than January 1, 2017. The negotiations shall be on developing comparable and less expensive health plan options as a means of reducing or ensuring that the City shall not be required to pay any penalties associated with the Excise Tax. This meet and confer process will be subject to normal rules of collective bargaining, including applicable impasse, strike or lock-out procedures.

Any changes resulting from a review of employee health insurance or other health related benefits will be subject to meet and confer between the Union and the City, except as otherwise provided in Section 24.5 (Change in Insurance Carrier).

24.3 Dental Coverage

The City shall provide a dental care program for employees who are not excluded from such benefit by Chapter 4.04.120 of the Berkeley Municipal Code (Personnel Ordinance) which is attached hereto as Exhibit C (City of Berkeley Municipal Code Chapter 4.04.120) and made a part hereof. The present level of benefits under the Dental Program shall be maintained at City expense for the duration of this Memorandum. Dental benefits are extended to full-time employees, spouse of the employee or domestic partner, and IRS dependents up to age 26.

24.3.1 Effective January 1, 2000, the dental plan is improved from 90% coverage to 100% coverage.

24.3.2 Effective January 1, 2003, the annual maximum dental benefit will be increased to \$4000 per year, the lifetime maximum orthodontia benefit will be increased to \$4000, and the annual cleanings will be increased from two (2) to four (4). Effective January 1, 2016, the number of annual cleanings will be decreased from four (4) to three (3).

24.4 Vision Coverage

Effective January 1, 2003, the City shall provide a Vision Care Program for employees covered by this Agreement. The annual maximums for this benefit are as follows:

Benefit	Benefit Frequency
Exam	12-Months
Lenses	12-Months
Frames	24-Months
Contact Lenses**	12-Months
**Note: Benefits for Contact Lenses are in lieu of benefits for lenses and frames.	

The maximum amount the City shall be required to pay for the Vision Care Program shall be the applicable Vision Services Plan (\$25 Plan B) rate (i.e., employee only, employee plus spouse, employee plus one (1) child; employee plus family).

If during the term of this Agreement the premiums for such Vision Care Program are increased, the amount the City contributes shall increase no more than five percent (5%) above the previous calendar year’s contribution amount towards the payment of the monthly premium.

Recognizing that the “vision exam” portion of the Vision Care Program duplicates existing benefit provided under Medical Coverage Section 24.1 (Medical Coverage) and 24.2 (Maximum Medical Premium Payments), the Union and the City agree to revisit the Vision Care Program during the term of this Agreement with the expectation that it may be possible to identify a plan that provides a “Hardware Only” benefit (Lenses every 12-months; Frames every 24-months). Such “Hardware Only” plan shall be at a lower City and employee cost than the present Vision Services Plan (\$25 Plan B).

24.5 Change in Insurance Carrier

Before the City acts to change an insurance carrier during the term of this Agreement, the City shall give the Union thirty (30) days notice of its intention to change carriers and shall, upon written request, meet with the Union to discuss the reasons for

such change. The final determination of insurance carriers shall be at the sole discretion of the City.

24.6 Domestic Partner Coverage

If an employee chooses to complete and submit an Affidavit of Domestic partnership and sign up for medical and/or dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

24.7 Part-Time Employees and Prorated Benefits

All career and grant-funded, benefited employees working less than full time shall receive prorated rather than full fringe benefits and shall pay, by payroll deduction, a pro rata portion of the health and dental insurance premiums.

24.8 Commencement of Medical, Dental, and Vision Benefits

Medical, dental, and vision benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status.

24.9 Health Insurance In-Lieu Payments

Effective January 1, 2019, for employees who show proof of alternate medical coverage, the City will compensate the employee \$576.00 per month, prorated for less than full-time employees, as provided in Section 24.7 (Part-Time Employees and Prorated Benefits). In order to include in-lieu payments in the regular rate of pay for the correct overtime calculation, the City must provide in-lieu payments on the bi-weekly payroll cycle. This benefit shall be frozen at this amount for the term of this agreement.

24.10 Group Life Insurance

Effective January 1, 2016, the City shall provide group life insurance, by a carrier of the City's choice, in the amount of \$100,000 which shall include a standard accidental death and dismemberment provision of a like amount. In addition, the employee may purchase additional life insurance up to a maximum of \$300,000 at a rate offered by the City's insurance carrier and subject to any medical exam as required by the insurance carrier. Life insurance shall become effective the first day of the calendar month following the date of hire, and shall continue until the last day of the calendar month in a pay status.

24.11 Pre-Tax Status

When employees are required to contribute to the cost for medical, dental, or vision insurance, those contributions will continue to qualify as pre-tax expenses under the provisions of IRS Section 125.

SECTION 25: RETIREE MEDICAL COVERAGE

The City and Union have agreed that the City will make available retiree health insurance coverage under certain terms and conditions described below. The retiree medical benefit described below is the plan tentatively agreed to during multi-union bargaining during the summer of 1998. The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

The City will begin to provide the retiree medical coverage set forth in this Section on July 1, 1998. An employee's entitlement to any and all benefits provided by the City under this retiree medical cover plan are subject to the funding limitations set forth in sub-Section 25.8 (City Funding of Retiree Health Benefit).

25.1 Amendment of Retiree Health Premium Assistance Plan III, effective January 23, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after June 21, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of the successor Memorandum of Understanding, the City shall amend the Retiree Health Premium Assistance Plan III as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this Section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree and/or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City and the Union agree that the City will also amend the Retiree Premium Assistance Plan III to allow eligible retirees who retired prior to June 21, 2015 to enroll in a non-City sponsored health plan.

25.2 Eligibility

An employee is eligible for the retiree health insurance coverage set forth in subSection 26.2 (Provisional Appointments to a Higher Classification) below if he or she meets all the following criteria:

- 25.2.1 retires on or after July 1, 1998,
- 25.2.2 is vested with CalPERS,
- 25.2.3 has at least eight (8) years of CalPERS qualifying service with the City,
- 25.2.4 is at least age 55.

25.3 Pre Age 65 Retiree Health Insurance

25.3.1 Beginning July 1, 1998: The City shall make available health insurance coverage to the employee and his or her spouse or domestic partner. The City will pay on the employee's behalf no more than \$166.26 per month for an employee electing single party health coverage and no more than \$332.52 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percent of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

The employee will pay the difference between the City's monthly contribution and the actual monthly insurance premium charged by the health plan he or she has elected for retiree medical coverage. If during the term of this Agreement, the premiums for such health insurance are increased, the

amount the City contributes shall increase no more than 4.5% above the previous year's contribution. No increases in the amount the City contributes shall occur before July 1, 1999. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

- 25.3.2 **Effective June 28, 2009:** For employees who retire on or after June 28, 2009, the City will pay on the employee's behalf no more than \$358.19 per month for an employee electing single party health coverage and no more than \$716.38 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.3 **Effective June 27, 2010:** For employees who retire on or after June 27, 2010, the City will pay on the employee's behalf no more than \$424.31 per month for an employee electing single party health coverage and no more than \$848.61 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.4 **Effective June 26, 2011:** For employees who retire on or after June 26, 2011, the City will pay on the employee's behalf no more than \$468.40 per month for an employee electing single party health coverage and no more than \$936.80 per month for an employee electing two party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.5 **Effective June 24, 2012:** For employees who retire on or after June 24, 2012, the City will pay on the employee's behalf no more than \$589.48 per month for an employee electing single party health coverage and no more than \$1,178.96 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.
- 25.3.6 **Effective June 23, 2013:** For employees who retire on or after June 23, 2013, the City will pay on the employee's behalf no more than \$666.00 per month for an employee electing single party health coverage and no more than \$1,332.01 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.

25.3.7 Effective June 22, 2014: For employees who retire on or after June 22, 2014, the City will pay on the employee's behalf no more than \$720.97 per month for an employee electing single party health coverage and no more than \$1441.94 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the above-referenced chart.

25.3.7.1 Retiree Health Premium Assistance Plan Benefit as of June 30, 2017: As of June 30, 2017, the maximum amount the City will pay the health care service provider, which were increased in accordance with Section 25.3 (Pre Age 65 Retiree Health Insurance), total \$1,517.40 for two party coverage for the retiree and spouse or domestic partner or \$758.70 for single party coverage.

25.4 Retiree Benefits for Employees Age 65 and Over

Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his or her eligibility for the retiree medical benefits set forth in subSection 25.3 (Pre Age 65 Retiree Health Insurance) ceases. On reaching age 65, the City will make available health insurance coverage in addition to Medicare. When an employee or retiree reaches age 65, the City will contribute no more than \$50.00 per month on the employee's behalf for single party health insurance coverage and no more than \$100.00 per month for two party health coverage. If during the term of this Agreement, the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year's contribution.

The City will take such actions under the provisions of Section 218(g) of the Social Security Act to permit employees who are not currently paying employee portion of the Medicare Tax with a one-time opportunity to choose to be covered by the Medicare Tax. If the employee chooses to be covered by the Medicare Tax the choice cannot be revoked at a later date.

The City shall include in its next actuarial request, the impact on the City if the City were to amend its Retiree Health Premium Assistance Plan III to provide the following benefit levels:

Single Party Health: \$200.00
Two Party Health: \$400.00

25.4.1 Retiree Health Premium Assistance Plan Benefit as of June 30, 2017: As of June 30, 2017, the maximum amount the City will pay the health care service provider, which were increased in accordance with Section 25.4

(Retiree Benefits for Employees Age 65 and Over), total \$62.59 for two party coverage for the retiree and spouse or domestic partner or \$31.30 for single party coverage.

25.5 Termination by City of Retiree Medical Benefit

Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under this Section.

25.6 Retiree Medical Benefit for Employees Retiring Between the Ages of 50 and 55

An employee who is at least 50 years of age, but less than 55, and has at least eight years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in sub-Section 25.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in group health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

25.7 Employees Retiring with a CalPERS Approved Disability Retirement

If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in sub-Section 25.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

25.8 City Funding of Retiree Health Benefit

City contributions to the retiree medical benefit will begin on July 1, 1998. Funding of this benefit will be set aside in a trust to be established by the City.

The retiree medical benefit will be funded by a charge of 0.25% of payroll in each year of this Agreement, so that contributions are at 1% of the payroll in the fourth year of the Agreement. The City will fund the benefit at approximately 1% of the payroll for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

Effective June 28, 2009, a total charge of twenty six thousand, six hundred and forty (\$26,640) of employee payroll will be charged in the final three years of the Agreement so that contributions are at 1.764% in the final year of the Agreement. The purpose of the 0.764% increase in payroll contributions is to fund Pre Age 65 Retiree Health Insurance.

25.9 Actuarial Study

The Union understands and acknowledges that the City conducted an actuarial study to determine the percentage of payroll it needed to set aside each year and the rate of return of 7% it must achieve to fund the retiree health benefit provided in this Section. The City will conduct an actuarial study by an outside actuary of the retiree medical plan prior to June 30, 2002. After that time, the City will conduct an actuarial study by the outside actuary of the retiree medical plan every two to three years to review the funding status of the program. The outside actuary will be selected by mutual agreement of the parties. The Union and City agree that if the Actuary concludes that the City's funding of this benefit by contribution of 1% of the payroll for all miscellaneous employees is insufficient to fully fund the retiree medical benefits, the City shall not be required to increase its funding for this benefit to more than 1% of the payroll for miscellaneous employees. In the event that there are insufficient funds in the trust to cover all retirees' monthly health premiums, the City and the Union agree to meet and confer regarding the City's distribution of its 1% contribution.

ARTICLE 5 – TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 26: PROBATIONARY PERIOD

26.1 Duration and Effect of Military Leave on Probationary Period

Original and promotional appointments from employment lists shall be tentative and subject to a probationary period of: one (1) year (full time equivalent exclusive of all leave and light duty completed within 18 months) upon original appointment to the unit; employees promoted within the unit are subject to a probationary period of six (6) months (half time equivalent exclusive of all leave and light duty completed within one year); in addition, employees in trainee programs with specified training, evaluation or probation periods shall be governed by the applicable provisions of such program. Probationary employees who are granted military leaves of absence shall complete the balance of their probationary period within a period of six (6) months following their return to City service. No provision of this Section shall be interpreted to preclude the City from establishing new classifications, which may require a probationary period of more than six (6) months.

26.2 Provisional Appointments to a Higher Classification

If, before completing the required probationary period, an employee is provisionally appointed to a higher class in the same or a related series of classes, the time served in such higher class shall be counted toward completion of the probationary period in the lower class.

26.3 Report Requirement

If the service of the probationary employee has been satisfactory to the department head, the department head shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such probationer in the service is desired. If such service has been unsatisfactory, the department head shall file with the Director of Human Resources such a statement in writing with the recommendation to the City Manager that the employee be rejected.

26.4 Rejection during Probationary Period

During the probationary period, an employee may be rejected at any time without right of appeal or hearing in any manner. An employee rejected from a position to which he has been promoted shall be reinstated to the position from which he was promoted unless charges are filed and he is discharged as provided in Section 31 (Discharge). Career City employees who are rejected during their probationary period in a promotional position or fail to complete the training requirements of a training program (academics or OJT) shall revert to their prior classification.

26.5 Rejections Subject to Disciplinary Appeal

A promoted employee may not grieve his or her rejection from probationary period/training. However, an employee disciplined for cause while on promotional probationary period shall have access to the disciplinary appeal procedure.

26.6 Probationary or Temporary Employee Assignments

No probationary or temporary employee will be assigned as the only ground worker with an Electrician until such employee has completed one (1) month of familiarization with aerial truck equipment.

SECTION 27: TRANSFER

A transfer may be made at any time by the City Manager. Transfer shall not be used to effect a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided elsewhere in this Memorandum Agreement. No person shall be transferred to a position for which he or she does not possess the minimum qualifications. An employee with permanent status who is transferred from one class to another class shall assume permanent status in the class to which the employee is transferred.

SECTION 28: PROMOTION

Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established.

If, in the opinion of the City Manager, the best interests of the service can be served by an open, competitive examination instead of a closed, promotional examination, and if there is not already a promotional list for the higher position, which list has not been abolished and from which the vacancy could be filled, then the City Manager may instruct the Director of Human Resources to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and publication of an eligibility list.

Interview of Employees: A City employee who is on a closed promotional or open competitive list shall have the option to interview for the vacancy. A City employee who is unsuccessful and who so requests shall be advised of steps he or she may take to increase his or her competitive standing for future promotional opportunities.

Employees who have qualified for promotional lists shall be considered for promotion based on the following factors: previous work performance, previous training and experience, merit, ability, and seniority.

SECTION 29: DEMOTION

The City Manager may demote an employee who so requests it, or whose ability to perform his or her required duties falls below standard, or for disciplinary purposes. No employee shall be demoted to a class for which he does not possess the minimum qualifications as determined by the Director of Human Resources.

Notice of the demotion shall be given the employee not later than four (4) weeks prior to the effective date of demotion and a copy of said notice filed with the Director of Human Resources. Any employee who has been demoted shall be entitled to receive a written statement of the reasons for such action.

An employee with permanent status who is demoted shall assume permanent status in the class to which he or she is demoted.

Upon request of the employee, demotion may be made to a vacant position as a substitution for layoff. In such cases, the employee shall be restored to his or her former position without further examination whenever such position is again to be filled.

SECTION 30: SUSPENSION

The City Manager may suspend an employee from his position at any time for the good of the service, for a disciplinary purpose, or for other just cause. Suspension without pay shall not exceed twenty (20) working days, nor shall any employee be penalized by suspension for more than twenty (20) days in any fiscal year. Any employee who has been suspended shall be entitled to receive a written statement of the reasons for such action.

For the good of the service, a department head may suspend an employee for not more than three (3) working days for any one offense. Such suspension shall be reported immediately to the City Manager.

SECTION 31: DISCHARGE

An employee may be discharged at any time by the City Manager, but if the probationary period has been completed then such discharge must be for just cause. Any employee

who has been discharged shall be entitled to receive a written statement of the reasons for such action.

SECTION 32: RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with the department head, at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Director of Human Resources with a statement by the department head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the notice required shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the department head immediately.

SECTION 33: REINSTATEMENT

A permanent or probationary employee who has resigned with a good record may be reinstated within two (2) years to his or her former position, if vacant, or to a vacant position in the same or comparable class without further competitive examination. This Section shall not be interpreted as a guarantee of reinstatement to an employee who has resigned with a good record and requests reinstatement within two (2) years.

SECTION 34: NOTICE OF TERMINATION

Department head shall notify the Director of Human Resources of all terminations of employment before or within two (2) days after the termination has taken place. Such notice shall be on forms provided by the Director of Human Resources and shall indicate the effective date and reasons for termination and a statement certifying whether or not the employee's services have been satisfactory.

ARTICLE 6 - GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

SECTION 35: GRIEVANCES

35.1 Definition

A grievance is any dispute which involves the interpretation or application of those rules, regulations, and resolutions which have been or may hereafter be adopted by the

City Council to govern personnel practices and working conditions, including such rules, regulations, and resolutions as may be adopted by the City Council to effect memorandum agreements which result from the meeting and conferring process.

A grievant may be any member of the bargaining unit covered by the terms of this Agreement, or the grievant may designate the Union to act on his or her behalf, or the Union itself may file a grievance on behalf of a member or group of members. Grievances must be filed in a timely manner. Grievances that are filed by the Union on behalf of a member or group of members, or when a grievant designates the Union to act on his or her behalf, are subject to settlement at any step of the grievance procedure at the Union's sole discretion.

A member of the bargaining unit that files a grievance where the Union is not representing or acting on the grievant's behalf, may only utilize this grievance procedure through step 3. The Union retains the sole discretion to refer which, if any, grievances to move to arbitration.

The parties agree that disclosure to the other party of all relevant information available to them is critical to the successful resolution of grievances at the lowest possible step of the grievance procedure. The parties therefore agree to disclose to each other the relevant information in their possession related to the grievance. Further, the parties agree to comply with reasonable grievance related information requests from the other party in a timely manner.

35.2 Procedure

Grievances shall be processed in the following manner:

35.2.1 Informal Step: An employee who believes that he or she has a grievance (and / or the employee's steward or Union representative) may discuss the complaint with the Deputy Director of Public Works, or with such subordinate management official as the Deputy Director may designate. If the issue is not resolved informally, the formal procedures hereinafter specified may be invoked.

35.2.2 First Formal Step: Any informal grievance which has not been resolved by the Deputy Director of Public Works or his or her designee, must be filed in writing to the Deputy Director of Public Works within thirty (30) days from the date the informal discussion was initiated. The written grievance must state specific issues involved, the decision rendered at the informal step, and the remedy sought. The Deputy Director or his or her designee shall have five (5) days to respond in writing to the formal, written grievance.

35.2.3 **Second Formal Step:** Any formal grievance which has not been resolved by the Deputy Director of Public Works or his or her designee, may be referred to the Director of Public Works or his or her designee within thirty (30) days from the date of the Deputy Director's formal written response, or if more than five (5) days have elapsed since the grievance was presented at the Deputy Director's level.

35.2.3.1 **Referral to Department Director:** The grievance may be referred to the Director's level and shall include a copy of the original grievance, the decision rendered at the Deputy Director's level, and a clear, concise statement of the reasons for the referral.

The Director of Public Works may designate a personnel representative to investigate the merits of the complaint, to meet with the complaining employee (and/or the employee's steward or Union representative); if the grievant is not the Union itself, to meet with the officials of the Union; and to settle such grievance or to make recommendations thereon to the City Manager in his or her capacity as an employee relations officer. The Director of Public Works shall issue a formal written decision within five (5) days of receipt of the grievance or if a meeting is held with the employee and his or her Union, the meeting must be held within ten (10) days of receiving the referral. The Director of Public Works or his or her designee shall issue a written decision within five (5) days from his or her meeting with the complaining employee and/or Union representative. If the issue is not resolved the grievance may be referred to the Third Formal Step within thirty (30) days of receipt of the response from the Director of Public Works.

35.2.4 **Third Formal Step:** Any grievance which has not been resolved by the procedures hereinabove set forth may be referred to the City Manager by the grievant, the Union, or the Director of Public Works. Any such referral shall be in writing including a copy of the original grievance, the decision rendered at the Director's level, and a clear, concise statement of the reasons for the referral. The City Manager shall designate a Human Resources representative to investigate the merits of the complaint, and upon request from the employee or the union, that representative to meet with the complaining employee (and/or the employee's steward or Union representative), if the grievant is not the Union itself, to meet also with the officials of the Union, and to settle such

grievance or to make recommendations thereon to the City Manager in his or her capacity as an employee relations officer.

The City Manager shall issue a decision within ten (10) days of receipt of the grievance referral or within ten (10) days of the meeting, or if a meeting is held with the employee and/or the Union, the meeting must be held within ten (10) days of the referral. Grievances filed by a bargaining member where the Union is not representing or acting on the grievant's behalf, shall end at this step and no further right of appeal exists. The City Manager's decision shall be final.

Union controlled grievances: If the issue is not resolved, the grievance may be referred to Arbitration by the Union pursuant to Section 35.2.5 (Arbitration: The Union retains the sole discretion to move a grievance to arbitration) below within thirty (30) days of receipt of the City Manager's response. Provided further that the Union shall forward to the City the Union's portion of the State Mediation and Conciliation Services (SMCS) fee within sixty (60) days of receipt of the City Manager's response. Failure by the Union to meet this sixty (60) days deadline for both referral to Arbitration and payment of the SMCS fee shall be deemed as a full and complete waiver by the Union to appeal the City Manager decision to Arbitration and the City Manager decision shall be final and binding on all parties.

35.2.5 Arbitration: The Union retains the sole discretion to move a grievance to arbitration. Any grievance which has not been resolved by the procedures hereinabove set forth may be referred by the Union, or the City to an impartial arbitrator who shall be designated by mutual agreement between the Union and the City, using the State Mediation and Conciliation Services (SMCS) to provide a list of five (5) arbitrators. The City and the Union will alternately strike a name until one remains. The remaining name will be the arbitrator. The fees and expenses of the arbitrator, the State Mediation and Conciliation Services (SMCS) and of the court reporter shall be shared equally by the Union and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any. Arbitrator decisions on matters properly before them shall be final and binding on both parties..

The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigation she or he deems appropriate, and shall render a final and binding decision to the parties which will end the formal grievance process.

35.2.5.1 Arbitrator Jurisdiction: No arbitrator shall entertain, hear,

decide, or make recommendations on any dispute involving a position over which a formally recognized employee organization has jurisdiction unless such dispute falls within the definition of a grievance as hereinabove set forth in Section 35 (Grievances).

35.2.5.2 No Modifications: Proposals to add to or change this Memorandum Agreement or written agreements or addenda supplementary hereto shall not be arbitrable, and no proposal to modify, amend, or terminate this Memorandum Agreement, nor any matter arising out of or in connection with such proposal, may be referred for arbitration under this Section; and no arbitrator shall have the power to amend or modify or recommend amendment or modification of this Memorandum Agreement or any written agreements or addenda supplementary hereto or to establish or recommend establishment of any new terms and conditions of employment.

35.2.5.3 Timeliness of Award: No arbitrator will be selected hereunder who does not agree to render an award not later than thirty (30) calendar days after the close of the hearing. By mutual agreement between the City and the Union, the arbitrator may render an award immediately upon the conclusion of the presentation of evidence.

35.3 EEO Complaints

Any grievance which in any way affects the implementation of the City's Equal Employment Opportunity Policy shall not be subject to arbitration. The decision as to whether or not implementation of the Equal Employment Opportunity Policy is in any way involved shall be made by the City Manager in his or her sole discretion. If, in his or her judgment, any grievance which involves the Equal Employment Opportunity Policy, the Equal Employment Opportunity and Diversity Officer shall notify the Union to that effect in writing within seven (7) days of the date upon which the grievance is received in the Human Resources Department and, in such notification, refer to that Section of the Equal Employment Opportunity Complaint Investigation & Resolution Procedure which is involved; provided, however, that such notice may come at any time prior to arbitration if additional factors come to the attention of the Equal Employment Opportunity and Diversity Officer on the basis of which he or she considers it appropriate to change his or her original determination.

35.4 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. In such cases, no adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed or thirty (30) days from the date when an employee may reasonably be expected to have learned of said claimed violation. Only grievants which allege that employees are not being compensated in accordance with the rules, regulations, and resolutions of the City Council or in accordance with the understanding contained in any Memorandum Agreement which has resulted from the meeting and conferring process shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and, if not detailed in the memorandum agreement which results from such meeting and conferring process, shall be deemed withdrawn until the meeting and conferring process is next open for such discussion.

35.4.1 Response Time Limits: The Director of Human Resources or his or her designee shall issue a decision in writing within twenty (20) days from the time he or she received the compensation grievance in writing. The grievant or the Union may refer the decision to the Third Formal Step (Section 35.2.4 - Third Formal Step) of this Memorandum Agreement) within twenty (20) days of receipt of the written decision.

35.5 Changes or Interpretations

No changes in this Memorandum Agreement or interpretation thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the City Manager and the Union.

35.6 Extension of Timelines

Timelines noted in this Section may be extended for cause upon mutual agreement between the City and the Union.

35.7 Days

All references in this Section 35 (Grievances) to "days" shall mean normal working days except as otherwise noted.

35.8 Grievances Challenging Disciplinary Action

35.8.1 Any grievance involving any disciplinary action up to as three (3) day suspension will be filed at the Director level.

35.8.2 All grievances involving demotion, discharge, or suspension of greater than three (3) days will be filed at the City Manager's level of the grievance

procedure. If the issue is not resolved within fifteen (15) days of referral to this step, the procedures hereinafter specified may be invoked.

35.8.3 No grievance involving the suspension or discharge of an employee will be entertained unless it is filed in writing with the City Manager within five (5) working days of the time at which the affected employee was notified of such action in writing. If the City Manager, in pursuance of the procedures outlined in Section 35.2.4 (Third Formal Step) above, resolves a grievance which involves suspension or discharge, he or she may agree to payment for lost time or to reinstatement with or without payment for lost time.

35.8.4 Arbitrator decisions on matters properly before them which pertain to the suspension or discharge of an employee shall be final and binding on both parties, to the extent permitted by the Charter of the City.

ARTICLE 7 – GENERAL PROVISIONS

SECTION 36: GENERAL PROVISIONS

36.1 Personal Conduct

36.1.1 No employee shall accept appointment to the deputyship or assistantship of any county or state office or position, or otherwise incur an obligation of civil public service outside his or her regular municipal employment without first obtaining the recommendation of the head of his or her department and of the City Manager.

36.1.2 No employee shall be disciplined for off-the-job activities which do not affect his or her job performance.

36.1.3 Employees shall so arrange their personal financial affairs so that the demands of creditors and collection agencies shall not impose a recurring burden upon the offices of the City Manager, the department head, or the Director of Human Resources for the purpose of making collections.

36.1.4 Full-time City employees may not carry on concurrently with their public service any private business or undertaking, attention to which affects the time or quality of their work or which casts discredit upon or creates embarrassment for the City government.

36.1.5 No official or employee who wears a badge or other official insignia as evidence of his or her authority and identity shall permit such badge or insignia to be used or worn by any other person of the same or another department or otherwise to leave his possession without approval by the head of this department. The department head shall not grant such approval except as to persons regularly and formally appointed by the City Manager to the position designated by the badge or insignia.

36.2 Rain Gear

The City will provide rain gear for employees in Representation Unit C assigned to work in inclement weather.

36.3 Tools

Each employee shall continue to be responsible for providing tools of the trade or other equipment, but shall receive a flat annual tool replacement allowance each July 1.

New employees hired before or after July 1 will be entitled to a prorated tool replacement allowance payable the following July 1 after employment.

36.3.1 **Allowance:** Effective July 1, 2015, the tool replacement is five hundred dollars (\$500). Tool allowances shall be paid at the end of the fiscal year in which they are earned.

36.4 Shoes

Effective June 18, 2017, all classifications covered by this MA shall be eligible for reimbursement of up to two hundred dollars (\$200.00) per fiscal year for the cost of safety shoes. Employees receiving this reimbursement must wear safety shoes on duty.

36.4.1 **Reimbursement:** Employees shall be required to submit a reimbursement request, along with receipts verifying the purchase of safety shoes within sixty (60) days of purchase. Reimbursements will be paid within forty-five (45) days of complete reimbursement requests.

36.5 Training

36.5.1 **Responsibility:** Responsibility for developing training programs for employees shall be assumed by the City Manager. Such training programs may include lecture courses, demonstrations, assignment of reading matter, or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of municipal employees in the performance of their duties. The City shall endeavor to provide training for all new technology purchased by the City and maintained by members of this Agreement.

36.5.2 **Advancement/Promotional Consideration for Special Training Courses:** Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed with the Director of Human Resources by the department head.

36.5.3 **Mileage and Tuition Reimbursement:** The City shall reimburse all employees for mileage and tuition expenses related for attendance at job-related courses. Provided that the employee must have prior authorization from his or her department head and the course has been approved by the City.

36.5.4 **Education Leave:** The City shall allow up to forty (40) hours off with pay per year to employees:

36.5.4.1 Who are required to obtain a license (excluding Class C driver's licenses) issued by the State of California and, in order to do so, must take courses which were not offered as a part of their basic curriculum or,

36.5.4.2 Who are required to obtain continuing education as a condition of license renewal; provided the license is required by the City for the employment or continued employment of the employee and that no more hours than are required by the State shall be granted. Employees seeking time off to take courses for an initial license must provide verification that the course was not offered as a part of their basic curriculum.

Employees who take classes during non-scheduled work hours in order to retain a job required license or to meet continuing education requirements shall be allowed time off from work on an hour-for-hour basis without loss of compensation or other benefits.

36.5.4.3 To obtain education and training related to job skills to enhance performance, or to qualify for promotion, at the discretion of the department head.

36.5.5 Management/Union Meetings: The City and Union agree that it is beneficial to both parties to discuss and develop training for all classifications. The Director of Public Works and the Union shall meet on a quarterly basis to discuss and review progress made in addressing initial employee orientation, new equipment training, and vendor training.

36.5.6 Commercial Driver's License: The City shall provide the necessary training for employees to obtain a California Class B driver's license when such license is a requirement of their job classification and a condition of employment. Employees who fail to obtain the required California Class B driver's license after training will be subject to rejection from the probationary period pursuant to Section 26.4 (Rejection during Probationary Period) of this Memorandum Agreement.

36.6 Use of Automobiles

The City Manager shall govern the use of City-owned automotive equipment and privately-owned automotive equipment by such rules and regulations as he or she may establish. Compensation shall be given in the form of a cash allowance for the use of private-owned automobiles on City business if such use has been

authorized in advance by the City Manager. The cash allowance will be equal to the amount established by the Internal Revenue Service, and will change as necessary to comply with IRS Standard Mileage Rate.

36.7 Safety

36.7.1 Safety Committee: The City and the Union will make every effort to maintain excellent health and safety standards. No employee shall be required to perform work with unsafe equipment or in situations which are injurious to his or her health or safety. To further these purposes, the City shall maintain an ongoing safety program which shall include committees comprised of representatives from the Union and appropriate supervisory personnel.

36.7.2 Rainy Weather Assignments: The City shall endeavor to avoid assigning non-emergency, routine work in rainy weather, which would constitute a safety hazard.

36.8 YMCA Group Membership

The City shall offer employees a low or no-cost group membership in the Berkeley Central YMCA. As of July 1, 1999, the City will pay 75% of the membership fee. If the monthly fee is increased to more than \$60, the employee share will be capped at \$30 per month; the City will pay the balance. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding.

Use of the YMCA membership by a City of Berkeley employee, as provided for in this Agreement, is non-compensable, is not a part of the employee's work-related duties, is not required for employment and is not condoned as part of a physical fitness program, or required to remain top physical conditioning for the employee's job performance.

The City of Berkeley or its Claims Administrator may not be liable for any injury that arises out of a City of Berkeley employee's participation in and use of a YMCA membership.

36.9 Annual Performance Evaluation

The City may implement a program of annual performance evaluation. Such evaluations shall be conducted by the employee's immediate supervisor and reviewed by additional levels of supervision. Each employee may make written comments on the evaluation, which shall be made a part of the employee's personnel records.

ARTICLE 8 - PUBLIC EMPLOYEES RETIREMENT SYSTEM

SECTION 37: PAYMENT OF EMPLOYEES' PERS CONTRIBUTIONS

37.1 Miscellaneous Designation

The City shall continue participation under the Miscellaneous Employees Plan of the California Public Employees' Retirement System, (CalPERS).

37.2 "Classic Employees" Definition

Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

37.3 "New Member" Definition

"New Members are as defined in the Public Employees' Pension Reform Act of 2013 (PEPRA), Government Code Section 7522.04(f).

37.4 CalPERS Retirement Formula for "New Members" as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)

"New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the retirement formula set forth in PEPRA.

37.5 CalPERS Retirement Formula and Employer Paid Member Contribution for Classic Employees (i.e. current employees and employees who do not qualify as "New Members" under PEPRA)

Current employees and other employees who do not qualify as "New Members" under PEPRA shall continue to be entitled to the 2.7% at age 55 retirement formula benefit, and the City shall continue the contribution of eight percent (8%) to CalPERS on behalf of the employee.

37.6 CalPERS New Members Normal Share of Cost

New Members as defined by PEPRA who are hired on or after January 1, 2013 shall pay 50% of the normal share of cost required by PEPRA. New Members shall receive any other additional optional CalPERS benefits that the City provides to Classic Employees as allowed by PEPRA.

37.7 Reporting of Contributions

Effective July 3, 1994, contributions made pursuant to Section 37.5 above have been reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The member contributions made by the City shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked, or education incentive pay; nor shall such contribution be taken into account in determining the level of any other benefit which is a function of or percentage of salary. Pursuant to California Government Code Section 20691, the City shall not increase, reduce or eliminate payments of the normal contributions on behalf of the employee without engaging in the meet and confer process with the Union.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this Section or any penalty that may be imposed therefore.

37.8 City Contracts with CalPERS

The City's contract with CalPERS includes the following optional benefits:

37.8.1 Classic Employees – One Year of Final Compensation: Classic Employees as defined in Section 37.2 ("Classic Employees" Definition) above and as provided in Government Code Section 20042 (July 9, 1978).

37.8.2 New Members – Three Years Final Compensation: Provided further that New Members as defined by PEPRA hired on or after January 1, 2013 shall be eligible to receive retirement allowance based on three (3) highest consecutive years of compensation under the plan as provided under the California Public Employees' Pension Reform Act of 2013, or as subsequently amended.

37.8.3 Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973).

37.8.4 Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).

37.8.5 Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).

37.8.6 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973).

37.8.7 Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

37.8.8 2% @ 55 for Local Miscellaneous Members as provided in Section 21354 (June 30, 1992).

37.8.9 Military Service Credit as Public Service as provided in Section 21024 (April 9, 1999).

37.8.10 Public Service Credit for Peace Corps or AmeriCorps/VISTA Service as Provided in Section 21023.5 (April 14, 2000).

37.9 Index Level 1959 Survivor Benefit

The City intends to amend its contract with CalPERS to provide the Indexed Level of the 1959 Survivor Benefit as provided in Section 21574.5 when administratively feasible.

37.10 Classic Members' Pension Contribution through 20516 a Contract Amendment

37.10.1 **July 3, 2016:** Effective July 3, 2016, employees will contribute one and one-quarter percent (1.25%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis, in exchange for the City granting the salary increase set forth in Section 11.1.5 (July 3, 2016 - Salary/PERS Exchange) of this MA. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

37.11 New Members' Pension Contributions through 20516 a Contract Amendment

37.11.1 **July 3, 2016:** Effective July 3, 2016, in addition to the contributions in Section 37.4 (CalPERS Retirement Formula for "New Members" as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)), New Members will contribute one and one-quarter percent (1.25%) towards the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions as pre-tax via automatic payroll deduction, in exchange for the City granting the salary increase set forth in Section 11.1.5 (July 3, 2016 - Salary/PERS Exchange) of this MA. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

37.11.2 The parties recognize that the CalPERS 20516 amendment that allows employee contributions toward the employer rate is in addition to the

required 50% of the normal cost of "New Members" benefits and made in consideration of additional salary increases in Section 11.1.5 (July 3, 2016 - Salary/PERS Exchange) above (a total of 1% salary increases in exchange for employees paying a total of 1.25% towards CalPERS pension cost).

SECTION 38: SUPPLEMENTAL RETIREMENT/DISABILITY INSURANCE PLAN

Effective January 1, 1983, the majority of miscellaneous employees under the City's contract with the State of California Public Employees Retirement System who were covered by the integrated Social Security Program voted to withdraw from participation in the Federal Social Security Program. In lieu of Social Security payments, the City has agreed to pay an amount equal to that percent of individual pay (6.7% payable on the first \$32,400 of salary paid in the calendar year) which had been paid by the City to Social Security as of December 31, 1982 to a Supplemental Retirement and Income and Long Term Disability Insurance Plan for those employees previously covered under the integrated PERS/Social Security Plan. Provisions of this plan are described in Berkeley Municipal Code Chapter 04.36.101 (Supplemental Retirement and Income Plan I) as amended and Berkeley Municipal Code Chapter 04.38.101 (Supplemental Retirement and Income Plan II) as amended. All employees hired after July 22, 1988 are in SRIP II. All employees hired prior to July 22, 1988 are in SRIP I unless they chose to enroll in SRIP II prior to December 17, 1988.

ARTICLE 9 - LAYOFF PROCEDURE

SECTION 39: LAYOFF

The layoff policy for the City of Berkeley is intended to provide the maximum employment protection of the City staff should a layoff become necessary. The policy also aims to minimize the impact such a layoff might have on the City's affirmative action accomplishments.

39.1 Announcement of Layoff

39.1.1 Notification: The City Council, City Manager, and department head shall make every reasonable effort to manage and budget the City's resources effectively and to plan for the delivery of City services in a manner which will avoid the necessity of laying off career City employees. If a reduction in the work force for more than thirty (30) calendar days is necessitated by, but not limited to, the following: a material change in duties and organization, adverse working conditions, return of employee from leave of absence, or shortage of work or funds, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

39.1.2 Freezing of Vacancies: Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the competitive service in similar and related classifications to those likely to be targeted for layoff, as well as all related full-time, benefited, temporary positions which are expected to last six (6) months or more, and notify all department heads that such current and anticipated vacancies will be frozen until further notice in order to implement the provisions of Section 39.6 (Flexible Placement Program).

39.2 Seniority Service Date

39.2.1 All service in the employ of the City shall be counted toward the establishment of an employee's seniority service date, including, for example, permanent, probationary, provisional, temporary (full-time and intermittent), seasonal, and exempt employment, as well as leaves of absence for obligatory military service while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the seniority service date. Time off as a result of formal disciplinary action will be subtracted from the seniority service date.

- 39.2.2 The auditor's office will maintain up-to-date and current seniority dates for all City employees holding probationary and permanent appointments.

39.3 Establishment of Seniority Lists

39.3.1 Whenever a layoff of one or more career employees becomes necessary, as defined above, such layoffs shall be made according to City-wide classification seniority lists. Upon receiving notification that the City Manager must proceed with a possible reduction in the work force, and following receipt of information concerning the specific positions, programs, and departments involved, the Human Resources Department will immediately establish separate probationary and permanent seniority lists for each classification targeted for layoff.

39.3.2 The names of all City employees holding permanent and probationary appointments in a given classification will be listed on the appropriate list in descending order by seniority service date. Employees on both lists shall be laid off on the basis of their seniority service date, i.e., employees with the least amount of total service shall be laid off first. All emergency, temporary, and provisional employees working in classifications similar to those identified for layoff must be terminated prior to the layoff of probationary or permanent employees. Employees on the probationary seniority list for a specific classification will be laid off prior to employees on the permanent seniority list for that classification.

39.3.3 Probationary or permanent employees temporarily acting out of classification and holding a provisional appointment in another classification will only be listed on a seniority list of the classification in which they hold permanent or probationary status targeted for layoff.

39.3.4 If two (2) or more employees on a seniority list have an identical seniority service date, the tie shall be broken in the following order:

39.3.4.1 Time in classification - the employee having least time in the classification shall be released first;

39.3.4.2 By lot.

39.4 Employee Retreat Rights

- 39.4.1 Before an employee with permanent or probationary status may be released from employment with the City of Berkeley, the Human Resources Department must consider the employee's right to retreat to lower level classifications through which he or she was originally promoted or any subsequently created intermediate level career classification which provides normal progression through the classification series. Retreat rights shall also extend to employees who have not previously been promoted through a classification but for whom the classification is a natural progression or beginning in the classification series.
- 39.4.2 In the process of retreating, the same rules concerning the length of service, classification seniority lists, etc., apply as in the first stage of the layoff process. In order to retreat, the targeted employee must be higher on the seniority list for the classification into which he or she is retreating than at least one of the incumbents on the probationary or permanent seniority list for that classification.
- 39.4.3 If an employee is qualified for retreat into more than one classification with comparable salary ranges, or if a vacancy exists in a classification to which an employee is entitled to retreat, the options shall be discussed with the employee and due consideration shall be given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee.
- 39.4.4 The retreating employee has a right to be retained in the highest salary range possible which is equal to or less than his or her present salary range. An employee involved in layoff does not have a right of mandatory placement to positions with a higher salary range, i.e., promotion.

39.5 Employee Notification

- 39.5.1 Emergency, temporary, intermittent, seasonal, etc., employees shall be notified individually, in writing, of pending layoff as soon as possible, but no definite time period is required. However, at least two (2) weeks notification is desirable if possible.
- 39.5.2 Provisional employees shall be notified individually, in writing, of pending layoff as soon as possible, with no less than fifteen (15) calendar days notification if targeted for release or reassignment.
- 39.5.3 Permanent, probationary, and career-exempt employees should be notified individually in writing of pending layoffs as soon as possible, with no less

than thirty (30) calendar days notification if targeted for release or reassignment.

If an employee fails to accept a bona fide offer of reassignment within ten (10) calendar days after the offer has been made, he or she forfeits further right to employment retention. Acceptance of a reassignment does not remove the right of appeal under Section 39.9 (Appeal Procedure).

35.5.4 An employee who is transferred in lieu of layoff when his or her position has been eliminated shall have automatic return rights to the previous position if it is restored within one (1) year of the date of the transfer. If an employee with a full time position is offered a reduction in hours in that position or in a lower classification, the employee may elect to be targeted for layoff for purpose of consideration under Section 39.6 (Flexible Placement Program.) If there is no flexible placement available for the employee, the employee may accept the reduction in hours, in lieu of layoff.

39.6 Flexible Placement Program

39.6.1 In order to minimize the negative impact of layoff, the City Manager will, as previously stated in Section 39.1.2 (Freezing of Vacancies), impose a citywide freeze on all appropriate vacancies as soon as it has been determined that a layoff of career City employees may be necessary.

39.6.2 Following the release of all emergency, temporary, and provisional employees in classes similar to those targeted for layoff, and as soon as employees targeted for layoff have been identified and the provisions under Sections 39.4 (Employee Retreat Rights) have been carried out, the Human Resources Department will review and identify the frozen vacant classifications into which employees ultimately targeted for layoff may be placed on the basis of total experience and education. In making this decision, a waiver of minimum qualification standards, and/or the substitution of related experience and education may be made, with an understanding on the part of management and supervisory personnel that adequate on-the-job training, which can be completed within no more than six (6) months, will be provided to facilitate job adjustment and to compensate for the waiver of qualification standards if that has occurred.

This shall be called the qualification period. The employee shall be advised of their progress after two months and four and six months in the new classification. If at the end of the qualification period the department head notifies the Human Resources Department that the employee is

unable to adequately perform the assignment or fails a test for the position administered by Human Resources then the employee shall be subject to the layoff process.

39.6.3 Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off, except that the City Manager may authorize the offer of a flexible placement to position with a maximum salary of no more than five (5) percent above the salary range as the classification from which layoff is targeted, when it is in the best interest of the City service to do so. Whenever flexible placement is made to a classification with a greater salary range, the appointment shall be probationary, in accordance with the terms of that classification.

39.6.4 Offers to positions under the Flexible Placement Program shall be made according to seniority service date and in accordance with the probationary and permanent seniority list certification process outlined in Section 39.3 (Establishment of Seniority Lists). All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times.

39.6.5 If an employee fails to accept a bona fide written offer of an alternative job within ten (10) calendar days after the offer has been made, he or she forfeits further rights to employment retention. Acceptance of an alternative job under the Flexible Placement Program in no way jeopardizes an employee's standing on the reemployment priority lists on which his or her name has been placed in accordance with Section 39.7 (Reemployment Lists).

39.7 Reemployment Lists

39.7.1 The names of all probationary and permanent employees released from positions in the competitive service as a result of layoff must be placed on reemployment priority lists for those classifications from which they were separated, as well as all other classifications to which they have retreat rights in accordance with Section 39.4 (Employee Retreat Rights).

39.7.2 A reemployment priority list shall remain in effect for three (3) years.

39.7.3 Departments with vacancies in any classification for which there is an active reemployment priority list must use the reemployment priority list to fill their positions and may not use any other recruitment or appointment

method to fill a vacancy until appropriate reemployment lists have been exhausted.

39.7.4 When a vacancy occurs in a class for which there is a reemployment priority list, the name of the employee on the appropriate reemployment priority list with the highest seniority date shall be certified to the selecting official. Employees so certified from the reemployment priority list must be appointed to the existing vacancy.

39.7.5 If a former employee fails to accept a bona fide written offer of reemployment within fifteen (15) calendar days, his or her name will be removed permanently from the reemployment priority list from which the offer was made. Failure to accept an offer of reemployment to the classification with the highest salary range for which the employee is eligible for reemployment will result in automatic removal from all reemployment priority lists. However, the employee may decline (or accept) reemployment to lower salary range classifications without jeopardizing his or her standing on the reemployment priority list for the classification from which he or she was originally terminated.

39.7.6 Upon reappointment to the classification from which the employee was originally separated or demoted, the employee has the right to be placed at the step of the salary range which the employee held at the time of layoff or demotion.

39.8 Career Exempt Employees

Only those employees holding full-time, benefited, exempt positions, who in the past have achieved permanent status and have been continuously employed without a break in service between their career and exempt appointment, have the right to retreat to previously held career classifications, placement on the reemployment priority lists, and all other provisions governing layoff procedures. For the purpose of layoff, such employees shall be referred to as "career-exempt."

39.9 Appeal Procedures

Any permanent, probationary, or career-exempt employee who is laid off, demoted, or reassigned as a result of layoff who believes that the layoff procedure has been improperly administered as it pertains to the employee's case may appeal the action under Section 35 (Grievances). In addition, employees may, at all times before, during, and subsequent to layoff, review all records, including seniority lists, reemployment priority lists, documentation pertaining to appointments under the Flexible Placement Program, etc., which pertain to their classification and their rights under the provisions of the layoff policy.

39.10 Reemployment Priority Rights

If it is determined that a vacancy has been filled by a non-reemployment priority list eligible in a classification for which a reemployment priority list existed and which included available applicants at the time, the former employee with reemployment rights shall be hired and given retroactive pay from the date that the vacancy occurred. The employee who was originally hired to fill the vacancy shall continue to be retained in City employment, provided he or she has completed the probationary period.

SIGNATURE PAGE

Executed this ___ day of _____, 2021, by the Employer and Employee representatives whose signatures appear below for their respective organizations.

FOR INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, LOCAL 1245

FOR THE CITY OF BERKELEY

Tom Dalzell, Business Manager

Dee Williams-Ridley, City Manager

Charley Souders, Business Representative

LaTanya Bellow, Director of Human Resources

Greg Marwick, Steward

Andrew Brozyna, Deputy Director of Public Works

Tom Hartman, Negotiation Committee

Alicia Platt, Senior Human Resources Analyst

Amani Manning, Assistant Human Resources Analyst

EXHIBIT A - Hourly Salary Schedule

As of July 25, 2021 (4.0% Salary Increase)

Job Code	Rep Unit	Classification Title	FLSA	Step 1	Step 2	Step 3	Step 4	Step 5
32020	C	COMMUNICATIONS TECHNICIAN	N	0	0	46.8878	49.1430	51.3853
52180	C	ELECTRICAL PARTS TECHNICIAN	N	0	34.2840	36.4983	38.4124	39.3832
51030	C	ELECTRICIAN	N	0	0	46.8878	49.1430	51.3853
51100	C	LEAD COMMUNICATION TECHNICIAN	N	0	0	50.1275	52.3965	54.9124
51080	C	LEAD ELECTRICIAN	N	0	0	50.1275	52.3965	54.9124

Note: Employee's monthly salary will depend upon the number of hours worked. Employees hired before January 9, 2000, have an option (discussed in detail in Exhibit E (Hours and Days of Work) to work either a 37.5-hour work week or a 40-hour work week. Employees hired after January 9, 2000 work a 40-hour per week schedule.

EXHIBIT C

CITY OF BERKELEY MUNICIPAL CODE CHAPTER 4.04.120

4.04.120 Exemption from Career Service (At-Will Employees).

The provisions of this chapter shall apply to all positions in the service of the city except:

- A. The city manager, assistant city manager, deputy city manager, assistant to the city manager, police review commission officer, police review commission investigator, and assistant to the mayor;
- B. Assistant, associate and senior management analyst when appointed to the city manager's department or to the Budget Unit of the Management and Administrative Services Agency; and secretary to the mayor, administrative secretary and secretary when appointed to the mayor's office;
- C. All department heads, health officer, and supervising psychiatrist;
- D. Persons employed seasonally in the summer camps;
- E. Persons employed as reserve or emergency employees during the period of national emergency as provided in the ordinance creating such employment;
- F. All persons who are paid at an hourly rate with the exception of library aides. Persons appointed as hourly Library Aides shall be part of the career service with the exception of those hired to fill temporary positions of six months or less.

Persons appointed to these positions which are exempt from the career service shall serve at the pleasure of the appointing authority and may be demoted, suspended, or otherwise rejected at any time without cause and without right of appeal or hearing in any manner. Except that, any employee in the career service promoted or transferred to a position not included in the career service and made exempt from the career service shall be reinstated to his or her career appointment from which he or she was promoted or transferred if within six months of appointment to a position not included in the career service, action is taken to dismiss him or her, unless charges are filed and the employee is discharged in accordance with this chapter and the rules established hereunder for positions in

the career service. All employments designated in this Section shall be entitled to only those benefits provided for at-will employees in the personnel rules and regulations or in applicable memoranda agreements.

EXHIBIT D – Service Vacation Leave

Years During Which Service Rendered	Number of Years of Service	AUTHORIZED ANNUAL VACATION LEAVE (IN CALENDAR WEEKS)
All years prior to 01/01/1950		2
01/01/1950 through 12/31/1956	First 10 years of service	2
	Years of service in excess of 10	3
01/01/1957 through 12/31/1961	First 5 years of service	2
	6 through 25 years of service	3
	Years in excess of 25	4
01/01/1962 through 12/31/1965	First 5 years of service	2
	6 through 20 years of service	3
	Years of service in excess of 20	4
01/01/1966 through 06/30/1970	First 5 years of service	2
	6 through 20 years of service	3
	21 through 25 years of service	4
	Years of service in excess of 25	5
Subsequent to 06/30/1970	First 5 years of service	2
	6 through 15 years of service	3
	16 through 25 years of service	4
	Years of service in excess of 25	5
Effective 01/01/1981	First 4 years of service	2
	5 through 12 years of service	3
	13 through 20 years of service	4
Effective 07/01/1984	First 3 years of service	2
	4 through 11 years of service	3
	12 through 17 years of service	4
	18 and subsequent years of service	5
Effective 12/08/1987	First 3 years of service	2
	4 through 11 years of service	3
	12 through 17 years of service	4
	18 through 24 years of service	5
	25 and subsequent years of service	6

EXHIBIT E - HOURS AND DAYS OF WORK

The hours and days of work applicable to employees in Representation Unit C, as set by the City Manager, are presently as follows:

1. Hours per Day

Field Operations: Working arrangements may vary as to daily schedules under the reduced workweek.

Flexible Hours: On a job-by-job basis, with prior approval of the Senior Electrical Supervisor, a crew may schedule a workday, or workdays, other than the normal workday schedule of 7:00 a.m. to 3:30 p.m.

2. Hours per Week (Basic)

Field Operations: 40 hours. However, employees in Representation Unit C as of January 9, 2000 have the option of retaining a 37.5-hour per week work schedule. An employee will have an option to change his work schedule to 40 hour per week at the beginning of a payroll period. An employee will have a one-time option to revert to a 37.5 hour per week work schedule at the beginning of a payroll period. After exercising this one time option, if the employee chooses to change his work schedule to 40 hours per week, the employee must maintain this work schedule for the balance of his career in this Representation Unit. All persons hired on or after January 9, 2000 will work a 40-hour per week schedule and will not be permitted to change his or her work schedule to 37.5 hours per week.

The parties may agree in writing to alternative work schedules other than those set forth in this Agreement, such as a 9-80 work schedule which produces an 80-hour pay period with the hours worked in nine work days. The City will take into consideration its operational needs, including the impact of potential overtime, in deciding whether to approve an alternate work schedule. However, such alternate work schedule will not be unreasonably denied.

3. Work Week

The work week will begin at 12:01 a.m., Sunday and end at Saturday midnight. Regular days off will be considered to be Saturday and Sunday.

EXHIBIT F - IMPLEMENTING THE REDUCED WORK SCHEDULE

NOTE: This Exhibit F applies only to employees hired before January 9, 2000 who are permitted to work a 37.5 hour per week work schedule subject to the conditions set forth in Exhibit E (Hours and Days of Work).

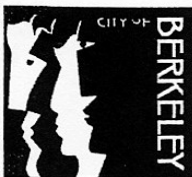
The City and the Union agree that the implementation of the reduced work schedule which is to be effective June 29, 1986 will be as follows:

That one-fourth of the Electrical Division employees will be off every fourth Monday on a staggered basis. This time would be treated as a scheduled day off and could not be adjusted or moved. A yearly schedule would be set up at the beginning of the year so that each employee would know what days he would have off. Since the agreed upon reduced work schedule does not calculate evenly into one day off every four weeks, it is proposed that an additional day off (Friday) be given once every 16 weeks. This agreement very closely approximates the reduced work schedule. Any discrepancies would be credited to the employee's vacation at the end of the contract year.

For Fair Labor Standards Act purposes, the workweek is defined as 40 hours.

Sick leave, vacation, and other compensable leaves of absences shall be based on the 40 hour work week.

When a scheduled day off falls on a holiday, the next regularly scheduled work day shall be observed as the scheduled day off.



Office of the City Manager

EXHIBIT G

DIRECTIVE PROHIBITING UNAUTHORIZED CONSTRUCTION

July 31, 2001

To: Department Directors

From: Weldon Rucker, City Manager

Subject: **DIRECTIVE PROHIBITING UNAUTHORIZED CONSTRUCTION
OR FACILITY MAINTENANCE WORK IN CITY FACILITIES**

It has come to my attention that some construction, building maintenance and electrical work is being improperly performed at various facilities that are either owned or leased by the City. Because this work can affect the health and safety of all City employees and can result in a significant potential liability for the City, it is absolutely essential that any such work be done by competent and experienced individuals. Even if licensed contractors are brought in to do the work, they may not be fully aware of how their work will impact other City projects or facilities. Furthermore, already scarce City funds are wasted when Public Works has to correct improper or hazardous work performed by unauthorized individuals or contractors. Accordingly, such construction and maintenance work must only be performed by properly trained and supervised Public Works maintenance staff or contractors selected by, and under the direction of, the Public Works Department.

Therefore, I am reminding and directing all department directors to ensure that absolutely no construction, building maintenance or electrical work be performed in any City owned or leased facilities by contractors or anyone else not under the direction of Public Works. All construction and facility maintenance work is to be referred to the Public Works Department.

For routine maintenance, minor repairs, or minor physical modifications, contact the Public Works Customer Service representative at 644-6620. For larger construction projects, contact Public Works Capital Improvement Projects at 981-6330. Public Works can then make appropriate decisions as to whether construction or maintenance work should be performed by City employees or by outside contractors, utilities, or agencies.

Thank you, in advance, for your full compliance with this direction.

cc: City Manager's Office

RESOLUTION NO. ##,###-N.S.

APPROVING A NEW CLASSIFICATION AND SALARY RESOLUTION FOR INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1245 AND RESCINDING RESOLUTION NO. 68,671-N.S.

WHEREAS, the City Council has approved a new two-year Memorandum Agreement with International Brotherhood of Electrical Workers, Local 1245 which includes salary increases; and

WHEREAS, it is necessary for the City Council to adopt a new Classification and Salary Resolution to reflect the salary adjustments reflected in the new Memorandum Agreement.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts a new Classification and Salary Resolution for employees in Representation Unit C (Electrical Occupations) effective June 28, 2020 through June 30, 2022 to incorporate changes to the salary schedule as shown in Exhibit A (July 25, 2021) attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that Resolution No. 68,671-N.S. is hereby rescinded.

Exhibit

- A: International Brotherhood of Electrical Workers, Local 1245
Classification/Salary Resolution Period: July 25, 2021 through June 30, 2022

EXHIBIT A - Hourly Salary Schedule**As of July 25, 2021 (4.0% Salary Increase)**

Job Code	Rep Unit	Classification Title	FLSA	Step 1	Step 2	Step 3	Step 4	Step 5
32020	C	COMMUNICATIONS TECHNICIAN	N	0	0	46.8878	49.1430	51.3853
52180	C	ELECTRICAL PARTS TECHNICIAN	N	0	34.2840	36.4983	38.4124	39.3832
51030	C	ELECTRICIAN	N	0	0	46.8878	49.1430	51.3853
51100	C	LEAD COMMUNICATION TECHNICIAN	N	0	0	50.1275	52.3965	54.9124
51080	C	LEAD ELECTRICIAN	N	0	0	50.1275	52.3965	54.9124



Office of the City Manager

CONSENT CALENDAR
July 20, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: LaTanya Bellow, Director, Human Resources
 Subject: Memorandum Agreement: Service Employees International Union Local 1021 Maintenance and Clerical Chapters

RECOMMENDATION

Adopt two Resolutions: 1) approving a new three-year Memorandum Agreement (hereafter referred to as the “MA”) with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters (hereafter referred to as the “Union”) with a term of June 27, 2021 through June 26, 2024, and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new labor agreement; and 2) approving a new salary resolution for Representation Units D, J, K-1, and K-2 that implement the new salary levels negotiated in the MA and rescinding Resolution No. 68,533-N.S.

FISCAL IMPACTS OF RECOMMENDATION

The terms of the new MA provide for a 4% salary increase effective the first full pay period after Council adoption; 3% effective the first full pay period in July 2022; and 1% effective the first full pay period of July 2023, for a cumulative wage increase of 8% over three (3) years; and one-time lump sum payment of \$1,000. The cost for the new MA is approximately \$6,516,109 over the term of the agreement (Fiscal Year 2022 through Fiscal Year 2024).

The MA provides a ramp down in PEPRCA CalPERS Cost Share over six years (1%, 1%, 1%, 2%, 2%, 1%); longevity pay moved up to after 20 years of service; two \$500 lump sum retention incentive payments to “Payroll Clerks” paid in August 2021 and January 2022; 2.5% premium pay to Zero Waste employees who are assigned the work of eliminated routes below 27.

The funding for this MA comes from the General Fund and other special revenue funds. For Fiscal Year 2022, the cost of this labor contract will be appropriated, as necessary, as part of the first amendment to the Annual Appropriations Ordinance and included in the budget for Fiscal Years 2023 through 2024.

CURRENT SITUATION AND ITS EFFECTS

The City's labor contract with the Union expired and was fully terminated as of June 26, 2021. In an effort to reach agreement on a successor MA, representatives of the City and representatives of the Union held approximately 10 negotiating sessions beginning April 21, 2021. The parties reached a tentative agreement on June 23, 2021.

While the labor contract expired and fully terminated on June 26, 2021, the laws governing collective bargaining agreements provide that the terms and conditions set forth in the expired contract remain in full force and effect until modified through the collective bargaining process, which has now been completed and the parties reached tentative agreement on all outstanding issues.

BACKGROUND

There are approximately 441 employees in the SEIU Local 1021 Maintenance and Clerical Chapters in four (4) separate representational units. The Union represents employees in manual field operations in the Public Works and Parks, Recreation and Waterfront Departments; non-sworn paraprofessional employees in the Police Department; and office clerical and paraprofessional employees in most other City departments.

The City's philosophy during negotiations with the Union was to follow City Council policies to protect the City's short and long-range economic health. City Council policies for labor negotiations include, but are not limited to, the following:

- Assure that labor organizations and their members are treated fairly and with respect;
- Negotiate in good faith and within the process established by the parties including maintaining the confidentiality of Council deliberations and the negotiation process;
- Negotiate contracts based on a "Total Compensation Package" model (changes in current and future salaries, premium and specialty pays, and health and welfare benefits) consistent with the City's overall financial condition, ability to pay and financial policies;
- Any pay adjustments for particular classifications should be factored in the overall Total Compensation Package;
- Strive to achieve salary ranges at the median of comparable jurisdictions whenever possible;
- Assure the City's Total Compensation salary and benefit package is competitive in the marketplace, is fair to existing employees and is competitive with public

employers in the Bay Area so that the City is able to recruit and retain quality employees;

- Negotiation of employee benefits should include consideration of uniformity across bargaining units to the extent this is compatible with state law, enhances transparency and is efficient in to administer, while at the same time not resulting in an overall increase in costs. Consideration of uniform benefits will not be utilized as a preemptory tool to negotiate compensation or benefits as such would be contrary to the spirit and intent of bargaining in good faith;
- Include sustainability of benefits as part of negotiating considerations;
- Conduct regular actuarial studies of major unfunded liabilities including CalPERS, retiree health, etc.; and
- Use long-term and multi-year strategies to reduce unfunded liabilities and appropriately fund and achieve sustainable benefits.

Major provisions of the new labor contract are as follows:

10 Duration	Three-years 6/27/21 – 6/26/2024
17.10 Longevity	3% at 20 years
11 Salaries	4%, 3%, 1%; \$1,000 lump sum
Payroll Specialty Pay	\$500 paid in the first full pay period after Council approval; \$500 paid in the first full pay period in January 2022 to 15 “Payroll Clerks” identified by SEIU
22.1 Salary Continuation (New)	Incorporate Side Letter Agreement
16.5 Zero Waste Route Reduction Premium	2.5% for impacted employee of permanent elimination of routes below 27
20.1 Recognized Holidays	Eliminate Lincoln’s Birthday and Add Cesar Chavez and Juneteenth Holiday – <u>If all other bargaining units agree</u>
43.9.4 (New)	PEPRA Pension contribution ramp down over six years; 1%, 1%, 1%, 2%, 2%, 1%, with reopener upon request in January 2024

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Representatives of the City worked within policies set by the City Council for guiding contract negotiations and staff met with the City Council in closed session to discuss and receive the policy direction and economic authority to settle this contract. The overall settlement must be within the City's ability to pay based on projected revenue as well as demands for services across the spectrum of programs the City provides the community. The attached MA is consistent with City Council's direction to staff and is fair and equitable to the members of the Union.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

LaTanya Bellow, Human Resources Director, 981-6807

Attachments:

- 1: Resolution: Memorandum Agreement: SEIU Local 1021 Maintenance and Clerical Chapters
Exhibit A: Memorandum Agreement between the City of Berkeley and for Service Employees International Union Local 1021 Maintenance and Clerical Chapters – June 27, 2021 through June 26, 2024 (Clean Version)
- 2: Memorandum Agreement between the City of Berkeley and for Service Employees International Union Local 1021 Maintenance and Clerical Chapters – June 27, 2021 through June 26, 2024 (Edited Version)
- 3: Resolution: Approving a New Classification and Salary Resolution for Service Employees International Union Local 1021 Maintenance and Clerical Chapters and Rescinding Resolution No. 68,533-N.S.
Exhibit A: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution Period: July 25, 2021 to the first full pay period in July 2022
Exhibit B: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution Period: Effective the first full pay period of July 2022 to the first full pay period of July 2023
Exhibit C: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution Period: Effective the first full pay period of July 2023 to the first full pay period of July 2024

RESOLUTION NO. ##,###-N.S.

MEMORANDUM AGREEMENT: SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL 1021 MAINTENANCE AND CLERICAL CHAPTERS

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City of Berkeley Negotiating Team and Service Employees International Union Local 1021 Maintenance and Clerical Chapters have met and conferred in good faith and have reached agreement on a new Memorandum Agreement that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum Agreement for the period June 27, 2021 through June 26, 2024 with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters, including changes in certain benefits on dates specified in the Memorandum Agreement which is attached hereto, made a part hereof and marked Exhibit A.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum Agreement including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

Exhibit A:

Memorandum Agreement between the City of Berkeley and Service Employees International Union Local 1021 Maintenance and Clerical Chapters.



MEMORANDUM AGREEMENT

BETWEEN

CITY OF BERKELEY

AND

**SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL 1021**

MAINTENANCE AND CLERICAL CHAPTERS

June 27, 2021 through June 26, 2024

BACK COVER
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RESOLUTION NO. 69,537-N.S.

MEMORANDUM OF UNDERSTANDING: SEIU LOCAL 1021 MAINTENANCE & CLERICAL CHAPTER

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the SEIU Local 1021 Maintenance & Clerical Chapter have met and conferred in good faith and have reached agreement on a new Memorandum of Understanding that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum of Understanding for the period June 27, 2020 through June 26, 2021 with SEIU Local 1021 Maintenance & Clerical Chapter, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit B.


BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum of Understanding including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on July 30, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 

Mark Numainville, City Clerk

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ADMINISTRATION

SECTION 1: RECITALS

This Memorandum Agreement, herein after referred to as "Agreement", is entered into pursuant to the Meyers-Milias- Brown Act (Government Code, Sections 3500 et seq.,) as amended and has been jointly prepared by the parties.

The City Manager is the representative of the City of Berkeley, herein after referred to as "the City," in employer - employee relations as provided in Resolution No. 43,397-N.S. adopted by the City Council on October 14, 1969.

Local 1021, Service Employees International Union, is the Recognized Employee Organization for:

Representation Unit D (Manual Occupations),
Representation Unit J (Para-professional Employees- Police Department),
Representation Unit K-1 (career non-confidential office and clerical employees),
Representation Unit K-2 (Supervisory Clerical Employees)

The employee positions in such Representation Unit are set forth herein and made a part hereof, and Local 1021, Service Employees International Union, hereinafter referred to as "the Union" is recognized as the sole representative of employees assigned to such positions. This Memorandum Agreement shall be presented to the City Council, Board of Library Trustees, and the Rent Stabilization Board as the joint recommendation of the undersigned.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of the employees in said Representation Units D, J, K-1, and K-2; 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 Agreement shall be presented to the City Council as the joint recommendation of the undersigned, and therefore recognize this agreement as a binding and legal contract between the two parties.

Library and Rent Board employees working in classifications covered by this agreement shall have the same terms and conditions of employment as other employees covered by this Memorandum Agreement except as specifically modified by this agreement.

The Rent Stabilization Board and Library Board of Trustees shall ratify and sign this agreement.

SECTION 2: PARTIES TO AGREEMENT

- 2.1 **The Union:** The Union is the exclusive representative of all employees within Representation Units D (Manual Occupations) [MC00], J (Para-professional Employees - Police Department) [MC00], and K-1 (career, non-confidential office and clerical) [MC01], and K-2 (Supervisory Clerical Employees) [MC02] and shall continue to be recognized as such unless, the Union is no longer certified as the Recognized Employee Organization for employees in Representation Units D, J, K-1 and K-2.
- 2.2 **City Management:** Responsibility for management of the City and direction of its work force is vested in City officials and the City Manager whose powers and duties are specified by law. In order to fulfill this responsibility, it is the exclusive right of City management to determine the mission of its constituent departments. Such rights and responsibilities shall be applied consistent with the Meyers-Milias-Brown Act.
- 2.3 The Union and the City shall create a working environment free from hostility, intimidation and disrespect.

SECTION 3: NO DISCRIMINATION

The City and Union agree that they will not discriminate against any employee covered by this Agreement in a manner which would violate any applicable laws because of race, creed, color, ethnicity, ancestry, religion, political affiliation, sexual orientation, age, gender, national origin, marital or domestic partner status, gender identity or gender expression, parental status, pregnancy, disability or medical condition, Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law. The City agrees that there shall be no discrimination on the basis of protected Union activity. Furthermore, the City and Union agree to comply with all applicable federal, state and local laws pertaining to non-discrimination and equal employment opportunity (Title VII of the Civil Rights Act of 1964, as amended (to include the pregnancy disability amendments), Equal Pay Act of 1963, Age Discrimination Employment Act, Executive Order 11246, Vietnam Era Veterans Readjustment Act, Rehabilitation Act of 1973, California Civil Rights Law, (Government Code Sections 12900-12996), City of Berkeley Ordinances, resolutions and policies). The City and Union will comply with the City's Harassment Prevention Policy.

The City of Berkeley Harassment Prevention Policy, as may be amended from time to time to comply with applicable state or federal law, is available on-line on the City's IntraWeb at: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=10318>, in Department of Human Resources, or by contacting the City's Equal Employment Opportunity and Diversity Officer.

SECTION 4: UNION SECURITY

4.1 Union Security

4.1.1 Effective June 1, 1984, and for the term of the Agreement, all current and future employees of the City as described in Section 2, Parties to Agreement, hereof, shall, as a condition of continued employment, become and remain a member of the Union or, in lieu thereof, shall pay a service fee to the Union. Such service fee payment shall be equivalent to the standard initiation fee, periodic dues and general assessments (hereinafter collectively termed membership fees) of the Union.

4.1.2 **Religious Exemption:** Any employee of the City in a classification described in Section 1, Parties to Agreement, who is a member of a bona fide religion, body or sect which has historically held conscientious objection to joining or financially supporting a public employee organization and is recognized by the National Labor Relations Board to hold such objections to Union membership shall, upon presentation of membership and historical objection satisfactory to the City and the Union, along with verification of monthly transmittals of any charitable contributions, have sums equal to membership fees deducted and paid to one of the following charitable organizations as designated by the employee: (1) American Cancer Society; (2) Bay Area Black United Fund; (3) Over 60 Health Clinic; or (4) Sickle Cell Anemia Research and Education.

4.2 Voluntary Membership

All employees in this bargaining unit who are, or hereafter voluntarily choose to become members of the Union, shall maintain such membership in good standing as a condition of continued employment for the duration of this Agreement; provided, however, that withdrawal shall be allowed during a period of not more than sixty (60) days nor less than thirty (30) days prior to the expiration date of the Agreement by sending written notice of withdrawal to the Union (with a copy to the Director of Human Resources of the City during said period), consistent with the law.

4.3 Indemnification

The Union shall indemnify and save harmless the City, its officers and employees, from and against any and all loss, damages, costs, expenses claims, attorney fees, demands, actions, suits, judgments and other proceedings arising out of any discharge action resulting from this Section or Section 5.

4.4 Contract Distribution

The City shall post an electronic copy of the Agreement on the City website within 120 calendar days of final ratification in order to reduce the environmental impact of excess paper printing.

Any additions or changes to the Agreement agreed to by both parties subsequent to the posting of the Agreement shall be distributed to all employees in the bargaining unit.

4.5 Orientation Meetings

A representative of each Chapter of the Union will be given sixty (60) minutes of Union release time per quarter per calendar year to provide information on the Union to employees represented by the Union. The Union shall notify the City of the date, time and location of the quarterly orientation meetings at least one (1) month in advance of the meetings to ensure that departmental managers are able to release employees to attend the quarterly orientation meetings. The Union shall also provide the City with the names of the employees the Union expects to attend the quarterly meetings at least two (2) weeks in advance of the meeting. Employees attending the orientation will also be given sixty (60) minutes of Union release time to attend the scheduled orientation.

4.6 Union Notification

The City agrees that all notifications to the Union will include copy to the Union chapter presidents. Further, on all other correspondence involving investigatory interviews, intent to discipline, and grievance responses, the City shall also copy the relevant chapter chief steward, in addition to the relevant chapter president.

4.7 New Employee Orientation

This provision shall apply to new hire employees appointed to classifications covered by this Agreement and to existing employees newly appointed to classifications covered by this Agreement.

4.7.1 **Onboarding:** The parties acknowledge that the City provides a new employee orientation (onboarding) to each new employee hired by the City. As such, the Union will be provided with not less than 10 calendar

days' advanced notice of the time, date, and location of the onboarding of any new employee represented by the Union. The Union will be given 30-minutes at the start of the new employee onboarding in a room designated by the City for no more than one (1) representative to present Union membership information. The City representative will excuse him or herself during the Union portion of the onboarding. The Union agrees in its portion of the onboarding not to engage in speech that could cause disruption or material interference with City activities.

The City will provide 30 minutes of Union Release Time to the Union representative presenting the Union membership information during the scheduled onboarding. The Union shall provide the Union representative's immediate supervisor with the Union representative's name at least five (5) days prior to the onboarding. The Union representative shall be released for this purpose unless unusual operation needs interfere with such release in which case the Union representative's immediate supervisor will provide a written explanation of why release could not be approved. If the Union representative is not released due to department operational needs, the Union representative may arrange an alternative date and time to meet with the newly hired employee within the first two (2) weeks of employment, subject to the 30-minutes onboarding and Union Release Time requirements as stipulated above.

- 4.7.2 **Information Provided:** On a quarterly basis (March, June, September, and December), the City will provide the Union with a digital file via email to the email address designated by the Union. The Union acknowledges and understands that the City is working diligently and in good faith to update its contact information database functionality to incorporate all the fields of contact information listed below. As a result, the City may not initially be able to provide the employee's work telephone number, personal phone number, and personal email address until the completion and implementation of the City's new Enterprise Resource Management Application (ERMA) system.

The City will provide the Union with the following information on file, to the extent the City has it on file:

- Name.
- Job Title.
- Department.
- Work Location.
- Home telephone number.
- Home address.

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- Personal cellular telephone number (new hires hired on or after October 1, 2017).
- Work telephone number (*upon implementing ERMA*).
- Personal email addresses on file with the City (*upon implementing ERMA*).

Notwithstanding the foregoing, limited to the express purpose of the requirements of Government Code section 3558 only, an employee may opt out via written request to the City (copy to the Union) to direct the City to withhold disclosure of the employee's: Home address; home telephone number; personal cellular telephone number; personal email address; and date of birth.

SECTION 5: PAYROLL DEDUCTIONS

Effective the first complete pay period commencing after July 1, 1984 and in each month thereafter, the City shall make membership fee or service fee deductions, as appropriate, from the regular periodic payroll warrant of each City employee described in Section 1. Employees hired on or after July 1, 1984, shall receive and complete at the time of employment an authorization to deduct membership or agency fee as a condition of continued employment. Failure to complete the authorization form within 30 calendar days of employment shall result in automatic agency fee deductions.

The City shall promptly pay over to the Union all sums withheld for membership or service fees. The City shall also provide with each payment a list of employees paying service fees. All such lists shall contain the employee's name, employee number, classification, department, and the amount deducted. A list of all employees in represented classes shall be provided to the Union each month.

The City shall continue to deduct insurance premiums, COPE contributions, and other such deductions as may be specified by the employee in accordance with past practice.

SECTION 6: UNION REPRESENTATIVES

6.1 **Release Time – General:** Union representatives employed and recognized by the City shall assist employees in resolving grievances at the lowest possible administrative level. These employees shall be afforded reasonable time for the investigation and processing of grievances and for meetings with management without loss of pay or benefits upon notification to their first level supervisor not in the bargaining unit. Union representatives shall request Union release time from their first level supervisor not in the bargaining unit or his/her designee prior to engaging in union business. Such request for release time shall be made at the earliest possible time and, except in emergency cases, no later than 48 hours in advance before leaving the work assignment. The Union release request shall include the location, and area of activity, the approximate time needed and the general nature of union business involved. Such request shall not be unreasonably denied. Failure to meet the 48 hours requirement may result in denial of release time.

6.2 Release Time - Maximum Number of Representatives

6.2.1 **Meet & Confer:** With respect to the meet and confer process, ten (10) Union representatives shall be the maximum number who will be allowed concurrent paid time off.

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- 6.2.2 **Informal Grievance Procedure:** With respect to the informal level of the grievance procedure, one (1) Union representative will be allowed paid time off.
- 6.2.3 **First Level Grievance Procedure:** With respect to the first level of the grievance procedure or the pre-disciplinary meeting, two (2) Union representatives will be allowed concurrent paid time off.
- 6.2.4 **Second Level Grievance Procedure:** With respect to the second level of the grievance process, the Skelly meeting, or Arbitration hearing, three (3) Union representatives shall be allowed concurrent paid time off.
- 6.2.5 **All Other Matters:** For all other matters, where the participation of the Union is agreed to, the Union may designate two (2) representative from each Representation Unit, up to a maximum of six (6).
- 6.2.6 **Possible Grievance Release:** The City will provide release time to Union members to meet with a Union representative for the purpose of discussing a possible grievance. The member shall contact the Chapter President or Chief Steward who will then contact the supervisor/department director to notify the supervisor/department director of the necessity for the meeting. The release time shall be granted within 48 hours of the request subject to operational necessity.
- 6.2.7 **City of Berkeley Union Council:** The City will provide release time for Union Steward representatives to attend City of Berkeley Union Steward Council Meetings. Each steward representative shall receive a maximum of four (4) hours per month to attend the meeting. A maximum of sixteen (16) stewards shall be released to attend each meeting. The President or Chief Steward will notify Human Resources at least two (2) weeks in advance of the scheduled Steward Council Meeting and will provide Human Resources with the names of stewards, the name of the steward's immediate supervisor, the department and work unit of those stewards that will be attending the Steward Council Meeting. Failure to comply with the notice requirements will result in the denial of release time. In the event that there are conflicts in work schedules, which may create problems with a designated steward attending the meeting, the President or Chief Steward will work with the affected department supervisors to schedule steward attendance in a manner which minimizes disruption of work.

6.3 Union / Management Meetings

Monthly meetings shall be held between the union and the City Manager or his or her designee. Release time shall be granted for up to six (6) union officials. Agendas for such meetings shall be set one week in advance between the union Chapter Presidents and the City Manager or his or her designee. In preparation for the monthly meeting with the City Manager, release time shall be granted for up to two (2) hours and up to two (2) Union officials to confer with Union staff representatives on matters within the scope of representation.

Meetings within departments may be held when necessary at the request of either party and release time will be in advance in accordance with Section 6.2.5.

6.4 Joint Labor/Management Committee

A quarterly departmental Joint Labor/Management (JLM) Committee may be established to discuss and review issues affecting employees in each Department. The JLM may consist of two (2) Union representatives and Department Director and/or his or her designee(s). Agendas for such meetings shall be set one (1) week in advance between the Union and Department Director or his or her. Additional meetings may be scheduled upon advanced mutual agreement.

At the first Police Department labor/management committee after the effective date of this contract (2018 to 2020), the parties agree to discuss concerns related to applicable sections of General Order P-26 as it relates to the Police Department's process for handling personnel complaints of Clerical employees and Parking Enforcement Officers.

6.5 Official Attendance at Meetings

Any employee requested by the City Manager or his/her designee to attend conferences, seminars, governmental agencies or bodies shall be compensated with pay or release time.

6.6 Memorandum Agreement Orientation

The City and the Union will conduct orientation sessions on the Agreement at least once during the term of the contract. Additional sessions for stewards and supervisors may also be provided.

6.7 Union Business Release Time

Clerical Chapter: The Union will be entitled to up to one-hundred and twenty (120) hours of paid leave of absence each calendar year to be granted collectively to employees in the Clerical Chapter who are designated elected officials or stewards of the Union, subject to prior approval by employee's Department Head, to attend seminars, conferences, or conventions away from the job site. The Department

Head may, in his or her discretion, approve additional Union requests. Time spent on such Union business will be recorded with the appropriate code on time sheets.

Maintenance Chapter: The Union will be entitled to up to one-hundred and twenty (120) hours of paid leave of absence each calendar year to be granted collectively to employees in the Maintenance Chapter who are designated elected officials or stewards of the Union, subject to prior approval by employee's Department Head, to attend seminars, conferences, or conventions away from the job site. The Department Head may, in his or her discretion, approve additional Union requests. Time spent on such Union business will be recorded with the appropriate code on time sheets.

SECTION 7: SEPARABILITY OF PROVISIONS

In the event that any provisions of this Agreement is declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of this Agreement shall be null and void, but such nullification shall not affect any other provisions of this Agreement, all of which other provisions shall remain in full force and effect.

SECTION 8: EXISTING MEMORANDA AGREEMENT

This Agreement shall supersede all existing Agreements between the City and the Union. Working conditions and practices will not be continued unless they are included in this Agreement or have been or are hereafter specifically authorized by ordinance or by resolution of the City Council, or unless they are 1) not the subject of bargaining during the development of this Agreement, and 2) a continuing practice which was general, not individual in application, and mutually agreed to by the parties.

SECTION 9: FINALITY OF RECOMMENDATIONS

The recommendations set forth above are final. No change or modifications shall be offered, urged, or otherwise presented by the Union or the City Manager prior to June 27, 2020 provided, however, that nothing herein shall prevent the parties to this Agreement from meeting and conferring and making modifications herein by mutual consent and ratification.

9.1 Limited Reopener

If during the fiscal year 2020 -2021 the City reaches agreement with another bargaining unit or extends to unrepresented employees to confer an across the board Cost of Living Adjustment (COLA) increase and/or an additional City

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contribution towards medical premiums, the City agrees to a limited reopener to meet and confer with SEIU on these increases.

SECTION 10: DURATION

This Agreement covers the period of June 27, 2021 through June 26, 2024. New provisions are effective June 27, 2021, except as otherwise provided herein and shall remain in full force and effect to and including June 26, 2024.

SALARIES, HOURS OF WORK AND COMPENSATION ISSUES

SECTION 11: SALARIES

11.1 Salary Resolution

Salary rates for the period of June 27, 2021 through June 26, 2024, for all classes of positions in Units D, J, K-1 and K-2, shall be set according to the classifications and salary ranges assigned to those classifications listed in Exhibits “A” through “C” and attached hereto and made part hereof as provided below.

- 11.1.1 Effective the first full pay period after Union ratification and Council approval on its regular agenda, the salary ranges for those classifications covered by this Agreement as listed in Exhibit A will receive a salary increase of four percent (4.0%) and shall be shown in Exhibit A.
- 11.1.2 Effective the first full pay period in July 2022, the salary ranges in this Unit shall be increased by three percent (3.0%) as listed in Exhibit B.
- 11.1.3 Effective the first full pay period in July 2023, the salary ranges in this Unit shall be increased by one percent (1.0%) as listed in Exhibit C.
- 11.1.4 Effective the first full pay period after Union ratification and City Council adoption of this successor contract, a onetime non-pensionable lump sum payment of \$1,000.00 for each career bargaining unit employee shall be conferred. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice.

11.2 Application of Rates

Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class as set forth in Exhibit “A”. The minimum rate for the class shall apply to employees upon original appointment of the position. Employees reinstated or reemployed after layoff shall receive a rate within the range established for the class. Transfers shall not affect an employee's salary rate. Employees appointed to any of the positions set forth

herein in Exhibit “A” and employed or working on a part-time basis shall be paid in proportion to the time worked and described in their appointment.

11.3 Salary Advancement

No salary advancement shall be made so as to exceed the maximum rate established for the class to which the advanced employee's position is allocated. Advancement shall be in accordance with the compensation plan of the City and shall depend upon increased service value of an employee to the City as exemplified by recommendations of the Department Head, performance record, special training, length of service, and other pertinent evidence.

An employee's pay increase shall not be affected by any leave of absence without pay, if the employee is off the payroll for less than one hundred sixty (160) consecutive hours. If the employee is off the payroll for one hundred sixty (160) consecutive hours or more, the total amount of time off shall be made up before the employee shall be entitled to such pay increase.

11.4 Y Rates

Any employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary or occupying a position in a class the salary rate or range for which is reduced, shall continue to receive his/her present salary. Such salary shall be designated as a Y rate. When an employee on a Y rate vacates his/her position, subsequent appointments to that position shall be made in accordance with Section 11.2.

11.5 Payment of Salaries (Bi-Weekly) - Pay Periods / Pay Days

11.5.1 Payment of salaries herein established shall be bi-weekly. Each pay period shall begin at 12:01 a.m. Sunday to and including 12:00 midnight Saturday two weeks following. Each payment shall be made not later than the Friday following the ending of each payroll period and shall include payment for all earnings during the previous payroll period.

11.5.2 In those cases when payroll checks are available for distribution on Thursday afternoon, the Auditor's Office shall notify payroll sections of departments with employees on graveyard shifts. The department shall be responsible for distributing the checks to its graveyard shift employees by the end of the shift Friday morning. This procedure will remain in effect until the City's payroll system is fully automated, at which time payroll checks will routinely be made available to departments for distribution to employees by the end of the graveyard shift Friday morning.

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- 11.5.3 Bi-weekly payment to full-time employees shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. Except as specified below in Section 11.5.5, the hourly rate for such employees shall be determined as follows:
 - 11.5.3.1 The hourly rate shall be the quotient of the annual salary (12 times the monthly salary specified herein) divided by 2080 hours.
 - 11.5.3.2 For employees on a thirty-seven and one half (37.5) hour week, the monthly salary shall be the quotient of the hourly salary times 1950 hours, divided by 12.
- 11.5.4 Bi-weekly payment to part-time employees in a class for which monthly salary rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. Except as specified below in Section 11.5.5, the hourly rate for such part-time employees shall be computed in the same manner as for full time employees.
- 11.5.5 Bi-weekly payment to intermittent employees in a class for which an hourly rate has been specified herein shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. The hourly rate for such intermittent employees shall be as specified herein.
- 11.5.6 Bi-weekly payment to employees in a class for which a daily rate rather than a monthly rate has been herein established shall be made on the basis of the actual days worked during the bi-weekly pay period multiplied by the daily rate.
- 11.5.7 Bi-weekly payment to employees in a class for which an hourly rate rather than a monthly rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period.

11.6 Friday Bank Closures

On Friday bank holidays, City employees shall be paid in accordance with present paycheck procedures for City Holidays that fall on Friday. Paychecks shall be dated the date received by employee.

11.7 End of Year

For excess leave only, the end of the year shall be treated as the last day of the last pay period nearest March 31st.

11.8 Equity Studies

Two (2) lists of comparison jurisdictions are established. List One: Concord, Fremont, Richmond, Palo Alto, City of Santa Clara, San Leandro, Alameda County, San Francisco, Hayward, Oakland, and Vallejo. For Refuse only, Northern California Waste Management Systems and Waste Management (Oakland) will be reviewed. Other jurisdictions may be added as required by agreement between the parties. Job classifications which fall below the median for these jurisdictions may be reviewed. It is the policy of the City that within available funding limits, equity adjustments which are in the interests of the service will be considered.

11.8.1 **Classification Review:** Beginning no sooner than six months and no later than 9 months after ratification of this Agreement (June 17, 2018 to June 27, 2020), the City agrees to work with two representatives designated by the Union with the intent of completing a classification and compensation review of the Customer Service Specialist classification series. The Union believes that the classifications in his series have evolved substantially and warrant a classification and compensation analysis.

11.8.2 **Parking Meter Maintenance Worker & Traffic Maintenance Worker:** No sooner than one hundred and twenty (120) days after ratification of this Agreement (June 17, 2018 to June 27, 2020), and no later than nine (9) months after the ratification, the City agrees to work with two representatives designated by the Union to complete a compensation and classification review of the Parking Meter Maintenance Worker (Job Code 65050) and Traffic Maintenance Worker (Job Code 63080) classifications.

11.8.3 **Tool Lending Specialist and Mail Service Aide:** No sooner than one hundred and twenty (120) days after ratification of this Agreement (June 17, 2018 to June 27, 2020), and no later than nine (9) months after the ratification, Library management agrees to work with two representatives designated by the union to review the Tool Lending Specialist (Job Code 63010) and Mail Service Aide (Job Code 44010) classifications service needs and make a joint recommendation on staffing and service levels to the Board of Library Trustees.

11.9 Anniversary Dates

Step increases shall be effective, for payroll purposes only, on the first day of the pay period nearest to the anniversary date. Personnel records will maintain actual dates and will be used to resolve any discrepancies or questions that may arise.

11.10 Living Wage

The City agrees to pay each of its direct employees an hourly wage of no less than \$18.33 effective the first full pay period in January 2021. The City agrees to pay each of its direct employees an hourly wage of no less than \$19.33 effective the first full pay period in June 2021. If the Living Wage increases beyond \$19.33, as outlined in the Berkeley Municipal Code effective July 2021, the City shall implement the increases the first full pay period in September 2021 and July 1st of each year thereafter.

SECTION 12: PAYROLL ERRORS

To ensure that system or other errors which affect an employee's pay are processed in an efficient and effective manner, the City shall notify the affected employee(s) as soon as practicable. Payroll errors detected by an employee shall, as soon as practicable, be communicated to the employee's Departmental Payroll Clerk. In the case of under payments, the Payroll Clerk shall submit the appropriate adjustments as soon as practicable.

Payroll errors identified by the Auditor will be communicated to the employee either directly by Auditor staff or through the Departmental Payroll Clerk. Under payments will be processed as soon as practicable.

In the event of an overpayment, the Auditor's Office will notify the employee of the nature and the amount of overpayment and will determine a reasonable repayment schedule and inform the employee of the schedule directly, or through the Department Payroll Clerk. The affected employee shall be given an opportunity to discuss the schedule of repayment and, if necessary, to request an alternative repayment schedule. The total overpayment of \$100 or more shall be recaptured at the rate at which the overpayment occurred but not less than \$50 per pay period. For a total overpayment of \$99.99 or less, the overpayment shall be recouped in two (2) equal amounts over two consecutive pay periods.

Overpayments shall not be recaptured at a more rapid rate than the rate at which the overpayment occurred, except by permission of the affected employee. Should an employee with a repayment schedule leave the employ of the City before repaying the City the full amount of any overpayment, the outstanding debt shall be deducted from any salary and leave balances for which the employee would otherwise be paid upon

separating from the City. Where an employee requests and the City concludes that s/he has justified a modified repayment schedule, the City may, in its sole discretion, permit exceptions to these standards.

The City and the Union agree that the City is authorized to recover any salary overpayment made to the employee from the employee's wages. In the event that (1) the employee does not respond within ten (10) working days of being notified of the overpayment, or (2) mutual agreement on the repayment schedule is not achieved within fifteen (15) working days of the employee being notified of the overpayment, the Auditor's Office will proceed to implement a reasonable repayment schedule.

SECTION 13: TEMPORARY, PROVISIONAL AND PROJECT BASED APPOINTMENTS, HIGHER CLASS ASSIGNMENT PAY AND TEMPORARY AGENCY EMPLOYEES

13.1 Higher Class Assignments

Department heads will work all employees within their classification. The City Manager or his/her designee shall approve higher-class assignments in advance.

13.2 Working in Higher Classification

Departments with prior approval from the City Manager or City Manager's designee, may assign an employee to work in a higher class provided the employee meets the minimum qualifications for the assignment. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. To be eligible for higher-class pay, the employee must meet the minimum qualifications and perform a majority of the duties of the higher class to qualify. Employees shall be compensated for higher class pay on an hour-for-hour basis. An approved annual blanket authorization must be on file for any employee who is so assigned. Employees meeting these requirements will be compensated at the lowest step of the higher classification that provides at least a five percent (5%) differential for the time worked.

13.3 Temporary Appointments

Temporary promotional vacancies that are available for a period of thirty-one (31) through ninety (90) days shall be filled from within the department that has the vacancy. The department may decide not to fill the vacant position at a promotional level. If the department decides to fill the vacant higher-class position, the selection shall be made from among those qualified departmental employees on the basis of merit, job knowledge and skills. If a selection cannot be made from within department staff, the department shall contact the Human Resources Department for additional candidates from other departments and the temporary appointment shall be made from among those employees.

Temporary appointment opportunities exceeding 90 days in bargaining unit classifications will be noticed in *Berkeley Matters* prior to making the temporary appointment. In cases where timing or other circumstances prohibit the use of *Berkeley Matters*, career employees on eligible and/or transfer lists for the specific classification will be notified directly of the temporary appointment opportunity prior to appointment and the opportunity will be published on the City's Intranet.

When a temporary vacancy is to be filled in a classification for which there is an existing eligibility list, the City shall attempt to make the temporary appointment from that list. Provided there are City employee applicants meeting the minimum qualifications, temporary vacancies of greater than 90 days shall be filled by existing City of Berkeley employees from existing eligibility lists except as otherwise provided in Section 44 (Layoff). However, if no person is available for appointment, or if the hiring official is unable to select a person from the existing eligible list, the hiring official may select a qualified person from the labor market to fill the temporary vacancy.

13.4 Provisional Appointments

A career employee who is appointed to serve temporarily in a higher classification shall be designated as a provisional employee. No employee shall hold a provisional appointment in the same position for more than 12 months. The City Manager may extend the provisional appointment beyond this 12-month limitation with the mutual agreement of the parties. No provisional appointment in the same position will be extended beyond 24 months, except where the employee in the provisional appointment is replacing an employee who is on the extended approved leave. No employee shall hold a provisional appointment(s) in one or more positions for more than 24 consecutive months within a 30 consecutive month period, except where the employee in the provisional appointment is replacing an employee who is on an extended approved leave.

An employee who holds provisional status in a classification shall receive step increases in such classification as if the employee held permanent appointment thereto.

The City does not guarantee a permanent promotion to the employee working as a provisional employee. An employee who is removed from a provisional appointment, shall have the right to be reinstated to his/her former classification at the appropriate pay level, before the provisional appointment. The employee shall suffer no loss of classification seniority in his/her original classification as a result of holding provisional status.

Upon career promotion to another class, an employee may request within 30 days

to have any time served provisionally in the new class within the prior year credited to his/her class seniority.

13.5 Working in a Classification outside the Bargaining Unit

An employee provisionally appointed to a classification outside the bargaining unit shall work the work schedule and receive the salary of the classification of the provisional appointment. Such employees shall receive whatever vehicle assignments, subject to normal application and use procedures, which are associated with that higher position, and, if assigned in excess of 30 days, the employee shall be subject to the overtime provisions that apply to the higher-level classification. All the health and welfare benefits and all other terms and conditions of employment set forth in this agreement shall apply to an employee provisionally appointed to a classification outside the bargaining unit.

13.6 Temporary Assignment Training Pay

For training purposes, employees not meeting all of the minimum qualifications for a supervisory position may be temporarily assigned for a minimum of three (3) consecutive working days, to perform the duties of supervisor and will receive a five percent (5%) increase in their current salary.

13.7 Project Based Position Employee

An employment status of “Project Based Position” means a position, regardless of funding source, of limited duration not to exceed three years to be utilized to complete a project or for an external grant funded position whose funding is uncertain as to amount or duration. An employee receiving an initial appointment to such “Project Based Position” may be terminated no later than upon completion of the project or the duration of the external grant funding but in any case no longer than three years from the date of the original appointment. An employee receiving an initial appointment to a Project Based Position shall be fully benefited. In the event of a layoff under Section 44, employees holding “Project Based Positions” will be terminated without right of recall prior to the layoff of any career employee, provided that a qualified career employee is available to fill the position. An employee holding a “Project Based Position” shall not be covered by the provisions of Section 44 (Layoff) and may be terminated for cause at any time by the City Manager. An employee appointed to a Project Based Position will be subject to the provisions of Section 2.1 of the Agreement.

If a career employee is appointed to a “Project Based Position” the City will be permitted to fill the vacated position with another “Project Based Position” appointment.

13.8 Temporary Agency Employees

An employee hired through a temporary agency shall not be retained longer than

six (6) months, unless the employee is replacing a career employee on leave of absence or on a temporary assignment to another department. In no case shall the said retention period exceed the duration of the absence. The City will not attempt to extend the six (6) month period by replacing or exchanging temporary agency employees. However, nothing shall preclude temporary agency employees from competing for positions in the career service.

SECTION 14: HOURS AND DAYS OF WORK

14.1 Rules

Hours and days of work shall be governed by rules established by the City Manager or designee. (At the present time, hours and days of work are as shown in Exhibit E (Hours and Days of Work).)

14.2 Community Service Officers Assigned to the Jail

Community Service Officers assigned to the Jail shall work shifts that are composed of eight (8) hours and fifteen (15) minutes each day. The shift shall include a thirty (30) minute lunch of which fifteen (15) minutes will be unpaid.

The City and the Union will continue to explore shift schedules that provide alternatives to the eight (8) hour and fifteen (15) minute shift.

14.3 Parking Division/Police Department

The regular workweek for Parking Enforcement Officers shall include Sunday. Parking Enforcement Officers may be required to work between the hours of 7:00 a.m. and 10: 00 p.m.; provided that regular shift premiums shall be applicable as set forth in Section 16, and shift selection shall be as set forth in Section 14.4, that is, Sunday work in the Parking Division will be assigned on the basis of inverse seniority unless more senior employees prefer to accept such work.

14.4 Shift Selection and Assignments

Within a given classification, shift assignments (Swing, Night and Day) shall first be offered to employees by classification seniority on a voluntary basis. In the event shift assignments are not filled voluntarily, such shift assignments shall be made on the basis of inverse classification seniority.

14.4.1 In Unit J, the selection of shifts, days off and assignments, may be directed in order to ensure appropriate coverage of male and female staff for management of the City Jail facility.

14.4.2 Types of Shifts:

- a. **Swing shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 5:00 p.m. and 12:00 midnight of each workday.
- b. **Night shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 12:00 midnight and 7:00 a.m. of each workday.

- c. **Day shift** means any authorized work schedules assigned except rotating, swing, or night shifts as defined in this section.

14.5 Clerical Unit Work Schedule

For the Clerical Unit, a change in the daily work schedule that requires an employee to work beyond the regular work schedule shall not require the employee to flex his or her hours except by mutual consent of the employee and the supervisor. However, employees in work units that provide a six (6) or seven (7) day operation may be required to flex their work schedule, based on the needs of the work unit. Flexing of work schedule will be assigned on the basis of inverse seniority unless more senior employees prefer to accept such work. The required flexing of work schedules will be on a day-for-day basis. When an employee is required to work on a regularly scheduled day off, the department will provide the employee with an alternative day off in the same work week when the required flexing occurs.

In the event that the City changes a clerical employee's work hours on a permanent basis, the City will provide the employee notice at least thirty (30) calendar days in advance of the date of the change. For the purposes of this Section, the schedule change shall mean a change in the employee's work hours of at least one (1) hour. If the employee is unable to work the newly scheduled hours, the City will seek volunteers in the same classification in the Department or work area who are willing to work the newly scheduled hours. In the event that a volunteer exists, the new schedule shall be given to the volunteer. If no employee is able to work the new schedule, the City will offer the affected employee a transfer to a budgeted vacant position that is available to be filled as determined by the City Manager in the same classification in the City. If no vacancy exists, the employee's work hours will be changed as scheduled.

14.6 Flexible Scheduling

Employees shall be permitted to request variable working hours such as, but not limited to, 10 hours a day four days a week, job sharing, and working under a flexible arrangement. Flexible scheduling may also include the option of a one-half hour lunch break. This option shall be available in all departments in the City and will be considered seriously if all City functions within units can be accomplished through flexible scheduling.

14.7 Shift Trades - Community Service Officer

The Police Department policy on Shift Trades among sworn personnel shall be equally applicable among Community Service Officers.

14.8 Work Assignment

Each new employee shall be provided with a written description of his/her job class, and each supervisor shall discuss with the new employee the duties of his/her position as a part of the departments' orientation. Moreover, within 30 days of appointment to a new position and as part of the department orientation process, an employee in Representation Unit K1 or K2 may request a written description of the employee's major areas of responsibilities. The description of the employee's major areas of responsibilities may be amended from time to time based on the needs of the workunit and it is not intended to capture all duties that can be assigned to an employee that are within the scope of responsibility outlined in the employee's specific job classification.

14.9 Building Maintenance

For Building Maintenance Mechanics, Building Maintenance Mechanic Trainees, and Building Maintenance Supervisor: Hours of work will be adjusted effective January 7, 1990 to 37.5 hours per week. Monthly rate of pay adjusted to reflect actual hours.

Schedule of rotation and days off determined by the City, in the same general manner as currently applies to Electrical unit.

Effective June 29, 2008 each employee in the classifications of Building Maintenance Mechanic, Building Maintenance Mechanic Trainee and Building Maintenance Mechanic Supervisor shall have the option to retain a 37.5 hour work week schedule or to change his/her work schedule to forty hours per week with an increase in pay to reflect the additional hours. Additionally, any employee may increase to forty hours per week after July 1, provided that such change shall be made at the beginning of the pay period. An employee who has changed to a 40-hour workweek shall have a one-time option to return to a 37.5-hour workweek. If the employee exercises the option to return to 37.5 hours and then changes to a 40-hour workweek, the employee will remain at 40 hours per week for the remainder of his work time in the position. Any employee who is hired after June 29, 2008 will work a forty (40) hour per week schedule and will have no option to change his/her schedule to 37.5 hours.

The City and the Union may agree in writing to alternate work schedules other than those set forth in this agreement including a 9/80 work schedule which contains an 80 hour pay period with hours worked in 9 days. The City will take into consideration its operational needs, including the impact of potential overtime, in deciding whether to approve an alternate work schedule. However, such alternate work will not be unreasonably denied.

14.10 Daylight Saving Time

- 14.10.1 **Spring:** In the Spring when transitioning to Daylight Saving Time (DST), employees working during the one (1) hour transition from Standard Time to DST will be paid only for actual hours worked. Employees working on a shift which includes the one (1) hour transition may be granted an option by the Department Head or his or her designee, to work an additional hour or use compensatory time, floating holiday, or vacation to make up the lost work hour.
- 14.10.2 **Fall:** In the Fall when transitioning from DST, employees working during the one (1) hour transition will be paid for all hours worked including overtime at one and one-half (1½) times the straight-time rate of pay for hours worked in excess of the regular workweek as set forth in Section 15 of this Agreement.

14.11 Family Friendly and Environment Friendly Workplace

The City shall comply with the applicable provisions of the Berkeley Family Friendly and Environmental Friendly Workplace Ordinance 13.101 to members of this bargaining unit. As such, employees may request variable working hours such as, but not limited to, 10 hours a day, four (4) days a week, flexing start and end times, and working under a flexible arrangement. Management may approve, in advance, an employees' request to temporarily flex their work schedule between the hours of 6:00 a.m. and 8:00 p.m. on a particular day, or over a specific period of time, by adjustment to the employee's start time and end time, or lunch break. Any denial of an employee's request for flexible scheduling shall explain the denial in a written response that sets out a business reason for the denial.

14.12 Work Schedule Change

Except as provided in Section 14.5 (Clerical Unit Work Schedule) and/or under emergency action as provided in Section 15.6 (Natural Disaster/Declared Emergency), the City will provide employees with at least a two (2) week advance notice of a permanent work schedule change.

SECTION 15: OVERTIME

Employees required to work in excess of their basic workweek shall be compensated for such overtime services as follows:

15.1 Overtime Pay Eligibility and Rates

Except for employees working an Assumed Work Day (Section 18 - Assumed Work Day) all work in excess of eight (8) hours in any 24-hour period, which begins with the employees' scheduled or actual starting time, whichever is earlier, shall be paid for at one and one-half (1½) times the regular rate for the first four (4) hours of such excess and at two (2) times the regular rate for the balance of such excess. This provision shall not be applicable when excess hours are required by a schedule adjustment requested by the employee or part of a regular flextime schedule requested by the employee. Regular flextime schedules which include work in excess of 10 hours in any day must be approved by the Union prior to requesting such a schedule.

See Appendix A and Appendix B for the scheduling of overtime for Maintenance Chapter employees in the Streets and Sanitation and Solid Waste and Recycling Divisions of the Public Works Department.

15.1.1 Mandatory Overtime for Employees in Unit K1 and K2: Except as otherwise provided in Section 15.2 (Compensatory Time), when an employee in Representation Unit K1 or K2 is directed to work in excess of his or her basic work week, the employee shall be paid at the rate of one-and-one-half (1½) times the employee's regular rate of pay. Based on the needs of the work unit, the manager may offer the employee being directed to work overtime the option of earning Compensatory time in lieu of overtime pay, subject to the maximum accumulation requirement in Section 15.2 (Compensatory Time).

15.2 Compensatory Time

Compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half (1½) hours for each overtime hour worked up to a maximum of sixty (60) hours of such compensatory time.

Accumulation of compensatory time off in excess of sixty (60) hours may be allowed at the discretion of the Department Head. Utilization of compensatory time shall be determined by the Department Head with due regard for the wishes of the employee and particular regard for the needs of the service. As used herein, sixty (60) hours is equal to ninety (90) hours of time off work. In the event of layoff or

termination, the employee shall be compensated for all compensatory time accrued but still unused.

Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's Department Head.

Employees who have an accrued compensatory time bank shall be permitted, at the employee's option, to use such compensatory time in lieu of vacation time for any scheduled vacation days.

15.3 Payment Upon Termination

In the event that an employee resigns or is terminated, the employee shall be entitled to compensation for his or her accumulated overtime.

15.4 Work Week

For the purpose of computing overtime, the workweek shall be defined as beginning at 12:01 a.m. Sunday morning and ending at 12:00 midnight Saturday.

15.5 Emergency Overtime

Employees who are called from their living quarters for emergency work or duty on days other than normal work days or on normal work days outside of their regular work hours shall be paid emergency overtime compensation for actual time worked; provided, however, that in any case of emergency overtime as herein provided the minimum time for which such overtime compensation shall be paid shall be three (3) hours; and provided, further, that if such overtime work is performed prior to the beginning of the regularly scheduled work period and such overtime continues into such regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

In the event that the employee on scheduled standby is not called, and another employee has been called to perform the emergency overtime assignment, both the employee who performed the assignment and the employee on scheduled standby status will receive the minimum overtime compensation as provided in Section 15.5.

15.6 Natural Disaster/Declared Emergency

If an emergency is declared by the City, county, state or national authority:

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- 15.6.1 If an employee is called outside of normal working hours, the employee gets time and one half (1½) the normal rate of pay for the first whole shift regardless of the number of hours worked. If the employee is not called from home the regular rules apply (i.e., overtime for hours worked above eight in a day).
- 15.6.2 Thereafter: the first eight hours at regular rate and 7½% for hours worked between 5:00 p.m. and midnight; 10% for hours worked from midnight to 7:00 a.m. For hours greater than eight in a shift, the employee gets time and one-half (1½) the normal rate of pay but no shift differential on those hours above eight.
- 15.6.3 There will be no reduction in the number of hours in the regular work week schedule (either 32 for employees working a 37.5 hour work week or 40).

15.7 Clerical Unit Overtime and Scheduling

- 15.7.1 The parties recognize that employees may be required to work overtime from time to time and that employees may have personal constraints that limit the ability of the employee to work overtime.
- 15.7.2 The City will notify Clerical unit employees at least 5 days in advance of the need to work overtime. However, the parties acknowledge that there may be unforeseen, unpredictable circumstances which arise in which the City is unable to provide 5-day advance notice of the need for overtime. In such case the City will provide as much notice as possible of the needed overtime. The City will seek volunteers to perform the work. If no volunteers are available, overtime may be mandated based on the needs of the work.
- 15.7.3 The City will use flexible scheduling in the work unit to ensure coverage with the intent to limit overtime. The City shall solicit input from staff on flexible scheduling to set a schedule that works best for the employees and meets the needs of the division/department.

SECTION 16: PREMIUM PAY

16.1 Shift Differential

16.1.1 **Swing Shift:** Employees who regularly work a full shift of eight (8) hours or more on swing shift as defined in Section 14.4.2 (Types of Shifts), which includes four (4) hours or more between the hours of 5:00 p.m. and 12:00 midnight, shall be paid their regular salary plus seven and one-half percent (7½%) of their monthly salary per month.

16.1.2 **Night Shift:** Employees who regularly work a full shift of eight (8) hours or more on night shift as defined in Section 14.4.2 (Types of Shifts), which includes four (4) hours or more between the hours of 12:00 midnight and 7:00 a.m., shall be paid their regular salary plus ten (10) percent of their monthly salary per month provided, however, that in the case of any such employee who is regularly assigned to such night-shift work for less than an entire work week, the additional payment shall be made only for the portion of the work week worked on the night-shift assignment.

16.1.3 **Mechanical Sweeper Operator Shifts:** Employees in the classification of Mechanical Sweeper Operator (Job Code 63090) who regularly work a combination of a "swing" and "night" shifts, which shifts include eight (8) hours or more and further include four (4) hours or more between either the hours of 5:00 p.m. and 12:00 midnight (swing shift), or the hours of 12:00 midnight and 7:00 a.m. (night shift), shall be paid in addition to their regular salary, ten percent (10%) of their regular salary for those periods said employees work a combination of "swing" and "night" shifts.

16.2 Standby - Units D

Except as provided below, employees in Unit D who are assigned to standby service shall be paid for such service an amount equal to ten (10) hours work during each week that they are assigned to such standby services at an overtime rate based upon their regular monthly salaries. For the purposes of this Section, week shall mean the seven (7) consecutive calendar days following assignment to standby service. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

Standby service shall mean being available for service outside of regular working hours at any time when called. If an employee assigned to standby service is not

available when called or is unable or fails for any reason to perform the service when called, the employee shall not receive the standby pay provided for herein. Employees absent from work on vacation leave, compensatory time or sick leave will not be eligible to be assigned to Standby service.

The standby pay provided for herein is a minimum guarantee to an employee assigned to standby service. An employee assigned to standby duty shall receive ten (10) hours of overtime compensation in addition to any overtime worked while on standby. The City shall provide the standby employee with a vehicle. Said employee shall be responsible for taking all reasonable steps to insure the safety of the tools and equipment on that vehicle. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

Scheduled Overtime during Standby: The employee who is on scheduled standby status may perform scheduled overtime tasks on a voluntary basis. The standby premium shall not be pro-rated. If an emergency call occurs during the time that the employee is performing scheduled overtime tasks that call shall be paid at the time and one-half rate and not at the call back rate set forth in Section 15.5. If other employees are concurrently performing scheduled overtime tasks, the Director of Public Works may, at his or her discretion, assign the work to employees present within the City performing the scheduled overtime tasks at the regular overtime rate of pay.

16.3 Standby - Units K-1 and K-2

With respect to employees in Units K-1 and K-2 only, the City agrees to arrange for standby compensation prior to any requirement that employees be assigned standby duty.

16.4 Emergency Standby – Unit J; Unit D Parking Enforcement Officers and Unit D Parking Enforcement Supervisors

Employees in Unit J and Unit D Parking Enforcement Officers and Unit D Parking Enforcement Supervisors who are assigned to Emergency Standby service by the department shall be paid or given compensatory time off for being placed on Standby status as follows:

16.4.1 An employee in Unit J; and Unit D Parking Enforcement Officer and Unit D Parking Enforcement Supervisor who is placed on Standby service by the department on his or her regular scheduled work day shall be paid for a minimum of one hour and at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on Standby status).

16.4.2 An employee in Unit J as well Unit D Parking Enforcement Officer and Unit D Parking Enforcement Supervisor who is placed on Standby service by the department on his or her regularly scheduled day off shall be paid for a minimum of two (2) hours at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on Standby status).

16.4.3 An employee in Unit J as well as a Parking Enforcement Officer and Parking Enforcement Supervisor in Unit D who is placed on Standby service as provided for in 16.4.1 and 16.4.2 above, is required to be available for service outside of regular working hours at any time when called and during the period of time as specifically assigned by the supervisor. If an employee assigned to Emergency Standby service is not available when called, is unable to respond, or fails for any reason to report for duty when called, the employee shall not receive the Emergency Standby pay provided for herein. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

16.5 Zero Waste Premium Pay

In the event the City permanently reduces and/or reallocates Zero Waste residential and commercial curbside collection routes such that the total number of routes is less than 27, only those Zero Waste employees working on routes that result in an increase in the number of stops shall be paid a 2.5% premium. At the time that the number of Zero Waste residential and commercial curbside collection routes is at or exceeds 27, no Zero Waste employee shall be entitled to the 2.5% premium provided for in this section.

Employees working a residential and collection curbside route as a second route or on overtime will not receive the 2.5% premium provided for in this section.

When Zero Waste proposes to reduce and/or reallocate residential and commercial curbside collection routes such that the total number of routes is less than 27, the City and SEIU will attempt to meet four (4) months prior to the effective date of implementing residential and commercial curbside collection route changes in order to confirm the number of affected employees that will receive the 2.5% premium.

SECTION 17: SPECIAL ASSIGNMENT PAY

17.1 Bilingual Premium Pay

- 17.1.1 An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, routinely and consistently as part of his or her regular job assignment as determined by the City will receive a Bilingual Premium Pay Differential of 5%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 5% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.
- 17.1.2 An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, when either a) assigned by management, or b) at the request of the employee with the supervisor’s agreement, or, c) after a job audit and who must utilize these skills on an occasional basis will receive a Bilingual Premium Pay Differential of 2%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 2% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.
- 17.1.3 The bilingual premium will not be applicable under any circumstances except to an employee who possesses second language competency. Management reserves the right to test for second language appropriate competency prior to a Bilingual Premium Pay Differential.
- 17.1.4 The City may designate an employee to receive either the 5% or 2% Bilingual Premium Pay Differential on a temporary basis for a specified period provided the employee met the requirements contained in the first or second paragraph of this Section.

17.2 Mental Health Clinics Differential

Employees in Unit K-1 or K-2 who are regularly assigned to work in Mental Health Programs, in direct contact with clinic patients, shall receive a five percent (5%) differential. This Mental Health Clinics Differential will be reported to CalPERS as Hazard Premium Special Assignment Pay. However, any hours worked on

overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.3 Summer Youth Supervision Differential

Employees who supervise two or more Summer Youth or Court Assignees shall receive a five percent (5%) differential. This Summer Youth Supervision Differential will be reported to CalPERS as Lead Worker/Supervisor Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.4 Construction Equipment Operators Differential

Construction Equipment Operators shall receive a seven and one-half percent (7½%) differential for hours worked operating the D-8, the Tracked Front End Loader, the Low Boy Tractor Trailer and grader effective January 1, 1991. This Construction Equipment Operators Differential will be reported to CalPERS as Heavy/Special Equipment Operator Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.5 Training

17.5.1 **Training Differential:** Employees assigned in writing by the department head and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills (identified by departments in consultation with Human Resources) shall be compensated for hours actually worked training at five percent (5%) differential. This Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.5.2 **Public Safety Dispatcher Police Desk Training Premium:** Employees in the classification of Public Safety Dispatcher II and assigned in writing by the Chief of Police of his or her designee and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills on the Police Desk shall be compensated for hours actually worked training at ten percent (10%) differential. This Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section

20635.

17.6 Sewer Work Pay

Streets and Sanitation Division personnel assigned through annual designation to sewer work (any work in the sewer involving installing, repairing, rodding, and jetting) shall be paid a premium of ninety cents (\$0.90) per hour which premium shall be added to and considered a part of their pay. Personnel assigned intermittently to sewer work during regular duty hours shall be paid ninety cents (\$0.90) per hour premium pay for each regular hour worked that day for a minimum of eight (8) hours. Personnel assigned intermittently to sewer work during overtime shall be paid at time and one-half times the sewer premium pay. This Sewer Work Pay will be reported to CalPERS as Sewer Crew Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.7 Parking Enforcement Training

The City to pay 5% differential to Parking Enforcement Representative assigned to train new employees in lieu of Supervisor and Assistant Supervisor. This Parking Enforcement Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.8 Smog Technician License Premium Differential

Employees in the classifications of Mechanic, Mechanic Supervisor or Service Technician who obtain and maintain a valid California Basic Area Smog Technician License issued by the Bureau of Automotive Repair shall receive a 2% differential to normal base salary. This Smog Technician License Premium Differential will be reported to CalPERS as Mechanic Premium Educational Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.9 Special Response Team

An employee in Representation Unit J who is assigned as an active member of the Special Response Team (SRT) shall receive a five percent (5%) salary differential when involved in an active SRT incident. If an employee is assigned as a member of the SRT while on regular duty and not while on overtime, those hours worked as a SRT member on regular duty shall be reported to CalPERS as Hazard Premium Pay.

17.10 Longevity Pay

Effective, the first full pay period after Union ratification and approval of the successor contract by the Council on its Regular Agenda, employees completing nineteen (19)

years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the twentieth (20) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

17.11 Roll Off Container Truck

An employee in the classification of Solid Waste Truck Driver who is assigned to operate the Roll Off Container Truck in the Solid Waste Division of the Public Works Department shall receive a differential of \$45 per month. This Roll Off Container Truck Differential will be reported to CalPERS as Heavy/Special Equipment Operator Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.12 Handling of Narcotics Evidence in the Police Department Property Room

A Community Service Officer and Community Service Officer Supervisor assigned to the handling of Police records of narcotics evidence in the Police Department Property Room will receive a differential of three percent (3%). This differential will be reported to CalPERS as Police Records Assignment Premium Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.13 Special Class Commercial Driver’s License Premium

Effective June 26, 2011 employees required to possess and maintain a valid California Class A or Class B Commercial Driver’s License as a condition of employment shall receive a three percent (3%) differential to base pay. This differential shall be reported to CalPERS as Special Class Driver’s License Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.14 Emergency Medical Dispatching

In the event Berkeley takes responsibility for emergency medical dispatching, the City and the Union agree to meet and confer over impacts on current terms and conditions of employment.

17.15 Commercial and Residential Route Refuse Collector Premium

Effective June 19, 2016, employees in the classification of Solid Waste Worker assigned to a Commercial or Residential Collection Route in the Zero Waste Division of the Public Works Department shall receive a two percent (2%) differential when assigned and performing duties on a Commercial or Residential Collection Route. Effective June 18, 2017, the differential shall be increased by an additional two percent (2%), for a total of four percent (4%). This Commercial and Residential Route Refuse Collector Premium will be reported to CalPERS as

Refuse Collector Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.16 Hazardous Substance Special Assignment Pay

Employees assigned to a Citywide coordinated response to perform clean up services of established encampments shall receive a three percent (3%) salary differential to base pay for actual hours worked. Employees shall be entitled to the 3% differential for actual hours worked upon: (1) employee being reassigned from their normal duties and (2) employees will only be assigned to perform clean-up coordinated through the City Manager's office or authorized department head. The employee will be notified that the work qualifies for this 3% differential prior to the work being performed.

17.17 The City shall provide a one-time lump sum payment of \$500.00 effective the first full pay period after Union ratification and Council adoption of this successor agreement and a \$500.00 one-time lump sum payment the first full pay period in January 2022 for only those employees listed in the tentative agreement reached during negotiations and in the Accounting Office Specialist III classification. Such payments are subject to applicable payroll taxes and will not be considered pensionable salary. At the time of each payment, employees listed in the tentative agreement must be still employed by the City and must still be in the Accounting Office Specialist III classification. Employees working less than full-time (40 hours per week, 2,080 hours per year) shall receive a pro rata share of the one-time lump sum payment based on the number of hours they are assigned to work. For example, an employee working 30 hours per week, shall receive 75% of the one-time lump sum payment (\$375 effective the first full pay period after Union ratification and Council adoption of this successor agreement and \$375.00 the first full pay period in January 2022).

SECTION 18: ZERO WASTE

18.1 Assumed Work Day

The City and the Union agree to continue the practice of the Assumed Work Day for employees in the Solid Waste Division of the Public Works Department assigned to residential and commercial collection routes and to Tractor Trailer Drivers assigned to transport solid waste to the landfill. For the purpose of this Agreement, an Assumed Work Day means an employee is assumed to have worked a shift of at least eight hours regardless of actual hours worked when assigned to residential and commercial collection routes or to a Tractor Trailer Driver assigned to transport solid waste to the landfill.

For employees assigned to an Assumed Work Day schedule, the following conditions apply with respect to compensation:

- 18.1.1 Overtime will be paid at one and one-half (1½) times the normal hourly rate for all hours worked over 40 in a week. For the purposes of this Section, the 40 hour work week includes all hours in a paid status except as provided in paragraph 4 below.
- 18.1.2 Overtime will also be paid for all hours worked on another regularly assigned residential or commercial collection route or different assignment on completion of the route assigned at the beginning of the shift. The rate of such compensation shall be determined by calculations made pursuant to the Fair Labor Standards Act (FLSA) and specifically 29 C.F.R. Section 778.312(a)(1).
- 18.1.3 If an employee is required to work on a Holiday as provided in Section 20.1.1 through 20.1.13 of this Agreement, the employee shall be compensated for overtime as provided in paragraphs 1 and 2 of this Section, and shall be compensated at the Holiday overtime rates set forth in Section 20.4 of this Agreement.
- 18.1.4 Those employees who are not regularly assigned to an Assumed Work Day schedule and who are given a temporary assignment to an Assumed Work Day schedule on a given day will be compensated on an Assumed Work Day basis as provided in this Section provided that at least 50% of the Assumed Work Day assignment has not been completed on a residential or commercial collection route or any trip to the landfill after the second daily trip.

18.2 Zero Waste Route Bid

A Route Bid to determine Zero Waste Division collection route assignments will be conducted on a yearly or as needed basis due to the needs of the work unit. The parties acknowledge that if significant operational changes are occurring, for the purpose of maintaining continuity of service, the Route Bid may be delayed. Employees in a paid status at the time the Route Bid is issued may bid on a collection route in the Zero Waste Division.

A Route Bid Selection Criteria may include, but is not limited to the following:

- a) Seniority in Class
- b) Date of Hire (Drivers only)
- c) Attendance

d) Safety Record

The parties agree to meet and confer over the impacts on route assignment as a result of either an elimination or creation of routes.

Details pertaining to how the Zero Waste Collection Route Bid is conducted are contained in Zero Waste Division Route Bid Selection Standard Operating Procedures regarding route bid selection.

18.3 Zero Waste Vacation Scheduling

Zero Waste shall designate an annual vacation schedule as outlined in the Zero Waste Division Standard Operating Procedures.

18.4 Solid Waste Worker / Driver Check-Off

Employees hired into the classification of Solid Waste Worker shall be provided with behind the wheel truck driver training within 180 days of appointment to the career classification.

18.5 Truck Driver Safety

Any driver who believes his or her truck is unsafe to operate shall immediately cease driving and notify his or her immediate supervisor. The driver shall be reassigned to another truck while his or her truck is out of service for safety reasons. The truck taken out of service for safety reasons, shall not be driven until cleared by the mechanic on duty. If the employee disagrees with the City's clearance of the truck for safety reasons and is directed to operate it, the employee or the Union on behalf of the employee may request a meeting with the City's Safety Officer or his or her designee within 24-hours of the directive. At the employee's request, such meeting may include the employee's Union representative.

LEAVES

SECTION 19: VACATION

19.1 Eligibility

All employees who have worked for the City six (6) months or more and have worked half-time or more in the preceding calendar year shall be entitled to vacation leave.

19.2 Scheduling

The times during the calendar year at which an employee shall take vacation shall be determined by the Department Head with due regard for the wishes of the employee and particular regard for the needs of the service. Wherever practical, employees working in the same classifications within a division shall be given preference of vacation time by seniority. If the requirements of the service are such that a Department Head cannot permit an employee within the department to take an annual vacation leave or any part of such leave within a particular calendar year, the City Manager may permit such employee to take the deferred vacation during the following year.

With advance supervisory approval, vacations may be in increments of one (1) hour.

19.3 Accrual

The vacation accrual rate shall be as follows:

Years of Service	Authorized Annual Vacation (in work weeks)	Vacation Leave Credits (in workdays per month of svc.)	Vacation Leave Credits (in hours earned per month of svc.)
Through the first three years of service	2	0.833	6.667
Fourth through eleventh years of service	3	1.25	10
Twelfth through seventeenth years of service	4	1.667	13.333
Eighteenth through twenty-fourth years of service	5	2.083	16.667

2021 – 2024 Memorandum Agreement

City of Berkeley

SEIU Local 1021 Maintenance and Clerical Chapters

Years of Service	Authorized Annual Vacation (in work weeks)	Vacation Leave Credits (in workdays per month of svc.)	Vacation Leave Credits (in hours earned per month of svc.)
Twenty-fifth year of service and each year thereafter	6	2.5	20

19.4 Eligibility - First Two (2) Years

Each employee, during that portion of the calendar year in which the employee was originally appointed and during that next succeeding calendar year, shall be entitled to vacation leave credits at the rate of .833 work days for each calendar month of service. Each such employee shall be entitled to take, during these two (2) calendar years, only such annual vacation leave as the employee earns.

After two (2) years of service, employees may request, and upon approval, to take up to a maximum of two (2) weeks of their annual vacation, in advance of actual earning. Approval of requests for advance vacation shall be solely at the discretion of management.

19.5 Eligibility - Effects of Part-Time and Interrupted Service

For an employee who has worked on a part-time or intermittent basis or has been on leave of absence without pay for a total of six (6) months or more or who has been terminated and subsequently reemployed, the actual years of service with the City shall be used for the purpose of computing length of service in determining eligibility for vacation at the two (2), three (3), four (4), five (5) and six (6) weeks' rate.

19.5.1 Employees working on an intermittent or part-time basis who have worked half-time or more in the preceding calendar year without termination of employment, shall be entitled to a prorated vacation leave based upon the actual years of service with the City and upon the actual amount of time worked in the preceding calendar year.

19.5.2 For the purpose of computing length of service in determining eligibility for vacation at the two (2), three (3), four (4), five (5) or six (6) weeks' rate, time spent on extended military leave shall be counted as time spent in the service of the City.

19.6 Holidays during Scheduled Vacation

In the event one or more municipal holidays fall within a vacation leave, such holidays shall not be charged as vacation leave, and the vacation leave shall be extended accordingly. The provisions of this Section shall not apply to those

positions in which holidays, due to the necessities of public health and safety, are normal working days.

19.7 Maximum Accumulation

Employees may defer vacation earned to a maximum cumulative total of eight (8) weeks. An employee who has attained maximum accumulation may be required to take all excess earned vacation or receive pay in lieu thereof at the option of the City. Not later than October 1 of each year, the City will advise employees who have attained a maximum accumulation of vacation whether such excess earned vacation must be scheduled as time off prior to the end of the year. Such time off shall be scheduled in accordance with the provision of Section 19.2 (Scheduling).

The City shall require all employees to reduce their accrued vacation balances to no more than 320 hours, as of the last pay period in February of each year of this Agreement. To effectuate the requirement that employees not accrue more than 320 hours vacation leave, the parties agree that not later than November 15 of each year of this Agreement, the City will provide the Union and Department Heads with a report identifying all employees who have accrued two hundred and eighty (280) hours of vacation leave and appear in danger of exceeding the 320 hour limit. Employees who have accrued 280 hours of vacation leave, as of that date, will be advised by their supervisor that they must take vacation leave to reduce their vacation leave accrual by February of the following year.

Supervisors should be flexible in granting employee vacation requests to those employees above, or approaching the 320 hours limit, and further, that with regard to employees who are in danger of exceeding the 320 hour limit, no vacation request by such an employee shall be unreasonably denied. If an employee who is in danger of exceeding the 320 hour limit fails by December 31 of each year of this Agreement to schedule a vacation to be taken before the last pay period in February of each year of this Agreement, the City has the authority to direct the employee to go on vacation leave to reduce the employee's accrued vacation.

If, due to operational necessity, a department head denies an employee vacation leave and does not provide the employee with an alternate vacation date, and as a result causes the employee to exceed the 320 vacation leave limit, said employee shall nonetheless be entitled to use that vacation leave in the next calendar year to the extent necessary to reduce their accrued vacation to not more than 320 hours.

19.8 Effect of Military Leave or Break In Service

An employee who has returned from extended military leave or any other extended leave of absence without pay or who has been reemployed or reinstated shall be entitled, during the calendar year in which the employee returns to the City service,

to a prorated vacation based upon the total years of service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, vacation shall be as provided in this Section 19.

19.9 Payment / Reimbursement Upon Termination or Extended Leave

If after six (6) months of continuous service, an employee is terminated, or is granted an extended military leave or other extended leave of absence without pay, such employee or his or her estate shall be paid for vacation credits in excess of the actual amount of vacation leave taken or such employee or his or her estate shall reimburse the City for the actual amount of vacation taken in excess of vacation leave credits, as the case may be.

Upon termination, extended military leave or other extended leave of absence without pay, vacation leave credits shall be totaled, and the actual amount of vacation leave taken, including any that may have been taken during the year in which the termination, extended military leave or other extended leave of absence without pay occurs, shall be deducted from the total credits. If the credits exceed the actual amount of vacation leave taken such employee or his or her estate shall be paid for the excess of credits on the basis hereinafter set forth. If the actual amount of vacation leave taken exceeds the credits, such employee or his or her estate shall reimburse the City on the same basis.

The basis for such payment by the City or for such reimbursement to the City shall be as follows:

The employee's normal hourly rate at date of termination, extended military leave or other extended leave of absence without pay, and multiplied by the number of vacation hours accrued but not used.

Upon termination, extended military leave or other extended leave of absence without pay, payment for excess of vacation leave credits shall be made in a lump sum at time of termination, extended leave without pay, or as soon thereafter as possible; provided, however, that an employee may elect to use excess vacation leave credits prior to termination, extended military leave or other extended leave of absence without pay, to the extent permitted by this Section 19 and receive a lump sum payment for the balance of vacation leave credits, if any. Notwithstanding the foregoing, accumulated but unused vacation credit at the time of retirement shall be paid off in a lump sum.

SECTION 20: HOLIDAYS

Contingent upon agreement by all Employee Bargaining Units, the parties agree that the Lincoln Holiday listed in 20.1.3 shall be eliminated and that Cesar Chavez Day – observed on March 31, or on the Monday or Friday closest to March 31 if it falls on a Saturday or Sunday would be added instead.

20.1 Recognized Holidays

Recognized holidays for employees in Representation Units D, J, K-1, and K-2 shall be:

- 20.1.1 New Year's Day
- 20.1.2 Martin Luther King, Jr.'s Birthday (3rd Monday of January)
- 20.1.3 Lincoln's Birthday
- 20.1.4 Washington's Birthday - observed on the 3rd Monday in February
- 20.1.5 Malcolm X's Birthday - observed on the Monday or Friday nearest May 19
- 20.1.6 Memorial Day
- 20.1.7 Juneteenth National Independence Day - observed on the Monday or Friday, nearest to June 19
- 20.1.8 Independence Day
- 20.1.9 Labor Day - observed on the first Monday in September
- 20.1.10 Indigenous Peoples' Day - observed on the second Monday in October
- 20.1.11 Veterans Day
- 20.1.12 Thanksgiving Day
- 20.1.13 The day after Thanksgiving Day
- 20.1.14 Christmas Day

20.2 Paid Status

In order to be eligible for holiday pay, an employee must be on paid leave status on his or her regularly scheduled workday before the holiday.

20.3 Floating Holidays

Effective January 1, 1988, employees shall be granted three (3) floating holidays each calendar year.

Employees in the competitive service who have worked for the City six (6) months or more shall be granted three (3) floating holidays each calendar year. In the first calendar year of employment, employees shall be granted pro rata floating holidays as follows: Hired January 1 through April 30 – 3 days; hired May 1 through August 31 - 2 days; hired September 1 through December 31 - 1 day. Employees may take floating holidays in one-hour increments.

20.3.1 Additional Floating Holidays

For employees who were required to remain in the workplace from March 17, 2020 – June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the MOU. The following classifications which, due to the nature of the assignment, require backfill, employees will be paid a stipend in the amount of the earned floating holiday hours up to a maximum of 32 hours the first full pay period in August 2020:

Solid Waste Drivers, Solid Waste Workers, Long Haul Drivers, Community Services Officer, Public Safety Dispatchers I/II, and Supervising Public Safety Dispatchers.

City will use a specific pay code for these additional floating holiday hours that will be available until June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not be used towards CalPERS retirement service credit as outlined in section 43.7.5 of the Maintenance and Clerical MOU.

20.4 Effects of Work Week

Employees whose workweek is Monday through Friday shall be allowed all holidays with pay which fall within such work week. Those employees whose work week is other than Monday through Friday shall be entitled to the same number of holidays, with pay, during each calendar year as are allowed to employees whose work week is Monday through Friday. The procedure for allowing holidays for employees whose workweek is other than Monday through Friday shall be established by the City Manager.

20.5 Compensation for Holiday Work

An employee required to work on any day which is a holiday for employees whose work week is Monday through Friday shall be paid for the number of hours worked during such day at the rate of one and one-half (1½) times the straight-time rate, based upon the employee's regular monthly salary, or shall be granted compensatory time off in an amount equal to one and one-half (1½) times the number of hours worked on such holiday. Any employee who works on Christmas Day or Thanksgiving Day shall be paid double time for that day. The hours worked on such a holiday and paid at the rate herein provided shall not be credited in computing the hours worked in the week for overtime purposes.

The holiday pay provided for shall be in addition to an employee's regular salary. In the event that the time worked on such a holiday is also overtime, as provided in Section 15 of this Agreement, payment will be made for the hours worked either

as overtime under said Section 15, or as holiday pay under this Section 20, but will not be made under both Sections.

SECTION 21: SICK LEAVE

21.1 Eligibility

Any employee shall be entitled to take sick leave with full pay in case of sickness, disability, or serious illness within the immediate family of the employee in accordance with the provisions of Sections 21.2 (Accrual) to 21.6 (Family Sick Leave), inclusive.

21.2 Accrual

Each employee shall be credited with one (1) working day of sick leave with full pay for each month of service.

For the purposes of this Section 21, a month of service shall mean thirty (30) consecutive calendar days in the case of employees working on full-time or part-time basis, and shall mean 173 hours of work in the case of employees working on an intermittent basis.

21.3 Use - Part-Time and Intermittent Employees

An employee working on a part-time basis shall be entitled to use earned sick leave only on a pro rata basis; for example, if an employee works half time the employee shall be paid for time off on sick leave on a half-time basis.

An employee who works on an intermittent basis shall be entitled to use earned sick leave only for those days on which the employee would have worked if the employee had not been sick; provided, however, that an employee working on an intermittent basis who works only when called shall be entitled to use earned sick leave only when the employee becomes sick after reporting to work in response to such call.

21.4 Accumulation / Cancellation / Restoration / Payout

21.4.1 Such sick leave as provided in Section 21.2, when not used shall be cumulative; but the accumulated unused period of sick leave shall not exceed two hundred (200) working days, regardless of the length of service. When the maximum of two hundred (200) working days has been reached, and there after part of said maximum has been used, the used part of said maximum may subsequently be replenished at the applicable rate provided in Section 21.2.

21.4.2 Except as otherwise provided below, all accumulated sick leave shall be canceled when an employee terminates or is terminated, except that employees retiring or voluntarily terminating with a vested pension and at least twenty (20) and not more than twenty-eight (28) years of service shall be entitled to receive payment at retirement or termination with a vested pension of thirty eight percent (38%) accumulated unused sick leave days, but not in any case more than thirty eight percent (38%) of the two hundred (200) day maximum accumulation. Employees who voluntarily separate from service with a vested pension and at least twenty-eight (28) years of benefited City of Berkeley service shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred unused sick leave days. The employee may choose to convert unused sick leave to retirement credit as provided by CalPERS in Government Code Section 20965.

The City has established an Internal Revenue Code Section 401(a) plan and trust agreement to address the liquidation of sick leave at time of retirement and has received a Determination Letter and a Private Letter Ruling on the plan and trust agreement. This provides employees with an irrevocable option to defer accrued but unused sick leave at time of retirement into a 401(a) plan or be paid out the balance of the accrued but unused sick leave less withholding of applicable federal and state taxes.

21.4.3 Any employee retiring on permanent disability arising out of and incurred in the course and scope of his employment with the City shall be entitled to receive payment at retirement for thirty eight percent (38) of accumulated unused sick leave days, but not, in any event, more than thirty eight percent (38%) of the two hundred (200) day maximum accumulation. Employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City with at least twenty-eight years of benefited service shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred unused sick leave days.

21.4.4 Employees who regularly work one-half ($\frac{1}{2}$) time or more and who have attained the two hundred (200) day maximum sick leave accumulation shall be entitled to receive payment for one-third ($\frac{1}{3}$) of the first twelve (12) days of sick leave days, or if earning sick leave at the rate of two working days for each month of service, one-third ($\frac{1}{3}$) of the first twenty four (24) days of sick leave days, for which they become eligible, do not use and would otherwise forfeit because of the two hundred (200) day

maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar-year basis, and payment for such sick leave for any calendar year shall be made no later than January 22nd of the following year. Such payment shall be made at the employee's salary rate in effect on the preceding December 31st and shall be made only in units of whole days and will not be made for any fraction of a day. However, the liquidation of accrued sick leave at time of retirement as provided in Section 21.4.2 will not result in a payout of accumulation of sick leave as provided in this Section.

21.4.5 Accumulated sick leave which has been canceled by reason of an employee's layoff in accordance with Section 44 shall be credited back to such employee if the employee returns to City employment within three (3) years of such layoff.

21.5 Purpose / Definitions

Sick leave shall not be considered as a privilege which an employee may use at the employee's discretion, but shall be allowed only in case of sickness or disability or in the case of serious illness within the immediate family of the employee.

21.6 Family Sick Leave

Not more than fifteen (15) working days (120 hours) in any calendar year may be taken as sick leave because of the illness of a member of the employee's immediate family. The immediate family of an employee, for the purpose of this Section, shall be defined as: a dependent residing in the employee's household or parent, spouse, son or daughter, domestic partner or niece or nephew residing in the employee's household.

21.7 Bonus for Unused Sick Leave

For every six (6) months of perfect sick leave attendance, the employee will receive eight (8) hours of bonus time. This bonus time will be prorated for part-time employees. Such bonus time can be used for any leave purpose covered by this Agreement. Such bonus time shall be counted as vacation leave credits for purposes of determining eligibility for carry-over and liquidation at time of termination of employment. Such crediting shall occur no later than 45 working days after having been earned.

21.8 Injury Incurred In Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that such injury is covered by the Workers' Compensation laws of the State of California, or other provision for payment for time off because of such injury is made by such other employer. In the event such injury is not covered by the Workers' Compensation laws of the State of California,

and no other provision for payment for time off because of such injury is made by such other employer, sick leave in accordance with the provisions of this Section shall be allowed only if such outside employment has been approved by the City.

21.9 Notice Required

In order to receive compensation while absent on sick leave, the employee shall notify his/her Department Head prior to or within four (4) hours after the time set for beginning his or her daily duties, or as may be approved by the Head of his or her department. The employee will make every reasonable attempt to directly contact his or her designated supervisor within one hour of beginning of shift.

21.10 Absenteeism / Sick Leave Abuse

The City may establish a reasonable program for the control of abuse of sick leave and absenteeism, subject to Union review and comment.

21.10.1 The Union and the City agree to meet during the term of this 2015 through 2018 agreement, beginning no later than 90 days after Union ratification and Council approval on its regular agenda, on the City's practice with regard to the control of abuse of sick leave and absenteeism. This Section 21.10.1 shall sunset as of June 16, 2018.

21.11 Calculations

All sick leave shall be calculated upon actual paid hours. This provision shall go into effect upon implementation of necessary data processing changes.

21.12 Voluntary Leave Exchange for Catastrophic Illness:

21.12.1 Recovery Time Transfer is that system whereby an employee grants time from earned compensatory or vacation leave to another employee. Such transfer of time shall be limited to situations where the recipient of the transfer is, by reason of illness or injury, threatened with the loss of earnings due to his/her exhaustion of employment benefits. Such time transfer request must be in writing, and subject to the approval of the City Manager/Director of Library Services/Executive Director of the Rent Board. Such approval shall not be unreasonably denied. Such transfer shall be credited to the recipient at the donor's rate of pay. Recovery Transfer Time will not be used for industrial injuries or illnesses. The use or receipt of Recovery Transfer Time shall not preclude possible medical separation of the recipient employee. The City reserves the right to require medical verification by a qualified medical practitioner of the recipient employee's medical condition. The City may transfer an employee receiving Recovery Transfer Time into another position in the same classification.

- 21.12.2 An employee may donate accrued but unused sick leave as Recovery Transfer Time subject to the following conditions:
- a. The employee donating sick leave must maintain a sick leave balance of at least 120 hours after the donation of leave for Recovery Transfer Time. An employee donating sick leave coincidentally with terminating employment with the City shall be limited to a sick leave donation of no more than forty (40) hours regardless of the sick leave donation option(s) used.
 - b. An employee may donate compensatory time off and/or vacation leave time; or
 - c. An employee may donate up to forty (40) hours of sick leave per calendar year and be charged hour per hour for each hour of sick leave donated; or,
 - d. After the first forty (40) hours of sick leave are donated, an employee may donate sick leave but the employee will be charged two hours of sick leave for each hour of sick leave donated for use as Recovery Transfer Time.

21.13 Additional City Emergency Paid Sick Leave Allocation

The City shall provide an additional 80 hours of emergency paid sick leave to be used for COVID-19 related reasons as listed in the Emergency Paid Sick Leave Act. Part-time employees receive a prorated number of hours. In order to use this additional City emergency paid sick leave, the employee must first exhaust all hours that they received under the Emergency Paid Sick Leave Act. The City will use a specific pay code for this additional emergency paid sick leave and these additional hours will be available until June 30, 2021. These additional 80 emergency paid sick leave hours shall have no cash value and may not be used towards any CalPERS retirement service credit as outline in section 43.7.5.

SECTION 22: WORKERS' COMPENSATION

Workers' Compensation payments shall commence according to law. Payments under the Workers' Compensation law for temporary disability, or a recurrence thereof, arising out of and in the course of employment, shall from the date of injury (DOI) be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability pay for up to five (5) years from the DOI, but shall not exclude any salary adjustment to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under State Law and the City will cease to pay

the difference. Temporary disability payments plus the moneys paid under the City's salary continuation program shall be equivalent to the employee's regular pre-disability pay. However, salary continuation payments above the statutorily required temporary disability payments shall not be reported by the City to CalPERS as compensation. In determining the employee's pre-disability pay the City may use either pre-disability net or gross pay based on administrative capabilities. This decision shall be applied uniformly and is not intended to reduce salary continuation benefits below those in effect under the prior Agreement.

22.1 Salary Continuation Benefit

1. New Accepted Claim with Overlapping Previously Accepted Injury - Where an Employee sustains a subsequent industrial injury as part of a new accepted workers' compensation claim that includes a previously accepted body part in the same five (5) year period, Employee shall be entitled to a period of time not to exceed 183 days of Salary Continuation Benefits.
2. New Accepted Claim with No Overlapping Previously Accepted Injury - Where an Employee sustains another industrial injury resulting in a new accepted workers' compensation claim within the same five (5) year period that does not include a previously accepted body part, the Employee's new accepted claim shall be entitled to a period of time not to exceed 365 days of the Salary Continuation Benefit.
3. New Accepted Claim for Same Previously Accepted Injury after Five (5) Years - Where an Employee sustains an industrial injury to a previously claimed body part after five (5) years from the initial Date of Injury, the Employee shall be entitled to a new period of time not to exceed 365 days of the Salary Continuation Benefit. In effect, after five (5) years from the initial Date of Injury, the benefit resets with respect to a previously claimed body part.
4. Workers' Compensation Medical Appointments and Salary Continuation - For the purposes of the Salary Continuation Benefit, effective January 1, 2019, the City shall calculate absences from work to attend medical appointments for the treatment of an accepted industrial injury in one (1) hour increments for the purposes of running against the maximum 365 days of Salary Continuation.

SECTION 23: STATE DISABILITY INSURANCE

State Disability Insurance Integration: Any employee who is absent due to personal illness for more than seven (7) days (or for any period of time if hospitalized) may apply for State Disability Insurance benefits. Application forms shall be available from Human Resources.

The City shall integrate the employee's pay with the employee's State Disability benefits upon receipt of the "Notice of State Disability Claim Filed" in the following way:

- 23.1 The City will determine the weekly State Disability Insurance benefit amount based on the amount of wages earned with the City of Berkeley in the State Disability Insurance base period.
- 23.2 Where employee has accrued sick leave, the weekly benefit will be subtracted from the employee's normal weekly wage and the amount necessary to bring the total of State Disability plus wages to 100% will be deducted from the sick leave and paid on normal City payroll.
- 23.3 When employee receives State Disability Insurance check, he or she will contact payroll if the amount of the benefit is anything other than the maximum amount and payroll will make up the difference from sick leave, vacation, or comp time if the employee has any accrued to use for this purpose.

Any employee entitled to State Disability Insurance shall receive in addition thereto such portion of his or her accumulated sick leave as will meet but not exceed, the standard earnings of the employee for his or her normal work week, up to a maximum of five (5) days.

- 23.4 An Employee may integrate his/her vacation or comp time with State Disability Insurance as set forth above. If an employee wishes to exercise this option, he/she must notify the City prior to exhausting his/her sick leave integration.

SECTION 24: BEREAVEMENT LEAVE

In the case of death within the immediate family of an employee such employee shall be entitled to remain absent from duty with pay in order to grieve the passing of a loved one, for a period not exceeding three (3) working days, or in the case of a funeral or memorial service conducted out of the State of California, for a period not exceeding five (5) working days. Bereavement leave need not be taken in consecutive days but shall be taken within twenty (20) working days of the death of the family member. The immediate family of an employee, for the purpose of this Section, shall be defined as a dependent or wife,

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husband or domestic partner, mother, father, sister, brother, child, grandmother, grandfather, mother-in-law father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law and grandchildren, aunts and uncles.

In order to be eligible for Bereavement Leave as noted above, employees are required to complete and submit the City of Berkeley Bereavement Leave Statement as provided in the City policy. Employees shall not be required to provide an obituary.

Leave of absence with pay because of death in an employee's immediate family is allowed solely for the purpose of participating in the grieving process, and such leave shall not be charged against vacation or sick leave which an employee may be entitled to, but shall be in addition thereto.

In special cases, with the approval of the Department Head, the City Manager may grant a death leave to allow an employee to attend funeral or memorial services because of the death of a person not included within the definition of the immediate family.

SECTION 25: MILITARY AND MARITIME LEAVE

Military and Maritime Leave shall be governed by the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and any regulations promulgated to implement the Act, and the California Military and Veteran's Code.

SECTION 26: PARENTAL LEAVE

A continuous leave of up to one year will be granted to any employee with one (2,080 hours) or more years of employment with the City (or equivalent in the case of part-time employees) upon the birth of a child or the adoption of a child who is five (5) years or younger, providing that:

- 26.1 the one year parental leave must commence no later than thirteen (13) months from the date of birth or adoption and must expire no later than twenty-five (25) months from the date of the birth or adoption, and
- 26.2 approved parental leave shall not be deducted from the Seniority Service Date, and
- 26.3 to be eligible to exercise their rights under this Section, employees must provide thirty (30) working days notice prior to the anticipated commencement date of the parental leave, when possible.

The employee, at his or her option, may request that all or any portion of sick leave (up to a maximum of two hundred (200) days) or vacation leave that he or she has accumulated be paid in the same manner as it would if he or she had been absent due to illness or on vacation during the leave. In the event both parents are employed by the City, nothing in the Personnel Rules and Regulations shall prohibit both employees from taking simultaneous parental leave.

The foregoing leave shall be granted upon medical certification of pregnancy or the presentation of legal evidence of adoption.

During approved parental leave, after all earned leaves (except sick leave) are exhausted, the City agrees to maintain life and health insurance coverage for the duration of the approved parental leave, subject to any regular participation requirement of the employee. Thereafter the City agrees to continue coverage for the employee at the employee's expense.

SECTION 27: LEAVE OF ABSENCE WITHOUT PAY

27.1 Request

Upon request of the employee, a Department Head may grant a leave of absence to an employee within his/her department without pay for a period not to exceed fifteen (15) working days. No leave without pay shall be granted for more than fifteen (15) working days, except upon the written request of an employee and approval of the City Manager or designee. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge. Employees shall, when possible, return to their original position upon return from an approved leave without pay.

27.2 Union Training Leave

27.2.1 A union training leave without pay shall be granted at the request of an employee and the Union for the purpose of attending a training course sponsored by the Union. The maximum duration of such leave shall not exceed two (2) consecutive payroll periods in a calendar year. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge.

27.2.2 Conditional upon prior approval and upon receipt of certification of completion, the City shall reimburse an employee who is an elected official or steward of the Union for up to one half of his/her time spent in such training at the employee's permanent rate of pay, not to exceed twenty hours of paid leave in a calendar year.

27.2.3 Time spent by Union officials in retreats provided for in Section 6.5 (Official Attendance at Meetings) of this Agreement shall be counted toward the above 20 hour limit but may not be subject to the provision for payment of only half of the total time.

27.3 Eligibility

No leave of absence shall be granted to any employee until the employee has utilized all accrued vacation time and any other time owed to the employee, except sick leave.

If the absence without leave is due to reasons for which the employee would be eligible for sick leave, then all sick leave must be exhausted first as well.

SECTION 28: JURY DUTY LEAVE

An employee who is called or required to serve as a trial juror shall be entitled to be absent from work with pay during the period of jury duty or while required to be present in court as a result of a call to jury duty. Employees are required to submit a written proof of jury duty service issued by the court in order to receive payment for Jury Duty Leave. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any unusual constraints (e.g., time to call in, time to report for jury service) made by the court that affect the employee's ability to simultaneously fulfill his or her jury duty service and employment obligations, and the supervisor will attempt to accommodate the employee based on the operational needs of the department. Absence from work to perform jury duty service shall apply to employees who work swing and graveyard shifts for those days on jury duty. Employees who serve jury duty on their days off shall be granted an equivalent number of days off during their normal workweek. The employee will keep any payment received for jury service including mileage reimbursement.

28.1 Court Time

The City will guarantee a minimum of four (4) hours pay for every court appearance required by an employee in the conduct of official City of Berkeley job duties on the employee's scheduled day off and four (4) hours minimum if on a workday but outside scheduled working hours. In addition, employees assigned to court phone standby in the conduct of official City of Berkeley job duties will be compensated by earning recovery time as follows: Duty day, outside of scheduled working hours, one hour minimum recovery time and hour for hour thereafter. Day off, two hour minimum recovery time and hour for hour thereafter.

HEALTH AND WELFARE BENEFITS

SECTION 29: HOSPITAL-MEDICAL AND DENTAL COVERAGE

29.1 Health Insurance

The City agrees to extend all medical and dental benefit coverages to dependents of City employees up to the date of their 26th birthday.

29.1.1 The City shall pay for the cost of health insurance coverage for employees who have such coverage under any group health insurance plan authorized by the City Council. If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for medical benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

29.1.2 The maximum amount the City shall be required to pay for medical insurance premiums shall be the applicable Kaiser S-1 Plan rate (i.e., single party, two party, or family), regardless of the City sponsored health plan selected by the employee.

29.1.3 For employees in a probationary or career benefited status as of January 1, 2003, the City will continue to pay 100% of the health care premium costs (employee and any dependents) for the health plan the employee is enrolled in as of this date as long as the employee remains employed in the bargaining unit. After January 1, 2003, if the employee transfers health coverage to a different health plan, the employee will assume responsibility for paying the difference, if any, between the Kaiser monthly premium rate (i.e., single party, two party, or family) and the plan chosen by the employee from that date forward. For these employees who were grandfathered under this section 29.1.3, effective April 1, 2016, the City will continue to pay 100% of the health care premium costs (employee and any dependents) for the Sutter Health Plus HMO plan as long as the employee remains employed in the bargaining unit. As stipulated above, if the employee transfers from Sutter Health Plus HMO to a different health plan, the employee will assume responsibility for paying the difference, if any, between the Kaiser monthly premium rate (i.e., single party; two-party; or family) and the plan chosen by the employee from that date forward.

29.1.4 **Medical Plan for Part-Time Employees:** Effective July 1, 2011, the

City will pay 75% of the cost of the medical plan which is fully paid for full-time employees for those part-time employees who work 20 to 29 hours per week. The City will pay 100% of the cost of the medical plan which is fully paid for full-time employees for those part-time employees who work 30 or more hours per week.

Meet and Confer: The Parties agree to meet and confer commencing no sooner than January 1, 2017. This negotiation shall be on methods to contain or reduce the City's health benefit costs and/or preventing that the City be required to pay any penalties associated with the Excise Tax, including but not limited to a new and/or replacement health plan. This meet and confer process will be subject to normal rules of collective bargaining, including applicable impasse, strike or lock-out procedures.

29.2 Dental Insurance

The City shall provide a dental care program for employees.

Effective January 1, 1995, benefits provided under the Dental Program shall be increased to an annual limit of \$2,000 for dental work and a lifetime limit of \$2,000 for orthodontics. The co-insurance rate shall be ninety percent (90%). If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

29.2.1 **Dental Plan for Part-Time Employees:** Effective July 1, 2011, the City will pay 75% of the cost of the dental plan which is fully paid for full-time employees for those part-time employees who work 20 to 29 hours per week. The City will pay 100% of the cost of the dental plan which is fully paid for full-time employees for those part-time employees who work 30 or more hours per week.

29.3 Part-time Employees

Part-time employees who work 30 or more hours per week will receive 100% of the cost of the medical plan which is fully paid for full-time employees; for those part-time employees who work 20-29 hours per week, the City will pay 75% of the cost of the medical plan which is fully paid for full-time employees.

29.4 Flexible Spending Account

The City shall establish an Internal Revenue Code Section 125 Flexible Spending Account that allows an employee to elect pre-tax deductions from salary for the purpose of paying allowable medical expenses. Such plan shall be established no later than November 1, 2008.

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29.5 New Providers

The City shall make reasonable efforts when contracting with any new providers for hospital and medical plans to contract with those providers which provide coverage for all dependents residing in the employee's household.

29.6 Medical and Dental Benefits

Medical and Dental benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status.

29.7 Discipline and Treatment

The union may request, where merited, on a case by case basis, that pending disciplinary action be held in abeyance pending successful completion of a treatment program by the employee, and thereafter as long as the employee maintains a positive performance and participates in an ongoing recovery program.

29.8 Health Insurance In-Lieu Payment Effective January 1, 2016

Effective January 1, 2016, for employees who show proof of alternate medical coverage, the City will compensate the employee \$576 per month, prorated for less than full time benefitted employees. In order to comply with FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments.

SECTION 30: GROUP LIFE INSURANCE

The City shall continue to provide group life insurance, by a carrier of the City's choice, for each employee in the amount of \$25,000 with a standard accidental death and dismemberment provision of a like amount. In addition, employees may purchase additional life insurance in increments of \$10,000 up to a maximum of \$300,000 at a rate offered by the City's insurance carrier and subject to any medical exam as required by the insurance carrier.

SECTION 31: RETIREE MEDICAL COVERAGE

The City and Union have agreed that the City will make available retiree health insurance coverage under certain terms and conditions described below. This retiree medical benefit shall be referred to as Plan Z2B Cap 3. The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

The City will begin to provide the retiree medical coverage set forth in this Section on July 1, 2000. An employee's entitlement to any and all benefits provided by the City under this retiree medical coverage plan are subject to the funding limitations set forth in subsection 31.9 (City Funding of Retiree Health Benefits).

31.1 Amendment of Retiree Health Premium Assistance Plan VI, effective June 28, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after July 5, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of the successor Memorandum of Understanding, the City shall amend the Retiree Health Premium Assistance Plan VI (For Service Employees International Union, Local 1021 Maintenance and Clerical Chapters) as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree and/or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City and the Union agree that the City will also amend the Retiree Premium Assistance Plan VI to allow eligible retirees who retired prior to July 5, 2015 to enroll in a non-City sponsored health plan.

31.2 Eligibility

An employee is eligible for the retiree health insurance coverage set forth in subsection 31.3 (Pre Age 65 Retiree Health Insurance) below if he/she meets all the following criteria:

- 31.2.1 retires on or after July 1, 2000,
- 31.2.2 is vested with CalPERS,

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- 31.2.3 has at least eight (8) years of CalPERS qualifying service with the City,
- 31.2.4 is at least age 55.

31.3 Pre Age 65 Retiree Health Insurance

Beginning July 1, 2000, the City shall make available health insurance coverage to the employee and his/her spouse or domestic partner. The City will pay on the employee’s behalf no more than \$181.56 per month for an employee electing single party health coverage and no more than \$363.12 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee’s behalf will be based on the employee’s total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percent of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

Employee will pay the difference between the City’s monthly contribution and the actual monthly insurance premium charged by the health plan he/she has elected for retiree medical coverage. If during the term of this Agreement, the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year’s contribution. No increases in the amount the City contributes shall occur before July 1, 2001. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

31.3.1 The parties agree that within 45 days of the implementation of the successor MOU, the City will request an actuarial analysis limited to the Union’s

proposal as follows on July 1, 2022:

Effective 7/1/2022 through the end of the contract, the City shall contribute an additional \$200.00 toward both single and two-party rate. This enhanced retiree incentive shall continue until Section 31.4 become applicable.

Upon receipt of the actuary, the parties agree to meet and confer over the Union's proposal to impasse.

31.4 Retiree Benefits for Employees Age 65 and Over

Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his/her eligibility for the retiree medical benefits set forth in subsection 31.3 (Pre Age 65 Retiree Health Insurance) ceases. On reaching age 65, the City will make available health insurance coverage for a Medicare Risk Policy. When an employee or retiree reaches age 65, the City will contribute no more than \$17.65 per month on the employee's behalf for single party health insurance coverage and no more than \$35.32 per month for two party health coverage.

31.5 Termination by City of Retiree Medical Benefit

Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under this Section.

31.6 Retiree Medical Benefit for Employees Retiring Between the Ages of 50 and 55

An employee who is at least 50 years of age, but less than 55, and has at least eight years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in subsection 31.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his/her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his/her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

31.7 Employees Retiring between June 28, 1998 and June 25, 2000

Employees retiring from City service between June 28, 1998 and June 25, 2000 will be eligible for the retiree medical benefits provided in this Section if they meet all of the eligibility criteria set forth in subsection 31.2 (Eligibility) and after their retirement from City service maintain continuous enrollment in a group health plan from the date of the employee's retirement until June 25, 2000. The employee

shall be responsible for paying 100% of the monthly health plan premium from the date of the employee's retirement until June 25, 2000. Failure on the part of employee or surviving spouse to pay premiums and maintain continuous group health care coverage through June 25, 2000 will result in the employee forfeiting his/her eligibility for the retiree medical benefits provided in this Section and will relieve the City of any further obligation to provide benefits under this Section.

31.8 Employees Retiring with a CalPERS Approved Disability Retirement

If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in subsection 31.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his/her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his/her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his/her spouse or domestic partner.

31.9 City Funding of Retiree Health Benefit

City contributions to the retiree medical benefit will begin on June 26, 2000. Funding of this benefit will be set aside in a trust to be established by the City.

Effective with the 1998-2002 Memorandum Agreement, the retiree medical benefit was funded by a charge of 0.50% of payroll in the third and fourth years of that Agreement, so that contributions are at 1% of the payroll in the fourth year of that Agreement. The City will fund the benefit at approximately 1% of the payroll for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

The Union understands and acknowledges that the City conducted an actuarial study to determine the percentage of payroll it needed to set aside each year and the rate of return of 7% it must achieve to fund the retiree health benefit provided in this Section. The City will conduct an actuarial study by an outside actuary of the retiree medical plan prior to June 30, 2002. After that time, the City will conduct an actuarial study by the outside actuary of the retiree medical plan every two to three years to review the funding status of the program. The outside actuary will be selected by mutual agreement of the parties. The Union and City agree that if the Actuary concludes that the City's funding of this benefit by contribution of 1% of the payroll for all miscellaneous employees is insufficient to fully fund the retiree medical benefits, the City shall not be required to increase its funding for this benefit to more than 1% of the payroll for miscellaneous employees. In the event that there are insufficient funds in the trust to cover all retirees' monthly health

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premiums, the City and the Union agree to meet and confer regarding the City's distribution of its 1% contribution.

TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 32: PROBATIONARY PERIOD

32.1 Length

Original and promotional appointments from employment lists shall be tentative and subject to a probationary period of six (6) months (and a minimum of 1,040 hours) actual work exclusive of all leave and light duty and shall be completed within a one (1) year period. However, time spent on workers' compensation leave or on modified duty as a result of an industrial injury shall not be considered as actual service and shall not be included as time served toward completion of the probationary period.

In recognition of the safety and training requirements of several non-sworn paraprofessional classifications in the Police Department, the probationary period for those classifications is as follows:

- 32.1.1 For the classifications of Community Service Officer, and Community Service Officer Supervisor the probationary period shall be nine (9) months (and a minimum of 1,560 hours).
- 32.1.2 Employees who are hired in either the classification of Public Safety Dispatcher I or Public Safety Dispatcher II fifteen (15) months (and a minimum of 2,600 hours).
- 32.1.3 The hours counted for Community Service Officer and Community Service Officer Supervisor probation will be for actual service exclusive of all leave and light duty completed within eighteen (18) months.
- 32.1.4 The hours counted for Public Safety Dispatcher I and Public Safety Dispatcher II probation will be for actual service exclusive of all leave and light duty completed within twenty-four (24) months.

Probationary employees who are granted military leaves of absence shall complete the balance of their probationary period within a period of six (6) months following their return to City service. No provision of this Section shall be interpreted to preclude the City from establishing new classifications which may require a probationary period of more than six (6) months.

32.2 Effect of Provisional Appointment

If, before completing the required probationary period, an employee is provisionally appointed to a higher class in the same or a related series of classes, the time

served in such higher class shall be counted toward completion of the probationary period in the lower class.

32.3 Completion

If the service of the probationary employee has been satisfactory to the Department Head, the Department Head shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such probationer in the service is desired. If such service has been unsatisfactory, the Department Head shall file with the Director of Human Resources such a statement, in writing, with the recommendation to the City Manager or designee that the employee be rejected.

Probationary employees may request periodic conferences with their supervisors regarding the adequacy of their performance.

32.4 Rejection

During the probationary period, an employee may be rejected at any time without right of appeal or hearing in any manner. An employee rejected from a position to which the employee has been promoted shall be reinstated to the position from which the employee was promoted unless charges are filed and the employee is discharged as provided in Section 39.

SECTION 33: TRANSFER

33.1 General

A transfer may be made at any time by the City Manager when a demonstrated need exists. Transfer shall not be used to effect a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided elsewhere in this Agreement. No employee shall be transferred to a position for which the employee does not possess the minimum qualifications. An employee with permanent status who is transferred from one class to another class shall assume permanent status in the class to which the employee is transferred.

33.2 Units D and J

With respect to Units D and J only, in the event a Department Head determines to make a selection for a permanent vacancy from a transfer list existing for the same classification, the senior employee on the transfer list shall be selected.

33.3 Transfer – Solid Waste

The City will offer test skills training for any Solid Waste Worker so requesting on their own time in order to increase their ability to compete for positions such as Laborer.

SECTION 34: PROMOTION

- 34.1 Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established. In line with this, the City shall consider advancing career employees to vacancies in promotional positions before considering hiring temporary workers from outside the City service. Consistent with City of Berkeley Personnel Rules, each candidate for promotion must be either a permanent employee in the competitive service or a permanent employee on an active mandatory layoff reemployment list, and must possess the minimum qualifications as set forth in the specifications of the class to which promotion is sought. The right to compete in a promotional examination in a specific classification series is not limited to employees in the bargaining unit to which that classification is assigned.
- 34.2 If, in the opinion of the City Manager, the City is facing staffing reductions which will result in displacement of employees, a waiver of minimum qualifications and/or substitution of related experience and education may be made in promotional examinations, with an understanding on the part of management and supervisory personnel that adequate on-the-job training which can be completed within no more than one year, will be provided to facilitate job adjustment and to compensate for waiver of qualification standards if that has occurred. The promotional recruitment announcement will state that minimum qualifications may be waived providing the applicant's experience and education demonstrates his or her on-the-job development potential, as stated above. In promotional appointments where the minimum qualifications have been waived, the probationary period will be one year to allow the employee time to demonstrate development of the necessary job knowledge and skills.
- 34.3 If, in the opinion of the City Manager, the best interests of the service can be served by an open, competitive examination instead of closed, promotional examination, and if there is not already a promotional list for the higher position, which list has not been abolished and from which the vacancy could be filled, then the City Manager may instruct the Director of Human Resources to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and publication of an eligible list.
- 34.4 Interview of City Employee**
A City employee who is on a closed promotional or an open competitive list shall have the option to interview for the vacancy. A City employee who is unsuccessful

and who so requests shall be advised of steps she or he may take to increase her/his competitive standing for future promotional opportunities.

34.5 Employees who have qualified for promotional lists shall be considered for promotion based on the following factors: previous work performance, previous training and experience, merit, ability, and seniority.

34.6 If the City elects to give an open, competitive examination for a promotional position, the City shall establish two (2) lists. List A shall be a Promotional List, and shall rank successful candidates who are presently City of Berkeley career employees. List B shall rank all successful candidates who are not presently career employees. The City shall seriously consider all candidates on List A before hiring from List B.

34.7 Step Increase

If any employee is entitled to a step increase and receives a promotion within one month of the increase, said employee is to be placed at the second higher step.

SECTION 35: DEMOTION

35.1 The City Manager may demote an employee who so requests it, or whose ability to perform required duties falls below standard. No employee shall be demoted to a class for which the employee does not possess the minimum qualifications as determined by the Director of Human Resources.

35.2 Notice of the demotion shall be given the employee no later than two (2) weeks prior to the effective date of demotion and a copy of said notice shall be filed with the Director of Human Resources. Any employee who has been demoted shall be entitled to receive a written statement of the reason for such action.

35.3 An employee with permanent status who is demoted shall assume permanent status in the class to which the employee is demoted.

35.4 Upon request of the employee, demotion may be made to a vacant position as a substitution for layoff. In such cases the employee shall be restored to his or her former position without further examination whenever such position is again to be filled in accordance with the reemployment provisions in Section 45.

SECTION 36: SUSPENSION

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36.1 The City Manager may suspend an employee from his/her position for disciplinary purposes based on just cause. Suspension without pay shall not exceed twenty (20) working days, nor shall any employee be penalized by suspension for more than twenty (20) working days in any fiscal year. Any employee to be suspended shall be entitled to receive a written statement of the reasons for such action.

36.2 A Department Head may suspend an employee for disciplinary purposes based on just cause for not more than three (3) working days for any one offense. Such suspension shall be reported immediately to the City Manager.

36.3 Immediate Suspension

An employee who the department head determines to be an immediate threat to the health and safety of co-workers or the public shall be placed on administrative leave with pay and sent home.

SECTION 37: DISCHARGE

An employee may be discharged at any time by the City Manager, but if the probationary period has been completed, then such discharge must be for cause. Any employee who has been discharged shall be entitled to receive written statement of the reasons for such action.

SECTION 38: RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with the Department Head, at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Director of Human Resources with a statement by the Department Head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the notice required shall be entered on the service record of the employee, and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the Department Head immediately.

SECTION 39: REINSTATEMENT

A permanent or probationary employee who has resigned with a good record may be reinstated within two (2) years to the employee's former position, if vacant, or to a vacant position in the same or comparable class without further competitive examination. This

Section shall not be interpreted as a guarantee of reinstatement to an employee who has resigned with a good record and who requests reinstatement within two (2) years.

An employee who is reinstated under this Section who has completed probation in the classification to which the employee is being reinstated shall not serve a probationary period on reinstatement. An employee who is reinstated under this Section who has not completed probation in the classification to which the employee is being reinstated shall be required to serve a new probationary period on reinstatement. The duration of the probationary period determined by the classification and the provisions of Section 32 of this Agreement.

GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

SECTION 40: GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

40.1 Definitions

For purposes of this section of this Agreement, the following definitions shall apply:

- 40.1.1 **Grievance:** A Grievance is any complaint of a member of the bargaining unit involving the interpretation, application, alleged violation, or any other matter of this Agreement or within the scope of representation of the Union.
- 40.1.2 **Administrative Complaint:** An Administrative Complaint is a grievance filed by a grievant or the Union specifically regarding payment of compensation or the interpretation and application of contract provisions and past practices, or allegations of past practice.
- 40.1.3 **Discrimination Complaint:** A Discrimination Complaint is a grievance filed by a grievant or the Union regarding a violation of Section 3 of this Agreement.
- 40.1.4 **Grievant:** A Grievant may be any member of the bargaining unit covered by the terms of this Agreement, or the grievant may designate the Union to act on his or her behalf or the Union itself may file a grievance on behalf of a member or group of members.
- 40.1.5 **Disciplinary Action:** The recommendation of or implementation by an employee's supervisor or Department Director related to the suspension, demotion, salary reduction or discharge of an employee covered by this Agreement.
- 40.1.6 **Disciplinary Appeal:** A Disciplinary Appeal is the procedure established hereunder to afford an employee his or her due process rights related to a pending disciplinary action. An employee may appeal the recommendation or imposition of suspension, demotion, salary reduction or discharge other than when such action is taken during the formal probationary period for that employee.
- 40.1.7 **Salary Reduction:** Salary Reduction is the reduction of an employee's base compensation to a lower salary step within the employee's current salary range for a specified period of time.

- 40.1.8 **Suspension:** Suspension is the temporary removal of an employee from his or her duties without pay.
- 40.1.9 **Grievance Appeal Officer:** Appeals of grievances will be heard by the City Manager for general City operations, the Library Board of Trustees for Library employees may designate the Director of Library Services as the Appeals Officer and the Executive Director of the Rent Board for Rent Board employees. The City Manager may designate a Grievance Appeal Officer in his/her stead.
- 40.1.10 **Union:** The term Union used throughout this procedure shall include by reference the bargaining unit itself and the appropriate Chapter President and Chief Steward who may be representing an employee engaged in this Grievance and Disciplinary Appeal Procedure.
- 40.1.11 **Day:** A day is defined herein as any day in the calendar year on which the City of Berkeley is regularly open and providing full administrative services to the public.
- 40.1.12 **Written Reprimand:** In the event that an employee receives a written reprimand, the Union or the employee may request a meeting with the supervisor to discuss the reprimand. Such meeting shall occur within fifteen (15) days of the request. The employee may write a rebuttal to any written reprimand within thirty (30) calendar days of receiving the written reprimand or the meeting and such rebuttal will be placed in the Personnel File along with the written reprimand.

40.2 Grievance Procedure

Initial Filing Period: Formal written grievances must be filed at Step 1 of the grievance procedure within thirty (30) days of the date the incident occurred or within thirty (30) days of the date the grievant or the Union reasonably should have had knowledge of the matter.

- 40.2.1 **Informal Process:** *Complaints Filed With* - An employee or Union who believes that s/he/it has a grievance shall discuss the grievance informally with the applicable immediate non-bargaining unit supervisor. If this is not possible due to the absence of this supervisor, the employee or his/her Union may discuss the grievance informally with the applicable Division Manager.

- a. **Filing Period:** Such informal grievances shall be verbally brought to the attention of either the immediate non-bargaining unit supervisor or, if unavailable, with the Division Manager within a reasonable period of time of the incident generating the grievance. (NOTE: In order to comply with formal grievance procedures, refer to Section 40.2, "Initial Filing Period", for absolute filing deadlines and time frames for formal grievances.)
- b. **Process:** The grievant shall be entitled to a personal conference with and an informal decision by, either the relevant supervisor or Division Manager within ten (10) days of making the request for an informal meeting. This informal decision terminates the informal process unless mutually agreed upon by employee, supervisor/manager and Union to extend informal discussions.

40.2.2 **Formal Process: STEP 1 – First-Level Manager: Complaints Filed With** - If the grievant is not satisfied with the results of the informal process, the grievant may file a formal written grievance following the conclusion of the informal conference process. Such written grievance shall be presented to the applicable Division Manager with a copy to the Department Director and the Union.

- a. **Interpretation of Agreement and Past Practice:** Questions regarding the interpretation of the Agreement or allegations of violations of Past Practice shall initially be filed in writing with the Director of Human Resources of the City.
- b. **Compensation:** All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources of the City.
- c. **EEO:** All complaints concerning discrimination or other Section 3 matters shall be initially filed in writing with the Equal Employment Opportunity and Diversity Officer of the City. However, complaints alleging violation of any applicable laws pertaining to protected union activity will be filed with the Director of Human Resources of the City.

40.2.3 **Filing Period:** This written grievance must be filed within ten (10) days following the conclusion of the informal conference process, except as follows:

- a. **Compensation:** Administrative Complaints regarding issues concerning payment of compensation may be filed within 90 days of the last day of the alleged under or over compensation.
- b. **EEO:** The allowed time for filing of a complaint under this Section shall be governed by the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley's EEO/Affirmative Action Program (attached herein as Appendix B).

40.2.4 **Process:** The grievance must be presented in writing on a form provided by the City, and approved by the Union. The written statement shall be a clear, concise statement of the grievance including specific provisions of this Agreement alleged to have been violated, the circumstances involved, the decision rendered at the informal conference, and the specific remedy sought. Within ten (10) days of receiving the written grievance, the grievant shall be entitled to a personal conference with the Division Manager if requested. Other than issues of Contract Interpretation and Past Practices, Compensation or EEO, within ten (10) days, the Division Manager shall communicate a written decision to the grievant and the Union with a copy to the Director of Human Resources and the Department Director. Such action will terminate Step 1.

- a. **Compensation:** In the case of issues of compensation, the Director of Human Resources or his/her designee shall respond in writing within thirty (30) days of receiving the written complaint. In such cases, no adjustment shall be retroactive for more than thirty (30) calendar days from the date upon which the complaint was filed or thirty (30) calendar days from the date when an employee and/or the Union may reasonably be expected to have learned of said claimed violation. Only complaints which allege that employees are not being compensated in accordance with the rules, regulations, and resolutions of the City Council or in accordance with the understanding contained in any Agreement which has resulted from the meeting and conferring process shall be considered.

Any other matters of compensation are to be resolved in the meeting and conferring process, and, if not detailed in the operative Agreement which results from such meeting and conferring process, shall be deemed withdrawn until the meeting and conferring is next opened for such discussion.

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- b. **EEO:** Discrimination complaints shall be processed in accordance with the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley EEO/Affirmative Action Program (attached herein as Appendix B) except that:
- i. The employee has the right to be represented by a Union representative at all stages of the informal and formal complaint investigation and resolution procedure;
 - ii. The Equal Employment Opportunity and Diversity Officer shall meet with and report to only the City Manager during the formal resolution process; and
 - iii. The City Manager shall make the final decision on the complaint which may be appealed by the Union to an impartial arbitrator within ten (10) days of receipt by the Union of the City Manager's decision. Such an appeal shall be processed in accordance with the above defined grievance procedure of this Agreement. The City shall promptly notify the Union of the filing of all formal complaints, as well as their acceptance or rejection.

The City Manager or his or her designee will notify the Union of a proposed decision on a formal complaint, and the reasons therefore, and upon a request within ten (10) days, shall meet with the Union prior to issuing a final decision.

If a grievance also alleges a violation of another Section of the contract in addition to Section 3, Section 40.2.2.3.2 shall apply only to that part of the grievance which alleges a violation of Section 3 unless otherwise mutually agreed.

Complaints challenging, disputing, or seeking to modify or change any policy component of the City's EEO/Affirmative Action Program, including but not limited to the assignment of responsibilities, workforce utilization analysis, and affirmative action goals and timetables, shall not be subject to the grievance/arbitration procedures of this Agreement. This in no way limits the right of the Union to grieve violations of the City's EEO/Affirmative Action Plan.

- c. **Interpretation and Past Practice:** In the case of issues of interpretation of the Agreement, past practices, payment of compensation or violations of Section 3 of the Agreement

(Discrimination, etc.), if the grievant is not satisfied, s/he may move the complaint directly to Step 3 of this grievance procedure.

- 40.2.3 **Formal Process: STEP 2 – Department Director:** *Complaints Filed With* - If the grievant is not satisfied with the results rendered in Step 1, the grievant may appeal the decision in writing to the applicable Department Director or his/her designee with a copy to the Union.

Contract Interpretation and Past Practice, Compensation and EEO complaints would go directly to Step 3 of this process. (NOTE: See Section 40.2.2.)

- a. **Filing Period:** Such written appeal must be submitted to the Department Director or his/her designee within ten (10) days from the date the grievant received the decision of the Division Manager.
- b. **Process:** The written appeal shall include a copy of the original grievance, a description of the informal process and results, the decision rendered at Step 1 and a clear, concise statement of the reasons for the appeal. Within ten (10) days of receiving the written grievance, the grievant shall be entitled to a personal conference with the Department Director or his/her designee if requested. Within ten (10) days of the personal conference, the Department Director or his/her designee shall communicate a written decision to the grievant and the union with a copy to the Director of Human Resources. Such action will terminate Step 2.

- 40.2.4 **Formal Process: STEP 3 – Grievance Appeal Officer:** *Complaints Filed With* - If the grievant is not satisfied with the results rendered in Step 2 for general grievances and Step 1 for issues of Contract Interpretation and Past Practice, Compensation or EEO, the grievant may appeal the decision in writing to the applicable Grievance Appeal Officer with a copy to the Department Director, the Director of Human Resources and the Union.

- a. **Filing Period:** Such written appeal must be submitted to the appropriate Grievance Appeal Officer within ten (10) days from the date the grievant received the decision rendered in Step 2.
- b. **Process:** The written appeal shall include a copy of the original grievance, a description of the informal process and results, the decision rendered at Step 1 and 2 and a clear, concise statement of the reasons for the appeal. Within ten (10) days of receiving the

written grievance, the grievant shall be entitled to a personal conference with the Grievance Appeal Officer or his/her designee if requested. Within ten (10) days of the personal conference, the Grievance Appeal Officer or his/her designee shall communicate a written decision to the grievant and the union with a copy to the Director of Human Resources and the Department Director. Such action will terminate Step 3.

40.2.5 **Formal Process: STEP 4 – Arbitration:** *Complaints Filed With* - If the Union is not satisfied with the results rendered in Step 3, the Union may require that the grievance be referred to an impartial arbitrator by notifying the applicable Grievance Appeal Officer.

- a. **Filing Period:** Such notification of desire to go to arbitration must be filed in writing with the Grievance Appeal Officer within thirty (30) days of the conclusion of Step 3 with a copy to the Director of Human Resources. Provided further that the Union shall forward to the City the Union's portion of the California State Mediation and Conciliation Services (CSMCS) fee within sixty (60) days of receipt of the Grievance Appeal Officer's (City Manager) response. Failure by the Union to meet either the thirty (30) day or sixty (60) day deadline for both referral to Arbitration and payment of the CSMCS fee shall be deemed as a full and complete waiver by the Union to appeal the Grievance Appeal Officer (City Manager) decision to Arbitration and the City Manager decision shall be final and binding on all parties.
- b. **Process:** The impartial arbitrator shall be selected from the California State Mediation and Conciliation Services (CSMCS) unless another party is mutually agreed upon. CSMCS will provide a list of five (5) arbitrators. The City and the Union will alternately strike a name until one remains. The remaining name will be the arbitrator. The cost of the arbitrator's decision shall be borne equally by the parties.

The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigations she or he deems appropriate, and shall render a final and binding decision to the parties which will end the formal grievance process.

No Arbitrator shall entertain, hear, decide or make recommendations on any dispute involving a deposition over which a formally recognized employee organization has jurisdiction unless such

dispute falls within the definition of a grievance as specified in this Section.

Proposals to add or to change the Agreement or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate the Agreement, nor any matter or subject arising out of or in connection with such proposal may be referred to arbitration under this Section; and neither any Arbitrator shall have the power to amend or modify or recommend amendment or modification of the Agreement, or any written agreements or addenda supplementary hereto or to establish or recommend establishment of any new terms and conditions of employment.

No changes in this Agreement or interpretation thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the City Manager and the Union.

40.2.6 **General Conditions of a Formal Grievance**

- a. **Union Representation:** The grievant shall be entitled upon request to representation by the Union at all levels of the grievance procedure. In situations where the Union has not been requested to represent the grievant, the City will not agree to a final resolution of the grievance until the Union has received a copy of the grievance and the proposed resolution, and has been given the opportunity to respond and state its view on the matter. The Union will be given ten (10) days in which to respond.
- b. **Time Limits:** Failure by the Union to file or appeal a grievance within the time limits specified constitutes a dropping of the grievance. Failure by the City to respond by the specified times shall entitle the Union to move the matter to the next higher step of the grievance procedure. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.
- c. **Witnesses:** The City and/or the grievant may call witnesses.
- d. **Release Time:** If an employee covered by this Agreement gives testimony in connection with the grievance procedure during working hours, the employee shall suffer no loss of pay. If the grievant's hearing is scheduled during working hours, the grievant shall suffer no loss of pay in order to present his or her grievance.

40.3 Disciplinary Appeals

40.3.1 **Union Representation:** An employee may request the presence of a Union steward during an interview with his or her supervisor when the employee reasonably believes the interview may result in disciplinary action, and where there is no assurance from the supervisor that disciplinary action is not intended. If at any time during an interview without a steward in attendance, it becomes apparent that disciplinary action could result, either party may adjourn the interview until a steward can be present. The City commits itself to the application and enforcement of a uniform policy of progressive discipline.

40.3.2 **Sole Mechanism:** The provisions of this Section shall be the sole mechanism for resolving Disciplinary Appeals pertaining to suspensions, demotions, salary reductions and terminations and shall be processed in the following manner:

40.3.3 **Disciplinary Process: STEP 1 – Department Director**

a. **Review of Recommendation:** The Department Director must receive and review all departmental recommendations for suspension, reduction in salary or a termination. However, for employees of the Library, the Deputy Director of Library Services will have this responsibility.

b. **Period of Review and Process** The Department Director or his or her designee, or for Library employees the Deputy Director of Library Services, receiving a recommendation proposing a suspension, reduction in salary, or a termination shall hold a meeting with the employee and his or her Union representative to hear an appeal of the recommendation, or the affected employee may choose to make an appeal in written form. If the employee chooses to respond in written form, the Department Director may use his or her discretion on whether a personal conference is necessary.

If a personal conference must be held with the employee and his or her Union, the personal conference must be held within ten (10) days of receiving the recommendation from departmental staff or within ten days of receiving the written appeal from the employee whichever occurred later. The proposed action and the reasons therefore shall be discussed with the employee. The Department Director or his or her designee shall issue a decision sustaining, modifying or rejecting

the discipline within ten (10) days after the completion of the personal conference with the affected employee, or if the employee chose to make an appeal in written form, receipt of the written appeal. This shall conclude Step 1 of the Disciplinary Appeal Procedure.

40.3.4 **Disciplinary Process: STEP 2 – Appeal of the Decision**

- a. **Appeals Filed With:** If the employee or his or her Union is not satisfied with the decision in the case of suspensions of three days or less, or recommendation in the case of suspension of more than three (3) days, of the Department Director or his or her designee resulting from Step 1, the employee or the Union may require that the disciplinary appeal be referred to the City Manager who shall designate a Grievance Appeal Officer to hear the appeal and in the Library to the Board of Library Trustees who may designate the Director of Library Services as the Grievance Appeal Officer.

For Suspensions of Three Days or Less: If the employee or his or her Union do not appeal the decision of the Department Director or his or her designee resulting from Step 1, the disciplinary action shall be implemented in accordance with the provisions of Section 38 (Suspension) and the Disciplinary Appeal Procedure will end here.

For Disciplinary Action of Suspensions of Greater than three days or Discharge: If the employee or his or her Union do not appeal the recommendation of the Department Director or his or her designee resulting from Step 1, the disciplinary actions involving suspension greater than three days, salary reduction or discharge will be referred to the City Manager for review. The City Manager may review or modify the recommendation of the Department Director. If the City Manager does not modify the recommendation of the Department Director, the disciplinary action shall be implemented in accordance with the provisions of the Agreement and the Disciplinary Appeal Procedure will end here.

If the City Manager contemplates modification of the recommendation of the Department Director, the employee and the union will be notified in writing of their right to a disciplinary appeal meeting with the Grievance Appeal Officer. Such notice shall be issued within ten days of receipt of the Department Director recommendation. The Grievance Appeal Officer will hold a meeting and issue a decision issue as provided in Section 40.3.4.3 below.

- b. **Filing Period:** Said appeal must be filed in writing within ten (10) days of the conclusion of Step 1 above; and must contain the originally recommended action, the written decision of the Department Director and all other correspondence exchanged from the start of the original recommended action and Step 1 activities.
- c. **Process:** The Grievance Appeal Officer or his or her designee receiving an appeal of a proposed disciplinary action shall hold a meeting with the employee and his or her Union representative. The personal conference must be held with the employee and his/her Union within ten (10) days of receiving the written appeal. The Grievance Appeal Officer shall issue a written decision sustaining, modifying or rejecting the discipline within ten (10) days after the completion of the personal conference with the affected employee and/or the receipt of the written appeal. This shall conclude Step 2 of the Disciplinary Appeal Procedure. Any decision to suspend, implement a reduction in salary or terminate an employee will become effective at the conclusion of Step 2 of the Disciplinary Appeal Procedure.

40.3.5 **Disciplinary Process: STEP 3 – Arbitration**

- a. **Appeals Filed With:** If the Union is not satisfied with the decision of the Grievance Appeal Officer or his or her designee resulting from Step 2, the Union may require that the disciplinary appeal be referred to an impartial arbitrator by notifying the City Manager, with a copy of the Director of Human Resources.
- b. **Filing Period:** Said appeal must be filed in writing with the City Manager or his or her designee within thirty (30) days of the conclusion of Step 2 above. Provided further that the Union shall forward to the City the Union's portion of the California State Mediation and Conciliation Services (CSMCS) fee within sixty (60) days of receipt of the Grievance Appeal Officer's (City Manager) response. Failure by the Union to meet either the thirty (30) day or sixty (60) day deadline for both referral to Arbitration and payment of the CSMCS fee shall be deemed as a full and complete waiver by the Union to appeal the Grievance Appeal Officer (City Manager) decision to Arbitration and the City Manager decision shall be final and binding on all parties.

- c. **Process:** The impartial arbitrator shall be selected from the California State Mediation and Conciliation Services (CSMCS) unless another party is mutually agreed upon. CSMCS will provide a list of five (5) arbitrators. The City and the grievant will alternately strike a name until one remains. The remaining name will be the arbitrator.

The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigations she or he deems appropriate, and shall render a final and binding decision to the parties which will end the formal disciplinary appeal process.

The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the employee (or his or her Union) and the City. Each party, however, shall bear the cost of its own presentations including preparation and post-hearing briefs, if any. Arbitrator decisions on matters properly before them which pertain to the disciplinary actions involving the suspension, demotion, pay reduction, or discharge of an employee shall be final and binding on both parties.

40.4 General Conditions for Disciplinary Appeals

The City commits itself to the application and enforcement of a uniform policy of progressive discipline.

- 40.4.1 **Union Representation:** The employee who is the recipient of the recommended discipline shall be entitled upon request to representation by the Union at all levels of the disciplinary appeal process.
- 40.4.2 **Time Limits:** Failure by the employee or the Union to file an appeal of the proposed discipline within the time limits specified constitutes a dropping of the disciplinary appeal. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.
- 40.4.3 **Witnesses:** The City and/or the appellant may call witnesses.
- 40.4.4 **Release Time:** If an employee covered by this Agreement gives testimony in connection with the disciplinary appeal procedure during working hours, the employee shall suffer no loss of pay. If the employee's appeal is scheduled during working hours, the employee shall suffer no loss of pay in order to present his or her appeal.

MISCELLANEOUS TERMS AND CONDITIONS

SECTION 41: GENERAL PROVISIONS

41.1 Personal Conduct

- 41.1.1 No employee shall accept appointment to the deputyship or assistantship of any County or State Office or position, or otherwise incur an obligation of civil public position, or otherwise incur an obligation of civil public service outside his/her regular municipal employment without first obtaining the recommendation of the head of his/her department and of the City Manager or designee.
- 41.1.2 No employee shall be disciplined for off-the-job activities which do not affect the performance of the employee.
- 41.1.3 Employees shall so arrange their personal financial affairs so that the demands of creditors and collection agencies shall not impose recurring burden upon the offices of the City Manager or designee, the Department Heads or the Director of Human Resources for the purpose of making collections.
- 41.1.4 Full-time City employees may not carry on concurrently with their public service any private business or undertaking, attention to which affects the time or quality of their work or which casts discredit upon or creates embarrassment for the City government.
- 41.1.5 No official or employee who wears a badge or other official insignia as evidence of his/her authority and identity shall permit such badge or insignia to be used or worn by any other person of the same or another department, or otherwise to leave his/her possession, without approval by the head of his/her department. The Department Head shall not grant such approval except as to persons regularly and formally appointed by the City Manager or designee to the position designated by the badge or insignia.

41.2 Protective Clothing and Equipment

- 41.2.1 **Rain Gear** - The City will provide rain gear (which shall include hat, jacket, pants and boots) for employees in Representation Unit D and provide rain gear that includes rain jacket, rain pants, and a traffic safety

reflective vest to Community Services Officers working in Crime Scene Investigation (CSI) assigned to work in inclement weather.

- 41.2.2 **Safety Shoes** - An annual allowance of two hundred dollars (\$200) shall be paid to employees specified in "F" (Shoes, Tools and Uniforms) toward the purchase of safety shoes.
- 41.2.3 **Gloves** - Parking Meter Mechanics, Parking Meter Maintenance Workers, Tool Lending Specialists, and City Services Aides shall be furnished with appropriate work gloves.
- 41.2.4 **Ear Plugs and Face Shields** - Employees who request earplugs will be furnished same. Machinery Operators will be provided with a face shield.
- 41.2.5 **Coveralls:** The City agrees to provide 3 changes of coveralls per week for sewer crew and construction crew.
- 41.2.6 **Bulletproof Vests:** Community Service Officers and Community Service Officer Supervisors and Animal Control Officers have the right to purchase bulletproof vests at their own expense at the City's wholesale cost.
- 41.2.7 **VDT Glasses** - The City shall provide glasses as medically required for operators of Video Display Terminals.
- 41.2.8 **Clothing** - The City will issue guidelines permitting safe substitution of pant/shirt combination for coveralls. There will be no cost to the employee. (Note: For example only, 4 pair coveralls and 3 pairs pant/shirts could be substituted for 7 pair coveralls. Applies only to employees qualifying under safety guidelines within Equipment Maintenance, Solid Waste and Streets and Sanitation divisions.)

41.3 Tools

Each employee regularly assigned to the classifications of Building Maintenance Mechanic, Building Maintenance Mechanic Trainee, Building Maintenance Supervisor, Mechanic Supervisor, Welder Mechanic, and Mechanic who is presently required to provide tools of the trade or other equipment will continue to do so but shall receive a flat annual tool replacement allowance of five hundred dollars (\$500) per year effective June 29, 2008.

Each employee regularly assigned to the classification of Parking Meter Mechanic or Senior Parking Mechanic shall receive a flat annual tool replacement allowance

of two hundred fifty dollars (\$250) per year, and Service Technician and Container Maintenance Welder two hundred twenty dollars (\$220) per year, effective June 29, 2008.

Tool allowances shall be paid by August 1st of each calendar year.

The parties reconfirm that such payments constitute a tool replacement allowance.

41.4 Training

- 41.4.1 The City agrees to develop and implement an employee development and training policy and program. Responsibility for developing and coordinating training programs for employees shall be assumed by the City. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of municipal employees in the performance of their duties. An Advisory Committee on Training shall be established by the City and shall include representation from the Union.
- 41.4.2 Participation in and successful completion of special training courses will be considered in making advancements and promotions. For training to qualify for consideration in advancements and promotion, the City will require one or all of the following: City approval of the class curriculum, evidence of successful completion of class, and proficiency testing. Evidence of such activity shall be filed with the Director of Human Resources by the Department Head.
- 41.4.3 The City shall reimburse all Equipment Maintenance employees for mileage and tuition expenses related for attendance at job-related courses. Provided that the employee must have prior authorization from his/her department head and the course has been approved by the City.
- 41.4.4 All parking enforcement officers shall be given training in the handling of difficult citizens. The City shall provide Customer Service training to all Parking Enforcement Officers within twelve (12) months of the execution of this agreement and as needed during the life of this agreement.
- 41.4.5 Training Program for Building Maintenance Mechanic Trainee, Landscape Gardner Trainee, Forestry Climber Trainee, and Weighmaster Trainee to be limited to two (2) year up and out plan.

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- 41.4.6 The City and the Union agree to establish a Joint Labor, Management and Community Committee by 120 days after the execution of this (2018 to 2020) agreement to review the creation of a program for community training and apprenticeships to build the capacity of Berkeley residents and make a joint recommendation to the City of Berkeley Cannabis Commission and City of Berkeley Commission on Labor.

41.5 Driver's Training

Public Works Department shall initiate a Driver's Training Program which shall include periodic refresher courses, for all employees required to operate a City vehicle. Upon successful completion of the Program, the City shall issue an Operator Certificate specifying which vehicles the employee is qualified to operate. After the Program is in full operation, continued provisional and permanent assignment to the operation of specific vehicles shall be contingent upon appropriate certification.

41.6 Safety

- 41.6.1 The City and the Union will make every effort to maintain workplaces free of health and safety hazards. No employee shall be required to perform work with unsafe equipment or in situations which can be injurious to their health or safety.

To achieve this goal the City shall appoint an industrial hygienist who will be responsible for the development, maintenance and continuity of the City's safety program with the advice and assistance of a City Safety Committee. The Committee will include two (2) members from the Union. Representatives to the City-wide Safety Committee shall meet for organizational purposes within one month of ratification of this agreement and every other month thereafter.

Members shall be advised of City Safety Committee meetings and their agendas in advance.

As assigned and scheduled the City Safety Committee members will be responsible for conducting workplace safety and health surveys to identify safety and health hazards at worksites.

The City departments and divisions as appropriate shall establish safety committees comprised of union representatives and supervisory personnel to develop written accident prevention programs which will include:

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- a. worksite and work practice hazard inspection check lists for use by affected employees,
- b. a training program instructing employees in safe work practices plus specific instruction with regard to hazards unique to a particular job,
- c. scheduled periodic inspections to identify and correct unsafe conditions and work practices which are found,
- d. defining the responsibility of employees and management to follow safe work practices, to report hazards in the work area, and to comply with occupational safety and health standards applicable to their own actions, and
- e. provision of Material Safety Data Sheets in an appropriate place, easily accessible to affected employees, for all materials being used at a worksite.

41.6.3 The Public Works Safety Committee shall provide one (1) Union representative from each Division. The Parking Division Union representative may also attend the monthly Public Works Department Safety Committee meeting. Each committee shall meet at least once a month.

Employee members shall be advised of Committee meetings at least three (3) days in advance of meeting dates and shall be furnished with an agenda at such time. Employee members may have specific items placed on the agenda. Copies of minutes of each departmental meeting shall be distributed to members of the Committee.

The Occupational Health and Safety Coordinator and/or the Safety Committee shall have authority and obligation to inspect work locations and equipment in regard to safety and health considerations. The Safety Inspection Team shall consist of the Coordinator and two members of the Safety Committee to be chosen by the Coordinator. The Inspection Team may make written recommendations for safety and health improvement and the department shall give a written response as to corrective measures within fifteen (15) working days or sooner. The Occupational Health and Safety Coordinator and/or the Safety Committee shall determine when a situation requires response in less than the time limits specified herein.

The Safety Committee shall have the authority to investigate and report on all substances currently being used by City employees and all proposed for use in the future.

- 41.6.4 The Police Department Officer Safety Committee shall include one Community Service Officer and one Parking Division representative chosen by the Union.

41.7 Use of Automobiles

The City Manager shall govern the use of City-owned automotive equipment and privately-owned automotive equipment by such rules and regulation as he or she may establish. The cash allowance will be equal to the amount established by the Internal Revenue Service, and will change as necessary to comply with IRS Standard Mileage Rate.

41.8 Sewer Crew Assignment

No employee of the Public Works Department below the level of Sewer Maintenance Assistant Supervisor shall be required to accept regular assignment to sewer crews in excess of one (1) continuous year; provided, however that these provisions shall not prevent assignment to sewer crews in emergencies as deemed necessary by the Department Head. The Union and the City shall as soon as possible arrange the implementation of the rotation system.

41.9 Annual Physical Examination

The City will provide one (1) physical examination (based on the City's specification as to scope of examination and examiner) each year to each employee in a classification categorized as a "high risk" classification. This exam is mandatory for all affected employees. The parties agree that the classification of Police Service Assistant is a "high risk" classification.

The City will provide annual T.B. screening test, at no cost to employees, who, in the course of their work are subject to health hazards. Such screening tests shall be on City time.

41.10 Subcontracting

For the purpose of preserving work and job opportunities for employees covered by this agreement, if the City intends to subcontract bargaining unit work, and such would result in the layoff of a permanent employee, the City will notify the Union in advance of such action, and upon written request, will meet and confer in accordance with the MMBA prior to subcontracting the work in an effort to find alternatives.

Each month, the City will provide the union with a copy of the “Proposal to Contract Work” report prepared for the City Council that lists proposals for contracting out work in excess of \$25,000. The report shall be provided to the Union at the same time the report is transmitted to the City Council. Information will include nature of project, the name of department requesting the work, and the budget code. Within five (5) working days of receipt of the information, the union may submit a written request to the Purchasing Manager. The City will provide a copy of the actual bid specifications within five (5) working days of the bid specifications being finalized and approved by the department issuing the contract, or of receipt of the written request, whichever applies.

Within ten (10) working days of receipt of the bid specifications, the Union may submit a written request to the Department Director or designee proposing to procure outside contractual services. The Department Director or designee will meet and discuss the scope of work being proposed to be performed by outside contractors before a Request for Proposal or Bid Specification is issued for competitive bid. Five days prior to the meeting, the union will provide a description of the issues and concerns it wishes to discuss at the meeting.

For work related to building maintenance estimated to cost less than \$25,000 per year and normally handled by the Facilities Maintenance Division, record or summaries of any such work contracted shall be made available to the Union on a monthly basis. In cases where the Union believes that work either subcontracted or given out for bid should be done by the bargaining unit, it may request a meeting with the City. The Department Director or designee will meet with the Union to discuss the scope of work. Five (5) days prior to the meeting the Union will provide a description of the issues and concerns it wishes to discuss at the meeting.

41.10.1 No Subcontracting of Janitorial Services: The City agrees that for the term of this Agreement, it will not contract out any janitorial services currently being performed by employees represented by SEIU Local 1021. Notwithstanding the foregoing, it is understood by the parties that the City currently contracts out janitorial services at several different City locations, and the parties agree that this Agreement does not affect the City’s ability to renew and/or continue to contract out janitorial services that the City currently has contracted out. Further, the parties agree that this provision does not affect the City’s managerial discretion to determine whether to fill a vacancy that may arise during the term of this Agreement

41.11 Commuter Check Subsidy Benefits

Upon request, the City shall provide a Commuter check subsidy valued at twenty dollars (\$20) per month to an employee for transit, biking, or van pool. Commuter

check subsidies are only intended for use by the employee while employed with the City of Berkeley and may expire due to inactivity.

41.12 Recreation Coordinators

41.12.1 There shall be scheduled monthly meetings of Recreation Coordinators and their District Supervisors. Appropriate subjects of discussion shall include planning of events and current budget status. Recreation Coordinator shall receive up to two (2) days per year administrative leave for the purpose of attending classes and conferences.

41.12.2 Recreation Coordinators will receive two (2) weeks advance notice of changes in their regular work schedules except for schedule changes due to emergencies, sick leave and vacation.

41.13 Community Service Officer Work Assignments

Property Clerks shall be selected from among Community Service Officer Supervisors on the basis of qualifications. When qualifications of applicants are substantially equal, seniority and other job related criteria will be the deciding factors.

41.14 Uniforms

41.14.1 Effective June 29, 2008, employees in the classifications of Community Service Officer, Community Service Officer Supervisor, Animal Control Officer, Parking Enforcement Officer, Parking Enforcement Officer Supervisor, Public Safety Dispatcher I, Public Safety Dispatcher II, Supervising Public Safety Dispatcher, Parking Meter Mechanic and Parking Meter Maintenance Worker shall receive a uniform allowance of \$1,400 per year. Payment of such annual uniform allowances noted above shall be paid in twenty-six (26) equal bi-weekly installments, in accordance with California Government Code Section 20636. The amount the City contributes toward the uniform allowance is subject to federal and state income tax withholding.

41.14.2 Community Service Officer, and Community Service Officer Supervisor uniforms shall be blue.

41.14.3 Employees are to pay the full cost of maintenance of their uniforms.

41.14.4 Animal Control Officers shall be provided with a set of coveralls for performance of duties when necessary.

- 41.14.5 **Special Response Team Tactical Uniform:** Effective June 17, 2018, Unit J employees covered by this MA and assigned to the Police Department Special Response Team (SRT) shall be eligible for a one-time reimbursement of up to seven hundred dollars (\$700.00) towards the purchase of the following SRT uniform: Two (2) shirts (1- long and 1-short sleeve, including necessary embroidery and patches); 2 pairs of BDU pants; 1 pair all-weather shoes; 1-all-weather 3-in-1 coat; 1- outdoor head set.

Employees shall be required to submit a reimbursement request, along with receipts verifying the purchase of the SRT uniform within sixty (60) days of purchase. Reimbursements will be paid in accordance with the City's reimbursement procedures.

41.15 Video Display Equipment

- 41.15.1 **Working Conditions:** The City and the Union agree that employees working on video display equipment shall have safe and healthy work environments. These environments shall avoid excessive noise, crowding, contact with fumes, and other unhealthy conditions.

The City agrees wherever practicable to design the flow of work to avoid long, uninterrupted use of video display equipment by City employees.

- 41.15.2 **Pregnancies:** The City will accommodate requests for transfer from pregnant employees whose job duties require frequent exposures to video display equipment subject to the following:

41.15.2.1 such transfer will be limited to other positions which are vacant which the transferee is qualified to perform;

41.15.2.2.to voluntary trading of positions where both parties are competent to perform the new assignments;

41.15.2.3.to any position held by a temporary employee if the pregnant employee is qualified.

- 41.15.3. **Screening:** The City will develop a visual screening and education program effective July 1, 1988 for employees who in the course of their employment operate VDT terminals more than half the time. This program will include visual screening at or near employment, a referral system for employees with possible VDT related vision problems, and a regular follow-up screening at approximately two years.

41.16 Introduction of New Technology

The Union shall be given reasonable advance notice of the introduction of new equipment or new processes which may result in the layoff of employees in the bargaining unit. Thereafter, the City and the Union shall meet for the purpose of discussing means of mitigating the impact of the introduction of said equipment upon affected employees. The City shall provide counseling to any displaced employee and shall assist the employee in securing training opportunities which may qualify him/her to be employed in another position with the City. The City shall train employees required to operate such new equipment.

41.17 Assignments for Temporarily Disabled Employees

41.17.1 The City may accommodate, when feasible, employees covered by this Agreement under the provisions of Workers' Compensation, and such work assignments are to incorporate the following provisions:

- a. The assignment shall be consistent with medical limitations as determined by the physician of record.
- b. The assignment shall be within the City of Berkeley and may include hours and days of work other than the employee's regular assignment, at no loss of pay.

41.17.2 The City may accommodate an employee disabled with a non-industrial disability by providing a modified work assignment in that employee's classification. To be eligible for such a modified assignment, the employee must provide the Human Resources Department with a medical statement from his/her treating physician that clearly states the medical limitations and abilities of the employee. If modification of that position does not serve the best interests of the City, other classifications may be considered, subject to the approval of the Director of Human Resources. Compensation will be provided at the level of the classification in which the temporarily disabled employee works during the disability. The employee must meet standards of satisfactory performance for the duration of the work assignment.

41.17.3 In the case of a medically certified pregnancy related disability, in which the normal duties clearly threaten the health and safety of the employee or the unborn child, the Human Resources Department will endeavor to place the employee in a position which best serves the interest of the City with no loss of pay, but in no event will such placement exceed three (3) months in duration.

41.18 Part-Time Employment - Unit K-1

The Human Resources Department shall maintain a list of career employees in Unit K-1 who are interested in part-time career employment (20 hours or more). The lists shall be maintained by classification and the requests for less than full-time work shall be handled in the same manner as requests for transfer and reinstatement. Employees shall be certified by classification to departments with a vacancy and shall be considered for part-time employment on the same basis as employees requesting transfer or reinstatement.

41.19 Annual Performance Evaluation

The City and the Union shall conduct a joint study of the annual performance evaluation process and make recommendations to the City Manager.

Annual performance evaluations shall be conducted by the employee's immediate supervisor and reviewed by additional levels of supervision. Each employee may make written comments on the evaluation which shall be made part of the employee's personnel records.

Prior to annual evaluation, the supervisor must have observed the employee's performance for at least three (3) months in that evaluation period. If extended leave or other circumstances prevent three (3) months observation, the performance evaluation shall be postponed until this minimum time has elapsed. In special circumstances of relief or rotating employees who regularly do not work consecutive periods of over three (3) months with the same supervisor, the evaluation shall be completed as regularly due with the primary supervisors providing a joint evaluation.

41.20 Official Personnel File

41.20.1 All official records of the employee's personnel history are maintained in the Human Resources Department, including applications for appointment, performance appraisal forms, employee transaction forms, formal disciplinary actions and other documents pertinent to the employee's official personnel history. Copies of these records may be retained by the employee's department, as a departmental personnel file.

41.20.2 Employees have the right to inspect their departmental individual personnel files and the official file which is maintained in the Human Resources Department during normal business hours, as provided by law. No material of any kind, except documents submitted by the employee, shall be placed in an employee's official personnel file or the

departmental personnel file after the date of employment without a copy being given to the employee. The employee may provide a concise written response to any material which is maintained in either personnel file.

- 41.20.3 If the employee believes that any material has been placed in the official personnel file in the Human Resources Department in violation of this provision, the employee may send a written request for its removal to the Director of Human Resources with a copy to the Department Head. The Director of Human Resources will make a determination of the appropriateness of the inclusion of the material and will notify the employee of the final disposition.

If the employee believes that any material has been placed in the Departmental Personnel file in violation of this provision, the employee may send a written request for its removal to the Department, with a copy to the Director of Human Resources. The Department Head will make a determination of the appropriateness of the inclusion of the material and will notify the employee of the final disposition.

- 41.20.4 In responding to inquiries from prospective future employers, only information available in the individual's official personnel file will be provided.
- 41.20.5 Records of grievances filed by an employee which do not relate to any disciplinary action taken against that employee shall not be maintained in the individual's Departmental or Human Resources Department file. Such records may be separately maintained but shall not be regarded or treated as part of the individual's Departmental or official Human Resources Department file.
- 41.20.6 Except as otherwise required by applicable law, any material related to disciplinary action which is subsequently overturned or rescinded shall be removed from the employee's Departmental and official Human Resources Department file.
- 41.20.7 Formal letters of reprimand or formal counseling concerning work rules or time and attendance shall be removed from an employees' official files upon request after 24 months provided the employee has maintained satisfactory performance. Letters of reprimand concerning all other subjects shall be removed from an employee's official personnel file upon request after 48 months provided the employee has maintained satisfactory performance.

Records of disciplinary actions involving a suspension of any length shall remain in the employee's official personnel file for as long as the City maintains the file, with one exception as follows: Upon mutual agreement between the City and the Union, a suspension of five (5) days or less shall be removed from an employee's official personnel file upon request, provided the employee has maintained satisfactory performance for five (5) years after the date of the suspension (i.e., no written reprimands or suspensions during the five (5) year period).

41.21 Supplemental Retirement / Disability Insurance Plan

Effective January 1, 1983, the majority of miscellaneous employees under the City's contract with the State of California Public Employees' Retirement System who were covered by the integrated Social Security Program voted to withdraw from participation in the Federal Social Security Program.

In lieu of Social Security payments, the City has agreed to pay an amount equal to that percent of individual pay (6.7% payable on the first \$32,400 of salary paid in the calendar year) which had been paid by the City to Social Security as of December 31, 1982 to a Supplemental Retirement and Income Plan which provides investment and long-term disability benefits for those employees previously covered under the integrated PERS/Social Security Plan. Provisions of this plan are described in, Berkeley Municipal Code Section 04.36.101 et seq. as amended. This payment is also applicable to those employees hired on or after 1/1/83.

All employees hired after July 22, 1988 are in SRIP II. Provisions of this plan are described in Municipal Code Section 04.38.101 et seq., as amended. All employees hired prior to July 22, 1988 are in SRIP I unless they chose to enroll in SRIP II prior to December 17, 1988.

The City will assume payment of the cost of current enrollees in the SRIP II optional long-term disability plan effective December 4, 1994. The City will assume the cost for long-term disability insurance for all SRIP II members upon completion of contract negotiations with the insurance carrier, but no later than February 26, 1995.

41.22 Reclassification of Positions / Job Audits

City agrees to honor up to one audit request per employee in each twelve-month period. The departmental manager must review and comment on the completed position description questionnaire and submit it to the Human Resources Department within 90 days of receipt from the employee. The employee shall be notified by the Human Resources Department within a reasonable time of receipt

of the completed position description questionnaire. Status updates regarding the position audit will be provided to the employee every six months until the position audit is completed.

If a bargaining unit position is upgraded or otherwise reclassified, it shall automatically be included in the bargaining unit if the work performed belongs under the jurisdiction of the Union as determined by the City after a review of the position by the Human Resources Department.

In the event the City reclassifies a position from a lower level classification to a higher level classification, an incumbent occupying such position shall be reclassified without competitive examination provided they have performed the duties of the new class for six (6) months and have not received an unsatisfactory evaluation. All other employees shall pass an examination for the higher class and shall serve the normal probationary period. If a position is reclassified, the employee shall receive back pay to the date of the beginning of the closest pay period that the position description questionnaire is received by the Department Head. Position description questionnaires shall be available at all times in each department.

41.23 Reallocation of Positions

The City will notify the Union of a decision to eliminate or reallocate bargaining unit positions and the City shall satisfy any meet and confer obligations on impact requirement in accordance with the MMBA.

41.24 Break Facilities

Each work location shall include a room that is reserved for use of employees for rest breaks and lunch breaks. Employees who wish to take rest or lunch breaks in these rooms shall have first priority for the use of such rooms unless alternative break facilities are provided.

41.25 Educational Leave

The employee shall be eligible for reimbursement for tuition, and textbooks for training that is required by the City or for training that is mutually acceptable to the employee and the City Manager or designee as follows.

41.25.1 After one (1) year of service (2080 hours of work), the City shall allow up to twenty-five (25) hours off with pay per year to employees:

- a. Who are required by law or as a condition of employment to obtain a license, a registration, or other certification, and in order to do so, must take courses which are not offered as part of their basic curriculum, or;

- b. Who are required by law or as a condition of employment to obtain continuing education units;

41.25.2 To obtain education and training related to job skills, to enhance performance of assigned duties or to promote employee development.

Employees seeking time off to take courses for an initial license or certificate which is a requirement of the job or related to job skills, or to enhance performance of assigned duties or promote development will require pre-approval by a department manager prior to undertaking the coursework.

41.26 Jail Closure

In the event that the City decides to consider closing the Berkeley City jail, the City will notify the Union at least ninety (90) days prior to the effective date of the closure. The City will meet and confer on the impact of the City's decision to close the jail. If the City decides to proceed with the Jail closure, employees currently assigned to work in the jail will be reassigned within the Police Department as positions are available. If there are not enough allocated budgeted positions available for all employees, the City will explore creating Community Service Officer position within the Police Department.

If there are not enough available allocated budgeted Community Service Officer and Community Service Officer Supervisor positions in the Police Department to place employees assigned to the Jail prior to closure, employees will be flexibly placed first to vacant allocated budgeted positions within the Police Department. If there are insufficient vacant allocated budgeted positions within the Police Department to place staff, then employees will be offered flexible placement into other vacant allocated budgeted positions within the City. Employees who are flexibly placed as a result of closure of the Jail shall preserve their pay for one year in keeping with the City's practice on flexible placement.

41.27 YMCA

Effective January 1, 1999, the cost of YMCA membership will be divided between the City and the employees, with the City contribution to be 75% of the monthly membership fee. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding.

Use of a YMCA membership by a City of Berkeley employee, as provided for in this Agreement, is non-compensable, is not a part of the employee's work-related duties, is not required for employment and is not condoned as part of a physical

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fitness program, or required to maintain top physical conditioning for the employee's job performance.

The City of Berkeley or its Claims Administrator may not be liable for any injury which arises out of a City of Berkeley employee's participation in and use of a YMCA membership.

41.28 Address and Phone Number

Employees have the responsibility to provide the City with their current address and telephone number.

41.29 Legal Representation

The City will consider on a case-by-case basis legal representation for employees in cases arising out of the lawful performance of their assigned job duties.

41.30 Physical Exams

The City may require physical exams by a physician of the City's choice for reasonable cause related to fitness for duty.

41.31 Crimes against Employees

The Police Department will promptly respond to any calls regarding criminal acts committed against a City employee while engaged in his or her employment. Reports of assault or other acts of criminal misconduct committed against a City employee will be promptly investigated. The results of the investigation will be submitted to the District Attorney for disposition.

41.32 Classification Changes/New Classifications

The City will meet and confer with the Union on the impact of the City's decision to a) change existing classifications or b) upon creation of new classifications. Such notice to the Union shall be given at least twenty (20) working days prior to the Personnel Board meeting that the City intends to bring the matter forward.

41.33 Clerical Classification Upward Mobility Committee

During the term of this contract (July 5, 2015 to June 16, 2018), the parties agree to establish an upward mobility committee for the purpose of meeting and discussing barriers to upward mobility of employees in the clerical classifications and to determine if the current classification series and the mechanism to advance through these is effective. The committee shall be composed of no more than four (4) representatives from the City and no more than four (4) representatives from the Union.

41.34 Participation in Examinations and Interviews

Employees shall be allowed time to participate in examinations administered by

the Human Resources Department or departmental selection interviews or testing, which are scheduled during an employee's regular working hours. Employees shall provide at least 48 hour notice to their supervisor of their participation in an examination or interview, and such time should be coded as regular work hours on their time sheet. Employees are not compensated for participating in examinations or selection processes that occur outside of their regular work hours. Employee who fails to provide notice as provided herein shall be required to use his or her own accrued leave.

41.35 Commercial Driver Reassignment

An employee who is required to possess a valid California Class A or Class B driver's license as a condition of employment and whose license has been temporarily suspended by either the Department of Motor Vehicles or the court system as a result of conduct occurring off the job shall be placed temporarily in a vacant budgeted allocated position which does not require driving subject to the following conditions:

- 41.35.1 Compliance with California Vehicle Code Section 15224: "Any driver who has a driver's license or privilege suspended, revoked, or canceled by any state for any period, or who is disqualified from driving a commercial motor vehicle for any period, shall notify his or her employer of the suspension, revocation, cancellation, or disqualification, before the end of the business day following the action."
- 41.35.2 The driver's license suspension in excess of thirty (30) days but no longer than one (1) year.
- 41.35.3 The employee will be required to take accumulated leave or leave without pay for the first thirty (30) days of the driver's license suspension.
- 41.35.4 The employee will be provided a temporary non-driving assignment only one time during his/her employment with the City.
- 41.35.5 An employee must have at least five (5) years of service with the City to qualify for a temporary non-driving assignment.
- 41.35.6 An employee must have a satisfactory performance evaluation with an overall rating of "Meets Requirements" (if the employee has not been evaluated within a year of the date of the temporary assignment, he/she will be considered to have satisfactory performance).
- 41.35.7 An employee must have no disciplinary suspension within three (3) years prior to the loss of his/her license.

- 41.35.8 An employee will not be eligible for this program if the employee at any time during his or her career has been suspended for any duration as a result of a positive drug or alcohol test result administered under the Omnibus Transportation Employee Testing Act of 1996 (OTETA).
- 41.35.9 No more than three (3) employees in a work unit and no more than 5 employees at any one time can be reassigned under this program. For the purposes of this policy, a work unit is defined as a subdivision of a department (e.g., Solid Waste Division of Public Works, Landscape Maintenance Division of the Parks, Recreation and Waterfront Department).
- 41.35.10 If the employee's job requirements are performed without the use of a vehicle, the employee will remain in his/her classification and retain full salary.
- 41.35.11 If an employee's job requirements are performed while using a vehicle (i.e., street sweeper), the employee will be temporarily reassigned to another vacant budgeted allocated position in the Maintenance Chapter in which his/her inability to drive can be accommodated. In such case, the employee's salary will be temporarily changed to the same step in the classification to which the employee is assigned. The employee will be returned to his/her former position upon reinstatement of his/her license.
- 41.35.12 In the event that there are no vacant budgeted allocated positions available, the employee will be placed on an approved leave until a vacancy exists or his or her license is reinstated, whichever occurs first.
- 41.35.13 Employees who have their Class A or B Commercial Driver License suspended or revoked shall have their Special Assignment Pay authorized under Section 17.14 (Special Class Commercial Driver's License Premium) suspended or cancelled upon the effective date of the revocation or loss of driving privileges. The Special Assignment Pay as provided in Section 17.14 (Special Class Commercial Driver's License Premium) shall be reactivated upon reinstatement of the employee's Class A or B Commercial Driver License.

41.36 ERMA (Enterprise Resources Management Application) System

The City agrees to meet and confer with the Union over the impact to wages, hours, or working conditions governed by this MOU related to the implementation of

ERMA (Enterprise Resources Management Application) system. This meet and confer shall begin no later than August 30, 2018.

SECTION 42: DEPENDENT CARE

The City has established a Dependent Care Plan under Internal Revenue Code Sections 125 and 129 to allow employees to designate a specific amount of salary, consistent with applicable law, to be redirected to pay for dependent care costs prior to withholding of taxes.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

SECTION 43: PUBLIC EMPLOYEES' RETIREMENT SYSTEM

43.1 Participation

The City shall continue participation under the Miscellaneous Employees Plan of the Public Employees' Retirement System.

43.2 "Classic Employees" Definition

Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

43.3 "New Members" Definition

New Members are as defined in the Public Employees' Pension Reform Act of 2013 (PEPRA), Government Code Section 7522.04(f).

43.4 CalPERS Retirement Formula for Members as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)

"New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the retirement formula set forth in PEPRA.

43.5 CalPERS Retirement Formula and Employer Paid Member Contribution for Classic Employees, i.e., current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA)

Effective January 5, 2003, the City agrees to provide the 2.7% at age 55 retirement formula benefit improvement, the City's contribution to CalPERS on behalf of the employee will increase from 7% to 8%. Effective July 3, 1994, contributions made pursuant to this section shall be reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The aforesaid contribution shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked, or education incentive pay; nor shall such contribution be taken into account in determining the level of any other benefit which is a function of or percentage of salary. The City reserves the right to take said contribution into account for the purpose of salary comparisons with other employees.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

43.6 New Members Payment of Employer Paid Member Contribution

New Members as defined by PEPRA who are hired by the City on or after January 1, 2013 will be required to pay 50% of the normal cost, as provided by CalPERS. New Members shall receive any other additional optional CalPERS benefits that the City provides to Classic Employees as allowed by PEPRA.

43.7 Optional Benefits

The City's contract with CalPERS includes the following optional benefits:

- 43.7.1 **Classic Employees – One-Year Final Compensation:** : Classic Employees, as defined in Section 43.2, shall be eligible to receive retirement allowance based on One-Year Final Compensation as provided in Section 20042 (July 9, 1978).
- 43.7.2 **New Members – Three Years Final Compensation:** Provided further that New Members as defined by PEPRA hired on or after January 1, 2013 shall be eligible to receive retirement allowance based on three (3) highest consecutive years of compensation under the plan as provided in the California Public Employees Pension Reform Act of 2013, or as subsequently amended.
- 43.7.3 Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973).
- 43.7.4 Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).
- 43.7.5 Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).
- 43.7.6 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973).
- 43.7.7 Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

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- 43.7.8 2% @ 55 for Local Miscellaneous Members as provided in Section 21354 (June 30, 1992).
- 43.7.9 Military Service as Public Service as provided in Section 21024 (April 9, 1999)
- 43.7.10 Public Service Credit for Peace Corps or AmeriCorps/VISTA Service as provided in Section 21023.5 (April 14, 2000).

The conversion of unused sick leave to Retirement credit benefit (Section 20965) offered by CalPERS as an optional benefit to contracting agencies shall be made available to Unit members.

43.8 Classic Members' Pension Contribution

- 43.8.1 Effective June 4, 2017, employees will contribute one percent (1.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis, in exchange for the City granting the salary increase set forth in Section 11, paragraph 11.1.9 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.
- 43.8.2 Effective December 31, 2017, employees will contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions on a pre-tax basis, for a total of eight percent (8.0%) via automatic payroll deduction on a pre-tax basis, in exchange for the City granting the salary increase (total of 5.58%) set forth in Section 11, paragraph 11.1.12 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions. The parties recognize that the Employer Paid Member Contributions (EPMC) shall remain in effect as long as the CalPERS amendment stays in effect.
- 43.8.3 If legislation is enacted requiring employees under the CalPERS retirement system to pay all of the employee's share of retirement, thus eliminating the EPMC, the parties agree as soon as possible to convert the employee's contribution to the employer's share under this 20516 CalPERS contract amendment to the employee's share towards retirement and the City will continue to pay the wage increase as described in Section 11, paragraphs 11.1.9 and 11.1.12 (maximum of 5.58%) associated with this cost neutral provision.

43.9 New Members' Pension Contributions

43.9.1 New Members, as defined in the California Public Employees' Pension Reform Act of 2013 (PEPRA), shall continue to pay 50% of the Normal Cost required under PEPRA.

43.9.2 Effective June 4, 2017, in addition to the contribution in Section 43.9.1, New Members will contribute one percent (1.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions as pre-tax via automatic payroll deduction, in exchange for the City granting the salary increase (0.69%) set forth in Section 11, paragraph 11.1.9 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

43.9.3 Effective December 31, 2017, in addition to the contributions in Sections 43.9.1 and 43.9.2, New Members will contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions as pre-tax, for a total of eight percent (8.0%) via automatic payroll deduction, in exchange for the City granting the salary increase (4.89%, for a total of 5.58%) set forth in Section 11, paragraph 11.1.12 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

43.9.4 The additional 8% contribution referred to in Section 43.9.3 will be reduced as follows:

- a. • FY2021-22: 1% (to be effective as soon as administratively possible following adoption of successor contract by the City Council)
 - FY2022-23: 1% effective July 1, 2022
 - FY2023-24: 1% effective July 1, 2023
 - FY2024-25: 2% effective July 1, 2024
 - FY2025-26: 2% effective July 1, 2025
 - FY2026-27: 1% effective July 1, 2026
- b. No change to Classic members' contributions during the contract term.
- c. No sooner than June 30, 2023, either party may request to reopen this provision to negotiate an accelerated schedule for reducing PEPRA employees' additional contribution towards their pension costs.

This reduction in additional contributions shall not impact the salary increases referenced in Section 43.9.5 below.

43.9.5 The parties recognize that the CalPERS 20516 employee contributions towards the employer rate is in addition to the required 50% of the normal cost of “new members” benefits and made in consideration of additional salary increases in Section 11 paragraphs 11.1.9 and 11.1.12 above (a total of 5.58% salary increase in exchange for employees paying an additional eight percent (8.0%) towards PERS pension cost).

43.9.6 If legislation is enacted and becomes effective during this agreement requiring “classic members” as defined by PEPRA to pay all of the employees’ share of retirement thus requiring the discontinuation of the 20516 employee contribution towards the employer rate as described in Section 43.8.3 above, the parties agree that as soon as possible the City shall convert the “new members” eight percent (8.0%) contribution under the 20516 contract amendment to an equivalent payroll deduction. Such employee deductions by the City shall be used towards the City’s CalPERS required contribution. No later than 60 days following execution of this Agreement (July 5, 2015 to June 16, 2018), the City will request, from the IRS, a private letter ruling to determine whether or not the IRS permits the employee’s payroll deduction of eight percent (8.0%) to be treated on a pretax basis. The City shall make such deductions on a post-tax basis unless and until it receives an IRS private letter ruling that confirms that such deductions can be treated on a pretax basis. If the IRS private letter stipulates that such deductions need to be made on a post-tax basis for “new members”, the parties shall meet and confer over methods to ensure the cost-neutrality for both parties of the swap described in Section 11, paragraphs 11.1.9 and 11.1.12; and Sections 43.9.2 and 43.9.3 above.

LAYOFF PROCEDURE

SECTION 44: LAYOFF

This layoff policy for the City of Berkeley is intended to provide the maximum employment protection to the City staff should a layoff become necessary. The policy also aims to minimize the impact such a layoff might have on the City's affirmative action accomplishments.

44.1 Announcement of Layoff

- 44.1.1 The City Council, City Manager, and Department Heads shall make every reasonable effort to manage and budget the City's resources effectively, and to plan for the delivery of City services in a manner which will avoid the necessity of laying off career City employees. If a reduction in the work force is necessitated by, but not limited to, the following: a material change in duties and organization, adverse working conditions, return of employee from leave of absence or shortage of work or funds, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.
- 44.1.2 Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the competitive service in similar and related classifications to those likely to be targeted for layoff, as well as all related full-time, temporary positions which are expected to last six (6) months or more, and notify all Department Heads that such current and anticipated vacancies will be frozen until further notice, in order to implement the provisions of Section 44.6. In notifying department heads of a freeze required by this section, the City Manager shall require that requisitions continue to be submitted for any budgeted positions which the department intends to fill and for which funding is available.
- 44.1.3 After the City has announced the need for a reduction in work force, including the magnitude of such reduction, and has informed employees of their prospective layoff or retreat, but before any actual layoff, the City shall seriously consider employee requests for alternative action, including job sharing.

44.2 Seniority Service Date

44.2.1 All service in the employ of the City shall be counted toward the establishment of an employee's Seniority Service Date, including, for example, permanent, probationary provisional, temporary (full-time and intermittent), seasonal, exempt employment, as well as leaves of absences for obligatory military service and approved parental leave while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the Seniority Service Date. Time off as a result of formal disciplinary action will be subtracted from the Seniority Service Date.

All leaves of absence without pay, regardless of duration, shall be subtracted from the employee's seniority service date. This provision will go into effect immediately upon implementation of necessary data processing and programming changes.

44.2.2 The Human Resources Department will maintain up-to-date and current Seniority Dates for all City employees holding probationary and permanent appointments. Approved parental leaves shall not be deducted from seniority service dates.

44.3 Establishment of Seniority Lists

44.3.1 Whenever a layoff of one or more career employees becomes necessary, as defined above, such layoffs shall be made according to City-wide classification Seniority Lists. Upon receiving notification that the City Manager must proceed with a possible reduction in the work force, and following receipt of information concerning the specific positions, programs and departments involved, the Human Resources Department will immediately establish separate Probationary and Permanent Seniority Lists for each classification targeted for layoff.

44.3.2 The names of all City employees holding permanent and probationary appointments in a given classification will be listed on the appropriate list in descending order by Seniority Service Date. Employees on both lists shall be laid off on the basis of their Seniority Service Date, i.e., employees with the least amount of total service shall be laid off first. Non-career employees and temporary agency personnel working in classifications similar to those identified for layoff must be terminated prior to the layoff of probationary or permanent employees. Employees on the Probationary Seniority List for a specific classification will be laid off prior to employees on the Permanent Seniority List for that class.

- 44.3.3 Probationary or permanent employees temporarily acting out of classification and holding a provisional appointment in another classification will only be listed on a Seniority List of the class targeted for layoff in which they hold permanent or probationary status. Any provisional appointment must be terminated prior to the retreat or layoff of a career employee with permanent or probationary status in the same classification.
- 44.3.4 If two (2) or more employees on a Seniority List have an identical Seniority Service Date, the tie shall be broken in the following order:
 - a. Time in classification - the employee having least time in the class shall be released first;
 - b. By lot.

44.4 Employee Retreat Rights/Out Placement

- 44.4.1 Before an employee with permanent or probationary status may be released from employment with the City of Berkeley, the Human Resources Department must consider the employee's right to retreat to lower level classification through which he or she was originally promoted or any subsequently created intermediate level career classification which provides normal progression through the classification series. Retreat rights shall also extend to employees who have not previously been promoted through a classification but for whom the classification is a natural progression or beginning in the classification series.
- 44.4.2 In addition to providing the employee with the appropriate retreat offer, when it is determined to be in the best interest of the service, the City Manager may authorize the Human Resources Department to offer the affected employee the option of out placement. The out placement offer would provide a designated amount of funds to be paid to the employee for use by the employee for career development. The employee could either accept the retreat offer (offer to bump another employee) or accept the out placement offer. If the employee accepts the out placement offer, the employee forfeits his or her rights including but not limited to retreat rights, flexible placement and re-employment rights, under the layoff policy and will be laid off. All offers of out placement will be made in a manner to comply with general law and the affected

employee will be required to sign a waiver and release of all claims in consideration for receiving this benefit.

- 44.4.3 In the process of retreating, the same rules concerning the length of service, classification, Seniority Lists, etc., apply as in the first stage of the layoff process. In order to retreat, the targeted employee must be higher on the Seniority List for the classification into which he or she is retreating than at least one of the incumbents on the probationary or permanent Seniority List for that class.
- 44.4.4 If an employee is qualified for retreat into more than one classification with comparable salary ranges or if a vacancy exists in a classification to which an employee is entitled to retreat, the options shall be discussed with the employee, and due consideration shall be given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee.
- 44.4.5 The retreating employee has a right to be retained in the highest salary range possible which is equal to or less than his or her present salary range. An employee involved in layoff does not have a right of mandatory placement to positions with a higher salary range, i.e., promotion.
- 44.4.6 An employee who is transferred in lieu of layoff when his/her position has been eliminated shall have automatic return rights to the previous position if it is restored within one (1) year of the date of the transfer. If an employee with a full time position is offered a reduction in hours in that position or in a lower classification, the employee may elect to be targeted for layoff for purpose of consideration under Section 44.6 (Flexible Placement Program.) If there is no flexible placement available for the employee, the employee may accept the reduction in hours, in lieu of layoff.
- 44.4.7 Supervising Clerks shall be entitled to retreat rights into any of the senior clerical positions regardless of whether or not they have served in that position, if their skills meet the minimum qualifications of the lower classification.

44.5 Employee / Union Notification

- 44.5.1 Temporary employees shall be notified individually, in writing of pending layoff as soon as possible, but no definite time period is required. However, at least two (2) weeks notification is desirable if possible.
- 44.5.2 Employees with provisional appointments shall be notified individually, in writing, of pending layoff as soon as possible, with no less than fifteen (15) calendar days notification if targeted for release or reassignment.
- 44.5.3 All notices of layoff under Section 44.5 shall be issued to the union simultaneously with notice to the affected employee(s). Together with any layoff notices sent to the union, a list shall be included of all vacancies which are authorized for filling.

If an employee fails to accept a bona fide offer, in lieu of layoff, ten (10) calendar days after the offer has been made, he or she forfeits further right to employment retention. Acceptance of a reassignment does not remove the right of appeal under Section 44.9.

44.6 Flexible Placement Program/Out Placement

- 44.6.1 In order to minimize the negative impact of a layoff, the City Manager will, as previously stated in Section 44.1, impose a City-wide freeze on all appropriate vacancies as soon as it has been determined that a layoff of career City employees may be necessary.
- 44.6.2 Following the release of all non-career employees, in classes similar to those targeted for layoff, and as soon as employees targeted for layoff have been identified and the provisions under Section 44.4 have been carried out, the Human Resources Department will review and identify the frozen vacant classifications into which employees ultimately targeted for layoff may be placed on the basis of total experience and education. In making this decision, a waiver of minimum qualification standards, and/or the substitution of related experience and education may be made, with an understanding on the part of management and supervisory personnel that adequate on-the-job training which can be completed within no more than six (6) months, will be provided to facilitate job adjustment, and to compensate for the waiver of qualification standards if that has occurred. The employee, the supervisor and the training officer will meet to develop a training program. The employee will be advised of his/her progress after two, four, and six months in the new classification. If at the end of this time,

the employee is unable to adequately perform the assignment, then the employee shall again be subject to the layoff process.

- 44.6.3 In addition to providing the employee with the flexible placement offer, when it is determined to be in the best interest of the service, the City Manager may authorize the Human Resources Department to offer the affected employee the option of out placement. The out placement offer would provide a designated amount of funds to be paid to the employee for use by the employee for career development. The employee could either accept the flexible placement offer (offer to be flexibly placed in a vacant position) or accept the out placement offer. If the employee accepts the out placement offer, the employee forfeits his or her rights including but not limited to retreat rights, flexible placement and re-employment rights, under the layoff policy and will be laid off. All offers of out placement will be made in a manner to comply with general law and the affected employee will be required to sign a waiver and release of all claims in consideration for receiving this benefit.
- 44.6.4 Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off, except that the City Manager may authorize the offer of a flexible placement to position with a maximum salary of no more than five (5) percent above the salary range as the classification from which layoff is targeted, when it is in the best interest of the City service to do so. Whenever flexible placement is made to a classification with a greater salary range, the appointment shall be probationary, in accordance with the terms of that classification.
- 44.6.5 Offers to positions under the Flexible Placement Program shall be made according to Seniority Service Date and in accordance with the Probationary and Permanent Seniority List certification process outlined in Section 44.3. All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times.
- 44.6.6 If an employee fails to accept a bona fide written offer of an alternative job within ten (10) calendar days after the offer has been made he or she forfeits further rights to employment retention. Acceptance of an alternative job under the Flexible Placement Program in no way jeopardizes an employee's standing on the Reemployment Priority Lists on which his or her name has been placed in accordance with Section 44.7 (Reemployment Lists).

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- 44.6.7 The union shall be notified when flexible placement is to occur within Units D, J, K-1, K-2.
- 44.6.8 Offers to positions under the Flexible placement Program shall be made according to Seniority Service Date and in accordance with the Probationary and Permanent Seniority List certification process outlined in Section 44.3 and in accordance with the following procedures:
- a. Full time vacancies authorized to be filled shall be listed in order from highest to lowest based on the actual maximum salary.
 - b. Part-time vacancies authorized to be filled shall be included in the above list in order based on the actual monthly maximum salary for the hours involved.
 - c. The individual with the earliest Seniority Service Date (SSD) targeted for layoff will be considered for flexible placement the top position in the above list.
 - d. If it is determined that the person with the earliest SSD is eligible and qualified for flexible placement in the top position on the list, the Human Resources Department shall offer the employee the position.
 - e. If the Human Resources Department or the City Manager determines that the employee is not eligible or not qualified for the top position, the Director of Human Resources shall proceed down the list of vacancies in an effort to identify the next highest position for which the employee is eligible and qualified for flexible placement. Upon identification of such a match, the Director of Human Resources shall offer that position to the employee.
 - f. This process shall be repeated until either a match is identified or the list of vacancies has been exhausted.
 - g. The above process shall then be repeated for the employee with the second highest SSD, and subsequently in order from earliest to most recent SSD for each of the other employees targeted for layoff.
- 44.6.9 All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times. Upon request, a written statement of the reasons for not offering an employee a particular position shall be made to the employee and/or the Union.

44.7 Reemployment Lists

- 44.7.1 The names of all probationary and permanent employees released from positions in the competitive service as a result of layoff must be placed on Reemployment Priority Lists for those classifications from which they were separated, as well as all other classifications to which they have retreat rights in accordance with Section 44.4.
- 44.7.2 A Reemployment Priority List shall remain in effect for three (3) years. Said list shall remain in effect indefinitely for employees who are retreated and remain employed with the City.
- 44.7.3 Departments with vacancies in any classification for which there is an active Reemployment Priority List must use the Reemployment Priority List to fill their positions and may not use any other recruitment or appointment method to fill a vacancy until appropriate Reemployment Lists have been exhausted.
- 44.7.4 When a vacancy occurs in a class for which there is a Reemployment Priority List, the employee on the appropriate Reemployment Priority List with the highest Seniority Date shall be given the offer of employment with a copy sent to the department head. Employees so certified from the Reemployment Priority List must be appointed to the existing vacancy.
- 44.7.4.1 If two (2) or more employees on the Reemployment Priority List have an identical Seniority Service Date, the tie shall be broken in the following order:
- a. Time in classification - the employee having least time in the class shall be released first;
 - b. By lot.
- 44.7.5 If a former employee fails to accept a bona fide written offer of reemployment within fifteen (15) calendar days, his or her name will be removed permanently from the Reemployment Priority List from which the offer was made. Failure to accept an offer of reemployment to the class with the highest salary range for which the employee is eligible for reemployment will result in automatic removal from all Reemployment Priority Lists. However, the employee may decline (or accept) reemployment to lower salary range classifications without jeopardizing

his or her standing on the Reemployment Priority List for the classification from which he or she was originally terminated.

- 44.7.6 Upon reappointment to the classification from which the employee was originally separated or demoted, the employee has the right to be placed at the step of the salary range which the employee held at the time of layoff or demotion.

44.8 Career-Exempt Employees

Only those employees holding full-time, benefited, exempt positions who, in the past, have achieved permanent status and have been continuously employed without a break in service between their career and exempt appointment, have the right to retreat to previously held career classifications, placement on the Reemployment Priority Lists, and all other provisions governing layoff procedures. For the purpose of layoff, such employees shall be referred to as "career exempt."

44.9 Appeal Procedures

Any permanent, probationary, or career-exempt employee who is laid off, demoted, reassigned or transferred as a result of layoff and who believes that the layoff procedure has been improperly administered as it pertains to the employee's case, may appeal the action under Section 40. In addition, employees may, at all times, before, during and subsequent to layoff, review all records, including Seniority Lists, Reemployment Priority Lists, documentation pertaining to appointments under the Flexible Placement Program, etc., which pertain to their classification and their rights under the provisions of the layoff policy.

44.10 Audit

- 44.10.1 If it is determined that a vacancy has been filled by a non Reemployment Priority List eligible, in a classification for which a Reemployment Priority List existed and which included available applicants at the time, the former employee with reemployment rights shall be hired and given retroactive pay from the date that the vacancy occurred.
- 44.10.2 When a layoff has occurred, and a reemployment eligibility lists exists, and the union so requests, the City Manager shall order an outside audit of all vacant positions filled in each department and authorized positions which have not been filled, to determine whether the vacancies occurred in classifications for which Reemployment Priority Lists were in existence, and, if so, whether the appointments made by the selecting official were in accordance with the procedures outlined in Section 44.7. In the event vacancies, for which Reemployment Priority Lists were in existence remained unfilled, the auditor shall offer an opinion as to

whether or not the reasons for leaving the positions vacant appear to be legitimate. A report of the audit must be transmitted to the City Manager and the City Council.

44.11 Reclassification or reallocation of positions shall not be used as a mechanism, the sole purpose of which is to improperly circumvent the provisions of this agreement, including provisions relating to layoff, transfer, demotion or promotion.

44.12 Layoffs For Term of MOU which Expires on June 26, 2021

For the term of this Agreement ending on June 26, 2021 only, the City recognizes the important role that the employee workforce play in delivering public services; therefore, the City agrees to not layoff any represented career employees. However, should the City determine that its expenditures exceed its revenues during the term of this Agreement, the City may notice the Union in writing and the Union shall meet and confer over one-time cost savings and the alternatives such as furloughs, union-directed VTO, etc. Nothing in this section requires the City to retain positions (filled or vacant) where state, federal or grant funding has been reduced or eliminated and would require the City to backfill such positions. All other MOU provisions on Layoffs remain unchanged.

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SIGNATURE PAGE

SEIU Local 1021:

City of Berkeley:

David Canhan, Deputy Director, SEIU 1021

Dee Williams-Ridley, City Manager

Peter Masiak, Eastbay Field Director, SEIU 1021

Andre Spearman, Chief Negotiator, Field Representative, SEIU 1021

Dania Torres-Wong, Chief Negotiator

Sandra Lewis, Vice President of Representation, SEIU 1021

David White, Deputy City Manager

Danny Walker, Maintenance Chapter President

LaTanya Bellow, Director of Human Resources

Jenny Seay, Clerical Chapter President

Greg Apa, Solid Waste and Recycling Manager

Rebecca Webb, Clerical Chief Steward

Scott Ferris, Director of Parks, Recreation and Waterfront

Yolanda Gorman, Clerical Chapter Vice President

Kevin Schofield, Police Captain

Orlando Murillo, Maintenance Chapter Vice President

Jacob Several- Maintenance Chief Steward

Tess Mayer, Director of Library Services

Valentina Edwards, Maintenance Chapter Steward

Janice Chin, Health, Housing and Community Services

Alicia Platt, Senior Human Resources Analyst

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Wesley Gage, At-Large Representative,
Maintenance Chapter

Shayla Elliot, Human Resources Technician

Tanisha Gainer, Clerical Chapter Steward

John Hurtado, Public Works Superintendent

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EXHIBIT A - Salary Ranges as of July 25, 2021 (4% Cost of Living Adjustment)

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
42390	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	31.8431	33.2357	34.6833
42400	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	36.8824	38.5133	40.2085
42430	ACCT OFF SPEC SUP MC	K2	673	37.2213	39.0631	40.9781	43.0032	44.8176
31060	ACCT TECHNICIAN	K1	584	36.2959	38.0737	39.9518	41.9219	43.6905
41070	ADMIN ASSISTANT MC	K1	674	36.5506	38.3924	40.3074	42.3323	44.1470
60050	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	34.4982	35.5337	36.5688
66170	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	30.4298	31.2362	32.1433
14490	AQUATICS COORDINATOR	K1	092	36.6149	38.0351	39.4553	41.0313	42.5066
64250	AQUATICS FACILITIES SUP	K1	743	29.1098	30.5724	32.0965	33.7088	35.3916
25860	ASST AQUATICS COORD	K1	200	30.8969	32.1982	33.4260	34.5988	35.9275
25850	ASST REC COORDINATOR	K1	199	30.8982	32.2020	33.4268	34.5987	35.9290
51060	BUILDING MAINT MECH	D	343	0.0000	0.0000	41.2843	42.6329	44.0404
61060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	33.0547	34.0911	35.2439
51170	BUILDING MAINT SUPV	D	354	0.0000	0.0000	45.8581	47.3047	48.9175
72320	COM SERVICE OFFC SUP	J	733	39.0832	40.6428	42.2725	44.1581	46.1402
72330	COM SERVICE OFFICER	J	554	34.8753	36.2638	37.7181	39.1359	40.6250
53020	CONCRETE FINISHER	D	370	0.0000	0.0000	40.8118	42.0027	43.1932
53030	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	38.2212	39.4010	40.6796
63260	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	34.0203	35.0706	36.0827
47150	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	32.6032	34.3202	36.1293
47060	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	36.8824	38.5133	40.2085
47070	CUSTOMER SVC SPVSR	K2	675	37.2213	39.0631	40.9781	43.0032	44.8176
52020	EQUIPMENT PARTS TECH	D	358	0.0000	32.7114	34.5899	36.2391	37.0730
51130	FORESTRY CLIMBER	D	351	0.0000	0.0000	39.2792	40.5044	41.7834
51120	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	45.6953	47.0424	48.4045
67020	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	30.3105	31.5842	32.8671
51160	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	45.6953	47.0424	48.4045
67050	GROUNDSKEEPER	D	444	0.0000	0.0000	30.4297	31.2308	32.1432
66020	JANITOR	D	434	0.0000	0.0000	28.1942	28.8996	29.7152
66010	JANITOR SUPERVISOR	D	433	0.0000	0.0000	32.8671	34.0216	35.0203
63110	LABORER	D	380	0.0000	0.0000	31.8514	32.7570	33.8071
54010	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	38.5335	39.7057	40.8701
67030	LANDSCAPE GARDENER	D	441	0.0000	0.0000	35.2494	36.2301	37.4303
67080	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	44.7695	46.0983	47.4084
67040	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	29.7152	30.5488	31.4011
44010	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	28.8082	29.8250	30.9430
71310	MARINA ASSISTANT MC	D	476	0.0000	0.0000	32.9562	33.8833	34.9381
52070	MECHANIC	D	362	0.0000	0.0000	43.2977	44.6070	45.9006
52090	MECHANIC LEAD	D	619	0.0000	0.0000	46.3192	47.7197	49.1276
52080	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	49.5541	51.0148	52.5752
63090	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	37.7954	38.9292	39.9947
47040	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	27.0856	28.2950	29.5410
47030	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	31.1721	32.5649	34.0126
47050	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	36.2117	37.8425	39.5377
47080	OFFICE SPEC SUP M&C	K2	676	36.5506	38.3924	40.3074	42.3323	44.1470

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71240	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	33.5875	34.5465	35.5376
71030	PARKING ENFORCEMENT SUP	D	457	0.0000	36.6723	38.5022	40.4359	42.4501
65020	PARKING METER M&C SUP	D	734	38.8689	40.8114	42.8547	44.1834	45.5942
52050	PARKING METER MECH TRNE	D	360	0.0000	0.0000	30.7599	31.6119	32.6290
52110	PARKING METER MECHANIC	D	365	0.0000	0.0000	34.6630	35.7533	36.9081
65050	PARKING METER MNT WORK	D	402	0.0000	0.0000	30.7599	31.6119	32.6290
72240	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	32.1800	33.7561	35.1673
72230	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	44.6424	46.5016	48.4486
51280	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	45.1474	46.6541	48.2827
44020	RECORDS ASSISTANT	K1	707	0.0000	32.7114	34.5899	36.2391	37.0730
14480	RECREATION COORDINATOR	K1	091	36.6149	38.0351	39.4553	41.0313	42.5066
65780	REG VETERINARY TECH	D	821	0.0000	0.0000	30.7733	32.3979	34.1042
51140	ROSARIAN	D	352	0.0000	0.0000	36.7246	37.8701	39.0339
90110	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	37.9525	39.0888	40.2158
72020	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	43.6428	45.3380	47.0972
51150	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	41.2431	42.5367	43.8684
67100	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	33.2337	34.1867	35.3229
67010	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	37.5974	38.7194	39.9592
71320	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	33.5541	34.4982	35.6251
52120	SERVICE TECHNICIAN	D	366	0.0000	0.0000	36.3492	37.4604	38.5716
51110	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	42.4529	43.8533	45.2919
63130	SKILLED LABORER	D	383	0.0000	0.0000	33.8071	34.8422	35.9379
65170	SOLID WASTE LOADER OPR	D	411	31.6777	34.0095	35.7126	37.5003	39.3657
65270	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	38.6627	40.2382	41.3344
65130	SOLID WASTE WORKER	D	406	0.0000	0.0000	32.5209	33.9975	34.9870
72220	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	51.2064	53.3297	55.5675
63010	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	34.3515	36.1596	38.0626
65140	TRACTOR TRAILER DRIVER	D	408	35.7126	37.5003	39.3656	41.3443	43.4042
51070	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	42.8548	44.1741	45.5942
63070	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	31.8136	32.7205	33.7836
63080	TRAFFIC MAINT WORKER II	D	378	0.0000	33.7836	34.8098	35.9003	36.9356
52160	WAREHOUSE OPERATON SPEC	D	589	0.0000	37.5768	39.4462	41.3154	43.1661
65150	WEIGHMASTER	D	409	0.0000	33.2886	35.2037	36.8805	37.7235
65160	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	32.4916	33.9669	34.9563
52060	WELDER MECHANIC	D	361	0.0000	0.0000	43.8611	45.1930	46.5247
63250	YARDMASTER	D	388	0.0000	0.0000	35.9762	37.1253	38.2215

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EXHIBIT B - Salary Ranges as of July 2022 (3% Cost of Living Adjustment)

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
67010	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	32.7984	34.2328	35.7238
71320	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	37.9888	39.6687	41.4147
65160	ACCT OFF SPEC SUP MC	K2	673	38.3379	40.2350	42.2074	44.2933	46.1621
52120	ACCT TECHNICIAN	K1	584	37.3848	39.2159	41.1504	43.1795	45.0012
51110	ADMIN ASSISTANT MC	K1	674	37.6471	39.5442	41.5166	43.6022	45.4714
42390	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	35.5331	36.5997	37.6659
42400	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	31.3427	32.1733	33.1076
63130	AQUATICS COORDINATOR	K1	092	37.7133	39.1761	40.6390	42.2623	43.7818
65170	AQUATICS FACILITIES SUP	K1	743	29.9831	31.4895	33.0594	34.7201	36.4534
65270	ASST AQUATICS COORD	K1	200	31.8239	33.1641	34.4288	35.6368	37.0054
65130	ASST REC COORDINATOR	K1	199	31.8251	33.1681	34.4297	35.6367	37.0069
42430	BUILDING MAINT MECH	D	343	0.0000	0.0000	42.5228	43.9119	45.3616
31060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	34.0464	35.1138	36.3013
41070	BUILDING MAINT SUPV	D	354	0.0000	0.0000	47.2338	48.7239	50.3851
65780	COM SERVICE OFFC SUP	J	733	40.2557	41.8621	43.5406	45.4828	47.5244
51140	COM SERVICE OFFICER	J	554	35.9215	37.3517	38.8496	40.3100	41.8438
60050	CONCRETE FINISHER	D	370	0.0000	0.0000	42.0361	43.2628	44.4890
66170	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	39.3679	40.5831	41.9000
14490	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	35.0409	36.1227	37.1652
72220	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	33.5813	35.3498	37.2132
63010	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	37.9888	39.6687	41.4147
52060	CUSTOMER SVC SPVSR	K2	675	38.3379	40.2350	42.2074	44.2933	46.1621
64250	EQUIPMENT PARTS TECH	D	358	0.0000	33.6928	35.6276	37.3263	38.1852
25860	FORESTRY CLIMBER	D	351	0.0000	0.0000	40.4576	41.7195	43.0369
25850	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	47.0662	48.4537	49.8566
51060	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	31.2198	32.5317	33.8531
61060	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	47.0662	48.4537	49.8566
51170	GROUNDSKEEPER	D	444	0.0000	0.0000	31.3426	32.1677	33.1075
72320	JANITOR	D	434	0.0000	0.0000	29.0400	29.7666	30.6066
72330	JANITOR SUPERVISOR	D	433	0.0000	0.0000	33.8531	35.0423	36.0709
53020	LABORER	D	380	0.0000	0.0000	32.8069	33.7397	34.8213
53030	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	39.6895	40.8969	42.0962
63260	LANDSCAPE GARDENER	D	441	0.0000	0.0000	36.3069	37.3170	38.5532
47150	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	46.1126	47.4813	48.8307
47060	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	30.6066	31.4652	32.3432
65140	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	29.6725	30.7198	31.8713
47070	MARINA ASSISTANT MC	D	476	0.0000	0.0000	33.9449	34.8998	35.9862
52020	MECHANIC	D	362	0.0000	0.0000	44.5966	45.9452	47.2776

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51130	MECHANIC LEAD	D	619	0.0000	0.0000	47.7088	49.1513	50.6015
51120	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	51.0408	52.5453	54.1525
67020	MECHANICAL SWEEP OPER	D	379	0.0000	0.0000	38.9292	40.0971	41.1945
51070	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	27.8981	29.1438	30.4272
63070	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	32.1073	33.5418	35.0330
63080	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	37.2980	38.9778	40.7238
63250	OFFICE SPEC SUP M&C	K2	676	37.6471	39.5442	41.5166	43.6022	45.4714
51160	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	34.5952	35.5829	36.6038
67050	PARKING ENFORCEMENT SUP	D	457	0.0000	37.7724	39.6572	41.6490	43.7236
66020	PARKING METER M&C SUP	D	734	40.0349	42.0357	44.1403	45.5089	46.9621
66010	PARKING METER MECH TRNE	D	360	0.0000	0.0000	31.6827	32.5603	33.6078
63110	PARKING METER MECHANIC	D	365	0.0000	0.0000	35.7029	36.8259	38.0154
54010	PARKING METER MNT WORK	D	402	0.0000	0.0000	31.6827	32.5603	33.6078
90110	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	33.1454	34.7688	36.2223
72020	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	45.9817	47.8967	49.9021
67030	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	46.5019	48.0537	49.7312
52160	RECORDS ASSISTANT	K1	707	0.0000	33.6928	35.6276	37.3263	38.1852
65150	RECREATION COORDINATOR	K1	091	37.7133	39.1761	40.6390	42.2623	43.7818
67080	REG VETERINARY TECH	D	821	0.0000	0.0000	31.6965	33.3698	35.1273
67040	ROSARIAN	D	352	0.0000	0.0000	37.8263	39.0062	40.2049
44010	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	39.0911	40.2615	41.4222
51150	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	44.9521	46.6981	48.5101
71310	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	42.4804	43.8128	45.1845
52070	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	34.2307	35.2123	36.3826
52090	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	38.7253	39.8810	41.1580
52080	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	34.5608	35.5331	36.6938
63090	SERVICE TECHNICIAN	D	366	0.0000	0.0000	37.4397	38.5842	39.7288
47040	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	43.7265	45.1689	46.6507
47030	SKILLED LABORER	D	383	0.0000	0.0000	34.8213	35.8874	37.0161
47050	SOLID WASTE LOADER OPR	D	411	32.6280	35.0297	36.7839	38.6253	40.5466
47080	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	39.8226	41.4454	42.5744
71240	SOLID WASTE WORKER	D	406	0.0000	0.0000	33.4965	35.0174	36.0366
67100	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	52.7426	54.9296	57.2345
71030	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	35.3821	37.2443	39.2045
65020	TRACTOR TRAILER DRIVER	D	408	36.7839	38.6253	40.5465	42.5846	44.7063
52050	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	44.1404	45.4993	46.9621
52110	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	32.7680	33.7021	34.7971
65050	TRAFFIC MAINT WORKER II	D	378	0.0000	34.7971	35.8541	36.9773	38.0437
72240	WAREHOUSE OPERATON SPEC	D	589	0.0000	38.7041	40.6295	42.5548	44.4611
72230	WEIGHMASTER	D	409	0.0000	34.2873	36.2598	37.9869	38.8552
51280	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	33.4663	34.9859	36.0050

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44020	WELDER MECHANIC	D	361	0.0000	0.0000	45.1769	46.5488	47.9205
14480	YARDMASTER	D	388	0.0000	0.0000	37.0555	38.2391	39.3681

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EXHIBIT C - Salary Ranges as of July, 2023 (1% Cost of Living Adjustment)

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
42390	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	33.1264	34.5751	36.0810
42400	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	38.3687	40.0654	41.8289
42430	ACCT OFF SPEC SUP MC	K2	673	38.7213	40.6374	42.6295	44.7362	46.6237
31060	ACCT TECHNICIAN	K1	584	37.7586	39.6080	41.5619	43.6113	45.4512
41070	ADMIN ASSISTANT MC	K1	674	38.0236	39.9396	41.9318	44.0383	45.9261
60050	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	35.8884	36.9657	38.0425
66170	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	31.6561	32.4950	33.4387
14490	AQUATICS COORDINATOR	K1	092	38.0904	39.5679	41.0454	42.6849	44.2196
64250	AQUATICS FACILITIES SUP	K1	743	30.2829	31.8044	33.3900	35.0673	36.8179
25860	ASST AQUATICS COORD	K1	200	32.1421	33.4958	34.7731	35.9932	37.3754
25850	ASST REC COORDINATOR	K1	199	32.1434	33.4998	34.7739	35.9930	37.3769
51060	BUILDING MAINT MECH	D	343	0.0000	0.0000	42.9480	44.3510	45.8152
61060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	34.3868	35.4650	36.6643
51170	BUILDING MAINT SUPV	D	354	0.0000	0.0000	47.7062	49.2111	50.8889
72320	COM SERVICE OFFC SUP	J	733	40.6583	42.2807	43.9760	45.9377	47.9997
72330	COM SERVICE OFFICER	J	554	36.2807	37.7252	39.2381	40.7131	42.2622
53020	CONCRETE FINISHER	D	370	0.0000	0.0000	42.4565	43.6954	44.9339
53030	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	39.7616	40.9889	42.3190
63260	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	35.3913	36.4839	37.5368
47150	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	33.9171	35.7033	37.5853
47060	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	38.3687	40.0654	41.8289
47070	CUSTOMER SVC SPVSR	K2	675	38.7213	40.6374	42.6295	44.7362	46.6237
52020	EQUIPMENT PARTS TECH	D	358	0.0000	34.0297	35.9839	37.6995	38.5670
51130	FORESTRY CLIMBER	D	351	0.0000	0.0000	40.8622	42.1367	43.4672
51120	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	47.5368	48.9382	50.3552
67020	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	31.5320	32.8570	34.1917
51160	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	47.5368	48.9382	50.3552
67050	GROUNDSKEEPER	D	444	0.0000	0.0000	31.6560	32.4894	33.4385
66020	JANITOR	D	434	0.0000	0.0000	29.3304	30.0643	30.9127
66010	JANITOR SUPERVISOR	D	433	0.0000	0.0000	34.1917	35.3927	36.4317
63110	LABORER	D	380	0.0000	0.0000	33.1350	34.0771	35.1695
54010	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	40.0864	41.3059	42.5172
67030	LANDSCAPE GARDENER	D	441	0.0000	0.0000	36.6700	37.6901	38.9388
67080	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	46.5737	47.9561	49.3190
67040	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	30.9127	31.7799	32.6666
44010	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	29.9692	31.0270	32.1900
71310	MARINA ASSISTANT MC	D	476	0.0000	0.0000	34.2844	35.2488	36.3461
52070	MECHANIC	D	362	0.0000	0.0000	45.0426	46.4046	47.7504

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Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
52090	MECHANIC LEAD	D	619	0.0000	0.0000	48.1859	49.6428	51.1075
52080	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	51.5512	53.0707	54.6940
63090	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	39.3185	40.4980	41.6064
47040	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	28.1771	29.4353	30.7315
47030	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	32.4284	33.8773	35.3833
47050	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	37.6710	39.3675	41.1310
47080	OFFICE SPEC SUP M&C	K2	676	38.0236	39.9396	41.9318	44.0383	45.9261
71240	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	34.9411	35.9387	36.9698
71030	PARKING ENFORCEMENT SUP	D	457	0.0000	38.1502	40.0538	42.0655	44.1608
65020	PARKING METER M&C SUP	D	734	40.4353	42.4561	44.5817	45.9639	47.4317
52050	PARKING METER MECH TRNE	D	360	0.0000	0.0000	31.9995	32.8859	33.9439
52110	PARKING METER MECHANIC	D	365	0.0000	0.0000	36.0599	37.1942	38.3955
65050	PARKING METER MNT WORK	D	402	0.0000	0.0000	31.9995	32.8859	33.9439
72240	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	33.4768	35.1165	36.5845
72230	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	46.4415	48.3756	50.4011
51280	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	46.9669	48.5342	50.2285
44020	RECORDS ASSISTANT	K1	707	0.0000	34.0297	35.9839	37.6995	38.5670
14480	RECREATION COORDINATOR	K1	091	38.0904	39.5679	41.0454	42.6849	44.2196
65780	REG VETERINARY TECH	D	821	0.0000	0.0000	32.0135	33.7035	35.4786
51140	ROSARIAN	D	352	0.0000	0.0000	38.2046	39.3963	40.6070
90110	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	39.4820	40.6641	41.8365
72020	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	45.4016	47.1651	48.9953
51150	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	42.9052	44.2510	45.6363
67100	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	34.5730	35.5644	36.7464
67010	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	39.1125	40.2798	41.5695
71320	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	34.9064	35.8884	37.0608
52120	SERVICE TECHNICIAN	D	366	0.0000	0.0000	37.8141	38.9700	40.1261
51110	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	44.1638	45.6206	47.1172
63130	SKILLED LABORER	D	383	0.0000	0.0000	35.1695	36.2463	37.3862
65170	SOLID WASTE LOADER OPR	D	411	32.9543	35.3800	37.1518	39.0116	40.9521
65270	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	40.2208	41.8598	43.0002
65130	SOLID WASTE WORKER	D	406	0.0000	0.0000	33.8315	35.3676	36.3969
72220	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	53.2700	55.4789	57.8069
63010	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	35.7359	37.6168	39.5966
65140	TRACTOR TRAILER DRIVER	D	408	37.1518	39.0116	40.9520	43.0104	45.1534
51070	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	44.5818	45.9543	47.4317
63070	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	33.0957	34.0391	35.1450
63080	TRAFFIC MAINT WORKER II	D	378	0.0000	35.1450	36.2127	37.3471	38.4241
52160	WAREHOUSE OPERATON SPEC	D	589	0.0000	39.0911	41.0358	42.9804	44.9057
65150	WEIGHMASTER	D	409	0.0000	34.6302	36.6224	38.3668	39.2438
65160	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	33.8010	35.3358	36.3650
52060	WELDER MECHANIC	D	361	0.0000	0.0000	45.6287	47.0143	48.3997

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Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
63250	YARDMASTER	D	388	0.0000	0.0000	37.4260	38.6214	39.7618

EXHIBIT B - VACATION LEAVE ACCRUAL HISTORY

YEARS DURING WHICH SERVICES RENDERED	YEARS OF SERVICE	AUTHORIZED ANNUAL VACATION LEAVE (in work weeks)
All years prior to January 1, 1950		2
January 1, 1950 through December 1, 1956	1st 10 years of service	2
	Years of service in excess of 10	3
January 1, 1957 through December 31, 1961	1st 5 years of service	2
	6 - 25 years of service	3
	Years of service in excess of 25	4
January 1, 1962 through December 31, 1965	1st 5 years of service	2
	6 - 20 years of service	3
	Years of service in excess of 20	4
January 1, 1966 through June 30, 1970	1st 5 years of service	2
	6 - 20 years of service	3
	21 - 25 years of service	4
	Years of service in excess of 25	5
Subsequent to June 30, 1970	1st 5 years of service	2
	6 - 15 years of service	3
	16 - 25 years of service	4
	Years of service in excess of 25	5
January 1, 1978	1st 5 years of service	2
	6 - 15 years of service	3
	16 - 25 years of service	4
	Years of service in excess of 20	5
January 1, 1981	1st 4 years of service	2
	5 - 12 years of service	3
	13 - 20 years of service	4
	Years of service in excess of 20	5
July 1, 1983	1st 3 years of service	2
	4 - 11 years of service	3
	12 - 17 years of service	4
	Years of service in excess of 18	5

This Exhibit is included for historical reference only. Current vacation rates are shown in Section 19.

EXHIBIT C - HOURS AND DAYS OF WORK

1. **Units D and J Work Hours:** The hours and days of work applicable to employees in Representation Units D (Manual Occupations) and J (Para-professional Employees-Police Department), as set by the City Manager, are presently as follows:
 - a. **Hours Per Day**
 - Office Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday.
Closed on Saturday.

 - Field Operations: 8 hours per day - 5 days per week. (Working arrangements may vary as to shifts for field operations in the different departments.)
 - b. **Hours Per Week (Basic)**
 - Office: 40 hours
 - Field Operations: 40 hours
 - c. **Work Week**

The work week will begin at 12:01 a.m. Sunday and end at Saturday midnight. Regular days off will be considered to be Saturday and Sunday.

2. **Units K-1 and K-2:** The hours and days of work applicable to employees in Representation Unit K-1 (career non-confidential office and clerical employees) and K-2 (supervisory clerical employees), as set by the City Manager, are presently as follows:
 - a. **Hours Per Day**
 - Office Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday
 - Police: 8 hours per day - 5 days per week.
 - Shop and Field: 8 hours per day - 5 days per week (presently includes):
Information Technology, and Mail assignments.
 - Shifts: Working arrangements may vary as to shifts for Police,
Shop and Field operations in the different departments.

 - Flex Time: Working arrangements may vary as to hours of work in
departments having a Flex-Time program.

Subject to the final approval of the Department Head and taking into consideration the recommendation of the Division Head, employees may request variable

working hours, such to include but not limited to, requests that the employee be scheduled four days per week, ten hours per day.

However, employees in work units that provide a six (6) or seven (7) day operation may be required to flex their work schedule based on the needs of the work unit. Flexing of work schedule will be assigned on the basis of inverse seniority unless more senior employees prefer to accept such work. The required flexing of work schedules will be on a day-for-day basis. When an employee is required to work on a regularly scheduled day off, the department will provide that employee with an alternative day off in the same work week when the required flexing occurs

b. **Hours Per Week (Basic):**

Office: 40 hours

Police: 40 hours

Shop and Field: 40 hours

c. **Work Week**

The work week will begin at 12:01 a.m. Sunday and end at Saturday midnight. Regular days off will be considered to be Saturday and Sunday except in those departments with work units that provide six (6) or seven (7) day operations.

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EXHIBIT D - SHOES, TOOLS AND UNIFORMS

Rep Unit	Classification Title	Annual Shoe Allowance	Annual Tool Allowance	Annual Uniform Allowance
D	Animal Control Officer			\$1,400
D	Building Maintenance Mechanic	\$200	\$500	
D	Building Maintenance Mechanic Trainee	\$200	\$500	
D	Building Maintenance Supervisor	\$200	\$500	
K1	City Services Aide	\$200		
J	Community Services Officer			\$1,400
J	Community Service Officer Supervisor			\$1,400
D	Concrete Finisher	\$200		
D	Construction Equipment Operator	\$200		
D	Container Maintenance Welder	\$200	\$220	
D	Equipment Parts Technician	\$200		
D	Forestry Climber	\$200		
D	Forestry Climber Supervisor	\$200		
D	Forestry Climber Trainee	\$200		
D	Forestry Technician	\$200		
D	Groundskeeper	\$200		
D	Janitor	\$200		
D	Janitor Supervisor	\$200		
D	Laborer	\$200		
D	Landscape Equipment Operator	\$200		
D	Landscape Gardener	\$200		
D	Landscape Gardener Supervisor	\$200		
D	Landscape Gardener Trainee	\$200		
D	Marina Assistant	\$200		
D	Mechanic	\$200	\$500	
D	Mechanic Supervisor	\$200	\$500	
D	Mechanical Sweeper Operator	\$200		
K1	Offset Equipment Operator	\$200		
J	Parking Enforcement Officer			\$1,400
D	Parking Meter Maintenance Collection Supervisor	\$200	\$250	\$1,400
D	Parking Meter Maintenance Worker	\$200		\$1,400
D	Parking Meter Mechanic	\$200	\$250	\$1,400
D	Parking Meter Mechanic Trainee	\$200		
K2	Printing Services Supervisor	\$200		
J	Public Safety Dispatcher I			\$1,400
J	Public Safety Dispatcher II			\$1,400
D	Public Works Supervisor	\$200		
D	Solid Waste Truck Driver	\$200		
D	Solid Waste Worker	\$200		

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Rep Unit	Classification Title	Annual Shoe Allowance	Annual Tool Allowance	Annual Uniform Allowance
D	Rosarian	\$200		
D	Security Attendant	\$200		
D	Senior Animal Control Officer	\$200		\$1,400
D	Senior Forestry Climber	\$200		
D	Senior Groundskeeper	\$200		
D	Senior Landscape Gardener	\$200		
J	Senior Police Service Assistant			\$1,400
D	Service Technician	\$200	\$220	
D	Sewer Maintenance Assistant Supervisor	\$200		
D	Skilled Laborer	\$200		
D	Parking Enforcement Officer Supervisor			\$1,400
D	Supervising Parking Meter Mechanic	\$200	\$250	\$1,400
J	Supervising Public Safety Dispatcher			\$1,400
D	Tool Lending Specialist	\$200		
D	Tractor Trailer Driver	\$200		
D	Traffic Maintenance Supervisor	\$200		
D	Traffic Maintenance Worker I	\$200		
D	Traffic Maintenance Worker II	\$200		
D	Warehouse Operations Specialist	\$200		
D	Weighmaster	\$200		
D	Weighmaster Trainee	\$200		
D	Welder Mechanic	\$200	\$500	
D	Wheeled Loader Operator	\$200		

APPENDIX A - STREETS AND SANITATION – OVERTIME POLICY

Scheduled Overtime (does not include staff on standby or on-call)

For Streets and Sanitation, scheduled overtime shall be defined as an overtime assignment which is known at least **twenty four (24)** hours in advance.

Work Groups

There are three work groups in Streets and Sanitation:

Sewer Maintenance Operation

Street Cleaning/Clean City Program

Construction Operation which consists of Street Concrete/Paving, Patch/Structural Repair and Stormwater Maintenance

Overtime assignments will be offered first to employees in the work group which is currently assigned to perform the type of work involved. Work shall be offered to the employees in that work group on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee in the work group volunteers to perform the work, the work may be offered to employees in other work groups.

Notification of Overtime Work Opportunities

In the event that scheduled overtime becomes available, the Public Works Maintenance Superintendent, or his/her designee, shall do the following:

1. Post in a designated predetermined area a list of the available overtime assignment; and
2. Broadcast the overtime assignment over the radio to notify employees an overtime assignment is available.

Unscheduled Overtime

Unscheduled overtime shall be defined as any overtime work which becomes available less than twenty-four (24) hours in advance of the work. For unscheduled overtime assignments, the Public Works Maintenance Superintendent, or his/her designee, shall use the radio to contact employees for their availability. Unscheduled overtime

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assignments will be offered first to employees in the work group which usually performs the type of work involved. As with scheduled overtime, work shall be offered on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee in the work group volunteers to perform the work, the work may be offered to employees in other work groups who are qualified to perform the work.

APPENDIX B - SOLID WASTE AND RECYCLING MANAGEMENT DIVISION - OVERTIME POLICY

Scheduled Overtime for Planned Special Events

The following events are covered by this Section:

- July 4th Celebration
- Solano Stroll
- UC Football Home Game Days
- Kite Festival
- Cal Move Out

A schedule for these special events will be created at the beginning of the calendar year. No sooner than forty-five (45) days prior to the special event the overtime will be offered to employees in the classification who normally perform the work. Work shall be offered to employees on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee volunteers to perform the work, the work may be offered to any other employees who are qualified to perform the work.

Scheduled Overtime

Scheduled overtime shall be defined as an overtime assignment other than Planned Special Events which is known at least twenty four (24) hours in advance. Overtime will be offered to employees in the classification who normally perform the work. Work shall be offered to employees on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee volunteers to perform the work the work, may be offered to any other employees who are qualified to perform the work.

Unscheduled Overtime

Unscheduled overtime shall be defined as any overtime work which becomes available less than twenty-four (24) hours in advance of the work. Overtime will be offered to the employees in the classification who normally perform the work. Such work shall be offered first to employees who are on their day off and who are present at the work site and available to work. Work shall be offered to the employees who are present,

commencing with the employee who would next be eligible for overtime on the seniority list and proceeding down the list. If overtime remains after all employees who are at the work site on their day off have been assigned, the remaining overtime will be offered next to employees who sign up on the unscheduled overtime list created for this purpose. Overtime will be then offered to all employees in the classification who normally perform the work based on a rotating seniority basis, commencing with the most senior employee and proceeding down the list until the last employee on the unscheduled overtime list has been offered an opportunity to work, overtime. When all the employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list.



MEMORANDUM AGREEMENT

BETWEEN

CITY OF BERKELEY

AND

SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL 1021

MAINTENANCE AND CLERICAL CHAPTERS

June ~~27~~28, ~~2020~~2021 through June 26,
~~2021~~2024

BACK COVER
(Intentionally Left Blank)

RESOLUTION NO. 69,537-N.S.

MEMORANDUM OF UNDERSTANDING: SEIU LOCAL 1021 MAINTENANCE & CLERICAL CHAPTER

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the SEIU Local 1021 Maintenance & Clerical Chapter have met and conferred in good faith and have reached agreement on a new Memorandum of Understanding that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum of Understanding for the period June 27, 2020 through June 26, 2021 with SEIU Local 1021 Maintenance & Clerical Chapter, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit B.


BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum of Understanding including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on July 30, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 

Mark Nummainville, City Clerk

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ADMINISTRATION

SECTION 1: RECITALS

This Memorandum Agreement, herein after referred to as "Agreement", is entered into pursuant to the Meyers-Milias- Brown Act (Government Code, Sections 3500 et seq.,) as amended and has been jointly prepared by the parties.

The City Manager is the representative of the City of Berkeley, herein after referred to as "the City," in employer - employee relations as provided in Resolution No. 43,397-N.S. adopted by the City Council on October 14, 1969.

Local 1021, Service Employees International Union, is the Recognized Employee Organization for:

- Representation Unit D (Manual Occupations),
- Representation Unit J (Para-professional Employees- Police Department),
- Representation Unit K-1 (career non-confidential office and clerical employees),
- Representation Unit K-2 (Supervisory Clerical Employees)

The employee positions in such Representation Unit are set forth herein and made a part hereof, and Local 1021, Service Employees International Union, hereinafter referred to as "the Union" is recognized as the sole representative of employees assigned to such positions. This Memorandum Agreement shall be presented to the City Council, Board of Library Trustees, and the Rent Stabilization Board as the joint recommendation of the undersigned.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of the employees in said Representation Units D, J, K-1, and K-2; 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 Agreement shall be presented to the City Council as the joint recommendation of the undersigned, and therefore recognize this agreement as a binding and legal contract between the two parties.

Library and Rent Board employees working in classifications covered by this agreement shall have the same terms and conditions of employment as other employees covered by this Memorandum Agreement except as specifically modified by this agreement.

The Rent Stabilization Board and Library Board of Trustees shall ratify and sign this agreement.

SECTION 2: PARTIES TO AGREEMENT

- 2.1 **The Union:** The Union is the exclusive representative of all employees within Representation Units D (Manual Occupations) [MC00], J (Para-professional Employees - Police Department) [MC00], and K-1 (career, non-confidential office and clerical) [MC01], and K-2 (Supervisory Clerical Employees) [MC02] and shall continue to be recognized as such unless, the Union is no longer certified as the Recognized Employee Organization for employees in Representation Units D, J, K-1 and K-2.
- 2.2 **City Management:** Responsibility for management of the City and direction of its work force is vested in City officials and the City Manager whose powers and duties are specified by law. In order to fulfill this responsibility, it is the exclusive right of City management to determine the mission of its constituent departments. Such rights and responsibilities shall be applied consistent with the Meyers-Milias-Brown Act.
- 2.3 The Union and the City shall create a working environment free from hostility, intimidation and disrespect.

SECTION 3: NO DISCRIMINATION

The City and Union agree that they will not discriminate against any employee covered by this Agreement in a manner which would violate any applicable laws because of race, creed, color, ethnicity, ancestry, religion, political affiliation, sexual orientation, age, gender, national origin, marital or domestic partner status, gender identity or gender expression, parental status, pregnancy, disability or medical condition, Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law. The City agrees that there shall be no discrimination on the basis of protected Union activity. Furthermore, the City and Union agree to comply with all applicable federal, state and local laws pertaining to non-discrimination and equal employment opportunity (Title VII of the Civil Rights Act of 1964, as amended (to include the pregnancy disability amendments), Equal Pay Act of 1963, Age Discrimination Employment Act, Executive Order 11246, Vietnam Era Veterans Readjustment Act, Rehabilitation Act of 1973, California Civil Rights Law, (Government Code Sections 12900-12996), City of Berkeley Ordinances, resolutions and policies). The City and Union will comply with the City's Harassment Prevention Policy.

The City of Berkeley Harassment Prevention Policy, as may be amended from time to time to comply with applicable state or federal law, is available on-line on the City's IntraWeb at: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=10318>, in Department of Human Resources, or by contacting the City's Equal Employment Opportunity and Diversity Officer.

SECTION 4: UNION SECURITY

4.1 Union Security

4.1.1 Effective June 1, 1984, and for the term of the Agreement, all current and future employees of the City as described in Section 2, Parties to Agreement, hereof, shall, as a condition of continued employment, become and remain a member of the Union or, in lieu thereof, shall pay a service fee to the Union. Such service fee payment shall be equivalent to the standard initiation fee, periodic dues and general assessments (hereinafter collectively termed membership fees) of the Union.

4.1.2 **Religious Exemption:** Any employee of the City in a classification described in Section 1, Parties to Agreement, who is a member of a bona fide religion, body or sect which has historically held conscientious objection to joining or financially supporting a public employee organization and is recognized by the National Labor Relations Board to hold such objections to Union membership shall, upon presentation of membership and historical objection satisfactory to the City and the Union, along with verification of monthly transmittals of any charitable contributions, have sums equal to membership fees deducted and paid to one of the following charitable organizations as designated by the employee: (1) American Cancer Society; (2) Bay Area Black United Fund; (3) Over 60 Health Clinic; or (4) Sickle Cell Anemia Research and Education.

4.2 Voluntary Membership

All employees in this bargaining unit who are, or hereafter voluntarily choose to become members of the Union, shall maintain such membership in good standing as a condition of continued employment for the duration of this Agreement; provided, however, that withdrawal shall be allowed during a period of not more than sixty (60) days nor less than thirty (30) days prior to the expiration date of the Agreement by sending written notice of withdrawal to the Union (with a copy to the Director of Human Resources of the City during said period), consistent with the law.

4.3 Indemnification

The Union shall indemnify and save harmless the City, its officers and employees, from and against any and all loss, damages, costs, expenses claims, attorney fees, demands, actions, suits, judgments and other proceedings arising out of any discharge action resulting from this Section or Section 5.

4.4 Contract Distribution

~~The Director of Human Resources or his/her designee shall issue a copy of the Agreement to all probationary and provisional employees entering the City's workforce on the date of hire.~~

The City shall ~~print 200 copies~~ post an electronic copy of the Agreement on the City website and ~~have it ready for distribution by the Union~~ within 120 calendar days of final ratification in order to reduce the environmental impact of excess paper printing. ~~The City shall provide each permanent, probationary and provisional employee in the bargaining unit with an email copy of the new Agreement within 130 calendar days of final ratification.~~

Any additions or changes to the Agreement agreed to by both parties subsequent to the printing/posting of the Agreement shall be distributed to all employees in the bargaining unit ~~in a form that can be easily added to the printed Agreement. (ok 7-12)~~

4.5 Orientation Meetings

A representative of each Chapter of the Union will be given sixty (60) minutes of Union release time per quarter per calendar year to provide information on the Union to employees represented by the Union. The Union shall notify the City of the date, time and location of the quarterly orientation meetings at least one (1) month in advance of the meetings to ensure that departmental managers are able to release employees to attend the quarterly orientation meetings. The Union shall also provide the City with the names of the employees the Union expects to attend the quarterly meetings at least two (2) weeks in advance of the meeting. Employees attending the orientation will also be given sixty (60) minutes of Union release time to attend the scheduled orientation.

4.6 Union Notification

The City agrees that all notifications to the Union will include copy to the Union chapter presidents. Further, on all other correspondence involving investigatory interviews, intent to discipline, and grievance responses, the City shall also copy the relevant chapter chief steward, in addition to the relevant chapter president.

4.7 New Employee Orientation

This provision shall apply to new hire employees appointed to classifications

covered by this Agreement and to existing employees newly appointed to classifications covered by this Agreement.

4.7.1 **Onboarding:** The parties acknowledge that the City provides a new employee orientation (onboarding) to each new employee hired by the City. As such, the Union will be provided with not less than 10 calendar days' advanced notice of the time, date, and location of the onboarding of any new employee represented by the Union. The Union will be given 30-minutes at the start of the new employee onboarding in a room designated by the City for no more than one (1) representative to present Union membership information. The City representative will excuse him or herself during the Union portion of the onboarding. The Union agrees in its portion of the onboarding not to engage in speech that could cause disruption or material interference with City activities.

The City will provide 30 minutes of Union Release Time to the Union representative presenting the Union membership information during the scheduled onboarding. The Union shall provide the Union representative's immediate supervisor with the Union representative's name at least five (5) days prior to the onboarding. The Union representative shall be released for this purpose unless unusual operation needs interfere with such release in which case the Union representative's immediate supervisor will provide a written explanation of why release could not be approved. If the Union representative is not released due to department operational needs, the Union representative may arrange an alternative date and time to meet with the newly hired employee within the first two (2) weeks of employment, subject to the 30-minutes onboarding and Union Release Time requirements as stipulated above.

4.7.2 **Information Provided:** On a quarterly basis (March, June, September, and December), the City will provide the Union with a digital file via email to the email address designated by the Union. The Union acknowledges and understands that the City is working diligently and in good faith to update its contact information database functionality to incorporate all the fields of contact information listed below. As a result, the City may not initially be able to provide the employee's work telephone number, personal phone number, and personal email address until the completion and implementation of the City's new Enterprise Resource Management Application (ERMA) system.

The City will provide the Union with the following information on file, to the extent the City has it on file:

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- Name.
- Job Title.
- Department.
- Work Location.
- Home telephone number.
- Home address.
- Personal cellular telephone number (new hires hired on or after October 1, 2017).
- Work telephone number (*upon implementing ERMA*).
- Personal email addresses on file with the City (*upon implementing ERMA*).

Notwithstanding the foregoing, limited to the express purpose of the requirements of Government Code section 3558 only, an employee may opt out via written request to the City (copy to the Union) to direct the City to withhold disclosure of the employee's: Home address; home telephone number; personal cellular telephone number; personal email address; and date of birth.

SECTION 5: PAYROLL DEDUCTIONS

Effective the first complete pay period commencing after July 1, 1984 and in each month thereafter, the City shall make membership fee or service fee deductions, as appropriate, from the regular periodic payroll warrant of each City employee described in Section 1. Employees hired on or after July 1, 1984, shall receive and complete at the time of employment an authorization to deduct membership or agency fee as a condition of continued employment. Failure to complete the authorization form within 30 calendar days of employment shall result in automatic agency fee deductions.

The City shall promptly pay over to the Union all sums withheld for membership or service fees. The City shall also provide with each payment a list of employees paying service fees. All such lists shall contain the employee's name, employee number, classification, department, and the amount deducted. A list of all employees in represented classes shall be provided to the Union each month.

The City shall continue to deduct insurance premiums, COPE contributions, and other such deductions as may be specified by the employee in accordance with past practice.

SECTION 6: UNION REPRESENTATIVES

6.1 **Release Time – General:** Union representatives employed and recognized by the City shall assist employees in resolving grievances at the lowest possible administrative level. These employees shall be afforded reasonable time for the investigation and processing of grievances and for meetings with management without loss of pay or benefits upon notification to their first level supervisor not in the bargaining unit. Union representatives shall request Union release time from their first level supervisor not in the bargaining unit or his/her designee prior to engaging in union business. Such request for release time shall be made at the earliest possible time and, except in emergency cases, no later than 48 hours in advance before leaving the work assignment. The Union release request shall include the location, and area of activity, the approximate time needed and the general nature of union business involved. Such request shall not be unreasonably denied. Failure to meet the 48 hours requirement may result in denial of release time.

6.2 Release Time - Maximum Number of Representatives

6.2.1 **Meet & Confer:** With respect to the meet and confer process, ten (10) Union representatives shall be the maximum number who will be allowed concurrent paid time off.

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- 6.2.2 **Informal Grievance Procedure:** With respect to the informal level of the grievance procedure, one (1) Union representative will be allowed paid time off.
- 6.2.3 **First Level Grievance Procedure:** With respect to the first level of the grievance procedure or the pre-disciplinary meeting, two (2) Union representatives will be allowed concurrent paid time off.
- 6.2.4 **Second Level Grievance Procedure:** With respect to the second level of the grievance process, the Skelly meeting, or Arbitration hearing, three (3) Union representatives shall be allowed concurrent paid time off.
- 6.2.5 **All Other Matters:** For all other matters, where the participation of the Union is agreed to, the Union may designate two (2) representative from each Representation Unit, up to a maximum of six (6).
- 6.2.6 **Possible Grievance Release:** The City will provide release time to Union members to meet with a Union representative for the purpose of discussing a possible grievance. The member shall contact the Chapter President or Chief Steward who will then contact the supervisor/department director to notify the supervisor/department director of the necessity for the meeting. The release time shall be granted within 48 hours of the request subject to operational necessity.
- 6.2.7 **City of Berkeley Union Council:** The City will provide release time for Union Steward representatives to attend City of Berkeley Union Steward Council Meetings. Each steward representative shall receive a maximum of four (4) hours per month to attend the meeting. A maximum of sixteen (16) stewards shall be released to attend each meeting. The President or Chief Steward will notify Human Resources at least two (2) weeks in advance of the scheduled Steward Council Meeting and will provide Human Resources with the names of stewards, the name of the steward's immediate supervisor, the department and work unit of those stewards that will be attending the Steward Council Meeting. Failure to comply with the notice requirements will result in the denial of release time. In the event that there are conflicts in work schedules, which may create problems with a designated steward attending the meeting, the President or Chief Steward will work with the affected department supervisors to schedule steward attendance in a manner which minimizes disruption of work.

6.3 Union / Management Meetings

Monthly meetings shall be held between the union and the City Manager or his or her designee. Release time shall be granted for up to six (6) union officials. Agendas for such meetings shall be set one week in advance between the union Chapter Presidents and the City Manager or his or her designee. In preparation for the monthly meeting with the City Manager, release time shall be granted for up to two (2) hours and up to two (2) Union officials to confer with Union staff representatives on matters within the scope of representation.

Meetings within departments may be held when necessary at the request of either party and release time will be in advance in accordance with Section 6.2.5.

6.4 Joint Labor/Management Committee

A quarterly departmental Joint Labor/Management (JLM) Committee may be established to discuss and review issues affecting employees in each Department. The JLM may consist of two (2) Union representatives and Department Director and/or his or her designee(s). Agendas for such meetings shall be set one (1) week in advance between the Union and Department Director or his or her. Additional meetings may be scheduled upon advanced mutual agreement.

At the first Police Department labor/management committee after the effective date of this contract (2018 to 2020), the parties agree to discuss concerns related to applicable sections of General Order P-26 as it relates to the Police Department's process for handling personnel complaints of Clerical employees and Parking Enforcement Officers.

6.5 Official Attendance at Meetings

Any employee requested by the City Manager or his/her designee to attend conferences, seminars, governmental agencies or bodies shall be compensated with pay or release time.

6.6 Memorandum Agreement Orientation

The City and the Union will conduct orientation sessions on the Agreement at least once during the term of the contract. Additional sessions for stewards and supervisors may also be provided.

6.7 Union Business Release Time

Clerical Chapter: The Union will be entitled to up to one-hundred and twenty (120) hours of paid leave of absence each calendar year to be granted collectively to employees in the Clerical Chapter who are designated elected officials or stewards of the Union, subject to prior approval by employee's Department Head, to attend seminars, conferences, or conventions away from the job site. The Department

Head may, in his or her discretion, approve additional Union requests. Time spent on such Union business will be recorded with the appropriate code on time sheets.

Maintenance Chapter: The Union will be entitled to up to one-hundred and twenty (120) hours of paid leave of absence each calendar year to be granted collectively to employees in the Maintenance Chapter who are designated elected officials or stewards of the Union, subject to prior approval by employee's Department Head, to attend seminars, conferences, or conventions away from the job site. The Department Head may, in his or her discretion, approve additional Union requests. Time spent on such Union business will be recorded with the appropriate code on time sheets.

SECTION 7: SEPARABILITY OF PROVISIONS

In the event that any provisions of this Agreement is declared by a court of competent jurisdiction to be illegal or unenforceable, that provision of this Agreement shall be null and void, but such nullification shall not affect any other provisions of this Agreement, all of which other provisions shall remain in full force and effect.

SECTION 8: EXISTING MEMORANDA AGREEMENT

This Agreement shall supersede all existing Agreements between the City and the Union. Working conditions and practices will not be continued unless they are included in this Agreement or have been or are hereafter specifically authorized by ordinance or by resolution of the City Council, or unless they are 1) not the subject of bargaining during the development of this Agreement, and 2) a continuing practice which was general, not individual in application, and mutually agreed to by the parties.

SECTION 9: FINALITY OF RECOMMENDATIONS

The recommendations set forth above are final. No change or modifications shall be offered, urged, or otherwise presented by the Union or the City Manager prior to June 27, 2020 provided, however, that nothing herein shall prevent the parties to this Agreement from meeting and conferring and making modifications herein by mutual consent and ratification.

9.1 Limited Reopener

If during the fiscal year 2020 -2021 the City reaches agreement with another bargaining unit or extends to unrepresented employees to confer an across the board Cost of Living Adjustment (COLA) increase and/or an additional City

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contribution towards medical premiums, the City agrees to a limited reopener to meet and confer with SEIU on these increases.

SECTION 10: DURATION

This Agreement covers the period of June 27~~87~~, ~~2020-2021~~ through June 26, 2024~~1~~. New provisions are effective June 27~~87~~, ~~2020~~2021, except as otherwise provided herein and shall remain in full force and effect to and including June 26, 2021~~2024~~. ~~This Agreement and all its rights, obligations, terms and provisions shall expire and otherwise be fully terminated at midnight June 26, 2021. (ok 7-21-2021)~~

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SALARIES, HOURS OF WORK AND COMPENSATION ISSUES

SECTION 11: SALARIES

11.1 Salary Resolution

Salary rates for the period of June 27~~87~~, 2021~~0~~ through June 26, 2024~~1~~, for all classes of positions in Units D, J, K-1 and K-2, shall be set according to the classifications and salary ranges assigned to those classifications listed in Exhibits “A” through “C” and attached hereto and made part hereof as provided below.

~~11.1.1 The salary ranges for those classifications covered by this Agreement which went into effect on June 30, 2019, shall remain in effect through July 26, 2021 and are listed in Exhibit “A”.~~

~~11.1.1 Effective the first full pay period after Union ratification and Council approval on its regular agenda, (7/25/2021) the salary ranges for those classifications covered by this Agreement as listed in Exhibit A will receive a salary increase of four percent (4.0%) and shall be shown in Exhibit B A.~~

Commented [PA1]: Need to stick with the TA language here.

~~11.1.2 Effective the first full pay period in July 2022, the salary ranges in this Unit shall be increased by three percent (3.0%) as listed in Exhibit B.~~

~~11.1.3 Effective the first full pay period in July 2023, the salary ranges in this Unit shall be increased by one percent (1.0%) as listed in Exhibit C.~~

~~11.1.4 Effective the first full pay period after Union ratification and City Council adoption of this successor contract, a onetime non-pensionable lump sum payment of \$1,000.00 for each career bargaining unit employee shall be conferred. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice. (ok 7-12)~~

11.2 Application of Rates

Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class as set forth in Exhibit

“A”. The minimum rate for the class shall apply to employees upon original appointment of the position. Employees reinstated or reemployed after layoff shall receive a rate within the range established for the class. Transfers shall not affect an employee's salary rate. Employees appointed to any of the positions set forth herein in Exhibit “A” and employed or working on a part-time basis shall be paid in proportion to the time worked and described in their appointment.

11.3 Salary Advancement

No salary advancement shall be made so as to exceed the maximum rate established for the class to which the advanced employee's position is allocated. Advancement shall be in accordance with the compensation plan of the City and shall depend upon increased service value of an employee to the City as exemplified by recommendations of the Department Head, performance record, special training, length of service, and other pertinent evidence.

An employee's pay increase shall not be affected by any leave of absence without pay, if the employee is off the payroll for less than one hundred sixty (160) consecutive hours. If the employee is off the payroll for one hundred sixty (160) consecutive hours or more, the total amount of time off shall be made up before the employee shall be entitled to such pay increase.

11.4 Y Rates

Any employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary or occupying a position in a class the salary rate or range for which is reduced, shall continue to receive his/her present salary. Such salary shall be designated as a Y rate. When an employee on a Y rate vacates his/her position, subsequent appointments to that position shall be made in accordance with Section 11.2.

11.5 Payment of Salaries (Bi-Weekly) - Pay Periods / Pay Days

11.5.1 Payment of salaries herein established shall be bi-weekly. Each pay period shall begin at 12:01 a.m. Sunday to and including 12:00 midnight Saturday two weeks following. Each payment shall be made not later than the Friday following the ending of each payroll period and shall include payment for all earnings during the previous payroll period.

11.5.2 In those cases when payroll checks are available for distribution on Thursday afternoon, the Auditor's Office shall notify payroll sections of departments with employees on graveyard shifts. The department shall be responsible for distributing the checks to its graveyard shift employees by the end of the shift Friday morning. This procedure will remain in effect until the City's payroll system is fully automated, at which

time payroll checks will routinely be made available to departments for distribution to employees by the end of the graveyard shift Friday morning.

- 11.5.3 Bi-weekly payment to full-time employees shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. Except as specified below in Section 11.5.5, the hourly rate for such employees shall be determined as follows:
 - 11.5.3.1 The hourly rate shall be the quotient of the annual salary (12 times the monthly salary specified herein) divided by 2080 hours.
 - 11.5.3.2 For employees on a thirty-seven and one half (37.5) hour week, the monthly salary shall be the quotient of the hourly salary times 1950 hours, divided by 12.
- 11.5.4 Bi-weekly payment to part-time employees in a class for which monthly salary rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. Except as specified below in Section 11.5.5, the hourly rate for such part-time employees shall be computed in the same manner as for full time employees.
- 11.5.5 Bi-weekly payment to intermittent employees in a class for which an hourly rate has been specified herein shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period. The hourly rate for such intermittent employees shall be as specified herein.
- 11.5.6 Bi-weekly payment to employees in a class for which a daily rate rather than a monthly rate has been herein established shall be made on the basis of the actual days worked during the bi-weekly pay period multiplied by the daily rate.
- 11.5.7 Bi-weekly payment to employees in a class for which an hourly rate rather than a monthly rate has been herein established shall be made on the basis of the hourly rate multiplied by the number of hours worked during the pay period.

11.6 Friday Bank Closures

On Friday bank holidays, City employees shall be paid in accordance with present paycheck procedures for City Holidays that fall on Friday. Paychecks shall be dated the date received by employee.

11.7 End of Year

For excess leave only, the end of the year shall be treated as the last day of the last pay period nearest March 31st.

11.8 Equity Studies

Two (2) lists of comparison jurisdictions are established. List One: Concord, Fremont, Richmond, Palo Alto, City of Santa Clara, San Leandro, Alameda County, San Francisco, Hayward, Oakland, and Vallejo. For Refuse only, Northern California Waste Management Systems and Waste Management (Oakland) will be reviewed. Other jurisdictions may be added as required by agreement between the parties. Job classifications which fall below the median for these jurisdictions may be reviewed. It is the policy of the City that within available funding limits, equity adjustments which are in the interests of the service will be considered.

11.8.1 Classification Review: Beginning no sooner than six months and no later than 9 months after ratification of this Agreement (June 17, 2018 to June 27, 2020), the City agrees to work with two representatives designated by the Union with the intent of completing a classification and compensation review of the Customer Service Specialist classification series. The Union believes that the classifications in his series have evolved substantially and warrant a classification and compensation analysis.

11.8.2 Parking Meter Maintenance Worker & Traffic Maintenance Worker: No sooner than one hundred and twenty (120) days after ratification of this Agreement (June 17, 2018 to June 27, 2020), and no later than nine (9) months after the ratification, the City agrees to work with two representatives designated by the Union to complete a compensation and classification review of the Parking Meter Maintenance Worker (Job Code 65050) and Traffic Maintenance Worker (Job Code 63080) classifications.

11.8.3 Tool Lending Specialist and Mail Service Aide: No sooner than one hundred and twenty (120) days after ratification of this Agreement (June 17, 2018 to June 27, 2020), and no later than nine (9) months after the ratification, Library management agrees to work with two representatives designated by the union to review the Tool Lending Specialist (Job Code 63010) and Mail Service Aide (Job Code 44010)

classifications service needs and make a joint recommendation on staffing and service levels to the Board of Library Trustees.

11.9 Anniversary Dates

Step increases shall be effective, for payroll purposes only, on the first day of the pay period nearest to the anniversary date. Personnel records will maintain actual dates and will be used to resolve any discrepancies or questions that may arise.

11.10 Living Wage

The City agrees to pay each of its direct employees an hourly wage of no less than \$18.33 effective the first full pay period in January 2021. The City agrees to pay each of its direct employees an hourly wage of no less than \$19.33 effective the first full pay period in June 2021. If the Living Wage increases beyond \$19.33, as outlined in the Berkeley Municipal Code effective July 2021, the City shall implement the increases the first full pay period in September 2021 and July 1st of each year thereafter.

SECTION 12: PAYROLL ERRORS

To ensure that system or other errors which affect an employee's pay are processed in an efficient and effective manner, the City shall notify the affected employee(s) as soon as practicable. Payroll errors detected by an employee shall, as soon as practicable, be communicated to the employee's Departmental Payroll Clerk. In the case of under payments, the Payroll Clerk shall submit the appropriate adjustments as soon as practicable.

Payroll errors identified by the Auditor will be communicated to the employee either directly by Auditor staff or through the Departmental Payroll Clerk. Under payments will be processed as soon as practicable.

In the event of an overpayment, the Auditor's Office will notify the employee of the nature and the amount of overpayment and will determine a reasonable repayment schedule and inform the employee of the schedule directly, or through the Department Payroll Clerk. The affected employee shall be given an opportunity to discuss the schedule of repayment and, if necessary, to request an alternative repayment schedule. The total overpayment of \$100 or more shall be recaptured at the rate at which the overpayment occurred but not less than \$50 per pay period. For a total overpayment of \$99.99 or less, the overpayment shall be recouped in two (2) equal amounts over two consecutive pay periods.

Overpayments shall not be recaptured at a more rapid rate than the rate at which the overpayment occurred, except by permission of the affected employee. Should an

employee with a repayment schedule leave the employ of the City before repaying the City the full amount of any overpayment, the outstanding debt shall be deducted from any salary and leave balances for which the employee would otherwise be paid upon separating from the City. Where an employee requests and the City concludes that s/he has justified a modified repayment schedule, the City may, in its sole discretion, permit exceptions to these standards.

The City and the Union agree that the City is authorized to recover any salary overpayment made to the employee from the employee's wages. In the event that (1) the employee does not respond within ten (10) working days of being notified of the overpayment, or (2) mutual agreement on the repayment schedule is not achieved within fifteen (15) working days of the employee being notified of the overpayment, the Auditor's Office will proceed to implement a reasonable repayment schedule.

SECTION 13: TEMPORARY, PROVISIONAL AND PROJECT BASED APPOINTMENTS, HIGHER CLASS ASSIGNMENT PAY AND TEMPORARY AGENCY EMPLOYEES

13.1 Higher Class Assignments

Department heads will work all employees within their classification. The City Manager or his/her designee shall approve higher-class assignments in advance.

13.2 Working in Higher Classification

Departments with prior approval from the City Manager or City Manager's designee, may assign an employee to work in a higher class provided the employee meets the minimum qualifications for the assignment. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. To be eligible for higher-class pay, the employee must meet the minimum qualifications and perform a majority of the duties of the higher class to qualify. Employees shall be compensated for higher class pay on an hour-for-hour basis. An approved annual blanket authorization must be on file for any employee who is so assigned. Employees meeting these requirements will be compensated at the lowest step of the higher classification that provides at least a five percent (5%) differential for the time worked.

13.3 Temporary Appointments

Temporary promotional vacancies that are available for a period of thirty-one (31) through ninety (90) days shall be filled from within the department that has the vacancy. The department may decide not to fill the vacant position at a promotional level. If the department decides to fill the vacant higher-class position, the selection shall be made from among those qualified departmental employees on the basis of merit, job knowledge and skills. If a selection cannot be made from

within department staff, the department shall contact the Human Resources Department for additional candidates from other departments and the temporary appointment shall be made from among those employees.

Temporary appointment opportunities exceeding 90 days in bargaining unit classifications will be noticed in *Berkeley Matters* prior to making the temporary appointment. In cases where timing or other circumstances prohibit the use of *Berkeley Matters*, career employees on eligible and/or transfer lists for the specific classification will be notified directly of the temporary appointment opportunity prior to appointment and the opportunity will be published on the City's Intranet.

When a temporary vacancy is to be filled in a classification for which there is an existing eligibility list, the City shall attempt to make the temporary appointment from that list. Provided there are City employee applicants meeting the minimum qualifications, temporary vacancies of greater than 90 days shall be filled by existing City of Berkeley employees from existing eligibility lists except as otherwise provided in Section 44 (Layoff). However, if no person is available for appointment, or if the hiring official is unable to select a person from the existing eligible list, the hiring official may select a qualified person from the labor market to fill the temporary vacancy.

13.4 Provisional Appointments

A career employee who is appointed to serve temporarily in a higher classification shall be designated as a provisional employee. No employee shall hold a provisional appointment in the same position for more than 12 months. The City Manager may extend the provisional appointment beyond this 12-month limitation with the mutual agreement of the parties. No provisional appointment in the same position will be extended beyond 24 months, except where the employee in the provisional appointment is replacing an employee who is on the extended approved leave. No employee shall hold a provisional appointment(s) in one or more positions for more than 24 consecutive months within a 30 consecutive month period, except where the employee in the provisional appointment is replacing an employee who is on an extended approved leave.

An employee who holds provisional status in a classification shall receive step increases in such classification as if the employee held permanent appointment thereto.

The City does not guarantee a permanent promotion to the employee working as a provisional employee. An employee who is removed from a provisional appointment, shall have the right to be reinstated to his/her former classification at the appropriate pay level, before the provisional appointment. The employee shall suffer no loss of classification seniority in his/her original classification as a result

of holding provisional status.

Upon career promotion to another class, an employee may request within 30 days to have any time served provisionally in the new class within the prior year credited to his/her class seniority.

13.5 Working in a Classification outside the Bargaining Unit

An employee provisionally appointed to a classification outside the bargaining unit shall work the work schedule and receive the salary of the classification of the provisional appointment. Such employees shall receive whatever vehicle assignments, subject to normal application and use procedures, which are associated with that higher position, and, if assigned in excess of 30 days, the employee shall be subject to the overtime provisions that apply to the higher-level classification. All the health and welfare benefits and all other terms and conditions of employment set forth in this agreement shall apply to an employee provisionally appointed to a classification outside the bargaining unit.

13.6 Temporary Assignment Training Pay

For training purposes, employees not meeting all of the minimum qualifications for a supervisory position may be temporarily assigned for a minimum of three (3) consecutive working days, to perform the duties of supervisor and will receive a five percent (5%) increase in their current salary.

13.7 Project Based Position Employee

An employment status of “Project Based Position” means a position, regardless of funding source, of limited duration not to exceed three years to be utilized to complete a project or for an external grant funded position whose funding is uncertain as to amount or duration. An employee receiving an initial appointment to such “Project Based Position” may be terminated no later than upon completion of the project or the duration of the external grant funding but in any case no longer than three years from the date of the original appointment. An employee receiving an initial appointment to a Project Based Position shall be fully benefited. In the event of a layoff under Section 44, employees holding “Project Based Positions” will be terminated without right of recall prior to the layoff of any career employee, provided that a qualified career employee is available to fill the position. An employee holding a “Project Based Position” shall not be covered by the provisions of Section 44 (Layoff) and may be terminated for cause at any time by the City Manager. An employee appointed to a Project Based Position will be subject to the provisions of Section 2.1 of the Agreement.

If a career employee is appointed to a “Project Based Position” the City will be permitted to fill the vacated position with another “Project Based Position” appointment.

13.8 Temporary Agency Employees

An employee hired through a temporary agency shall not be retained longer than six (6) months, unless the employee is replacing a career employee on leave of absence or on a temporary assignment to another department. In no case shall the said retention period exceed the duration of the absence. The City will not attempt to extend the six (6) month period by replacing or exchanging temporary agency employees. However, nothing shall preclude temporary agency employees from competing for positions in the career service.

SECTION 14: HOURS AND DAYS OF WORK

14.1 Rules

Hours and days of work shall be governed by rules established by the City Manager or designee. (At the present time, hours and days of work are as shown in Exhibit E (Hours and Days of Work).)

14.2 Community Service Officers Assigned to the Jail

Community Service Officers assigned to the Jail shall work shifts that are composed of eight (8) hours and fifteen (15) minutes each day. The shift shall include a thirty (30) minute lunch of which fifteen (15) minutes will be unpaid.

The City and the Union will continue to explore shift schedules that provide alternatives to the eight (8) hour and fifteen (15) minute shift.

14.3 Parking Division/Police Department

The regular workweek for Parking Enforcement Officers shall include Sunday. Parking Enforcement Officers may be required to work between the hours of 7:00 a.m. and 10: 00 p.m.; provided that regular shift premiums shall be applicable as set forth in Section 16, and shift selection shall be as set forth in Section 14.4, that is, Sunday work in the Parking Division will be assigned on the basis of inverse seniority unless more senior employees prefer to accept such work.

14.4 Shift Selection and Assignments

Within a given classification, shift assignments (Swing, Night and Day) shall first be offered to employees by classification seniority on a voluntary basis. In the event shift assignments are not filled voluntarily, such shift assignments shall be made on the basis of inverse classification seniority.

14.4.1 In Unit J, the selection of shifts, days off and assignments, may be directed in order to ensure appropriate coverage of male and female staff for management of the City Jail facility.

14.4.2 Types of Shifts:

- a. **Swing shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 5:00 p.m. and 12:00 midnight of each workday.
- b. **Night shift** means authorized work schedules regularly assigned in which at least four (4) hours worked are between the hours of 12:00 midnight and 7:00 a.m. of each workday.

- c. **Day shift** means any authorized work schedules assigned except rotating, swing, or night shifts as defined in this section.

14.5 Clerical Unit Work Schedule

For the Clerical Unit, a change in the daily work schedule that requires an employee to work beyond the regular work schedule shall not require the employee to flex his or her hours except by mutual consent of the employee and the supervisor. However, employees in work units that provide a six (6) or seven (7) day operation may be required to flex their work schedule, based on the needs of the work unit. Flexing of work schedule will be assigned on the basis of inverse seniority unless more senior employees prefer to accept such work. The required flexing of work schedules will be on a day-for-day basis. When an employee is required to work on a regularly scheduled day off, the department will provide the employee with an alternative day off in the same work week when the required flexing occurs.

In the event that the City changes a clerical employee's work hours on a permanent basis, the City will provide the employee notice at least thirty (30) calendar days in advance of the date of the change. For the purposes of this Section, the schedule change shall mean a change in the employee's work hours of at least one (1) hour. If the employee is unable to work the newly scheduled hours, the City will seek volunteers in the same classification in the Department or work area who are willing to work the newly scheduled hours. In the event that a volunteer exists, the new schedule shall be given to the volunteer. If no employee is able to work the new schedule, the City will offer the affected employee a transfer to a budgeted vacant position that is available to be filled as determined by the City Manager in the same classification in the City. If no vacancy exists, the employee's work hours will be changed as scheduled.

14.6 Flexible Scheduling

Employees shall be permitted to request variable working hours such as, but not limited to, 10 hours a day four days a week, job sharing, and working under a flexible arrangement. Flexible scheduling may also include the option of a one-half hour lunch break. This option shall be available in all departments in the City and will be considered seriously if all City functions within units can be accomplished through flexible scheduling.

14.7 Shift Trades - Community Service Officer

The Police Department policy on Shift Trades among sworn personnel shall be equally applicable among Community Service Officers.

14.8 Work Assignment

Each new employee shall be provided with a written description of his/her job class, and each supervisor shall discuss with the new employee the duties of his/her position as a part of the departments' orientation. Moreover, within 30 days of appointment to a new position and as part of the department orientation process, an employee in Representation Unit K1 or K2 may request a written description of the employee's major areas of responsibilities. The description of the employee's major areas of responsibilities may be amended from time to time based on the needs of the workunit and it is not intended to capture all duties that can be assigned to an employee that are within the scope of responsibility outlined in the employee's specific job classification.

14.9 Building Maintenance

For Building Maintenance Mechanics, Building Maintenance Mechanic Trainees, and Building Maintenance Supervisor: Hours of work will be adjusted effective January 7, 1990 to 37.5 hours per week. Monthly rate of pay adjusted to reflect actual hours.

Schedule of rotation and days off determined by the City, in the same general manner as currently applies to Electrical unit.

Effective June 29, 2008 each employee in the classifications of Building Maintenance Mechanic, Building Maintenance Mechanic Trainee and Building Maintenance Mechanic Supervisor shall have the option to retain a 37.5 hour work week schedule or to change his/her work schedule to forty hours per week with an increase in pay to reflect the additional hours. Additionally, any employee may increase to forty hours per week after July 1, provided that such change shall be made at the beginning of the pay period. An employee who has changed to a 40-hour workweek shall have a one-time option to return to a 37.5-hour workweek. If the employee exercises the option to return to 37.5 hours and then changes to a 40-hour workweek, the employee will remain at 40 hours per week for the remainder of his work time in the position. Any employee who is hired after June 29, 2008 will work a forty (40) hour per week schedule and will have no option to change his/her schedule to 37.5 hours.

The City and the Union may agree in writing to alternate work schedules other than those set forth in this agreement including a 9/80 work schedule which contains an 80 hour pay period with hours worked in 9 days. The City will take into consideration its operational needs, including the impact of potential overtime, in deciding whether to approve an alternate work schedule. However, such alternate work will not be unreasonably denied.

14.10 Daylight Saving Time

- 14.10.1 **Spring:** In the Spring when transitioning to Daylight Saving Time (DST), employees working during the one (1) hour transition from Standard Time to DST will be paid only for actual hours worked. Employees working on a shift which includes the one (1) hour transition may be granted an option by the Department Head or his or her designee, to work an additional hour or use compensatory time, floating holiday, or vacation to make up the lost work hour.
- 14.10.2 **Fall:** In the Fall when transitioning from DST, employees working during the one (1) hour transition will be paid for all hours worked including overtime at one and one-half (1½) times the straight-time rate of pay for hours worked in excess of the regular workweek as set forth in Section 15 of this Agreement.

14.11 Family Friendly and Environment Friendly Workplace

The City shall comply with the applicable provisions of the Berkeley Family Friendly and Environmental Friendly Workplace Ordinance 13.101 to members of this bargaining unit. As such, employees may request variable working hours such as, but not limited to, 10 hours a day, four (4) days a week, flexing start and end times, and working under a flexible arrangement. Management may approve, in advance, an employees' request to temporarily flex their work schedule between the hours of 6:00 a.m. and 8:00 p.m. on a particular day, or over a specific period of time, by adjustment to the employee's start time and end time, or lunch break. Any denial of an employee's request for flexible scheduling shall explain the denial in a written response that sets out a business reason for the denial.

14.12 Work Schedule Change

Except as provided in Section 14.5 (Clerical Unit Work Schedule) and/or under emergency action as provided in Section 15.6 (Natural Disaster/Declared Emergency), the City will provide employees with at least a two (2) week advance notice of a permanent work schedule change.

SECTION 15: OVERTIME

Employees required to work in excess of their basic workweek shall be compensated for such overtime services as follows:

15.1 Overtime Pay Eligibility and Rates

Except for employees working an Assumed Work Day (Section 18 - Assumed Work Day) all work in excess of eight (8) hours in any 24-hour period, which begins with the employees' scheduled or actual starting time, whichever is earlier, shall be paid for at one and one-half (1½) times the regular rate for the first four (4) hours of such excess and at two (2) times the regular rate for the balance of such excess. This provision shall not be applicable when excess hours are required by a schedule adjustment requested by the employee or part of a regular flextime schedule requested by the employee. Regular flextime schedules which include work in excess of 10 hours in any day must be approved by the Union prior to requesting such a schedule.

See Appendix A and Appendix B for the scheduling of overtime for Maintenance Chapter employees in the Streets and Sanitation and Solid Waste and Recycling Divisions of the Public Works Department.

15.1.1 Mandatory Overtime for Employees in Unit K1 and K2: Except as otherwise provided in Section 15.2 (Compensatory Time), when an employee in Representation Unit K1 or K2 is directed to work in excess of his or her basic work week, the employee shall be paid at the rate of one-and-one-half (1½) times the employee's regular rate of pay. Based on the needs of the work unit, the manager may offer the employee being directed to work overtime the option of earning Compensatory time in lieu of overtime pay, subject to the maximum accumulation requirement in Section 15.2 (Compensatory Time).

15.2 Compensatory Time

Compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half (1½) hours for each overtime hour worked up to a maximum of sixty (60) hours of such compensatory time.

Accumulation of compensatory time off in excess of sixty (60) hours may be allowed at the discretion of the Department Head. Utilization of compensatory time shall be determined by the Department Head with due regard for the wishes of the employee and particular regard for the needs of the service. As used herein, sixty (60) hours is equal to ninety (90) hours of time off work. In the event of layoff or

termination, the employee shall be compensated for all compensatory time accrued but still unused.

Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's Department Head.

Employees who have an accrued compensatory time bank shall be permitted, at the employee's option, to use such compensatory time in lieu of vacation time for any scheduled vacation days.

15.3 Payment Upon Termination

In the event that an employee resigns or is terminated, the employee shall be entitled to compensation for his or her accumulated overtime.

15.4 Work Week

For the purpose of computing overtime, the workweek shall be defined as beginning at 12:01 a.m. Sunday morning and ending at 12:00 midnight Saturday.

15.5 Emergency Overtime

Employees who are called from their living quarters for emergency work or duty on days other than normal work days or on normal work days outside of their regular work hours shall be paid emergency overtime compensation for actual time worked; provided, however, that in any case of emergency overtime as herein provided the minimum time for which such overtime compensation shall be paid shall be three (3) hours; and provided, further, that if such overtime work is performed prior to the beginning of the regularly scheduled work period and such overtime continues into such regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

In the event that the employee on scheduled standby is not called, and another employee has been called to perform the emergency overtime assignment, both the employee who performed the assignment and the employee on scheduled standby status will receive the minimum overtime compensation as provided in Section 15.5.

15.6 Natural Disaster/Declared Emergency

If an emergency is declared by the City, county, state or national authority:

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- 15.6.1 If an employee is called outside of normal working hours, the employee gets time and one half (1½) the normal rate of pay for the first whole shift regardless of the number of hours worked. If the employee is not called from home the regular rules apply (i.e., overtime for hours worked above eight in a day).
- 15.6.2 Thereafter: the first eight hours at regular rate and 7½% for hours worked between 5:00 p.m. and midnight; 10% for hours worked from midnight to 7:00 a.m. For hours greater than eight in a shift, the employee gets time and one-half (1½) the normal rate of pay but no shift differential on those hours above eight.
- 15.6.3 There will be no reduction in the number of hours in the regular work week schedule (either 32 for employees working a 37.5 hour work week or 40).

15.7 Clerical Unit Overtime and Scheduling

- 15.7.1 The parties recognize that employees may be required to work overtime from time to time and that employees may have personal constraints that limit the ability of the employee to work overtime.
- 15.7.2 The City will notify Clerical unit employees at least 5 days in advance of the need to work overtime. However, the parties acknowledge that there may be unforeseen, unpredictable circumstances which arise in which the City is unable to provide 5-day advance notice of the need for overtime. In such case the City will provide as much notice as possible of the needed overtime. The City will seek volunteers to perform the work. If no volunteers are available, overtime may be mandated based on the needs of the work.
- 15.7.3 The City will use flexible scheduling in the work unit to ensure coverage with the intent to limit overtime. The City shall solicit input from staff on flexible scheduling to set a schedule that works best for the employees and meets the needs of the division/department.

SECTION 16: PREMIUM PAY**16.1 Shift Differential**

- 16.1.1 **Swing Shift:** Employees who regularly work a full shift of eight (8) hours or more on swing shift as defined in Section 14.4.2 (Types of Shifts), which includes four (4) hours or more between the hours of 5:00 p.m. and 12:00 midnight, shall be paid their regular salary plus seven and one-half percent (7½%) of their monthly salary per month.
- 16.1.2 **Night Shift:** Employees who regularly work a full shift of eight (8) hours or more on night shift as defined in Section 14.4.2 (Types of Shifts), which includes four (4) hours or more between the hours of 12:00 midnight and 7:00 a.m., shall be paid their regular salary plus ten (10) percent of their monthly salary per month provided, however, that in the case of any such employee who is regularly assigned to such night-shift work for less than an entire work week, the additional payment shall be made only for the portion of the work week worked on the night-shift assignment.
- 16.1.3 **Mechanical Sweeper Operator Shifts:** Employees in the classification of Mechanical Sweeper Operator (Job Code 63090) who regularly work a combination of a "swing" and "night" shifts, which shifts include eight (8) hours or more and further include four (4) hours or more between either the hours of 5:00 p.m. and 12:00 midnight (swing shift), or the hours of 12:00 midnight and 7:00 a.m. (night shift), shall be paid in addition to their regular salary, ten percent (10%) of their regular salary for those periods said employees work a combination of "swing" and "night" shifts.

16.2 Standby - Units D

Except as provided below, employees in Unit D who are assigned to standby service shall be paid for such service an amount equal to ten (10) hours work during each week that they are assigned to such standby services at an overtime rate based upon their regular monthly salaries. For the purposes of this Section, week shall mean the seven (7) consecutive calendar days following assignment to standby service. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

Standby service shall mean being available for service outside of regular working hours at any time when called. If an employee assigned to standby service is not

available when called or is unable or fails for any reason to perform the service when called, the employee shall not receive the standby pay provided for herein. Employees absent from work on vacation leave, compensatory time or sick leave will not be eligible to be assigned to Standby service.

The standby pay provided for herein is a minimum guarantee to an employee assigned to standby service. An employee assigned to standby duty shall receive ten (10) hours of overtime compensation in addition to any overtime worked while on standby. The City shall provide the standby employee with a vehicle. Said employee shall be responsible for taking all reasonable steps to insure the safety of the tools and equipment on that vehicle. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

Scheduled Overtime during Standby: The employee who is on scheduled standby status may perform scheduled overtime tasks on a voluntary basis. The standby premium shall not be pro-rated. If an emergency call occurs during the time that the employee is performing scheduled overtime tasks that call shall be paid at the time and one-half rate and not at the call back rate set forth in Section 15.5. If other employees are concurrently performing scheduled overtime tasks, the Director of Public Works may, at his or her discretion, assign the work to employees present within the City performing the scheduled overtime tasks at the regular overtime rate of pay.

16.3 Standby - Units K-1 and K-2

With respect to employees in Units K-1 and K-2 only, the City agrees to arrange for standby compensation prior to any requirement that employees be assigned standby duty.

16.4 Emergency Standby – Unit J; Unit D Parking Enforcement Officers and Unit D Parking Enforcement Supervisors

Employees in Unit J and Unit D Parking Enforcement Officers and Unit D Parking Enforcement Supervisors who are assigned to Emergency Standby service by the department shall be paid or given compensatory time off for being placed on Standby status as follows:

16.4.1 An employee in Unit J; and Unit D Parking Enforcement Officer and Unit D Parking Enforcement Supervisor who is placed on Standby service by the department on his or her regular scheduled work day shall be paid for a minimum of one hour and at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on Standby status).

16.4.2 An employee in Unit J as well Unit D Parking Enforcement Officer and Unit D Parking Enforcement Supervisor who is placed on Standby service by the department on his or her regularly scheduled day off shall be paid for a minimum of two (2) hours at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on Standby status).

16.4.3 An employee in Unit J as well as a Parking Enforcement Officer and Parking Enforcement Supervisor in Unit D who is placed on Standby service as provided for in 16.4.1 and 16.4.2 above, is required to be available for service outside of regular working hours at any time when called and during the period of time as specifically assigned by the supervisor. If an employee assigned to Emergency Standby service is not available when called, is unable to respond, or fails for any reason to report for duty when called, the employee shall not receive the Emergency Standby pay provided for herein. In no case shall an employee be compensated for more than 24 hours at applicable rates in any one 24 hour period, unless the department head or his/her designee approves in advance.

16.5 Zero Waste Premium Pay

In the event the City permanently reduces and/or reallocates Zero Waste residential and commercial curbside collection routes such that the total number of routes is less than 27, only those Zero Waste employees working on routes that result in an increase in the number of stops shall be paid a 2.5% premium. At the time that the number of Zero Waste residential and commercial curbside collection routes is at or exceeds 27, no Zero Waste employee shall be entitled to the 2.5% premium provided for in this section.

Employees working a residential and collection curbside route as a second route or on overtime will not receive the 2.5% premium provided for in this section.

When Zero Waste proposes to reduce and/or reallocate residential and commercial curbside collection routes such that the total number of routes is less than 27, the City and SEIU will attempt to meet four (4) months prior to the effective date of implementing residential and commercial curbside collection route changes in order to confirm the number of affected employees that will receive the 2.5% premium. (ok 7-12-2021)

SECTION 17: SPECIAL ASSIGNMENT PAY

17.1 Bilingual Premium Pay

- 17.1.1 An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, routinely and consistently as part of his or her regular job assignment as determined by the City will receive a Bilingual Premium Pay Differential of 5%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 5% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.
- 17.1.2 An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, when either a) assigned by management, or b) at the request of the employee with the supervisor’s agreement, or, c) after a job audit and who must utilize these skills on an occasional basis will receive a Bilingual Premium Pay Differential of 2%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 2% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.
- 17.1.3 The bilingual premium will not be applicable under any circumstances except to an employee who possesses second language competency. Management reserves the right to test for second language appropriate competency prior to a Bilingual Premium Pay Differential.
- 17.1.4 The City may designate an employee to receive either the 5% or 2% Bilingual Premium Pay Differential on a temporary basis for a specified period provided the employee met the requirements contained in the first or second paragraph of this Section.

17.2 Mental Health Clinics Differential

Employees in Unit K-1 or K-2 who are regularly assigned to work in Mental Health Programs, in direct contact with clinic patients, shall receive a five percent (5%) differential. This Mental Health Clinics Differential will be reported to CalPERS as Hazard Premium Special Assignment Pay. However, any hours worked on

overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.3 Summer Youth Supervision Differential

Employees who supervise two or more Summer Youth or Court Assignees shall receive a five percent (5%) differential. This Summer Youth Supervision Differential will be reported to CalPERS as Lead Worker/Supervisor Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.4 Construction Equipment Operators Differential

Construction Equipment Operators shall receive a seven and one-half percent (7½%) differential for hours worked operating the D-8, the Tracked Front End Loader, the Low Boy Tractor Trailer and grader effective January 1, 1991. This Construction Equipment Operators Differential will be reported to CalPERS as Heavy/Special Equipment Operator Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.5 Training

17.5.1 **Training Differential:** Employees assigned in writing by the department head and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills (identified by departments in consultation with Human Resources) shall be compensated for hours actually worked training at five percent (5%) differential. This Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.5.2 **Public Safety Dispatcher Police Desk Training Premium:** Employees in the classification of Public Safety Dispatcher II and assigned in writing by the Chief of Police of his or her designee and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills on the Police Desk shall be compensated for hours actually worked training at ten percent (10%) differential. This Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section

20635.

17.6 Sewer Work Pay

Streets and Sanitation Division personnel assigned through annual designation to sewer work (any work in the sewer involving installing, repairing, rodding, and jetting) shall be paid a premium of ninety cents (\$0.90) per hour which premium shall be added to and considered a part of their pay. Personnel assigned intermittently to sewer work during regular duty hours shall be paid ninety cents (\$0.90) per hour premium pay for each regular hour worked that day for a minimum of eight (8) hours. Personnel assigned intermittently to sewer work during overtime shall be paid at time and one-half times the sewer premium pay. This Sewer Work Pay will be reported to CalPERS as Sewer Crew Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

17.7 Parking Enforcement Training

The City to pay 5% differential to Parking Enforcement Representative assigned to train new employees in lieu of Supervisor and Assistant Supervisor. This Parking Enforcement Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

17.8 Smog Technician License Premium Differential

Employees in the classifications of Mechanic, Mechanic Supervisor or Service Technician who obtain and maintain a valid California Basic Area Smog Technician License issued by the Bureau of Automotive Repair shall receive a 2% differential to normal base salary. This Smog Technician License Premium Differential will be reported to CalPERS as Mechanic Premium Educational Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

17.9 Special Response Team

An employee in Representation Unit J who is assigned as an active member of the Special Response Team (SRT) shall receive a five percent (5%) salary differential when involved in an active SRT incident. If an employee is assigned as a member of the SRT while on regular duty and not while on overtime, those hours worked as a SRT member on regular duty shall be reported to CalPERS as Hazard Premium Pay.

17.10 Longevity Pay

Effective June 28, 2009, the first full pay period after Union ratification and approval of the successor contract by the Council on its Regular Agenda, employees

completing ~~twenty-four (24)~~nineteen (19) –years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the ~~twenty-fifth (25th)~~twentieth (20) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay. ~~(ok 7-12-2021)~~

17.11 Roll Off Container Truck

An employee in the classification of Solid Waste Truck Driver who is assigned to operate the Roll Off Container Truck in the Solid Waste Division of the Public Works Department shall receive a differential of \$45 per month. This Roll Off Container Truck Differential will be reported to CalPERS as Heavy/Special Equipment Operator Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.12 Handling of Narcotics Evidence in the Police Department Property Room

A Community Service Officer and Community Service Officer Supervisor assigned to the handling of Police records of narcotics evidence in the Police Department Property Room will receive a differential of three percent (3%). This differential will be reported to CalPERS as Police Records Assignment Premium Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.13 Special Class Commercial Driver’s License Premium

Effective June 26, 2011 employees required to possess and maintain a valid California Class A or Class B Commercial Driver’s License as a condition of employment shall receive a three percent (3%) differential to base pay. This differential shall be reported to CalPERS as Special Class Driver’s License Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

17.14 Emergency Medical Dispatching

In the event Berkeley takes responsibility for emergency medical dispatching, the City and the Union agree to meet and confer over impacts on current terms and conditions of employment.

17.15 Commercial and Residential Route Refuse Collector Premium

Effective June 19, 2016, employees in the classification of Solid Waste Worker assigned to a Commercial or Residential Collection Route in the Zero Waste Division of the Public Works Department shall receive a two percent (2%) differential when assigned and performing duties on a Commercial or Residential Collection Route. Effective June 18, 2017, the differential shall be increased by an additional two percent (2%), for a total of four percent (4%). This Commercial

and Residential Route Refuse Collector Premium will be reported to CalPERS as Refuse Collector Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

17.16 Hazardous Substance Special Assignment Pay

Employees assigned to a Citywide coordinated response to perform clean up services of established encampments shall receive a three percent (3%) salary differential to base pay for actual hours worked. Employees shall be entitled to the 3% differential for actual hours worked upon: (1) employee being reassigned from their normal duties and (2) employees will only be assigned to perform clean-up coordinated through the City Manager's office or authorized department head. The employee will be notified that the work qualifies for this 3% differential prior to the work being performed.~~(ok 7-12-2021)~~

~~17.17 One-Time Dispatcher Retention Bonus~~

~~Effective upon ratification of this agreement, Public Safety Dispatcher II and Supervising Public Safety Dispatchers who have completed five (5) years of service in their classification shall receive the following one-time retention bonuses:~~

~~July 2019 — \$750 minus applicable taxes*~~

~~July 2020 — \$750 minus applicable taxes*~~

~~*Such amounts shall not be reported as PERSable compensation to CalPERS.~~

~~This Section 17.17 shall become null and void at the expiration of the contract on June 27, 2020 and shall not be included in a successor MOU unless negotiated and agreed to by both Employer and the Union.~~

17.17 The City shall provide a one-time lump sum payment of \$500.00 effective the first full pay period after Union ratification and Council adoption of this successor agreement and a \$500.00 one-time lump sum payment the first full pay period in January 2022 for only those employees listed in the tentative agreement reached during negotiations and in the Accounting Office Specialist III classification. Such payments are subject to applicable payroll taxes and will not be considered pensionable salary. At the time of each payment, employees listed in the tentative agreement below must be still employed by the City and must still be in the Accounting Office Specialist III classification. Employees working less than full-time (40 hours per week, 2,080 hours per year) shall receive a pro rata share of the one-time lump sum payment based on the number of hours they are assigned to work. For example, an employee working 30 hours per week, shall receive 75% of the one-time lump sum payment (\$375 effective the first full pay

period after Union ratification and Council adoption of this successor agreement and \$375.00 the first full pay period in January 2022).

SECTION 18: ZERO WASTE

18.1 Assumed Work Day

The City and the Union agree to continue the practice of the Assumed Work Day for employees in the Solid Waste Division of the Public Works Department assigned to residential and commercial collection routes and to Tractor Trailer Drivers assigned to transport solid waste to the landfill. For the purpose of this Agreement, an Assumed Work Day means an employee is assumed to have worked a shift of at least eight hours regardless of actual hours worked when assigned to residential and commercial collection routes or to a Tractor Trailer Driver assigned to transport solid waste to the landfill.

For employees assigned to an Assumed Work Day schedule, the following conditions apply with respect to compensation:

- 18.1.1 Overtime will be paid at one and one-half (1½) times the normal hourly rate for all hours worked over 40 in a week. For the purposes of this Section, the 40 hour work week includes all hours in a paid status except as provided in paragraph 4 below.
- 18.1.2 Overtime will also be paid for all hours worked on another regularly assigned residential or commercial collection route or different assignment on completion of the route assigned at the beginning of the shift. The rate of such compensation shall be determined by calculations made pursuant to the Fair Labor Standards Act (FLSA) and specifically 29 C.F.R. Section 778.312(a)(1).
- 18.1.3 If an employee is required to work on a Holiday as provided in Section 20.1.1 through 20.1.13 of this Agreement, the employee shall be compensated for overtime as provided in paragraphs 1 and 2 of this Section, and shall be compensated at the Holiday overtime rates set forth in Section 20.4 of this Agreement.
- 18.1.4 Those employees who are not regularly assigned to an Assumed Work Day schedule and who are given a temporary assignment to an Assumed Work Day schedule on a given day will be compensated on an Assumed Work Day basis as provided in this Section provided that at least 50% of the Assumed Work Day assignment has not been

completed on a residential or commercial collection route or any trip to the landfill after the second daily trip.

18.2 Zero Waste Route Bid

A Route Bid to determine Zero Waste Division collection route assignments will be conducted on a yearly or as needed basis due to the needs of the work unit. The parties acknowledge that if significant operational changes are occurring, for the purpose of maintaining continuity of service, the Route Bid may be delayed. Employees in a paid status at the time the Route Bid is issued may bid on a collection route in the Zero Waste Division.

A Route Bid Selection Criteria may include, but is not limited to the following:

- a) Seniority in Class
- b) Date of Hire (Drivers only)
- c) Attendance
- d) Safety Record

The parties agree to meet and confer over the impacts on route assignment as a result of either an elimination or creation of routes.

Details pertaining to how the Zero Waste Collection Route Bid is conducted are contained in Zero Waste Division Route Bid Selection Standard Operating Procedures regarding route bid selection.

18.3 Zero Waste Vacation Scheduling

Zero Waste shall designate an annual vacation schedule as outlined in the Zero Waste Division Standard Operating Procedures.

18.4 Solid Waste Worker / Driver Check-Off

Employees hired into the classification of Solid Waste Worker shall be provided with behind the wheel truck driver training within 180 days of appointment to the career classification.

18.5 Truck Driver Safety

Any driver who believes his or her truck is unsafe to operate shall immediately cease driving and notify his or her immediate supervisor. The driver shall be reassigned to another truck while his or her truck is out of service for safety reasons. The truck taken out of service for safety reasons, shall not be driven until cleared by the mechanic on duty. If the employee disagrees with the City's clearance of the truck for safety reasons and is directed to operate it, the employee or the Union on behalf of the employee may request a meeting with the City's Safety Officer or his or her designee within 24-hours of the directive. At the

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employee's request, such meeting may include the employee's Union representative.

LEAVES

SECTION 19: VACATION

19.1 Eligibility

All employees who have worked for the City six (6) months or more and have worked half-time or more in the preceding calendar year shall be entitled to vacation leave.

19.2 Scheduling

The times during the calendar year at which an employee shall take vacation shall be determined by the Department Head with due regard for the wishes of the employee and particular regard for the needs of the service. Wherever practical, employees working in the same classifications within a division shall be given preference of vacation time by seniority. If the requirements of the service are such that a Department Head cannot permit an employee within the department to take an annual vacation leave or any part of such leave within a particular calendar year, the City Manager may permit such employee to take the deferred vacation during the following year.

With advance supervisory approval, vacations may be in increments of one (1) hour.

19.3 Accrual

The vacation accrual rate shall be as follows:

Years of Service	Authorized Annual Vacation (in work weeks)	Vacation Leave Credits (in workdays per month of svc.)	Vacation Leave Credits (in hours earned per month of svc.)
Through the first three years of service	2	0.833	6.667
Fourth through eleventh years of service	3	1.25	10
Twelfth through seventeenth years of service	4	1.667	13.333
Eighteenth through twenty-fourth years of service	5	2.083	16.667

Years of Service	Authorized Annual Vacation (in work weeks)	Vacation Leave Credits (in workdays per month of svc.)	Vacation Leave Credits (in hours earned per month of svc.)
Twenty-fifth year of service and each year thereafter	6	2.5	20

19.4 Eligibility - First Two (2) Years

Each employee, during that portion of the calendar year in which the employee was originally appointed and during that next succeeding calendar year, shall be entitled to vacation leave credits at the rate of .833 work days for each calendar month of service. Each such employee shall be entitled to take, during these two (2) calendar years, only such annual vacation leave as the employee earns.

After two (2) years of service, employees may request, and upon approval, to take up to a maximum of two (2) weeks of their annual vacation, in advance of actual earning. Approval of requests for advance vacation shall be solely at the discretion of management.

19.5 Eligibility - Effects of Part-Time and Interrupted Service

For an employee who has worked on a part-time or intermittent basis or has been on leave of absence without pay for a total of six (6) months or more or who has been terminated and subsequently reemployed, the actual years of service with the City shall be used for the purpose of computing length of service in determining eligibility for vacation at the two (2), three (3), four (4), five (5) and six (6) weeks' rate.

19.5.1 Employees working on an intermittent or part-time basis who have worked half-time or more in the preceding calendar year without termination of employment, shall be entitled to a prorated vacation leave based upon the actual years of service with the City and upon the actual amount of time worked in the preceding calendar year.

19.5.2 For the purpose of computing length of service in determining eligibility for vacation at the two (2), three (3), four (4), five (5) or six (6) weeks' rate, time spent on extended military leave shall be counted as time spent in the service of the City.

19.6 Holidays during Scheduled Vacation

In the event one or more municipal holidays fall within a vacation leave, such holidays shall not be charged as vacation leave, and the vacation leave shall be extended accordingly. The provisions of this Section shall not apply to those

positions in which holidays, due to the necessities of public health and safety, are normal working days.

19.7 Maximum Accumulation

Employees may defer vacation earned to a maximum cumulative total of eight (8) weeks. An employee who has attained maximum accumulation may be required to take all excess earned vacation or receive pay in lieu thereof at the option of the City. Not later than October 1 of each year, the City will advise employees who have attained a maximum accumulation of vacation whether such excess earned vacation must be scheduled as time off prior to the end of the year. Such time off shall be scheduled in accordance with the provision of Section 19.2 (Scheduling).

The City shall require all employees to reduce their accrued vacation balances to no more than 320 hours, as of the last pay period in February of each year of this Agreement. To effectuate the requirement that employees not accrue more than 320 hours vacation leave, the parties agree that not later than November 15 of each year of this Agreement, the City will provide the Union and Department Heads with a report identifying all employees who have accrued two hundred and eighty (280) hours of vacation leave and appear in danger of exceeding the 320 hour limit. Employees who have accrued 280 hours of vacation leave, as of that date, will be advised by their supervisor that they must take vacation leave to reduce their vacation leave accrual by February of the following year.

Supervisors should be flexible in granting employee vacation requests to those employees above, or approaching the 320 hours limit, and further, that with regard to employees who are in danger of exceeding the 320 hour limit, no vacation request by such an employee shall be unreasonably denied. If an employee who is in danger of exceeding the 320 hour limit fails by December 31 of each year of this Agreement to schedule a vacation to be taken before the last pay period in February of each year of this Agreement, the City has the authority to direct the employee to go on vacation leave to reduce the employee's accrued vacation.

If, due to operational necessity, a department head denies an employee vacation leave and does not provide the employee with an alternate vacation date, and as a result causes the employee to exceed the 320 vacation leave limit, said employee shall nonetheless be entitled to use that vacation leave in the next calendar year to the extent necessary to reduce their accrued vacation to not more than 320 hours.

19.8 Effect of Military Leave or Break In Service

An employee who has returned from extended military leave or any other extended leave of absence without pay or who has been reemployed or reinstated shall be entitled, during the calendar year in which the employee returns to the City service,

to a prorated vacation based upon the total years of service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, vacation shall be as provided in this Section 19.

19.9 Payment / Reimbursement Upon Termination or Extended Leave

If after six (6) months of continuous service, an employee is terminated, or is granted an extended military leave or other extended leave of absence without pay, such employee or his or her estate shall be paid for vacation credits in excess of the actual amount of vacation leave taken or such employee or his or her estate shall reimburse the City for the actual amount of vacation taken in excess of vacation leave credits, as the case may be.

Upon termination, extended military leave or other extended leave of absence without pay, vacation leave credits shall be totaled, and the actual amount of vacation leave taken, including any that may have been taken during the year in which the termination, extended military leave or other extended leave of absence without pay occurs, shall be deducted from the total credits. If the credits exceed the actual amount of vacation leave taken such employee or his or her estate shall be paid for the excess of credits on the basis hereinafter set forth. If the actual amount of vacation leave taken exceeds the credits, such employee or his or her estate shall reimburse the City on the same basis.

The basis for such payment by the City or for such reimbursement to the City shall be as follows:

The employee's normal hourly rate at date of termination, extended military leave or other extended leave of absence without pay, and multiplied by the number of vacation hours accrued but not used.

Upon termination, extended military leave or other extended leave of absence without pay, payment for excess of vacation leave credits shall be made in a lump sum at time of termination, extended leave without pay, or as soon thereafter as possible; provided, however, that an employee may elect to use excess vacation leave credits prior to termination, extended military leave or other extended leave of absence without pay, to the extent permitted by this Section 19 and receive a lump sum payment for the balance of vacation leave credits, if any. Notwithstanding the foregoing, accumulated but unused vacation credit at the time of retirement shall be paid off in a lump sum.

SECTION 20: HOLIDAYS

Contingent upon agreement by all Employee Bargaining Units, the parties agree that the Lincoln Holiday listed in 20.1.3 shall be eliminated and that Cesar Chavez Day – observed on March 31, or on the Monday or Friday closest to March 31 if it falls on a Saturday or Sunday would be added instead. (ok 7-12-2021)

20.1 Recognized Holidays

Recognized holidays for employees in Representation Units D, J, K-1, and K-2 shall be:

- 20.1.1 New Year's Day
- 20.1.2 Martin Luther King, Jr.'s Birthday (3rd Monday of January)
- 20.1.3 Lincoln's Birthday
- 20.1.4 Washington's Birthday - observed on the 3rd Monday in February
- 20.1.5 Malcolm X's Birthday - observed on the Monday or Friday nearest May 19
- 20.1.6 Memorial Day
- 20.1.7 Juneteenth National Independence Day - observed on the Monday or Friday, nearest to June 19
- 20.1.~~87~~ Independence Day
- 20.1.~~98~~ Labor Day - observed on the first Monday in September
- 20.1.~~109~~ Indigenous Peoples' Day - observed on the second Monday in October
- 20.1.~~110~~ Veterans Day
- 20.1.~~124~~ Thanksgiving Day
- 20.1.~~132~~ The day after Thanksgiving Day
- 20.1.~~143~~ Christmas Day

20.2 Paid Status

In order to be eligible for holiday pay, an employee must be on paid leave status on his or her regularly scheduled workday before the holiday.

20.3 Floating Holidays

Effective January 1, 1988, employees shall be granted three (3) floating holidays each calendar year.

Employees in the competitive service who have worked for the City six (6) months or more shall be granted three (3) floating holidays each calendar year. In the first calendar year of employment, employees shall be granted pro rata floating holidays as follows: Hired January 1 through April 30 – 3 days; hired May 1 through August 31 - 2 days; hired September 1 through December 31 - 1 day. Employees may take floating holidays in one-hour increments.

20.3.1 Additional Floating Holidays

For employees who were required to remain in the workplace from March 17, 2020 – June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the MOU. The following classifications which, due to the nature of the assignment, require backfill, employees will be paid a stipend in the amount of the earned floating holiday hours up to a maximum of 32 hours the first full pay period in August 2020:

Solid Waste Drivers, Solid Waste Workers, Long Haul Drivers, Community Services Officer, Public Safety Dispatchers I/II, and Supervising Public Safety Dispatchers.

City will use a specific pay code for these additional floating holiday hours that will be available until June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not be used towards CalPERS retirement service credit as outlined in section 43.7.5 of the Maintenance and Clerical MOU.

20.4 Effects of Work Week

Employees whose workweek is Monday through Friday shall be allowed all holidays with pay which fall within such work week. Those employees whose work week is other than Monday through Friday shall be entitled to the same number of holidays, with pay, during each calendar year as are allowed to employees whose work week is Monday through Friday. The procedure for allowing holidays for employees whose workweek is other than Monday through Friday shall be established by the City Manager.

20.5 Compensation for Holiday Work

An employee required to work on any day which is a holiday for employees whose work week is Monday through Friday shall be paid for the number of hours worked during such day at the rate of one and one-half (1½) times the straight-time rate, based upon the employee's regular monthly salary, or shall be granted compensatory time off in an amount equal to one and one-half (1½) times the number of hours worked on such holiday. Any employee who works on Christmas Day or Thanksgiving Day shall be paid double time for that day. The hours worked on such a holiday and paid at the rate herein provided shall not be credited in computing the hours worked in the week for overtime purposes.

The holiday pay provided for shall be in addition to an employee's regular salary. In the event that the time worked on such a holiday is also overtime, as provided in Section 15 of this Agreement, payment will be made for the hours worked either

as overtime under said Section 15, or as holiday pay under this Section 20, but will not be made under both Sections.

SECTION 21: SICK LEAVE

21.1 Eligibility

Any employee shall be entitled to take sick leave with full pay in case of sickness, disability, or serious illness within the immediate family of the employee in accordance with the provisions of Sections 21.2 (Accrual) to 21.6 (Family Sick Leave), inclusive.

21.2 Accrual

Each employee shall be credited with one (1) working day of sick leave with full pay for each month of service.

For the purposes of this Section 21, a month of service shall mean thirty (30) consecutive calendar days in the case of employees working on full-time or part-time basis, and shall mean 173 hours of work in the case of employees working on an intermittent basis.

21.3 Use - Part-Time and Intermittent Employees

An employee working on a part-time basis shall be entitled to use earned sick leave only on a pro rata basis; for example, if an employee works half time the employee shall be paid for time off on sick leave on a half-time basis.

An employee who works on an intermittent basis shall be entitled to use earned sick leave only for those days on which the employee would have worked if the employee had not been sick; provided, however, that an employee working on an intermittent basis who works only when called shall be entitled to use earned sick leave only when the employee becomes sick after reporting to work in response to such call.

21.4 Accumulation / Cancellation / Restoration / Payout

21.4.1 Such sick leave as provided in Section 21.2, when not used shall be cumulative; but the accumulated unused period of sick leave shall not exceed two hundred (200) working days, regardless of the length of service. When the maximum of two hundred (200) working days has been reached, and there after part of said maximum has been used, the used part of said maximum may subsequently be replenished at the applicable rate provided in Section 21.2.

21.4.2 Except as otherwise provided below, all accumulated sick leave shall be canceled when an employee terminates or is terminated, except that employees retiring or voluntarily terminating with a vested pension and at least twenty (20) and not more than twenty-eight (28) years of service shall be entitled to receive payment at retirement or termination with a vested pension of thirty eight percent (38%) accumulated unused sick leave days, but not in any case more than thirty eight percent (38%) of the two hundred (200) day maximum accumulation. Employees who voluntarily separate from service with a vested pension and at least twenty-eight (28) years of benefited City of Berkeley service shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred unused sick leave days. The employee may choose to convert unused sick leave to retirement credit as provided by CalPERS in Government Code Section 20965.

The City has established an Internal Revenue Code Section 401(a) plan and trust agreement to address the liquidation of sick leave at time of retirement and has received a Determination Letter and a Private Letter Ruling on the plan and trust agreement. This provides employees with an irrevocable option to defer accrued but unused sick leave at time of retirement into a 401(a) plan or be paid out the balance of the accrued but unused sick leave less withholding of applicable federal and state taxes.

21.4.3 Any employee retiring on permanent disability arising out of and incurred in the course and scope of his employment with the City shall be entitled to receive payment at retirement for thirty eight percent (38) of accumulated unused sick leave days, but not, in any event, more than thirty eight percent (38%) of the two hundred (200) day maximum accumulation. Employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City with at least twenty-eight years of benefited service shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred unused sick leave days.

21.4.4 Employees who regularly work one-half ($\frac{1}{2}$) time or more and who have attained the two hundred (200) day maximum sick leave accumulation shall be entitled to receive payment for one-third ($\frac{1}{3}$) of the first twelve (12) days of sick leave days, or if earning sick leave at the rate of two working days for each month of service, one-third ($\frac{1}{3}$) of the first twenty four (24) days of sick leave days, for which they become eligible, do not use and would otherwise forfeit because of the two hundred (200) day

maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar-year basis, and payment for such sick leave for any calendar year shall be made no later than January 22nd of the following year. Such payment shall be made at the employee's salary rate in effect on the preceding December 31st and shall be made only in units of whole days and will not be made for any fraction of a day. However, the liquidation of accrued sick leave at time of retirement as provided in Section 21.4.2 will not result in a payout of accumulation of sick leave as provided in this Section.

- 21.4.5 Accumulated sick leave which has been canceled by reason of an employee's layoff in accordance with Section 44 shall be credited back to such employee if the employee returns to City employment within three (3) years of such layoff.

21.5 Purpose / Definitions

Sick leave shall not be considered as a privilege which an employee may use at the employee's discretion, but shall be allowed only in case of sickness or disability or in the case of serious illness within the immediate family of the employee.

21.6 Family Sick Leave

Not more than fifteen (15) working days (120 hours) in any calendar year may be taken as sick leave because of the illness of a member of the employee's immediate family. The immediate family of an employee, for the purpose of this Section, shall be defined as: a dependent residing in the employee's household or parent, spouse, son or daughter, domestic partner or niece or nephew residing in the employee's household.

21.7 Bonus for Unused Sick Leave

For every six (6) months of perfect sick leave attendance, the employee will receive eight (8) hours of bonus time. This bonus time will be prorated for part-time employees. Such bonus time can be used for any leave purpose covered by this Agreement. Such bonus time shall be counted as vacation leave credits for purposes of determining eligibility for carry-over and liquidation at time of termination of employment. Such crediting shall occur no later than 45 working days after having been earned.

21.8 Injury Incurred In Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that such injury is covered by the Workers' Compensation laws of the State of California, or other provision for payment for time off because of such injury is made by such other employer. In the event such injury is not covered by the Workers' Compensation laws of the State of California,

and no other provision for payment for time off because of such injury is made by such other employer, sick leave in accordance with the provisions of this Section shall be allowed only if such outside employment has been approved by the City.

21.9 Notice Required

In order to receive compensation while absent on sick leave, the employee shall notify his/her Department Head prior to or within four (4) hours after the time set for beginning his or her daily duties, or as may be approved by the Head of his or her department. The employee will make every reasonable attempt to directly contact his or her designated supervisor within one hour of beginning of shift.

21.10 Absenteeism / Sick Leave Abuse

The City may establish a reasonable program for the control of abuse of sick leave and absenteeism, subject to Union review and comment.

21.10.1 The Union and the City agree to meet during the term of this 2015 through 2018 agreement, beginning no later than 90 days after Union ratification and Council approval on its regular agenda, on the City's practice with regard to the control of abuse of sick leave and absenteeism. This Section 21.10.1 shall sunset as of June 16, 2018.

21.11 Calculations

All sick leave shall be calculated upon actual paid hours. This provision shall go into effect upon implementation of necessary data processing changes.

21.12 Voluntary Leave Exchange for Catastrophic Illness:

21.12.1 Recovery Time Transfer is that system whereby an employee grants time from earned compensatory or vacation leave to another employee. Such transfer of time shall be limited to situations where the recipient of the transfer is, by reason of illness or injury, threatened with the loss of earnings due to his/her exhaustion of employment benefits. Such time transfer request must be in writing, and subject to the approval of the City Manager/Director of Library Services/Executive Director of the Rent Board. Such approval shall not be unreasonably denied. Such transfer shall be credited to the recipient at the donor's rate of pay. Recovery Transfer Time will not be used for industrial injuries or illnesses. The use or receipt of Recovery Transfer Time shall not preclude possible medical separation of the recipient employee. The City reserves the right to require medical verification by a qualified medical practitioner of the recipient employee's medical condition. The City may transfer an employee receiving Recovery Transfer Time into another position in the same classification.

- 21.12.2 An employee may donate accrued but unused sick leave as Recovery Transfer Time subject to the following conditions:
- a. The employee donating sick leave must maintain a sick leave balance of at least 120 hours after the donation of leave for Recovery Transfer Time. An employee donating sick leave coincidentally with terminating employment with the City shall be limited to a sick leave donation of no more than forty (40) hours regardless of the sick leave donation option(s) used.
 - b. An employee may donate compensatory time off and/or vacation leave time; or
 - c. An employee may donate up to forty (40) hours of sick leave per calendar year and be charged hour per hour for each hour of sick leave donated; or,
 - d. After the first forty (40) hours of sick leave are donated, an employee may donate sick leave but the employee will be charged two hours of sick leave for each hour of sick leave donated for use as Recovery Transfer Time.

21.13 Additional City Emergency Paid Sick Leave Allocation

The City shall provide an additional 80 hours of emergency paid sick leave to be used for COVID-19 related reasons as listed in the Emergency Paid Sick Leave Act. Part-time employees receive a prorated number of hours. In order to use this additional City emergency paid sick leave, the employee must first exhaust all hours that they received under the Emergency Paid Sick Leave Act. The City will use a specific pay code for this additional emergency paid sick leave and these additional hours will be available until June 30, 2021. These additional 80 emergency paid sick leave hours shall have no cash value and may not be used towards any CalPERS retirement service credit as outline in section 43.7.5.

SECTION 22: WORKERS' COMPENSATION

Workers' Compensation payments shall commence according to law. Payments under the Workers' Compensation law for temporary disability, or a recurrence thereof, arising out of and in the course of employment, shall from the date of injury (DOI) be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability pay for up to five (5) years from the DOI, but shall not exclude any salary adjustment to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under State Law and the City will cease to pay

the difference. Temporary disability payments plus the moneys paid under the City's salary continuation program shall be equivalent to the employee's regular pre-disability pay. However, salary continuation payments above the statutorily required temporary disability payments shall not be reported by the City to CalPERS as compensation. In determining the employee's pre-disability pay the City may use either pre-disability net or gross pay based on administrative capabilities. This decision shall be applied uniformly and is not intended to reduce salary continuation benefits below those in effect under the prior Agreement.

22.1 Salary Continuation Benefit

1. New Accepted Claim with Overlapping Previously Accepted Injury - Where an Employee sustains a subsequent industrial injury as part of a new accepted workers' compensation claim that includes a previously accepted body part in the same five (5) year period, Employee shall be entitled to a period of time not to exceed 183 days of Salary Continuation Benefits. (~~ok 7-12~~)
2. New Accepted Claim with No Overlapping Previously Accepted Injury - Where an Employee sustains another industrial injury resulting in a new accepted workers' compensation claim within the same five (5) year period that does not include a previously accepted body part, the Employee's new accepted claim shall be entitled to a period of time not to exceed 365 days of the Salary Continuation Benefit. (~~ok 7-12~~)
3. New Accepted Claim for Same Previously Accepted Injury after Five (5) Years - Where an Employee sustains an industrial injury to a previously claimed body part after five (5) years from the initial Date of Injury, the Employee shall be entitled to a new period of time not to exceed 365 days of the Salary Continuation Benefit. In effect, after five (5) years from the initial Date of Injury, the benefit resets with respect to a previously claimed body part. (~~ok 7-12~~)
4. Workers' Compensation Medical Appointments and Salary Continuation - For the purposes of the Salary Continuation Benefit, effective January 1, 2019, the City shall calculate absences from work to attend medical appointments for the treatment of an accepted industrial injury in one (1) hour increments for the purposes of running against the maximum 365 days of Salary Continuation. (~~ok 7-12~~)

SECTION 23: STATE DISABILITY INSURANCE

State Disability Insurance Integration: Any employee who is absent due to personal illness for more than seven (7) days (or for any period of time if hospitalized) may apply for State Disability Insurance benefits. Application forms shall be available from Human Resources.

The City shall integrate the employee's pay with the employee's State Disability benefits upon receipt of the "Notice of State Disability Claim Filed" in the following way:

- 23.1 The City will determine the weekly State Disability Insurance benefit amount based on the amount of wages earned with the City of Berkeley in the State Disability Insurance base period.
- 23.2 Where employee has accrued sick leave, the weekly benefit will be subtracted from the employee's normal weekly wage and the amount necessary to bring the total of State Disability plus wages to 100% will be deducted from the sick leave and paid on normal City payroll.
- 23.3 When employee receives State Disability Insurance check, he or she will contact payroll if the amount of the benefit is anything other than the maximum amount and payroll will make up the difference from sick leave, vacation, or comp time if the employee has any accrued to use for this purpose.

Any employee entitled to State Disability Insurance shall receive in addition thereto such portion of his or her accumulated sick leave as will meet but not exceed, the standard earnings of the employee for his or her normal work week, up to a maximum of five (5) days.

- 23.4 An Employee may integrate his/her vacation or comp time with State Disability Insurance as set forth above. If an employee wishes to exercise this option, he/she must notify the City prior to exhausting his/her sick leave integration.

SECTION 24: BEREAVEMENT LEAVE

In the case of death within the immediate family of an employee such employee shall be entitled to remain absent from duty with pay in order to grieve the passing of a loved one, for a period not exceeding three (3) working days, or in the case of a funeral or memorial service conducted out of the State of California, for a period not exceeding five (5) working days. Bereavement leave need not be taken in consecutive days but shall be taken within

twenty (20) working days of the death of the family member. The immediate family of an employee, for the purpose of this Section, shall be defined as a dependent or wife, husband or domestic partner, mother, father, sister, brother, child, grandmother, grandfather, mother-in-law father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law and grandchildren, aunts and uncles.

In order to be eligible for Bereavement Leave as noted above, employees are required to complete and submit the City of Berkeley Bereavement Leave Statement as provided in the City policy. Employees shall not be required to provide an obituary.

Leave of absence with pay because of death in an employee's immediate family is allowed solely for the purpose of participating in the grieving process, and such leave shall not be charged against vacation or sick leave which an employee may be entitled to, but shall be in addition thereto.

In special cases, with the approval of the Department Head, the City Manager may grant a death leave to allow an employee to attend funeral or memorial services because of the death of a person not included within the definition of the immediate family.

SECTION 25: MILITARY AND MARITIME LEAVE

Military and Maritime Leave shall be governed by the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and any regulations promulgated to implement the Act, and the California Military and Veteran's Code.

SECTION 26: PARENTAL LEAVE

A continuous leave of up to one year will be granted to any employee with one (2,080 hours) or more years of employment with the City (or equivalent in the case of part-time employees) upon the birth of a child or the adoption of a child who is five (5) years or younger, providing that:

- 26.1 the one year parental leave must commence no later than thirteen (13) months from the date of birth or adoption and must expire no later than twenty-five (25) months from the date of the birth or adoption, and
- 26.2 approved parental leave shall not be deducted from the Seniority Service Date, and

26.3 to be eligible to exercise their rights under this Section, employees must provide thirty (30) working days notice prior to the anticipated commencement date of the parental leave, when possible.

The employee, at his or her option, may request that all or any portion of sick leave (up to a maximum of two hundred (200) days) or vacation leave that he or she has accumulated be paid in the same manner as it would if he or she had been absent due to illness or on vacation during the leave. In the event both parents are employed by the City, nothing in the Personnel Rules and Regulations shall prohibit both employees from taking simultaneous parental leave.

The foregoing leave shall be granted upon medical certification of pregnancy or the presentation of legal evidence of adoption.

During approved parental leave, after all earned leaves (except sick leave) are exhausted, the City agrees to maintain life and health insurance coverage for the duration of the approved parental leave, subject to any regular participation requirement of the employee. Thereafter the City agrees to continue coverage for the employee at the employee's expense.

SECTION 27: LEAVE OF ABSENCE WITHOUT PAY

27.1 Request

Upon request of the employee, a Department Head may grant a leave of absence to an employee within his/her department without pay for a period not to exceed fifteen (15) working days. No leave without pay shall be granted for more than fifteen (15) working days, except upon the written request of an employee and approval of the City Manager or designee. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge. Employees shall, when possible, return to their original position upon return from an approved leave without pay.

27.2 Union Training Leave

27.2.1 A union training leave without pay shall be granted at the request of an employee and the Union for the purpose of attending a training course sponsored by the Union. The maximum duration of such leave shall not exceed two (2) consecutive payroll periods in a calendar year. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge.

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- 27.2.2 Conditional upon prior approval and upon receipt of certification of completion, the City shall reimburse an employee who is an elected official or steward of the Union for up to one half of his/her time spent in such training at the employee's permanent rate of pay, not to exceed twenty hours of paid leave in a calendar year.
- 27.2.3 Time spent by Union officials in retreats provided for in Section 6.5 (Official Attendance at Meetings) of this Agreement shall be counted toward the above 20 hour limit but may not be subject to the provision for payment of only half of the total time.

27.3 Eligibility

No leave of absence shall be granted to any employee until the employee has utilized all accrued vacation time and any other time owed to the employee, except sick leave.

If the absence without leave is due to reasons for which the employee would be eligible for sick leave, then all sick leave must be exhausted first as well.

SECTION 28: JURY DUTY LEAVE

An employee who is called or required to serve as a trial juror shall be entitled to be absent from work with pay during the period of jury duty or while required to be present in court as a result of a call to jury duty. Employees are required to submit a written proof of jury duty service issued by the court in order to receive payment for Jury Duty Leave. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any unusual constraints (e.g., time to call in, time to report for jury service) made by the court that affect the employee's ability to simultaneously fulfill his or her jury duty service and employment obligations, and the supervisor will attempt to accommodate the employee based on the operational needs of the department. Absence from work to perform jury duty service shall apply to employees who work swing and graveyard shifts for those days on jury duty. Employees who serve jury duty on their days off shall be granted an equivalent number of days off during their normal workweek. The employee will keep any payment received for jury service including mileage reimbursement.

28.1 Court Time

The City will guarantee a minimum of four (4) hours pay for every court appearance required by an employee in the conduct of official City of Berkeley job duties on the employee's scheduled day off and four (4) hours minimum if on a workday but outside scheduled working hours. In addition, employees assigned to court phone standby in the conduct of official City of Berkeley job duties will be compensated

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by earning recovery time as follows: Duty day, outside of scheduled working hours, one hour minimum recovery time and hour for hour thereafter. Day off, two hour minimum recovery time and hour for hour thereafter.

HEALTH AND WELFARE BENEFITS

SECTION 29: HOSPITAL-MEDICAL AND DENTAL COVERAGE

29.1 Health Insurance

The City agrees to extend all medical and dental benefit coverages to dependents of City employees up to the date of their 26th birthday.

29.1.1 The City shall pay for the cost of health insurance coverage for employees who have such coverage under any group health insurance plan authorized by the City Council. If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for medical benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

29.1.2 The maximum amount the City shall be required to pay for medical insurance premiums shall be the applicable Kaiser S-1 Plan rate (i.e., single party, two party, or family), regardless of the City sponsored health plan selected by the employee.

29.1.3 For employees in a probationary or career benefited status as of January 1, 2003, the City will continue to pay 100% of the health care premium costs (employee and any dependents) for the health plan the employee is enrolled in as of this date as long as the employee remains employed in the bargaining unit. After January 1, 2003, if the employee transfers health coverage to a different health plan, the employee will assume responsibility for paying the difference, if any, between the Kaiser monthly premium rate (i.e., single party, two party, or family) and the plan chosen by the employee from that date forward. For these employees who were grandfathered under this section 29.1.3, effective April 1, 2016, the City will continue to pay 100% of the health care premium costs (employee and any dependents) for the Sutter Health Plus HMO plan as long as the employee remains employed in the bargaining unit. As stipulated above, if the employee transfers from Sutter Health Plus HMO to a different health plan, the employee will assume responsibility for paying the difference, if any, between the Kaiser monthly premium rate (i.e., single party; two-party; or family) and the plan chosen by the employee from that date forward.

29.1.4 **Medical Plan for Part-Time Employees:** Effective July 1, 2011, the

City will pay 75% of the cost of the medical plan which is fully paid for full-time employees for those part-time employees who work 20 to 29 hours per week. The City will pay 100% of the cost of the medical plan which is fully paid for full-time employees for those part-time employees who work 30 or more hours per week.

Meet and Confer: The Parties agree to meet and confer commencing no sooner than January 1, 2017. This negotiation shall be on methods to contain or reduce the City's health benefit costs and/or preventing that the City be required to pay any penalties associated with the Excise Tax, including but not limited to a new and/or replacement health plan. This meet and confer process will be subject to normal rules of collective bargaining, including applicable impasse, strike or lock-out procedures.

29.2 Dental Insurance

The City shall provide a dental care program for employees.

Effective January 1, 1995, benefits provided under the Dental Program shall be increased to an annual limit of \$2,000 for dental work and a lifetime limit of \$2,000 for orthodontics. The co-insurance rate shall be ninety percent (90%). If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

29.2.1 **Dental Plan for Part-Time Employees:** Effective July 1, 2011, the City will pay 75% of the cost of the dental plan which is fully paid for full-time employees for those part-time employees who work 20 to 29 hours per week. The City will pay 100% of the cost of the dental plan which is fully paid for full-time employees for those part-time employees who work 30 or more hours per week.

29.3 Part-time Employees

Part-time employees who work 30 or more hours per week will receive 100% of the cost of the medical plan which is fully paid for full-time employees; for those part-time employees who work 20-29 hours per week, the City will pay 75% of the cost of the medical plan which is fully paid for full-time employees.

29.4 Flexible Spending Account

The City shall establish an Internal Revenue Code Section 125 Flexible Spending Account that allows an employee to elect pre-tax deductions from salary for the purpose of paying allowable medical expenses. Such plan shall be established no later than November 1, 2008.

29.5 New Providers

The City shall make reasonable efforts when contracting with any new providers for hospital and medical plans to contract with those providers which provide coverage for all dependents residing in the employee's household.

29.6 Medical and Dental Benefits

Medical and Dental benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status.

29.7 Discipline and Treatment

The union may request, where merited, on a case by case basis, that pending disciplinary action be held in abeyance pending successful completion of a treatment program by the employee, and thereafter as long as the employee maintains a positive performance and participates in an ongoing recovery program.

29.8 Health Insurance In-Lieu Payment Effective January 1, 2016

Effective January 1, 2016, for employees who show proof of alternate medical coverage, the City will compensate the employee \$576 per month, prorated for less than full time benefitted employees. In order to comply with FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments. (ok 7-12)

SECTION 30: GROUP LIFE INSURANCE

The City shall continue to provide group life insurance, by a carrier of the City's choice, for each employee in the amount of \$25,000 with a standard accidental death and dismemberment provision of a like amount. In addition, employees may purchase additional life insurance in increments of \$10,000 up to a maximum of \$300,000 at a rate offered by the City's insurance carrier and subject to any medical exam as required by the insurance carrier.

SECTION 31: RETIREE MEDICAL COVERAGE

The City and Union have agreed that the City will make available retiree health insurance coverage under certain terms and conditions described below. This retiree medical benefit shall be referred to as Plan Z2B Cap 3. The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

The City will begin to provide the retiree medical coverage set forth in this Section on July 1, 2000. An employee's entitlement to any and all benefits provided by the City under this retiree medical coverage plan are subject to the funding limitations set forth in subsection 31.9 (City Funding of Retiree Health Benefits).

31.1 Amendment of Retiree Health Premium Assistance Plan VI, effective June 28, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after July 5, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of the successor Memorandum of Understanding, the City shall amend the Retiree Health Premium Assistance Plan VI (For Service Employees International Union, Local 1021 Maintenance and Clerical Chapters) as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree and/or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City and the Union agree that the City will also amend the Retiree Premium Assistance Plan VI to allow eligible retirees who retired prior to July 5, 2015 to enroll in a non-City sponsored health plan.

31.2 Eligibility

An employee is eligible for the retiree health insurance coverage set forth in subsection 31.3 (Pre Age 65 Retiree Health Insurance) below if he/she meets all the following criteria:

- 31.2.1 retires on or after July 1, 2000,
- 31.2.2 is vested with CalPERS,

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- 31.2.3 has at least eight (8) years of CalPERS qualifying service with the City,
- 31.2.4 is at least age 55.

31.3 Pre Age 65 Retiree Health Insurance

Beginning July 1, 2000, the City shall make available health insurance coverage to the employee and his/her spouse or domestic partner. The City will pay on the employee’s behalf no more than \$181.56 per month for an employee electing single party health coverage and no more than \$363.12 per month for an employee electing two-party coverage. The actual monthly amount of money the City will contribute on the employee’s behalf will be based on the employee’s total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percent of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

Employee will pay the difference between the City’s monthly contribution and the actual monthly insurance premium charged by the health plan he/she has elected for retiree medical coverage. If during the term of this Agreement, the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year’s contribution. No increases in the amount the City contributes shall occur before July 1, 2001. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

31.3.1 The parties agree that within 45 days of the implementation of the successor MOU, the City will request an actuarial analysis limited to the Union’s

proposal as follows on July 1, 2022:

Effective 7/1/2022 through the end of the contract, the City shall contribute an additional \$200.00 toward both single and two-party rate. This enhanced retiree incentive shall continue until Section 31.4 become applicable.

Upon receipt of the actuary, the parties agree to meet and confer over the Union's proposal to impasse. ~~(ok 7-12)~~

31.4 Retiree Benefits for Employees Age 65 and Over

Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his/her eligibility for the retiree medical benefits set forth in subsection 31.3 (Pre Age 65 Retiree Health Insurance) ceases. On reaching age 65, the City will make available health insurance coverage for a Medicare Risk Policy. When an employee or retiree reaches age 65, the City will contribute no more than \$17.65 per month on the employee's behalf for single party health insurance coverage and no more than \$35.32 per month for two party health coverage.

31.5 Termination by City of Retiree Medical Benefit

Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under this Section.

31.6 Retiree Medical Benefit for Employees Retiring Between the Ages of 50 and 55

An employee who is at least 50 years of age, but less than 55, and has at least eight years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in subsection 31.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his/her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his/her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

31.7 Employees Retiring between June 28, 1998 and June 25, 2000

Employees retiring from City service between June 28, 1998 and June 25, 2000 will be eligible for the retiree medical benefits provided in this Section if they meet all of the eligibility criteria set forth in subsection 31.2 (Eligibility) and after their retirement from City service maintain continuous enrollment in a group health plan

from the date of the employee's retirement until June 25, 2000. The employee shall be responsible for paying 100% of the monthly health plan premium from the date of the employee's retirement until June 25, 2000. Failure on the part of employee or surviving spouse to pay premiums and maintain continuous group health care coverage through June 25, 2000 will result in the employee forfeiting his/her eligibility for the retiree medical benefits provided in this Section and will relieve the City of any further obligation to provide benefits under this Section.

31.8 Employees Retiring with a CalPERS Approved Disability Retirement

If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in subsection 31.3 (Pre Age 65 Retiree Health Insurance) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his/her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his/her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his/her spouse or domestic partner.

31.9 City Funding of Retiree Health Benefit

City contributions to the retiree medical benefit will begin on June 26, 2000. Funding of this benefit will be set aside in a trust to be established by the City.

Effective with the 1998-2002 Memorandum Agreement, the retiree medical benefit was funded by a charge of 0.50% of payroll in the third and fourth years of that Agreement, so that contributions are at 1% of the payroll in the fourth year of that Agreement. The City will fund the benefit at approximately 1% of the payroll for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

The Union understands and acknowledges that the City conducted an actuarial study to determine the percentage of payroll it needed to set aside each year and the rate of return of 7% it must achieve to fund the retiree health benefit provided in this Section. The City will conduct an actuarial study by an outside actuary of the retiree medical plan prior to June 30, 2002. After that time, the City will conduct an actuarial study by the outside actuary of the retiree medical plan every two to three years to review the funding status of the program. The outside actuary will be selected by mutual agreement of the parties. The Union and City agree that if the Actuary concludes that the City's funding of this benefit by contribution of 1% of the payroll for all miscellaneous employees is insufficient to fully fund the retiree medical benefits, the City shall not be required to increase its funding for this benefit to more than 1% of the payroll for miscellaneous employees. In the event

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that there are insufficient funds in the trust to cover all retirees' monthly health premiums, the City and the Union agree to meet and confer regarding the City's distribution of its 1% contribution.

TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 32: PROBATIONARY PERIOD

32.1 Length

Original and promotional appointments from employment lists shall be tentative and subject to a probationary period of six (6) months (and a minimum of 1,040 hours) actual work exclusive of all leave and light duty and shall be completed within a one (1) year period. However, time spent on workers' compensation leave or on modified duty as a result of an industrial injury shall not be considered as actual service and shall not be included as time served toward completion of the probationary period.

In recognition of the safety and training requirements of several non-sworn paraprofessional classifications in the Police Department, the probationary period for those classifications is as follows:

- 32.1.1 For the classifications of Community Service Officer, and Community Service Officer Supervisor the probationary period shall be nine (9) months (and a minimum of 1,560 hours).
- 32.1.2 Employees who are hired in either the classification of Public Safety Dispatcher I or Public Safety Dispatcher II fifteen (15) months (and a minimum of 2,600 hours).
- 32.1.3 The hours counted for Community Service Officer and Community Service Officer Supervisor probation will be for actual service exclusive of all leave and light duty completed within eighteen (18) months.
- 32.1.4 The hours counted for Public Safety Dispatcher I and Public Safety Dispatcher II probation will be for actual service exclusive of all leave and light duty completed within twenty-four (24) months.

Probationary employees who are granted military leaves of absence shall complete the balance of their probationary period within a period of six (6) months following their return to City service. No provision of this Section shall be interpreted to preclude the City from establishing new classifications which may require a probationary period of more than six (6) months.

32.2 Effect of Provisional Appointment

If, before completing the required probationary period, an employee is provisionally appointed to a higher class in the same or a related series of classes, the time

served in such higher class shall be counted toward completion of the probationary period in the lower class.

32.3 Completion

If the service of the probationary employee has been satisfactory to the Department Head, the Department Head shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such probationer in the service is desired. If such service has been unsatisfactory, the Department Head shall file with the Director of Human Resources such a statement, in writing, with the recommendation to the City Manager or designee that the employee be rejected.

Probationary employees may request periodic conferences with their supervisors regarding the adequacy of their performance.

32.4 Rejection

During the probationary period, an employee may be rejected at any time without right of appeal or hearing in any manner. An employee rejected from a position to which the employee has been promoted shall be reinstated to the position from which the employee was promoted unless charges are filed and the employee is discharged as provided in Section 39.

SECTION 33: TRANSFER

33.1 General

A transfer may be made at any time by the City Manager when a demonstrated need exists. Transfer shall not be used to effect a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided elsewhere in this Agreement. No employee shall be transferred to a position for which the employee does not possess the minimum qualifications. An employee with permanent status who is transferred from one class to another class shall assume permanent status in the class to which the employee is transferred.

33.2 Units D and J

With respect to Units D and J only, in the event a Department Head determines to make a selection for a permanent vacancy from a transfer list existing for the same classification, the senior employee on the transfer list shall be selected.

33.3 Transfer – Solid Waste

The City will offer test skills training for any Solid Waste Worker so requesting on their own time in order to increase their ability to compete for positions such as Laborer.

SECTION 34: PROMOTION

- 34.1 Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established. In line with this, the City shall consider advancing career employees to vacancies in promotional positions before considering hiring temporary workers from outside the City service. Consistent with City of Berkeley Personnel Rules, each candidate for promotion must be either a permanent employee in the competitive service or a permanent employee on an active mandatory layoff reemployment list, and must possess the minimum qualifications as set forth in the specifications of the class to which promotion is sought. The right to compete in a promotional examination in a specific classification series is not limited to employees in the bargaining unit to which that classification is assigned.
- 34.2 If, in the opinion of the City Manager, the City is facing staffing reductions which will result in displacement of employees, a waiver of minimum qualifications and/or substitution of related experience and education may be made in promotional examinations, with an understanding on the part of management and supervisory personnel that adequate on-the-job training which can be completed within no more than one year, will be provided to facilitate job adjustment and to compensate for waiver of qualification standards if that has occurred. The promotional recruitment announcement will state that minimum qualifications may be waived providing the applicant's experience and education demonstrates his or her on-the-job development potential, as stated above. In promotional appointments where the minimum qualifications have been waived, the probationary period will be one year to allow the employee time to demonstrate development of the necessary job knowledge and skills.
- 34.3 If, in the opinion of the City Manager, the best interests of the service can be served by an open, competitive examination instead of closed, promotional examination, and if there is not already a promotional list for the higher position, which list has not been abolished and from which the vacancy could be filled, then the City Manager may instruct the Director of Human Resources to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and publication of an eligible list.
- 34.4 Interview of City Employee**
A City employee who is on a closed promotional or an open competitive list shall have the option to interview for the vacancy. A City employee who is unsuccessful

and who so requests shall be advised of steps she or he may take to increase her/his competitive standing for future promotional opportunities.

34.5 Employees who have qualified for promotional lists shall be considered for promotion based on the following factors: previous work performance, previous training and experience, merit, ability, and seniority.

34.6 If the City elects to give an open, competitive examination for a promotional position, the City shall establish two (2) lists. List A shall be a Promotional List, and shall rank successful candidates who are presently City of Berkeley career employees. List B shall rank all successful candidates who are not presently career employees. The City shall seriously consider all candidates on List A before hiring from List B.

34.7 Step Increase

If any employee is entitled to a step increase and receives a promotion within one month of the increase, said employee is to be placed at the second higher step.

SECTION 35: DEMOTION

35.1 The City Manager may demote an employee who so requests it, or whose ability to perform required duties falls below standard. No employee shall be demoted to a class for which the employee does not possess the minimum qualifications as determined by the Director of Human Resources.

35.2 Notice of the demotion shall be given the employee no later than two (2) weeks prior to the effective date of demotion and a copy of said notice shall be filed with the Director of Human Resources. Any employee who has been demoted shall be entitled to receive a written statement of the reason for such action.

35.3 An employee with permanent status who is demoted shall assume permanent status in the class to which the employee is demoted.

35.4 Upon request of the employee, demotion may be made to a vacant position as a substitution for layoff. In such cases the employee shall be restored to his or her former position without further examination whenever such position is again to be filled in accordance with the reemployment provisions in Section 45.

SECTION 36: SUSPENSION

36.1 The City Manager may suspend an employee from his/her position for disciplinary purposes based on just cause. Suspension without pay shall not exceed twenty (20) working days, nor shall any employee be penalized by suspension for more than twenty (20) working days in any fiscal year. Any employee to be suspended shall be entitled to receive a written statement of the reasons for such action.

36.2 A Department Head may suspend an employee for disciplinary purposes based on just cause for not more than three (3) working days for any one offense. Such suspension shall be reported immediately to the City Manager.

36.3 Immediate Suspension

An employee who the department head determines to be an immediate threat to the health and safety of co-workers or the public shall be placed on administrative leave with pay and sent home.

SECTION 37: DISCHARGE

An employee may be discharged at any time by the City Manager, but if the probationary period has been completed, then such discharge must be for cause. Any employee who has been discharged shall be entitled to receive written statement of the reasons for such action.

SECTION 38: RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with the Department Head, at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Director of Human Resources with a statement by the Department Head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the notice required shall be entered on the service record of the employee, and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the Department Head immediately.

SECTION 39: REINSTATEMENT

A permanent or probationary employee who has resigned with a good record may be reinstated within two (2) years to the employee's former position, if vacant, or to a vacant position in the same or comparable class without further competitive examination. This

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Section shall not be interpreted as a guarantee of reinstatement to an employee who has resigned with a good record and who requests reinstatement within two (2) years.

An employee who is reinstated under this Section who has completed probation in the classification to which the employee is being reinstated shall not serve a probationary period on reinstatement. An employee who is reinstated under this Section who has not completed probation in the classification to which the employee is being reinstated shall be required to serve a new probationary period on reinstatement. The duration of the probationary period determined by the classification and the provisions of Section 32 of this Agreement.

GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

SECTION 40: GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

40.1 Definitions

For purposes of this section of this Agreement, the following definitions shall apply:

- 40.1.1 **Grievance:** A Grievance is any complaint of a member of the bargaining unit involving the interpretation, application, alleged violation, or any other matter of this Agreement or within the scope of representation of the Union.
- 40.1.2 **Administrative Complaint:** An Administrative Complaint is a grievance filed by a grievant or the Union specifically regarding payment of compensation or the interpretation and application of contract provisions and past practices, or allegations of past practice.
- 40.1.3 **Discrimination Complaint:** A Discrimination Complaint is a grievance filed by a grievant or the Union regarding a violation of Section 3 of this Agreement.
- 40.1.4 **Grievant:** A Grievant may be any member of the bargaining unit covered by the terms of this Agreement, or the grievant may designate the Union to act on his or her behalf or the Union itself may file a grievance on behalf of a member or group of members.
- 40.1.5 **Disciplinary Action:** The recommendation of or implementation by an employee's supervisor or Department Director related to the suspension, demotion, salary reduction or discharge of an employee covered by this Agreement.
- 40.1.6 **Disciplinary Appeal:** A Disciplinary Appeal is the procedure established hereunder to afford an employee his or her due process rights related to a pending disciplinary action. An employee may appeal the recommendation or imposition of suspension, demotion, salary reduction or discharge other than when such action is taken during the formal probationary period for that employee.
- 40.1.7 **Salary Reduction:** Salary Reduction is the reduction of an employee's base compensation to a lower salary step within the employee's current salary range for a specified period of time.

- 40.1.8 **Suspension:** Suspension is the temporary removal of an employee from his or her duties without pay.
- 40.1.9 **Grievance Appeal Officer:** Appeals of grievances will be heard by the City Manager for general City operations, the Library Board of Trustees for Library employees may designate the Director of Library Services as the Appeals Officer and the Executive Director of the Rent Board for Rent Board employees. The City Manager may designate a Grievance Appeal Officer in his/her stead.
- 40.1.10 **Union:** The term Union used throughout this procedure shall include by reference the bargaining unit itself and the appropriate Chapter President and Chief Steward who may be representing an employee engaged in this Grievance and Disciplinary Appeal Procedure.
- 40.1.11 **Day:** A day is defined herein as any day in the calendar year on which the City of Berkeley is regularly open and providing full administrative services to the public.
- 40.1.12 **Written Reprimand:** In the event that an employee receives a written reprimand, the Union or the employee may request a meeting with the supervisor to discuss the reprimand. Such meeting shall occur within fifteen (15) days of the request. The employee may write a rebuttal to any written reprimand within thirty (30) calendar days of receiving the written reprimand or the meeting and such rebuttal will be placed in the Personnel File along with the written reprimand.

40.2 Grievance Procedure

Initial Filing Period: Formal written grievances must be filed at Step 1 of the grievance procedure within thirty (30) days of the date the incident occurred or within thirty (30) days of the date the grievant or the Union reasonably should have had knowledge of the matter.

- 40.2.1 **Informal Process:** *Complaints Filed With* - An employee or Union who believes that s/he/it has a grievance shall discuss the grievance informally with the applicable immediate non-bargaining unit supervisor. If this is not possible due to the absence of this supervisor, the employee or his/her Union may discuss the grievance informally with the applicable Division Manager.

- a. **Filing Period:** Such informal grievances shall be verbally brought to the attention of either the immediate non-bargaining unit supervisor or, if unavailable, with the Division Manager within a reasonable period of time of the incident generating the grievance. (NOTE: In order to comply with formal grievance procedures, refer to Section 40.2, "Initial Filing Period", for absolute filing deadlines and time frames for formal grievances.)
 - b. **Process:** The grievant shall be entitled to a personal conference with and an informal decision by, either the relevant supervisor or Division Manager within ten (10) days of making the request for an informal meeting. This informal decision terminates the informal process unless mutually agreed upon by employee, supervisor/manager and Union to extend informal discussions.
- 40.2.2 **Formal Process: STEP 1 – First-Level Manager: *Complaints Filed With*** - If the grievant is not satisfied with the results of the informal process, the grievant may file a formal written grievance following the conclusion of the informal conference process. Such written grievance shall be presented to the applicable Division Manager with a copy to the Department Director and the Union.
- a. **Interpretation of Agreement and Past Practice:** Questions regarding the interpretation of the Agreement or allegations of violations of Past Practice shall initially be filed in writing with the Director of Human Resources of the City.
 - b. **Compensation:** All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources of the City.
 - c. **EEO:** All complaints concerning discrimination or other Section 3 matters shall be initially filed in writing with the Equal Employment Opportunity and Diversity Officer of the City. However, complaints alleging violation of any applicable laws pertaining to protected union activity will be filed with the Director of Human Resources of the City.
- 40.2.3 **Filing Period:** This written grievance must be filed within ten (10) days following the conclusion of the informal conference process, except as follows:

- a. **Compensation:** Administrative Complaints regarding issues concerning payment of compensation may be filed within 90 days of the last day of the alleged under or over compensation.
 - b. **EEO:** The allowed time for filing of a complaint under this Section shall be governed by the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley's EEO/Affirmative Action Program (attached herein as Appendix B).
- 40.2.4 **Process:** The grievance must be presented in writing on a form provided by the City, and approved by the Union. The written statement shall be a clear, concise statement of the grievance including specific provisions of this Agreement alleged to have been violated, the circumstances involved, the decision rendered at the informal conference, and the specific remedy sought. Within ten (10) days of receiving the written grievance, the grievant shall be entitled to a personal conference with the Division Manager if requested. Other than issues of Contract Interpretation and Past Practices, Compensation or EEO, within ten (10) days, the Division Manager shall communicate a written decision to the grievant and the Union with a copy to the Director of Human Resources and the Department Director. Such action will terminate Step 1.
- a. **Compensation:** In the case of issues of compensation, the Director of Human Resources or his/her designee shall respond in writing within thirty (30) days of receiving the written complaint. In such cases, no adjustment shall be retroactive for more than thirty (30) calendar days from the date upon which the complaint was filed or thirty (30) calendar days from the date when an employee and/or the Union may reasonably be expected to have learned of said claimed violation. Only complaints which allege that employees are not being compensated in accordance with the rules, regulations, and resolutions of the City Council or in accordance with the understanding contained in any Agreement which has resulted from the meeting and conferring process shall be considered.

Any other matters of compensation are to be resolved in the meeting and conferring process, and, if not detailed in the operative Agreement which results from such meeting and conferring process, shall be deemed withdrawn until the meeting and conferring is next opened for such discussion.

- b. **EEO:** Discrimination complaints shall be processed in accordance with the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley EEO/Affirmative Action Program (attached herein as Appendix B) except that:
- i. The employee has the right to be represented by a Union representative at all stages of the informal and formal complaint investigation and resolution procedure;
 - ii. The Equal Employment Opportunity and Diversity Officer shall meet with and report to only the City Manager during the formal resolution process; and
 - iii. The City Manager shall make the final decision on the complaint which may be appealed by the Union to an impartial arbitrator within ten (10) days of receipt by the Union of the City Manager's decision. Such an appeal shall be processed in accordance with the above defined grievance procedure of this Agreement. The City shall promptly notify the Union of the filing of all formal complaints, as well as their acceptance or rejection.

The City Manager or his or her designee will notify the Union of a proposed decision on a formal complaint, and the reasons therefore, and upon a request within ten (10) days, shall meet with the Union prior to issuing a final decision.

If a grievance also alleges a violation of another Section of the contract in addition to Section 3, Section 40.2.2.3.2 shall apply only to that part of the grievance which alleges a violation of Section 3 unless otherwise mutually agreed.

Complaints challenging, disputing, or seeking to modify or change any policy component of the City's EEO/Affirmative Action Program, including but not limited to the assignment of responsibilities, workforce utilization analysis, and affirmative action goals and timetables, shall not be subject to the grievance/arbitration procedures of this Agreement. This in no way limits the right of the Union to grieve violations of the City's EEO/Affirmative Action Plan.

- c. **Interpretation and Past Practice:** In the case of issues of interpretation of the Agreement, past practices, payment of compensation or violations of Section 3 of the Agreement

(Discrimination, etc.), if the grievant is not satisfied, s/he may move the complaint directly to Step 3 of this grievance procedure.

- 40.2.3 **Formal Process: STEP 2 – Department Director:** *Complaints Filed With* - If the grievant is not satisfied with the results rendered in Step 1, the grievant may appeal the decision in writing to the applicable Department Director or his/her designee with a copy to the Union.

Contract Interpretation and Past Practice, Compensation and EEO complaints would go directly to Step 3 of this process. (NOTE: See Section 40.2.2.)

- a. **Filing Period:** Such written appeal must be submitted to the Department Director or his/her designee within ten (10) days from the date the grievant received the decision of the Division Manager.
- b. **Process:** The written appeal shall include a copy of the original grievance, a description of the informal process and results, the decision rendered at Step 1 and a clear, concise statement of the reasons for the appeal. Within ten (10) days of receiving the written grievance, the grievant shall be entitled to a personal conference with the Department Director or his/her designee if requested. Within ten (10) days of the personal conference, the Department Director or his/her designee shall communicate a written decision to the grievant and the union with a copy to the Director of Human Resources. Such action will terminate Step 2.

- 40.2.4 **Formal Process: STEP 3 – Grievance Appeal Officer:** *Complaints Filed With* - If the grievant is not satisfied with the results rendered in Step 2 for general grievances and Step 1 for issues of Contract Interpretation and Past Practice, Compensation or EEO, the grievant may appeal the decision in writing to the applicable Grievance Appeal Officer with a copy to the Department Director, the Director of Human Resources and the Union.

- a. **Filing Period:** Such written appeal must be submitted to the appropriate Grievance Appeal Officer within ten (10) days from the date the grievant received the decision rendered in Step 2.
- b. **Process:** The written appeal shall include a copy of the original grievance, a description of the informal process and results, the decision rendered at Step 1 and 2 and a clear, concise statement of the reasons for the appeal. Within ten (10) days of receiving the

written grievance, the grievant shall be entitled to a personal conference with the Grievance Appeal Officer or his/her designee if requested. Within ten (10) days of the personal conference, the Grievance Appeal Officer or his/her designee shall communicate a written decision to the grievant and the union with a copy to the Director of Human Resources and the Department Director. Such action will terminate Step 3.

40.2.5 **Formal Process: STEP 4 – Arbitration:** *Complaints Filed With* - If the Union is not satisfied with the results rendered in Step 3, the Union may require that the grievance be referred to an impartial arbitrator by notifying the applicable Grievance Appeal Officer.

- a. **Filing Period:** Such notification of desire to go to arbitration must be filed in writing with the Grievance Appeal Officer within thirty (30) days of the conclusion of Step 3 with a copy to the Director of Human Resources. Provided further that the Union shall forward to the City the Union's portion of the California State Mediation and Conciliation Services (CSMCS) fee within sixty (60) days of receipt of the Grievance Appeal Officer's (City Manager) response. Failure by the Union to meet either the thirty (30) day or sixty (60) day deadline for both referral to Arbitration and payment of the CSMCS fee shall be deemed as a full and complete waiver by the Union to appeal the Grievance Appeal Officer (City Manager) decision to Arbitration and the City Manager decision shall be final and binding on all parties.
- b. **Process:** The impartial arbitrator shall be selected from the California State Mediation and Conciliation Services (CSMCS) unless another party is mutually agreed upon. CSMCS will provide a list of five (5) arbitrators. The City and the Union will alternately strike a name until one remains. The remaining name will be the arbitrator. The cost of the arbitrator's decision shall be borne equally by the parties.

The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigations she or he deems appropriate, and shall render a final and binding decision to the parties which will end the formal grievance process.

No Arbitrator shall entertain, hear, decide or make recommendations on any dispute involving a deposition over which a formally recognized employee organization has jurisdiction unless such

dispute falls within the definition of a grievance as specified in this Section.

Proposals to add or to change the Agreement or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate the Agreement, nor any matter or subject arising out of or in connection with such proposal may be referred to arbitration under this Section; and neither any Arbitrator shall have the power to amend or modify or recommend amendment or modification of the Agreement, or any written agreements or addenda supplementary hereto or to establish or recommend establishment of any new terms and conditions of employment.

No changes in this Agreement or interpretation thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the City Manager and the Union.

40.2.6 **General Conditions of a Formal Grievance**

- a. **Union Representation:** The grievant shall be entitled upon request to representation by the Union at all levels of the grievance procedure. In situations where the Union has not been requested to represent the grievant, the City will not agree to a final resolution of the grievance until the Union has received a copy of the grievance and the proposed resolution, and has been given the opportunity to respond and state its view on the matter. The Union will be given ten (10) days in which to respond.
- b. **Time Limits:** Failure by the Union to file or appeal a grievance within the time limits specified constitutes a dropping of the grievance. Failure by the City to respond by the specified times shall entitle the Union to move the matter to the next higher step of the grievance procedure. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.
- c. **Witnesses:** The City and/or the grievant may call witnesses.
- d. **Release Time:** If an employee covered by this Agreement gives testimony in connection with the grievance procedure during working hours, the employee shall suffer no loss of pay. If the grievant's hearing is scheduled during working hours, the grievant shall suffer no loss of pay in order to present his or her grievance.

40.3 Disciplinary Appeals

40.3.1 **Union Representation:** An employee may request the presence of a Union steward during an interview with his or her supervisor when the employee reasonably believes the interview may result in disciplinary action, and where there is no assurance from the supervisor that disciplinary action is not intended. If at any time during an interview without a steward in attendance, it becomes apparent that disciplinary action could result, either party may adjourn the interview until a steward can be present. The City commits itself to the application and enforcement of a uniform policy of progressive discipline.

40.3.2 **Sole Mechanism:** The provisions of this Section shall be the sole mechanism for resolving Disciplinary Appeals pertaining to suspensions, demotions, salary reductions and terminations and shall be processed in the following manner:

40.3.3 **Disciplinary Process: STEP 1 – Department Director**

a. **Review of Recommendation:** The Department Director must receive and review all departmental recommendations for suspension, reduction in salary or a termination. However, for employees of the Library, the Deputy Director of Library Services will have this responsibility.

b. **Period of Review and Process** The Department Director or his or her designee, or for Library employees the Deputy Director of Library Services, receiving a recommendation proposing a suspension, reduction in salary, or a termination shall hold a meeting with the employee and his or her Union representative to hear an appeal of the recommendation, or the affected employee may choose to make an appeal in written form. If the employee chooses to respond in written form, the Department Director may use his or her discretion on whether a personal conference is necessary.

If a personal conference must be held with the employee and his or her Union, the personal conference must be held within ten (10) days of receiving the recommendation from departmental staff or within ten days of receiving the written appeal from the employee whichever occurred later. The proposed action and the reasons therefore shall be discussed with the employee. The Department Director or his or her designee shall issue a decision sustaining, modifying or rejecting

the discipline within ten (10) days after the completion of the personal conference with the affected employee, or if the employee chose to make an appeal in written form, receipt of the written appeal. This shall conclude Step 1 of the Disciplinary Appeal Procedure.

40.3.4 **Disciplinary Process: STEP 2 – Appeal of the Decision**

- a. ***Appeals Filed With:*** If the employee or his or her Union is not satisfied with the decision in the case of suspensions of three days or less, or recommendation in the case of suspension of more than three (3) days, of the Department Director or his or her designee resulting from Step 1, the employee or the Union may require that the disciplinary appeal be referred to the City Manager who shall designate a Grievance Appeal Officer to hear the appeal and in the Library to the Board of Library Trustees who may designate the Director of Library Services as the Grievance Appeal Officer.

For Suspensions of Three Days or Less: If the employee or his or her Union do not appeal the decision of the Department Director or his or her designee resulting from Step 1, the disciplinary action shall be implemented in accordance with the provisions of Section 38 (Suspension) and the Disciplinary Appeal Procedure will end here.

For Disciplinary Action of Suspensions of Greater than three days or Discharge: If the employee or his or her Union do not appeal the recommendation of the Department Director or his or her designee resulting from Step 1, the disciplinary actions involving suspension greater than three days, salary reduction or discharge will be referred to the City Manager for review. The City Manager may review or modify the recommendation of the Department Director. If the City Manager does not modify the recommendation of the Department Director, the disciplinary action shall be implemented in accordance with the provisions of the Agreement and the Disciplinary Appeal Procedure will end here.

If the City Manager contemplates modification of the recommendation of the Department Director, the employee and the union will be notified in writing of their right to a disciplinary appeal meeting with the Grievance Appeal Officer. Such notice shall be issued within ten days of receipt of the Department Director recommendation. The Grievance Appeal Officer will hold a meeting and issue a decision issue as provided in Section 40.3.4.3 below.

- b. **Filing Period:** Said appeal must be filed in writing within ten (10) days of the conclusion of Step 1 above; and must contain the originally recommended action, the written decision of the Department Director and all other correspondence exchanged from the start of the original recommended action and Step 1 activities.
- c. **Process:** The Grievance Appeal Officer or his or her designee receiving an appeal of a proposed disciplinary action shall hold a meeting with the employee and his or her Union representative. The personal conference must be held with the employee and his/her Union within ten (10) days of receiving the written appeal. The Grievance Appeal Officer shall issue a written decision sustaining, modifying or rejecting the discipline within ten (10) days after the completion of the personal conference with the affected employee and/or the receipt of the written appeal. This shall conclude Step 2 of the Disciplinary Appeal Procedure. Any decision to suspend, implement a reduction in salary or terminate an employee will become effective at the conclusion of Step 2 of the Disciplinary Appeal Procedure.

40.3.5 Disciplinary Process: STEP 3 – Arbitration

- a. **Appeals Filed With:** If the Union is not satisfied with the decision of the Grievance Appeal Officer or his or her designee resulting from Step 2, the Union may require that the disciplinary appeal be referred to an impartial arbitrator by notifying the City Manager, with a copy of the Director of Human Resources.
- b. **Filing Period:** Said appeal must be filed in writing with the City Manager or his or her designee within thirty (30) days of the conclusion of Step 2 above. Provided further that the Union shall forward to the City the Union's portion of the California State Mediation and Conciliation Services (CSMCS) fee within sixty (60) days of receipt of the Grievance Appeal Officer's (City Manager) response. Failure by the Union to meet either the thirty (30) day or sixty (60) day deadline for both referral to Arbitration and payment of the CSMCS fee shall be deemed as a full and complete waiver by the Union to appeal the Grievance Appeal Officer (City Manager) decision to Arbitration and the City Manager decision shall be final and binding on all parties.

- c. **Process:** The impartial arbitrator shall be selected from the California State Mediation and Conciliation Services (CSMCS) unless another party is mutually agreed upon. CSMCS will provide a list of five (5) arbitrators. The City and the grievant will alternately strike a name until one remains. The remaining name will be the arbitrator.

The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigations she or he deems appropriate, and shall render a final and binding decision to the parties which will end the formal disciplinary appeal process.

The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the employee (or his or her Union) and the City. Each party, however, shall bear the cost of its own presentations including preparation and post-hearing briefs, if any. Arbitrator decisions on matters properly before them which pertain to the disciplinary actions involving the suspension, demotion, pay reduction, or discharge of an employee shall be final and binding on both parties.

40.4 General Conditions for Disciplinary Appeals

The City commits itself to the application and enforcement of a uniform policy of progressive discipline.

- 40.4.1 **Union Representation:** The employee who is the recipient of the recommended discipline shall be entitled upon request to representation by the Union at all levels of the disciplinary appeal process.
- 40.4.2 **Time Limits:** Failure by the employee or the Union to file an appeal of the proposed discipline within the time limits specified constitutes a dropping of the disciplinary appeal. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.
- 40.4.3 **Witnesses:** The City and/or the appellant may call witnesses.
- 40.4.4 **Release Time:** If an employee covered by this Agreement gives testimony in connection with the disciplinary appeal procedure during working hours, the employee shall suffer no loss of pay. If the employee's appeal is scheduled during working hours, the employee shall suffer no loss of pay in order to present his or her appeal.

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SECTION 41: GENERAL PROVISIONS

41.1 Personal Conduct

- 41.1.1 No employee shall accept appointment to the deputyship or assistantship of any County or State Office or position, or otherwise incur an obligation of civil public position, or otherwise incur an obligation of civil public service outside his/her regular municipal employment without first obtaining the recommendation of the head of his/her department and of the City Manager or designee.
- 41.1.2 No employee shall be disciplined for off-the-job activities which do not affect the performance of the employee.
- 41.1.3 Employees shall so arrange their personal financial affairs so that the demands of creditors and collection agencies shall not impose recurring burden upon the offices of the City Manager or designee, the Department Heads or the Director of Human Resources for the purpose of making collections.
- 41.1.4 Full-time City employees may not carry on concurrently with their public service any private business or undertaking, attention to which affects the time or quality of their work or which casts discredit upon or creates embarrassment for the City government.
- 41.1.5 No official or employee who wears a badge or other official insignia as evidence of his/her authority and identity shall permit such badge or insignia to be used or worn by any other person of the same or another department, or otherwise to leave his/her possession, without approval by the head of his/her department. The Department Head shall not grant such approval except as to persons regularly and formally appointed by the City Manager or designee to the position designated by the badge or insignia.

41.2 Protective Clothing and Equipment

- 41.2.1 **Rain Gear** - The City will provide rain gear (which shall include hat, jacket, pants and boots) for employees in Representation Unit D and provide rain gear that includes rain jacket, rain pants, and a traffic safety

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reflective vest to Community Services Officers working in Crime Scene Investigation (CSI) assigned to work in inclement weather.

- 41.2.2 **Safety Shoes** - An annual allowance of two hundred dollars (\$200) shall be paid to employees specified in "F" (Shoes, Tools and Uniforms) toward the purchase of safety shoes.
- 41.2.3 **Gloves** - Parking Meter Mechanics, Parking Meter Maintenance Workers, Tool Lending Specialists, and City Services Aides shall be furnished with appropriate work gloves.
- 41.2.4 **Ear Plugs and Face Shields** - Employees who request earplugs will be furnished same. Machinery Operators will be provided with a face shield.
- 41.2.5 **Coveralls:** The City agrees to provide 3 changes of coveralls per week for sewer crew and construction crew.
- 41.2.6 **Bulletproof Vests:** Community Service Officers and Community Service Officer Supervisors and Animal Control Officers have the right to purchase bulletproof vests at their own expense at the City's wholesale cost.
- 41.2.7 **VDT Glasses** - The City shall provide glasses as medically required for operators of Video Display Terminals.
- 41.2.8 **Clothing** - The City will issue guidelines permitting safe substitution of pant/shirt combination for coveralls. There will be no cost to the employee. (Note: For example only, 4 pair coveralls and 3 pairs pant/shirts could be substituted for 7 pair coveralls. Applies only to employees qualifying under safety guidelines within Equipment Maintenance, Solid Waste and Streets and Sanitation divisions.)

41.3 Tools

Each employee regularly assigned to the classifications of Building Maintenance Mechanic, Building Maintenance Mechanic Trainee, Building Maintenance Supervisor, Mechanic Supervisor, Welder Mechanic, and Mechanic who is presently required to provide tools of the trade or other equipment will continue to do so but shall receive a flat annual tool replacement allowance of five hundred dollars (\$500) per year effective June 29, 2008.

Each employee regularly assigned to the classification of Parking Meter Mechanic or Senior Parking Mechanic shall receive a flat annual tool replacement allowance

of two hundred fifty dollars (\$250) per year, and Service Technician and Container Maintenance Welder two hundred twenty dollars (\$220) per year, effective June 29, 2008.

Tool allowances shall be paid by August 1st of each calendar year.

The parties reconfirm that such payments constitute a tool replacement allowance.

41.4 Training

- 41.4.1 The City agrees to develop and implement an employee development and training policy and program. Responsibility for developing and coordinating training programs for employees shall be assumed by the City. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of municipal employees in the performance of their duties. An Advisory Committee on Training shall be established by the City and shall include representation from the Union.
- 41.4.2 Participation in and successful completion of special training courses will be considered in making advancements and promotions. For training to qualify for consideration in advancements and promotion, the City will require one or all of the following: City approval of the class curriculum, evidence of successful completion of class, and proficiency testing. Evidence of such activity shall be filed with the Director of Human Resources by the Department Head.
- 41.4.3 The City shall reimburse all Equipment Maintenance employees for mileage and tuition expenses related for attendance at job-related courses. Provided that the employee must have prior authorization from his/her department head and the course has been approved by the City.
- 41.4.4 All parking enforcement officers shall be given training in the handling of difficult citizens. The City shall provide Customer Service training to all Parking Enforcement Officers within twelve (12) months of the execution of this agreement and as needed during the life of this agreement.
- 41.4.5 Training Program for Building Maintenance Mechanic Trainee, Landscape Gardner Trainee, Forestry Climber Trainee, and Weighmaster Trainee to be limited to two (2) year up and out plan.

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- 41.4.6 The City and the Union agree to establish a Joint Labor, Management and Community Committee by 120 days after the execution of this (2018 to 2020) agreement to review the creation of a program for community training and apprenticeships to build the capacity of Berkeley residents and make a joint recommendation to the City of Berkeley Cannabis Commission and City of Berkeley Commission on Labor.

41.5 Driver's Training

Public Works Department shall initiate a Driver's Training Program which shall include periodic refresher courses, for all employees required to operate a City vehicle. Upon successful completion of the Program, the City shall issue an Operator Certificate specifying which vehicles the employee is qualified to operate. After the Program is in full operation, continued provisional and permanent assignment to the operation of specific vehicles shall be contingent upon appropriate certification.

41.6 Safety

- 41.6.1 The City and the Union will make every effort to maintain workplaces free of health and safety hazards. No employee shall be required to perform work with unsafe equipment or in situations which can be injurious to their health or safety.

To achieve this goal the City shall appoint an industrial hygienist who will be responsible for the development, maintenance and continuity of the City's safety program with the advice and assistance of a City Safety Committee. The Committee will include two (2) members from the Union. Representatives to the City-wide Safety Committee shall meet for organizational purposes within one month of ratification of this agreement and every other month thereafter.

Members shall be advised of City Safety Committee meetings and their agendas in advance.

As assigned and scheduled the City Safety Committee members will be responsible for conducting workplace safety and health surveys to identify safety and health hazards at worksites.

The City departments and divisions as appropriate shall establish safety committees comprised of union representatives and supervisory personnel to develop written accident prevention programs which will include:

- a. worksite and work practice hazard inspection check lists for use by affected employees,
- b. a training program instructing employees in safe work practices plus specific instruction with regard to hazards unique to a particular job,
- c. scheduled periodic inspections to identify and correct unsafe conditions and work practices which are found,
- d. defining the responsibility of employees and management to follow safe work practices, to report hazards in the work area, and to comply with occupational safety and health standards applicable to their own actions, and
- e. provision of Material Safety Data Sheets in an appropriate place, easily accessible to affected employees, for all materials being used at a worksite.

41.6.3 The Public Works Safety Committee shall provide one (1) Union representative from each Division. The Parking Division Union representative may also attend the monthly Public Works Department Safety Committee meeting. Each committee shall meet at least once a month.

Employee members shall be advised of Committee meetings at least three (3) days in advance of meeting dates and shall be furnished with an agenda at such time. Employee members may have specific items placed on the agenda. Copies of minutes of each departmental meeting shall be distributed to members of the Committee.

The Occupational Health and Safety Coordinator and/or the Safety Committee shall have authority and obligation to inspect work locations and equipment in regard to safety and health considerations. The Safety Inspection Team shall consist of the Coordinator and two members of the Safety Committee to be chosen by the Coordinator. The Inspection Team may make written recommendations for safety and health improvement and the department shall give a written response as to corrective measures within fifteen (15) working days or sooner. The Occupational Health and Safety Coordinator and/or the Safety Committee shall determine when a situation requires response in less than the time limits specified herein.

The Safety Committee shall have the authority to investigate and report on all substances currently being used by City employees and all proposed for use in the future.

- 41.6.4 The Police Department Officer Safety Committee shall include one Community Service Officer and one Parking Division representative chosen by the Union.

41.7 Use of Automobiles

The City Manager shall govern the use of City-owned automotive equipment and privately-owned automotive equipment by such rules and regulation as he or she may establish. The cash allowance will be equal to the amount established by the Internal Revenue Service, and will change as necessary to comply with IRS Standard Mileage Rate.

41.8 Sewer Crew Assignment

No employee of the Public Works Department below the level of Sewer Maintenance Assistant Supervisor shall be required to accept regular assignment to sewer crews in excess of one (1) continuous year; provided, however that these provisions shall not prevent assignment to sewer crews in emergencies as deemed necessary by the Department Head. The Union and the City shall as soon as possible arrange the implementation of the rotation system.

41.9 Annual Physical Examination

The City will provide one (1) physical examination (based on the City's specification as to scope of examination and examiner) each year to each employee in a classification categorized as a "high risk" classification. This exam is mandatory for all affected employees. The parties agree that the classification of Police Service Assistant is a "high risk" classification.

The City will provide annual T.B. screening test, at no cost to employees, who, in the course of their work are subject to health hazards. Such screening tests shall be on City time.

41.10 Subcontracting

For the purpose of preserving work and job opportunities for employees covered by this agreement, if the City intends to subcontract bargaining unit work, and such would result in the layoff of a permanent employee, the City will notify the Union in advance of such action, and upon written request, will meet and confer in accordance with the MMBA prior to subcontracting the work in an effort to find alternatives.

Each month, the City will provide the union with a copy of the “Proposal to Contract Work” report prepared for the City Council that lists proposals for contracting out work in excess of \$25,000. The report shall be provided to the Union at the same time the report is transmitted to the City Council. Information will include nature of project, the name of department requesting the work, and the budget code. Within five (5) working days of receipt of the information, the union may submit a written request to the Purchasing Manager. The City will provide a copy of the actual bid specifications within five (5) working days of the bid specifications being finalized and approved by the department issuing the contract, or of receipt of the written request, whichever applies.

Within ten (10) working days of receipt of the bid specifications, the Union may submit a written request to the Department Director or designee proposing to procure outside contractual services. The Department Director or designee will meet and discuss the scope of work being proposed to be performed by outside contractors before a Request for Proposal or Bid Specification is issued for competitive bid. Five days prior to the meeting, the union will provide a description of the issues and concerns it wishes to discuss at the meeting.

For work related to building maintenance estimated to cost less than \$25,000 per year and normally handled by the Facilities Maintenance Division, record or summaries of any such work contracted shall be made available to the Union on a monthly basis. In cases where the Union believes that work either subcontracted or given out for bid should be done by the bargaining unit, it may request a meeting with the City. The Department Director or designee will meet with the Union to discuss the scope of work. Five (5) days prior to the meeting the Union will provide a description of the issues and concerns it wishes to discuss at the meeting.

41.10.1 No Subcontracting of Janitorial Services: The City agrees that for the term of this Agreement, it will not contract out any janitorial services currently being performed by employees represented by SEIU Local 1021. Notwithstanding the foregoing, it is understood by the parties that the City currently contracts out janitorial services at several different City locations, and the parties agree that this Agreement does not affect the City’s ability to renew and/or continue to contract out janitorial services that the City currently has contracted out. Further, the parties agree that this provision does not affect the City’s managerial discretion to determine whether to fill a vacancy that may arise during the term of this Agreement

41.11 Commuter Check Subsidy Benefits

Upon request, the City shall provide a Commuter check subsidy valued at twenty dollars (\$20) per month to an employee for transit, biking, or van pool. Commuter

check subsidies are only intended for use by the employee while employed with the City of Berkeley and may expire due to inactivity.

41.12 Recreation Coordinators

41.12.1 There shall be scheduled monthly meetings of Recreation Coordinators and their District Supervisors. Appropriate subjects of discussion shall include planning of events and current budget status. Recreation Coordinator shall receive up to two (2) days per year administrative leave for the purpose of attending classes and conferences.

41.12.2 Recreation Coordinators will receive two (2) weeks advance notice of changes in their regular work schedules except for schedule changes due to emergencies, sick leave and vacation.

41.13 Community Service Officer Work Assignments

Property Clerks shall be selected from among Community Service Officer Supervisors on the basis of qualifications. When qualifications of applicants are substantially equal, seniority and other job related criteria will be the deciding factors.

41.14 Uniforms

41.14.1 Effective June 29, 2008, employees in the classifications of Community Service Officer, Community Service Officer Supervisor, Animal Control Officer, Parking Enforcement Officer, Parking Enforcement Officer Supervisor, Public Safety Dispatcher I, Public Safety Dispatcher II, Supervising Public Safety Dispatcher, Parking Meter Mechanic and Parking Meter Maintenance Worker shall receive a uniform allowance of \$1,400 per year. Payment of such annual uniform allowances noted above shall ~~continue to~~ be paid in ~~two-twenty-six (26)~~ equal ~~bi-weekly~~ installments, in ~~December and June, of each year~~ accordance with California Government Code Section 20636. The amount the City contributes toward the uniform allowance is subject to federal and state income tax withholding. ~~(ok 7-12)~~

41.14.2 Community Service Officer, and Community Service Officer Supervisor uniforms shall be blue.

41.14.3 Employees are to pay the full cost of maintenance of their uniforms.

41.14.4 Animal Control Officers shall be provided with a set of coveralls for performance of duties when necessary.

- 41.14.5 **Special Response Team Tactical Uniform:** Effective June 17, 2018, Unit J employees covered by this MA and assigned to the Police Department Special Response Team (SRT) shall be eligible for a one-time reimbursement of up to seven hundred dollars (\$700.00) towards the purchase of the following SRT uniform: Two (2) shirts (1- long and 1-short sleeve, including necessary embroidery and patches); 2 pairs of BDU pants; 1 pair all-weather shoes; 1-all-weather 3-in-1 coat; 1-outdoor head set.

Employees shall be required to submit a reimbursement request, along with receipts verifying the purchase of the SRT uniform within sixty (60) days of purchase. Reimbursements will be paid in accordance with the City's reimbursement procedures.

41.15 Video Display Equipment

- 41.15.1 **Working Conditions:** The City and the Union agree that employees working on video display equipment shall have safe and healthy work environments. These environments shall avoid excessive noise, crowding, contact with fumes, and other unhealthy conditions.

The City agrees wherever practicable to design the flow of work to avoid long, uninterrupted use of video display equipment by City employees.

- 41.15.2 **Pregnancies:** The City will accommodate requests for transfer from pregnant employees whose job duties require frequent exposures to video display equipment subject to the following:

41.15.2.1 such transfer will be limited to other positions which are vacant which the transferee is qualified to perform;

41.15.2.2.to voluntary trading of positions where both parties are competent to perform the new assignments;

41.15.2.3.to any position held by a temporary employee if the pregnant employee is qualified.

- 41.15.3. **Screening:** The City will develop a visual screening and education program effective July 1, 1988 for employees who in the course of their employment operate VDT terminals more than half the time. This program will include visual screening at or near employment, a referral

system for employees with possible VDT related vision problems, and a regular follow-up screening at approximately two years.

41.16 Introduction of New Technology

The Union shall be given reasonable advance notice of the introduction of new equipment or new processes which may result in the layoff of employees in the bargaining unit. Thereafter, the City and the Union shall meet for the purpose of discussing means of mitigating the impact of the introduction of said equipment upon affected employees. The City shall provide counseling to any displaced employee and shall assist the employee in securing training opportunities which may qualify him/her to be employed in another position with the City. The City shall train employees required to operate such new equipment.

41.17 Assignments for Temporarily Disabled Employees

41.17.1 The City may accommodate, when feasible, employees covered by this Agreement under the provisions of Workers' Compensation, and such work assignments are to incorporate the following provisions:

- a. The assignment shall be consistent with medical limitations as determined by the physician of record.
- b. The assignment shall be within the City of Berkeley and may include hours and days of work other than the employee's regular assignment, at no loss of pay.

41.17.2 The City may accommodate an employee disabled with a non-industrial disability by providing a modified work assignment in that employee's classification. To be eligible for such a modified assignment, the employee must provide the Human Resources Department with a medical statement from his/her treating physician that clearly states the medical limitations and abilities of the employee. If modification of that position does not serve the best interests of the City, other classifications may be considered, subject to the approval of the Director of Human Resources. Compensation will be provided at the level of the classification in which the temporarily disabled employee works during the disability. The employee must meet standards of satisfactory performance for the duration of the work assignment.

41.17.3 In the case of a medically certified pregnancy related disability, in which the normal duties clearly threaten the health and safety of the employee or the unborn child, the Human Resources Department will endeavor to place the employee in a position which best serves the interest of the

City with no loss of pay, but in no event will such placement exceed three (3) months in duration.

41.18 Part-Time Employment - Unit K-1

The Human Resources Department shall maintain a list of career employees in Unit K-1 who are interested in part-time career employment (20 hours or more). The lists shall be maintained by classification and the requests for less than full-time work shall be handled in the same manner as requests for transfer and reinstatement. Employees shall be certified by classification to departments with a vacancy and shall be considered for part-time employment on the same basis as employees requesting transfer or reinstatement.

41.19 Annual Performance Evaluation

The City and the Union shall conduct a joint study of the annual performance evaluation process and make recommendations to the City Manager.

Annual performance evaluations shall be conducted by the employee's immediate supervisor and reviewed by additional levels of supervision. Each employee may make written comments on the evaluation which shall be made part of the employee's personnel records.

Prior to annual evaluation, the supervisor must have observed the employee's performance for at least three (3) months in that evaluation period. If extended leave or other circumstances prevent three (3) months observation, the performance evaluation shall be postponed until this minimum time has elapsed. In special circumstances of relief or rotating employees who regularly do not work consecutive periods of over three (3) months with the same supervisor, the evaluation shall be completed as regularly due with the primary supervisors providing a joint evaluation.

41.20 Official Personnel File

41.20.1 All official records of the employee's personnel history are maintained in the Human Resources Department, including applications for appointment, performance appraisal forms, employee transaction forms, formal disciplinary actions and other documents pertinent to the employee's official personnel history. Copies of these records may be retained by the employee's department, as a departmental personnel file.

41.20.2 Employees have the right to inspect their departmental individual personnel files and the official file which is maintained in the Human Resources Department during normal business hours, as provided by

law. No material of any kind, except documents submitted by the employee, shall be placed in an employee's official personnel file or the departmental personnel file after the date of employment without a copy being given to the employee. The employee may provide a concise written response to any material which is maintained in either personnel file.

- 41.20.3 If the employee believes that any material has been placed in the official personnel file in the Human Resources Department in violation of this provision, the employee may send a written request for its removal to the Director of Human Resources with a copy to the Department Head. The Director of Human Resources will make a determination of the appropriateness of the inclusion of the material and will notify the employee of the final disposition.

If the employee believes that any material has been placed in the Departmental Personnel file in violation of this provision, the employee may send a written request for its removal to the Department, with a copy to the Director of Human Resources. The Department Head will make a determination of the appropriateness of the inclusion of the material and will notify the employee of the final disposition.

- 41.20.4 In responding to inquiries from prospective future employers, only information available in the individual's official personnel file will be provided.
- 41.20.5 Records of grievances filed by an employee which do not relate to any disciplinary action taken against that employee shall not be maintained in the individual's Departmental or Human Resources Department file. Such records may be separately maintained but shall not be regarded or treated as part of the individual's Departmental or official Human Resources Department file.
- 41.20.6 Except as otherwise required by applicable law, any material related to disciplinary action which is subsequently overturned or rescinded shall be removed from the employee's Departmental and official Human Resources Department file.
- 41.20.7 Formal letters of reprimand or formal counseling concerning work rules or time and attendance shall be removed from an employees' official files upon request after 24 months provided the employee has maintained satisfactory performance. Letters of reprimand concerning all other subjects shall be removed from an employee's official personnel

file upon request after 48 months provided the employee has maintained satisfactory performance.

Records of disciplinary actions involving a suspension of any length shall remain in the employee's official personnel file for as long as the City maintains the file, with one exception as follows: Upon mutual agreement between the City and the Union, a suspension of five (5) days or less shall be removed from an employee's official personnel file upon request, provided the employee has maintained satisfactory performance for five (5) years after the date of the suspension (i.e., no written reprimands or suspensions during the five (5) year period).

41.21 Supplemental Retirement / Disability Insurance Plan

Effective January 1, 1983, the majority of miscellaneous employees under the City's contract with the State of California Public Employees' Retirement System who were covered by the integrated Social Security Program voted to withdraw from participation in the Federal Social Security Program.

In lieu of Social Security payments, the City has agreed to pay an amount equal to that percent of individual pay (6.7% payable on the first \$32,400 of salary paid in the calendar year) which had been paid by the City to Social Security as of December 31, 1982 to a Supplemental Retirement and Income Plan which provides investment and long-term disability benefits for those employees previously covered under the integrated PERS/Social Security Plan. Provisions of this plan are described in, Berkeley Municipal Code Section 04.36.101 et seq. as amended. This payment is also applicable to those employees hired on or after 1/1/83.

All employees hired after July 22, 1988 are in SRIP II. Provisions of this plan are described in Municipal Code Section 04.38.101 et seq., as amended. All employees hired prior to July 22, 1988 are in SRIP I unless they chose to enroll in SRIP II prior to December 17, 1988.

The City will assume payment of the cost of current enrollees in the SRIP II optional long-term disability plan effective December 4, 1994. The City will assume the cost for long-term disability insurance for all SRIP II members upon completion of contract negotiations with the insurance carrier, but no later than February 26, 1995.

41.22 Reclassification of Positions / Job Audits

City agrees to honor up to one audit request per employee in each twelve-month period. The departmental manager must review and comment on the completed position description questionnaire and submit it to the Human Resources

Department within 90 days of receipt from the employee. The employee shall be notified by the Human Resources Department within a reasonable time of receipt of the completed position description questionnaire. Status updates regarding the position audit will be provided to the employee every six months until the position audit is completed.

If a bargaining unit position is upgraded or otherwise reclassified, it shall automatically be included in the bargaining unit if the work performed belongs under the jurisdiction of the Union as determined by the City after a review of the position by the Human Resources Department.

In the event the City reclassifies a position from a lower level classification to a higher level classification, an incumbent occupying such position shall be reclassified without competitive examination provided they have performed the duties of the new class for six (6) months and have not received an unsatisfactory evaluation. All other employees shall pass an examination for the higher class and shall serve the normal probationary period. If a position is reclassified, the employee shall receive back pay to the date of the beginning of the closest pay period that the position description questionnaire is received by the Department Head. Position description questionnaires shall be available at all times in each department.

41.23 Reallocation of Positions

The City will notify the Union of a decision to eliminate or reallocate bargaining unit positions and the City shall satisfy any meet and confer obligations on impact requirement in accordance with the MMBA.

41.24 Break Facilities

Each work location shall include a room that is reserved for use of employees for rest breaks and lunch breaks. Employees who wish to take rest or lunch breaks in these rooms shall have first priority for the use of such rooms unless alternative break facilities are provided.

41.25 Educational Leave

The employee shall be eligible for reimbursement for tuition, and textbooks for training that is required by the City or for training that is mutually acceptable to the employee and the City Manager or designee as follows.

41.25.1 After one (1) year of service (2080 hours of work), the City shall allow up to twenty-five (25) hours off with pay per year to employees:

- a. Who are required by law or as a condition of employment to obtain a license, a registration, or other certification, and in order to do so,

must take courses which are not offered as part of their basic curriculum, or;

- b. Who are required by law or as a condition of employment to obtain continuing education units;

41.25.2 To obtain education and training related to job skills, to enhance performance of assigned duties or to promote employee development.

Employees seeking time off to take courses for an initial license or certificate which is a requirement of the job or related to job skills, or to enhance performance of assigned duties or promote development will require pre-approval by a department manager prior to undertaking the coursework.

41.26 Jail Closure

In the event that the City decides to consider closing the Berkeley City jail, the City will notify the Union at least ninety (90) days prior to the effective date of the closure. The City will meet and confer on the impact of the City's decision to close the jail. If the City decides to proceed with the Jail closure, employees currently assigned to work in the jail will be reassigned within the Police Department as positions are available. If there are not enough allocated budgeted positions available for all employees, the City will explore creating Community Service Officer position within the Police Department.

If there are not enough available allocated budgeted Community Service Officer and Community Service Officer Supervisor positions in the Police Department to place employees assigned to the Jail prior to closure, employees will be flexibly placed first to vacant allocated budgeted positions within the Police Department. If there are insufficient vacant allocated budgeted positions within the Police Department to place staff, then employees will be offered flexible placement into other vacant allocated budgeted positions within the City. Employees who are flexibly placed as a result of closure of the Jail shall preserve their pay for one year in keeping with the City's practice on flexible placement.

41.27 YMCA

Effective January 1, 1999, the cost of YMCA membership will be divided between the City and the employees, with the City contribution to be 75% of the monthly membership fee. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding.

Use of a YMCA membership by a City of Berkeley employee, as provided for in this Agreement, is non-compensable, is not a part of the employee's work-related

duties, is not required for employment and is not condoned as part of a physical fitness program, or required to maintain top physical conditioning for the employee's job performance.

The City of Berkeley or its Claims Administrator may not be liable for any injury which arises out of a City of Berkeley employee's participation in and use of a YMCA membership.

41.28 Address and Phone Number

Employees have the responsibility to provide the City with their current address and telephone number.

41.29 Legal Representation

The City will consider on a case-by-case basis legal representation for employees in cases arising out of the lawful performance of their assigned job duties.

41.30 Physical Exams

The City may require physical exams by a physician of the City's choice for reasonable cause related to fitness for duty.

41.31 Crimes against Employees

The Police Department will promptly respond to any calls regarding criminal acts committed against a City employee while engaged in his or her employment. Reports of assault or other acts of criminal misconduct committed against a City employee will be promptly investigated. The results of the investigation will be submitted to the District Attorney for disposition.

41.32 Classification Changes/New Classifications

The City will meet and confer with the Union on the impact of the City's decision to a) change existing classifications or b) upon creation of new classifications. Such notice to the Union shall be given at least twenty (20) working days prior to the Personnel Board meeting that the City intends to bring the matter forward.

41.33 Clerical Classification Upward Mobility Committee

During the term of this contract (July 5, 2015 to June 16, 2018), the parties agree to establish an upward mobility committee for the purpose of meeting and discussing barriers to upward mobility of employees in the clerical classifications and to determine if the current classification series and the mechanism to advance through these is effective. The committee shall be composed of no more than four (4) representatives from the City and no more than four (4) representatives from the Union.

41.34 Participation in Examinations and Interviews

Employees shall be allowed time to participate in examinations administered by the Human Resources Department or departmental selection interviews or testing, which are scheduled during an employee's regular working hours. Employees shall provide at least 48 hour notice to their supervisor of their participation in an examination or interview, and such time should be coded as regular work hours on their time sheet. Employees are not compensated for participating in examinations or selection processes that occur outside of their regular work hours. Employee who fails to provide notice as provided herein shall be required to use his or her own accrued leave.

41.35 Commercial Driver Reassignment

An employee who is required to possess a valid California Class A or Class B driver's license as a condition of employment and whose license has been temporarily suspended by either the Department of Motor Vehicles or the court system as a result of conduct occurring off the job shall be placed temporarily in a vacant budgeted allocated position which does not require driving subject to the following conditions:

- 41.35.1 Compliance with California Vehicle Code Section 15224: "Any driver who has a driver's license or privilege suspended, revoked, or canceled by any state for any period, or who is disqualified from driving a commercial motor vehicle for any period, shall notify his or her employer of the suspension, revocation, cancellation, or disqualification, before the end of the business day following the action."
- 41.35.2 The driver's license suspension in excess of thirty (30) days but no longer than one (1) year.
- 41.35.3 The employee will be required to take accumulated leave or leave without pay for the first thirty (30) days of the driver's license suspension.
- 41.35.4 The employee will be provided a temporary non-driving assignment only one time during his/her employment with the City.
- 41.35.5 An employee must have at least five (5) years of service with the City to qualify for a temporary non-driving assignment.
- 41.35.6 An employee must have a satisfactory performance evaluation with an overall rating of "Meets Requirements" (if the employee has not been evaluated within a year of the date of the temporary assignment, he/she will be considered to have satisfactory performance).

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- 41.35.7 An employee must have no disciplinary suspension within three (3) years prior to the loss of his/her license.
- 41.35.8 An employee will not be eligible for this program if the employee at any time during his or her career has been suspended for any duration as a result of a positive drug or alcohol test result administered under the Omnibus Transportation Employee Testing Act of 1996 (OTETA).
- 41.35.9 No more than three (3) employees in a work unit and no more than 5 employees at any one time can be reassigned under this program. For the purposes of this policy, a work unit is defined as a subdivision of a department (e.g., Solid Waste Division of Public Works, Landscape Maintenance Division of the Parks, Recreation and Waterfront Department).
- 41.35.10 If the employee's job requirements are performed without the use of a vehicle, the employee will remain in his/her classification and retain full salary.
- 41.35.11 If an employee's job requirements are performed while using a vehicle (i.e., street sweeper), the employee will be temporarily reassigned to another vacant budgeted allocated position in the Maintenance Chapter in which his/her inability to drive can be accommodated. In such case, the employee's salary will be temporarily changed to the same step in the classification to which the employee is assigned. The employee will be returned to his/her former position upon reinstatement of his/her license.
- 41.35.12 In the event that there are no vacant budgeted allocated positions available, the employee will be placed on an approved leave until a vacancy exists or his or her license is reinstated, whichever occurs first.
- 41.35.13 Employees who have their Class A or B Commercial Driver License suspended or revoked shall have their Special Assignment Pay authorized under Section 17.14 (Special Class Commercial Driver's License Premium) suspended or cancelled upon the effective date of the revocation or loss of driving privileges. The Special Assignment Pay as provided in Section 17.14 (Special Class Commercial Driver's License Premium) shall be reactivated upon reinstatement of the employee's Class A or B Commercial Driver License.

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41.36 ERMA (Enterprise Resources Management Application) System

The City agrees to meet and confer with the Union over the impact to wages, hours, or working conditions governed by this MOU related to the implementation of ERMA (Enterprise Resources Management Application) system. This meet and confer shall begin no later than August 30, 2018.

SECTION 42: DEPENDENT CARE

The City has established a Dependent Care Plan under Internal Revenue Code Sections 125 and 129 to allow employees to designate a specific amount of salary, consistent with applicable law, to be redirected to pay for dependent care costs prior to withholding of taxes.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

SECTION 43: PUBLIC EMPLOYEES' RETIREMENT SYSTEM

43.1 Participation

The City shall continue participation under the Miscellaneous Employees Plan of the Public Employees' Retirement System.

43.2 "Classic Employees" Definition

Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

43.3 "New Members" Definition

New Members are as defined in the Public Employees' Pension Reform Act of 2013 (PEPRA), Government Code Section 7522.04(f).

43.4 CalPERS Retirement Formula for Members as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)

"New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the retirement formula set forth in PEPRA.

43.5 CalPERS Retirement Formula and Employer Paid Member Contribution for Classic Employees, i.e., current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA)

Effective January 5, 2003, the City agrees to provide the 2.7% at age 55 retirement formula benefit improvement, the City's contribution to CalPERS on behalf of the employee will increase from 7% to 8%. Effective July 3, 1994, contributions made pursuant to this section shall be reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The aforesaid contribution shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked, or education incentive pay; nor shall such contribution be taken into account in determining the level of any other benefit which is a function of or percentage of salary. The City reserves the right to take said contribution into account for the purpose of salary comparisons with other employees.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

43.6 New Members Payment of Employer Paid Member Contribution

New Members as defined by PEPRA who are hired by the City on or after January 1, 2013 will be required to pay 50% of the normal cost, as provided by CalPERS. New Members shall receive any other additional optional CalPERS benefits that the City provides to Classic Employees as allowed by PEPRA.

43.7 Optional Benefits

The City's contract with CalPERS includes the following optional benefits:

- 43.7.1 **Classic Employees – One-Year Final Compensation:** : Classic Employees, as defined in Section 43.2, shall be eligible to receive retirement allowance based on One-Year Final Compensation as provided in Section 20042 (July 9, 1978).
- 43.7.2 **New Members – Three Years Final Compensation:** Provided further that New Members as defined by PEPRA hired on or after January 1, 2013 shall be eligible to receive retirement allowance based on three (3) highest consecutive years of compensation under the plan as provided in the California Public Employees Pension Reform Act of 2013, or as subsequently amended.
- 43.7.3 Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973).
- 43.7.4 Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).
- 43.7.5 Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).
- 43.7.6 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973).
- 43.7.7 Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

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- 43.7.8 2% @ 55 for Local Miscellaneous Members as provided in Section 21354 (June 30, 1992).
- 43.7.9 Military Service as Public Service as provided in Section 21024 (April 9, 1999)
- 43.7.10 Public Service Credit for Peace Corps or AmeriCorps/VISTA Service as provided in Section 21023.5 (April 14, 2000).

The conversion of unused sick leave to Retirement credit benefit (Section 20965) offered by CalPERS as an optional benefit to contracting agencies shall be made available to Unit members.

43.8 Classic Members' Pension Contribution

- 43.8.1 Effective June 4, 2017, employees will contribute one percent (1.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis, in exchange for the City granting the salary increase set forth in Section 11, paragraph 11.1.9 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.
- 43.8.2 Effective December 31, 2017, employees will contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions on a pre-tax basis, for a total of eight percent (8.0%) via automatic payroll deduction on a pre-tax basis, in exchange for the City granting the salary increase (total of 5.58%) set forth in Section 11, paragraph 11.1.12 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions. The parties recognize that the Employer Paid Member Contributions (EPMC) shall remain in effect as long as the CalPERS amendment stays in effect.
- 43.8.3 If legislation is enacted requiring employees under the CalPERS retirement system to pay all of the employee's share of retirement, thus eliminating the EPMC, the parties agree as soon as possible to convert the employee's contribution to the employer's share under this 20516 CalPERS contract amendment to the employee's share towards retirement and the City will continue to pay the wage increase as described in Section 11, paragraphs 11.1.9 and 11.1.12 (maximum of 5.58%) associated with this cost neutral provision.

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43.9 New Members' Pension Contributions

43.9.1 New Members, as defined in the California Public Employees' Pension Reform Act of 2013 (PEPRA), shall continue to pay 50% of the Normal Cost required under PEPRA.

43.9.2 Effective June 4, 2017, in addition to the contribution in Section 43.9.1, New Members will contribute one percent (1.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions as pre-tax via automatic payroll deduction, in exchange for the City granting the salary increase (0.69%) set forth in Section 11, paragraph 11.1.9 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

43.9.3 Effective December 31, 2017, in addition to the contributions in Sections 43.9.1 and 43.9.2, New Members will contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions as pre-tax, for a total of eight percent (8.0%) via automatic payroll deduction, in exchange for the City granting the salary increase (4.89%, for a total of 5.58%) set forth in Section 11, paragraph 11.1.12 of this Memorandum Agreement. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

43.9.4 The additional 8% contribution referred to in Section 43.9.3 will be reduced as follows:

- a. • FY2021-22: 1% (to be effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% effective July 1, 2022
- FY2023-24: 1% effective July 1, 2023
- FY2024-25: 2% effective July 1, 2024
- FY2025-26: 2% effective July 1, 2025
- FY2026-27: 1% effective July 1, 2026
- b. No change to Classic members' contributions during the contract term.
- c. No sooner than June 30, 2023, either party may request to reopen this provision to negotiate an accelerated schedule for reducing PEPRA employees' additional contribution towards their pension costs. ~~(ok 7-12)~~

Commented [PA2]: This date is where we landed as of July 12

This reduction in additional contributions shall not impact the salary increases referenced in Section 43.9.5 below.

43.9.54——The parties recognize that the CalPERS 20516 employee contributions towards the employer rate is in addition to the required 50% of the normal cost of “new members” benefits and made in consideration of additional salary increases in Section 11 paragraphs 11.1.9 and 11.1.12 above (a total of 5.58% salary increase in exchange for employees paying an additional eight percent (8.0%) towards PERS pension cost).

43.9.65——If legislation is enacted and becomes effective during this agreement requiring “classic members” as defined by PEPRA to pay all of the employees’ share of retirement thus requiring the discontinuation of the 20516 employee contribution towards the employer rate as described in Section 43.8.3 above, the parties agree that as soon as possible the City shall convert the “new members” eight percent (8.0%) contribution under the 20516 contract amendment to an equivalent payroll deduction. Such employee deductions by the City shall be used towards the City’s CalPERS required contribution. No later than 60 days following execution of this Agreement (July 5, 2015 to June 16, 2018), the City will request, from the IRS, a private letter ruling to determine whether or not the IRS permits the employee’s payroll deduction of eight percent (8.0%) to be treated on a pretax basis. The City shall make such deductions on a post-tax basis unless and until it receives an IRS private letter ruling that confirms that such deductions can be treated on a pretax basis. If the IRS private letter stipulates that such deductions need to be made on a post-tax basis for “new members”, the parties shall meet and confer over methods to ensure the cost-neutrality for both parties of the swap described in Section 11, paragraphs 11.1.9 and 11.1.12; and Sections 43.9.2 and 43.9.3 above.

LAYOFF PROCEDURE

SECTION 44: LAYOFF

This layoff policy for the City of Berkeley is intended to provide the maximum employment protection to the City staff should a layoff become necessary. The policy also aims to minimize the impact such a layoff might have on the City's affirmative action accomplishments.

44.1 Announcement of Layoff

- 44.1.1 The City Council, City Manager, and Department Heads shall make every reasonable effort to manage and budget the City's resources effectively, and to plan for the delivery of City services in a manner which will avoid the necessity of laying off career City employees. If a reduction in the work force is necessitated by, but not limited to, the following: a material change in duties and organization, adverse working conditions, return of employee from leave of absence or shortage of work or funds, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.
- 44.1.2 Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the competitive service in similar and related classifications to those likely to be targeted for layoff, as well as all related full-time, temporary positions which are expected to last six (6) months or more, and notify all Department Heads that such current and anticipated vacancies will be frozen until further notice, in order to implement the provisions of Section 44.6. In notifying department heads of a freeze required by this section, the City Manager shall require that requisitions continue to be submitted for any budgeted positions which the department intends to fill and for which funding is available.
- 44.1.3 After the City has announced the need for a reduction in work force, including the magnitude of such reduction, and has informed employees of their prospective layoff or retreat, but before any actual layoff, the City shall seriously consider employee requests for alternative action, including job sharing.

44.2 Seniority Service Date

44.2.1 All service in the employ of the City shall be counted toward the establishment of an employee's Seniority Service Date, including, for example, permanent, probationary provisional, temporary (full-time and intermittent), seasonal, exempt employment, as well as leaves of absences for obligatory military service and approved parental leave while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the Seniority Service Date. Time off as a result of formal disciplinary action will be subtracted from the Seniority Service Date.

All leaves of absence without pay, regardless of duration, shall be subtracted from the employee's seniority service date. This provision will go into effect immediately upon implementation of necessary data processing and programming changes.

44.2.2 The Human Resources Department will maintain up-to-date and current Seniority Dates for all City employees holding probationary and permanent appointments. Approved parental leaves shall not be deducted from seniority service dates.

44.3 Establishment of Seniority Lists

44.3.1 Whenever a layoff of one or more career employees becomes necessary, as defined above, such layoffs shall be made according to City-wide classification Seniority Lists. Upon receiving notification that the City Manager must proceed with a possible reduction in the work force, and following receipt of information concerning the specific positions, programs and departments involved, the Human Resources Department will immediately establish separate Probationary and Permanent Seniority Lists for each classification targeted for layoff.

44.3.2 The names of all City employees holding permanent and probationary appointments in a given classification will be listed on the appropriate list in descending order by Seniority Service Date. Employees on both lists shall be laid off on the basis of their Seniority Service Date, i.e., employees with the least amount of total service shall be laid off first. Non-career employees and temporary agency personnel working in classifications similar to those identified for layoff must be terminated prior to the layoff of probationary or permanent employees. Employees on the Probationary Seniority List for a specific classification will be laid off prior to employees on the Permanent Seniority List for that class.

- 44.3.3 Probationary or permanent employees temporarily acting out of classification and holding a provisional appointment in another classification will only be listed on a Seniority List of the class targeted for layoff in which they hold permanent or probationary status. Any provisional appointment must be terminated prior to the retreat or layoff of a career employee with permanent or probationary status in the same classification.
- 44.3.4 If two (2) or more employees on a Seniority List have an identical Seniority Service Date, the tie shall be broken in the following order:
 - a. Time in classification - the employee having least time in the class shall be released first;
 - b. By lot.

44.4 Employee Retreat Rights/Out Placement

- 44.4.1 Before an employee with permanent or probationary status may be released from employment with the City of Berkeley, the Human Resources Department must consider the employee's right to retreat to lower level classification through which he or she was originally promoted or any subsequently created intermediate level career classification which provides normal progression through the classification series. Retreat rights shall also extend to employees who have not previously been promoted through a classification but for whom the classification is a natural progression or beginning in the classification series.
- 44.4.2 In addition to providing the employee with the appropriate retreat offer, when it is determined to be in the best interest of the service, the City Manager may authorize the Human Resources Department to offer the affected employee the option of out placement. The out placement offer would provide a designated amount of funds to be paid to the employee for use by the employee for career development. The employee could either accept the retreat offer (offer to bump another employee) or accept the out placement offer. If the employee accepts the out placement offer, the employee forfeits his or her rights including but not limited to retreat rights, flexible placement and re-employment rights, under the layoff policy and will be laid off. All offers of out placement will be made in a manner to comply with general law and the affected

employee will be required to sign a waiver and release of all claims in consideration for receiving this benefit.

- 44.4.3 In the process of retreating, the same rules concerning the length of service, classification, Seniority Lists, etc., apply as in the first stage of the layoff process. In order to retreat, the targeted employee must be higher on the Seniority List for the classification into which he or she is retreating than at least one of the incumbents on the probationary or permanent Seniority List for that class.
- 44.4.4 If an employee is qualified for retreat into more than one classification with comparable salary ranges or if a vacancy exists in a classification to which an employee is entitled to retreat, the options shall be discussed with the employee, and due consideration shall be given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee.
- 44.4.5 The retreating employee has a right to be retained in the highest salary range possible which is equal to or less than his or her present salary range. An employee involved in layoff does not have a right of mandatory placement to positions with a higher salary range, i.e., promotion.
- 44.4.6 An employee who is transferred in lieu of layoff when his/her position has been eliminated shall have automatic return rights to the previous position if it is restored within one (1) year of the date of the transfer. If an employee with a full time position is offered a reduction in hours in that position or in a lower classification, the employee may elect to be targeted for layoff for purpose of consideration under Section 44.6 (Flexible Placement Program.) If there is no flexible placement available for the employee, the employee may accept the reduction in hours, in lieu of layoff.
- 44.4.7 Supervising Clerks shall be entitled to retreat rights into any of the senior clerical positions regardless of whether or not they have served in that position, if their skills meet the minimum qualifications of the lower classification.

44.5 Employee / Union Notification

- 44.5.1 Temporary employees shall be notified individually, in writing of pending layoff as soon as possible, but no definite time period is required. However, at least two (2) weeks notification is desirable if possible.
- 44.5.2 Employees with provisional appointments shall be notified individually, in writing, of pending layoff as soon as possible, with no less than fifteen (15) calendar days notification if targeted for release or reassignment.
- 44.5.3 All notices of layoff under Section 44.5 shall be issued to the union simultaneously with notice to the affected employee(s). Together with any layoff notices sent to the union, a list shall be included of all vacancies which are authorized for filling.

If an employee fails to accept a bona fide offer, in lieu of layoff, ten (10) calendar days after the offer has been made, he or she forfeits further right to employment retention. Acceptance of a reassignment does not remove the right of appeal under Section 44.9.

44.6 Flexible Placement Program/Out Placement

- 44.6.1 In order to minimize the negative impact of a layoff, the City Manager will, as previously stated in Section 44.1, impose a City-wide freeze on all appropriate vacancies as soon as it has been determined that a layoff of career City employees may be necessary.
- 44.6.2 Following the release of all non-career employees, in classes similar to those targeted for layoff, and as soon as employees targeted for layoff have been identified and the provisions under Section 44.4 have been carried out, the Human Resources Department will review and identify the frozen vacant classifications into which employees ultimately targeted for layoff may be placed on the basis of total experience and education. In making this decision, a waiver of minimum qualification standards, and/or the substitution of related experience and education may be made, with an understanding on the part of management and supervisory personnel that adequate on-the-job training which can be completed within no more than six (6) months, will be provided to facilitate job adjustment, and to compensate for the waiver of qualification standards if that has occurred. The employee, the supervisor and the training officer will meet to develop a training program. The employee will be advised of his/her progress after two, four, and six months in the new classification. If at the end of this time,

the employee is unable to adequately perform the assignment, then the employee shall again be subject to the layoff process.

- 44.6.3 In addition to providing the employee with the flexible placement offer, when it is determined to be in the best interest of the service, the City Manager may authorize the Human Resources Department to offer the affected employee the option of out placement. The out placement offer would provide a designated amount of funds to be paid to the employee for use by the employee for career development. The employee could either accept the flexible placement offer (offer to be flexibly placed in a vacant position) or accept the out placement offer. If the employee accepts the out placement offer, the employee forfeits his or her rights including but not limited to retreat rights, flexible placement and re-employment rights, under the layoff policy and will be laid off. All offers of out placement will be made in a manner to comply with general law and the affected employee will be required to sign a waiver and release of all claims in consideration for receiving this benefit.
- 44.6.4 Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off, except that the City Manager may authorize the offer of a flexible placement to position with a maximum salary of no more than five (5) percent above the salary range as the classification from which layoff is targeted, when it is in the best interest of the City service to do so. Whenever flexible placement is made to a classification with a greater salary range, the appointment shall be probationary, in accordance with the terms of that classification.
- 44.6.5 Offers to positions under the Flexible Placement Program shall be made according to Seniority Service Date and in accordance with the Probationary and Permanent Seniority List certification process outlined in Section 44.3. All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times.
- 44.6.6 If an employee fails to accept a bona fide written offer of an alternative job within ten (10) calendar days after the offer has been made he or she forfeits further rights to employment retention. Acceptance of an alternative job under the Flexible Placement Program in no way jeopardizes an employee's standing on the Reemployment Priority Lists on which his or her name has been placed in accordance with Section 44.7 (Reemployment Lists).

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- 44.6.7 The union shall be notified when flexible placement is to occur within Units D, J, K-1, K-2.
- 44.6.8 Offers to positions under the Flexible placement Program shall be made according to Seniority Service Date and in accordance with the Probationary and Permanent Seniority List certification process outlined in Section 44.3 and in accordance with the following procedures:
- a. Full time vacancies authorized to be filled shall be listed in order from highest to lowest based on the actual maximum salary.
 - b. Part-time vacancies authorized to be filled shall be included in the above list in order based on the actual monthly maximum salary for the hours involved.
 - c. The individual with the earliest Seniority Service Date (SSD) targeted for layoff will be considered for flexible placement the top position in the above list.
 - d. If it is determined that the person with the earliest SSD is eligible and qualified for flexible placement in the top position on the list, the Human Resources Department shall offer the employee the position.
 - e. If the Human Resources Department or the City Manager determines that the employee is not eligible or not qualified for the top position, the Director of Human Resources shall proceed down the list of vacancies in an effort to identify the next highest position for which the employee is eligible and qualified for flexible placement. Upon identification of such a match, the Director of Human Resources shall offer that position to the employee.
 - f. This process shall be repeated until either a match is identified or the list of vacancies has been exhausted.
 - g. The above process shall then be repeated for the employee with the second highest SSD, and subsequently in order from earliest to most recent SSD for each of the other employees targeted for layoff.
- 44.6.9 All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times. Upon request, a written statement of the reasons for not offering an employee a particular position shall be made to the employee and/or the Union.

44.7 Reemployment Lists

- 44.7.1 The names of all probationary and permanent employees released from positions in the competitive service as a result of layoff must be placed on Reemployment Priority Lists for those classifications from which they were separated, as well as all other classifications to which they have retreat rights in accordance with Section 44.4.
- 44.7.2 A Reemployment Priority List shall remain in effect for three (3) years. Said list shall remain in effect indefinitely for employees who are retreated and remain employed with the City.
- 44.7.3 Departments with vacancies in any classification for which there is an active Reemployment Priority List must use the Reemployment Priority List to fill their positions and may not use any other recruitment or appointment method to fill a vacancy until appropriate Reemployment Lists have been exhausted.
- 44.7.4 When a vacancy occurs in a class for which there is a Reemployment Priority List, the employee on the appropriate Reemployment Priority List with the highest Seniority Date shall be given the offer of employment with a copy sent to the department head. Employees so certified from the Reemployment Priority List must be appointed to the existing vacancy.
- 44.7.4.1 If two (2) or more employees on the Reemployment Priority List have an identical Seniority Service Date, the tie shall be broken in the following order:
- a. Time in classification - the employee having least time in the class shall be released first;
 - b. By lot.
- 44.7.5 If a former employee fails to accept a bona fide written offer of reemployment within fifteen (15) calendar days, his or her name will be removed permanently from the Reemployment Priority List from which the offer was made. Failure to accept an offer of reemployment to the class with the highest salary range for which the employee is eligible for reemployment will result in automatic removal from all Reemployment Priority Lists. However, the employee may decline (or accept) reemployment to lower salary range classifications without jeopardizing

his or her standing on the Reemployment Priority List for the classification from which he or she was originally terminated.

- 44.7.6 Upon reappointment to the classification from which the employee was originally separated or demoted, the employee has the right to be placed at the step of the salary range which the employee held at the time of layoff or demotion.

44.8 Career-Exempt Employees

Only those employees holding full-time, benefited, exempt positions who, in the past, have achieved permanent status and have been continuously employed without a break in service between their career and exempt appointment, have the right to retreat to previously held career classifications, placement on the Reemployment Priority Lists, and all other provisions governing layoff procedures. For the purpose of layoff, such employees shall be referred to as "career exempt."

44.9 Appeal Procedures

Any permanent, probationary, or career-exempt employee who is laid off, demoted, reassigned or transferred as a result of layoff and who believes that the layoff procedure has been improperly administered as it pertains to the employee's case, may appeal the action under Section 40. In addition, employees may, at all times, before, during and subsequent to layoff, review all records, including Seniority Lists, Reemployment Priority Lists, documentation pertaining to appointments under the Flexible Placement Program, etc., which pertain to their classification and their rights under the provisions of the layoff policy.

44.10 Audit

- 44.10.1 If it is determined that a vacancy has been filled by a non Reemployment Priority List eligible, in a classification for which a Reemployment Priority List existed and which included available applicants at the time, the former employee with reemployment rights shall be hired and given retroactive pay from the date that the vacancy occurred.
- 44.10.2 When a layoff has occurred, and a reemployment eligibility lists exists, and the union so requests, the City Manager shall order an outside audit of all vacant positions filled in each department and authorized positions which have not been filled, to determine whether the vacancies occurred in classifications for which Reemployment Priority Lists were in existence, and, if so, whether the appointments made by the selecting official were in accordance with the procedures outlined in Section 44.7. In the event vacancies, for which Reemployment Priority Lists were in existence remained unfilled, the auditor shall offer an opinion as to

whether or not the reasons for leaving the positions vacant appear to be legitimate. A report of the audit must be transmitted to the City Manager and the City Council.

44.11 Reclassification or reallocation of positions shall not be used as a mechanism, the sole purpose of which is to improperly circumvent the provisions of this agreement, including provisions relating to layoff, transfer, demotion or promotion.

44.12 Layoffs For Term of MOU which Expires on June 26, 2021

For the term of this Agreement ending on June 26, 2021 only, the City recognizes the important role that the employee workforce play in delivering public services; therefore, the City agrees to not layoff any represented career employees. However, should the City determine that its expenditures exceed its revenues during the term of this Agreement, the City may notice the Union in writing and the Union shall meet and confer over one-time cost savings and the alternatives such as furloughs, union-directed VTO, etc. Nothing in this section requires the City to retain positions (filled or vacant) where state, federal or grant funding has been reduced or eliminated and would require the City to backfill such positions. All other MOU provisions on Layoffs remain unchanged.

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SEIU Local 1021 Maintenance and Clerical Chapters

SIGNATURE PAGE

SEIU Local 1021:

City of Berkeley:

~~John Stead-Mendez~~ David Canhan, Deputy Executive Director, SEIU 1021

Dee Williams-Ridley, City Manager

Peter Masiak, Eastbay Field Director, SEIU 1021

~~David Canham, Deputy Director,~~ Andre Spearman, Chief Negotiator, Field Representative, SEIU 1021

Dania Torres-Wong, Chief Negotiator

Sandra Lewis, Vice President of Representation, SEIU 1021

David White, Deputy City Manager

Danny Walker, Maintenance Chapter President

LaTanya Bellow, Director of Human Resources

Jenny Seay, Clerical Chapter President

~~Andrew Brozyna~~ Greg Apa, Deputy Director of Public Works Solid Waste and Recycling Manager

Rebecca Webb, Clerical Chief Steward

Scott Ferris, Director of Parks, Recreation and Waterfront

~~Tamika Griffin-Singh, Yolanda Gorman,~~ Clerical Chapter Vice President Steward

~~Jennifer Louis~~ Kevin Schofield, Police Captain

Orlando Murillo, Maintenance Chapter Vice President

Jacob Several- Maintenance Chief Steward

~~Elliot Warren~~ Tess Mayer, Acting Director of Library Services

~~Maritza Martinez~~ Wesley Gage, Clerical Chapter Steward

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~~Maya Wilson~~ Valentina Edwards, Clerical
Maintenance Chapter Steward

Janice Chin, Health, Housing and Community
Services

~~Jacob Seveal~~ Maintenance Chief Steward

Alicia Platt, Senior Human Resources
Analyst Melanie Popper, Employee Relations
Manager

~~Jay Elliott~~ Orlando Murrillo, Wesley Gage, At-Large
Representative, Maintenance Chapter Steward

Shayla Elliot, Human Resources Technician

~~Saul Flores~~ Maintenance Tanisha Gainer, Clerical
Chapter Steward

John Hurtado, Public Works Superintendent

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SEIU Local 1021 Maintenance and Clerical Chapters

EXHIBIT A - Salary Ranges as of July 25, 2021

(4% Cost of Living Adjustment)

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SEIU Local 1021 Maintenance and Clerical Chapters

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
42390	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	31.8431	33.2357	34.6833
42400	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	36.8824	38.5133	40.2085
42430	ACCT OFF SPEC SUP MC	K2	673	37.2213	39.0631	40.9781	43.0032	44.8176
31060	ACCT TECHNICIAN	K1	584	36.2959	38.0737	39.9518	41.9219	43.6905
41070	ADMIN ASSISTANT MC	K1	674	36.5506	38.3924	40.3074	42.3323	44.1470
60050	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	34.4982	35.5337	36.5688
66170	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	30.4298	31.2362	32.1433
14490	AQUATICS COORDINATOR	K1	092	36.6149	38.0351	39.4553	41.0313	42.5066
64250	AQUATICS FACILITIES SUP	K1	743	29.1098	30.5724	32.0965	33.7088	35.3916
25860	ASST AQUATICS COORD	K1	200	30.8969	32.1982	33.4260	34.5988	35.9275
25850	ASST REC COORDINATOR	K1	199	30.8982	32.2020	33.4268	34.5987	35.9290
51060	BUILDING MAINT MECH	D	343	0.0000	0.0000	41.2843	42.6329	44.0404
61060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	33.0547	34.0911	35.2439
51170	BUILDING MAINT SUPV	D	354	0.0000	0.0000	45.8581	47.3047	48.9175
72320	COM SERVICE OFFC SUP	J	733	39.0832	40.6428	42.2725	44.1581	46.1402
72330	COM SERVICE OFFICER	J	554	34.8753	36.2638	37.7181	39.1359	40.6250
53020	CONCRETE FINISHER	D	370	0.0000	0.0000	40.8118	42.0027	43.1932
53030	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	38.2212	39.4010	40.6796
63260	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	34.0203	35.0706	36.0827
47150	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	32.6032	34.3202	36.1293
47060	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	36.8824	38.5133	40.2085
47070	CUSTOMER SVC SPVSR	K2	675	37.2213	39.0631	40.9781	43.0032	44.8176
52020	EQUIPMENT PARTS TECH	D	358	0.0000	32.7114	34.5899	36.2391	37.0730
51130	FORESTRY CLIMBER	D	351	0.0000	0.0000	39.2792	40.5044	41.7834
51120	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	45.6953	47.0424	48.4045
67020	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	30.3105	31.5842	32.8671
51160	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	45.6953	47.0424	48.4045
67050	GROUNDKEEPER	D	444	0.0000	0.0000	30.4297	31.2308	32.1432
66020	JANITOR	D	434	0.0000	0.0000	28.1942	28.8996	29.7152
66010	JANITOR SUPERVISOR	D	433	0.0000	0.0000	32.8671	34.0216	35.0203
63110	LABORER	D	380	0.0000	0.0000	31.8514	32.7570	33.8071
54010	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	38.5335	39.7057	40.8701
67030	LANDSCAPE GARDENER	D	441	0.0000	0.0000	35.2494	36.2301	37.4303
67080	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	44.7695	46.0983	47.4084
67040	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	29.7152	30.5488	31.4011
44010	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	28.8082	29.8250	30.9430
71310	MARINA ASSISTANT MC	D	476	0.0000	0.0000	32.9562	33.8833	34.9381
52070	MECHANIC	D	362	0.0000	0.0000	43.2977	44.6070	45.9006
52090	MECHANIC LEAD	D	619	0.0000	0.0000	46.3192	47.7197	49.1276
52080	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	49.5541	51.0148	52.5752
63090	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	37.7954	38.9292	39.9947
47040	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	27.0856	28.2950	29.5410
47030	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	31.1721	32.5649	34.0126
47050	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	36.2117	37.8425	39.5377
47080	OFFICE SPEC SUP M&C	K2	676	36.5506	38.3924	40.3074	42.3323	44.1470
71240	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	33.5875	34.5465	35.5376
71030	PARKING ENFORCEMENT SUP	D	457	0.0000	36.6723	38.5022	40.4359	42.4501

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SEIU Local 1021 Maintenance and Clerical Chapters

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
65020	PARKING METER M&C SUP	D	734	38.8689	40.8114	42.8547	44.1834	45.5942
52050	PARKING METER MECH TRNE	D	360	0.0000	0.0000	30.7599	31.6119	32.6290
52110	PARKING METER MECHANIC	D	365	0.0000	0.0000	34.6630	35.7533	36.9081
65050	PARKING METER MNT WORK	D	402	0.0000	0.0000	30.7599	31.6119	32.6290
72240	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	32.1800	33.7561	35.1673
72230	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	44.6424	46.5016	48.4486
51280	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	45.1474	46.6541	48.2827
44020	RECORDS ASSISTANT	K1	707	0.0000	32.7114	34.5899	36.2391	37.0730
14480	RECREATION COORDINATOR	K1	091	36.6149	38.0351	39.4553	41.0313	42.5066
65780	REG VETERINARY TECH	D	821	0.0000	0.0000	30.7733	32.3979	34.1042
51140	ROSARIAN	D	352	0.0000	0.0000	36.7246	37.8701	39.0339
90110	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	37.9525	39.0888	40.2158
72020	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	43.6428	45.3380	47.0972
51150	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	41.2431	42.5367	43.8684
67100	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	33.2337	34.1867	35.3229
67010	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	37.5974	38.7194	39.9592
71320	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	33.5541	34.4982	35.6251
52120	SERVICE TECHNICIAN	D	366	0.0000	0.0000	36.3492	37.4604	38.5716
51110	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	42.4529	43.8533	45.2919
63130	SKILLED LABORER	D	383	0.0000	0.0000	33.8071	34.8422	35.9379
65170	SOLID WASTE LOADER OPR	D	411	31.6777	34.0095	35.7126	37.5003	39.3657
65270	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	38.6627	40.2382	41.3344
65130	SOLID WASTE WORKER	D	406	0.0000	0.0000	32.5209	33.9975	34.9870
72220	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	51.2064	53.3297	55.5675
63010	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	34.3515	36.1596	38.0626
65140	TRACTOR TRAILER DRIVER	D	408	35.7126	37.5003	39.3656	41.3443	43.4042
51070	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	42.8548	44.1741	45.5942
63070	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	31.8136	32.7205	33.7836
63080	TRAFFIC MAINT WORKER II	D	378	0.0000	33.7836	34.8098	35.9003	36.9356
52160	WAREHOUSE OPERATON SPEC	D	589	0.0000	37.5768	39.4462	41.3154	43.1661
65150	WEIGHMASTER	D	409	0.0000	33.2886	35.2037	36.8805	37.7235
65160	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	32.4916	33.9669	34.9563
52060	WELDER MECHANIC	D	361	0.0000	0.0000	43.8611	45.1930	46.5247
63250	YARDMASTER	D	388	0.0000	0.0000	35.9762	37.1253	38.2215

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SEIU Local 1021 Maintenance and Clerical Chapters

EXHIBIT B - Salary Ranges as of July 2022
(3% Cost of Living Adjustment)

<u>Job Code</u>	<u>Classification Title</u>	<u>Rep Unit</u>	<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
67010	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	32.7984	34.2328	35.7238
71320	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	37.9888	39.6687	41.4147
65160	ACCT OFF SPEC SUP MC	K2	673	38.3379	40.2350	42.2074	44.2933	46.1621
52120	ACCT TECHNICIAN	K1	584	37.3848	39.2159	41.1504	43.1795	45.0012
51110	ADMIN ASSISTANT MC	K1	674	37.6471	39.5442	41.5166	43.6022	45.4714
42390	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	35.5331	36.5997	37.6659
42400	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	31.3427	32.1733	33.1076
63130	AQUATICS COORDINATOR	K1	092	37.7133	39.1761	40.6390	42.2623	43.7818
65170	AQUATICS FACILITIES SUP	K1	743	29.9831	31.4895	33.0594	34.7201	36.4534
65270	ASST AQUATICS COORD	K1	200	31.8239	33.1641	34.4288	35.6368	37.0054
65130	ASST REC COORDINATOR	K1	199	31.8251	33.1681	34.4297	35.6367	37.0069
42430	BUILDING MAINT MECH	D	343	0.0000	0.0000	42.5228	43.9119	45.3616
31060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	34.0464	35.1138	36.3013
41070	BUILDING MAINT SUPV	D	354	0.0000	0.0000	47.2338	48.7239	50.3851
65780	COM SERVICE OFFC SUP	J	733	40.2557	41.8621	43.5406	45.4828	47.5244
51140	COM SERVICE OFFICER	J	554	35.9215	37.3517	38.8496	40.3100	41.8438
60050	CONCRETE FINISHER	D	370	0.0000	0.0000	42.0361	43.2628	44.4890
66170	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	39.3679	40.5831	41.9000
14490	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	35.0409	36.1227	37.1652
72220	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	33.5813	35.3498	37.2132
63010	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	37.9888	39.6687	41.4147
52060	CUSTOMER SVC SPVSR	K2	675	38.3379	40.2350	42.2074	44.2933	46.1621
64250	EQUIPMENT PARTS TECH	D	358	0.0000	33.6928	35.6276	37.3263	38.1852
25860	FORESTRY CLIMBER	D	351	0.0000	0.0000	40.4576	41.7195	43.0369
25850	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	47.0662	48.4537	49.8566
51060	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	31.2198	32.5317	33.8531
61060	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	47.0662	48.4537	49.8566
51170	GROUNDSKEEPER	D	444	0.0000	0.0000	31.3426	32.1677	33.1075
72320	JANITOR	D	434	0.0000	0.0000	29.0400	29.7666	30.6066
72330	JANITOR SUPERVISOR	D	433	0.0000	0.0000	33.8531	35.0423	36.0709
53020	LABORER	D	380	0.0000	0.0000	32.8069	33.7397	34.8213
53030	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	39.6895	40.8969	42.0962
63260	LANDSCAPE GARDENER	D	441	0.0000	0.0000	36.3069	37.3170	38.5532
47150	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	46.1126	47.4813	48.8307
47060	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	30.6066	31.4652	32.3432
65140	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	29.6725	30.7198	31.8713
47070	MARINA ASSISTANT MC	D	476	0.0000	0.0000	33.9449	34.8998	35.9862
52020	MECHANIC	D	362	0.0000	0.0000	44.5966	45.9452	47.2776

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SEIU Local 1021 Maintenance and Clerical Chapters

<u>Job Code</u>	<u>Classification Title</u>	<u>Rep Unit</u>	<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
51130	MECHANIC LEAD	D	619	0.0000	0.0000	47.7088	49.1513	50.6015
51120	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	51.0408	52.5453	54.1525
67020	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	38.9292	40.0971	41.1945
51070	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	27.8981	29.1438	30.4272
63070	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	32.1073	33.5418	35.0330
63080	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	37.2980	38.9778	40.7238
63250	OFFICE SPEC SUP M&C	K2	676	37.6471	39.5442	41.5166	43.6022	45.4714
51160	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	34.5952	35.5829	36.6038
67050	PARKING ENFORCEMENT SUP	D	457	0.0000	37.7724	39.6572	41.6490	43.7236
66020	PARKING METER M&C SUP	D	734	40.0349	42.0357	44.1403	45.5089	46.9621
66010	PARKING METER MECH TRNE	D	360	0.0000	0.0000	31.6827	32.5603	33.6078
63110	PARKING METER MECHANIC	D	365	0.0000	0.0000	35.7029	36.8259	38.0154
54010	PARKING METER MNT WORK	D	402	0.0000	0.0000	31.6827	32.5603	33.6078
90110	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	33.1454	34.7688	36.2223
72020	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	45.9817	47.8967	49.9021
67030	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	46.5019	48.0537	49.7312
52160	RECORDS ASSISTANT	K1	707	0.0000	33.6928	35.6276	37.3263	38.1852
65150	RECREATION COORDINATOR	K1	091	37.7133	39.1761	40.6390	42.2623	43.7818
67080	REG VETERINARY TECH	D	821	0.0000	0.0000	31.6965	33.3698	35.1273
67040	ROSARIAN	D	352	0.0000	0.0000	37.8263	39.0062	40.2049
44010	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	39.0911	40.2615	41.4222
51150	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	44.9521	46.6981	48.5101
71310	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	42.4804	43.8128	45.1845
52070	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	34.2307	35.2123	36.3826
52090	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	38.7253	39.8810	41.1580
52080	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	34.5608	35.5331	36.6938
63090	SERVICE TECHNICIAN	D	366	0.0000	0.0000	37.4397	38.5842	39.7288
47040	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	43.7265	45.1689	46.6507
47030	SKILLED LABORER	D	383	0.0000	0.0000	34.8213	35.8874	37.0161
47050	SOLID WASTE LOADER OPR	D	411	32.6280	35.0297	36.7839	38.6253	40.5466
47080	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	39.8226	41.4454	42.5744
71240	SOLID WASTE WORKER	D	406	0.0000	0.0000	33.4965	35.0174	36.0366
67100	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	52.7426	54.9296	57.2345
71030	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	35.3821	37.2443	39.2045
65020	TRACTOR TRAILER DRIVER	D	408	36.7839	38.6253	40.5465	42.5846	44.7063
52050	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	44.1404	45.4993	46.9621
52110	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	32.7680	33.7021	34.7971
65050	TRAFFIC MAINT WORKER II	D	378	0.0000	34.7971	35.8541	36.9773	38.0437
72240	WAREHOUSE OPERATON SPEC	D	589	0.0000	38.7041	40.6295	42.5548	44.4611
72230	WEIGHMASTER	D	409	0.0000	34.2873	36.2598	37.9869	38.8552
51280	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	33.4663	34.9859	36.0050

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SEIU Local 1021 Maintenance and Clerical Chapters

<u>Job Code</u>	<u>Classification Title</u>	<u>Rep Unit</u>	<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
44020	WELDER MECHANIC	D	361	0.0000	0.0000	45.1769	46.5488	47.9205
14480	YARDMASTER	D	388	0.0000	0.0000	37.0555	38.2391	39.3681

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SEIU Local 1021 Maintenance and Clerical Chapters

EXHIBIT C - Salary Ranges as of July, 2023

(1% Cost of Living Adjustment)

<u>Job Code</u>	<u>Classification Title</u>	<u>Rep Unit</u>	<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
42390	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	33.1264	34.5751	36.0810
42400	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	38.3687	40.0654	41.8289
42430	ACCT OFF SPEC SUP MC	K2	673	38.7213	40.6374	42.6295	44.7362	46.6237
31060	ACCT TECHNICIAN	K1	584	37.7586	39.6080	41.5619	43.6113	45.4512
41070	ADMIN ASSISTANT MC	K1	674	38.0236	39.9396	41.9318	44.0383	45.9261
60050	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	35.8884	36.9657	38.0425
66170	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	31.6561	32.4950	33.4387
14490	AQUATICS COORDINATOR	K1	092	38.0904	39.5679	41.0454	42.6849	44.2196
64250	AQUATICS FACILITIES SUP	K1	743	30.2829	31.8044	33.3900	35.0673	36.8179
25860	ASST AQUATICS COORD	K1	200	32.1421	33.4958	34.7731	35.9932	37.3754
25850	ASST REC COORDINATOR	K1	199	32.1434	33.4998	34.7739	35.9930	37.3769
51060	BUILDING MAINT MECH	D	343	0.0000	0.0000	42.9480	44.3510	45.8152
61060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	34.3868	35.4650	36.6643
51170	BUILDING MAINT SUPV	D	354	0.0000	0.0000	47.7062	49.2111	50.8889
72320	COM SERVICE OFFC SUP	J	733	40.6583	42.2807	43.9760	45.9377	47.9997
72330	COM SERVICE OFFICER	J	554	36.2807	37.7252	39.2381	40.7131	42.2622
53020	CONCRETE FINISHER	D	370	0.0000	0.0000	42.4565	43.6954	44.9339
53030	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	39.7616	40.9889	42.3190
63260	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	35.3913	36.4839	37.5368
47150	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	33.9171	35.7033	37.5853
47060	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	38.3687	40.0654	41.8289
47070	CUSTOMER SVC SPVSR	K2	675	38.7213	40.6374	42.6295	44.7362	46.6237
52020	EQUIPMENT PARTS TECH	D	358	0.0000	34.0297	35.9839	37.6995	38.5670
51130	FORESTRY CLIMBER	D	351	0.0000	0.0000	40.8622	42.1367	43.4672
51120	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	47.5368	48.9382	50.3552
67020	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	31.5320	32.8570	34.1917
51160	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	47.5368	48.9382	50.3552
67050	GROUNDSKEEPER	D	444	0.0000	0.0000	31.6560	32.4894	33.4385
66020	JANITOR	D	434	0.0000	0.0000	29.3304	30.0643	30.9127
66010	JANITOR SUPERVISOR	D	433	0.0000	0.0000	34.1917	35.3927	36.4317
63110	LABORER	D	380	0.0000	0.0000	33.1350	34.0771	35.1695
54010	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	40.0864	41.3059	42.5172
67030	LANDSCAPE GARDENER	D	441	0.0000	0.0000	36.6700	37.6901	38.9388
67080	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	46.5737	47.9561	49.3190
67040	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	30.9127	31.7799	32.6666
44010	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	29.9692	31.0270	32.1900
71310	MARINA ASSISTANT MC	D	476	0.0000	0.0000	34.2844	35.2488	36.3461
52070	MECHANIC	D	362	0.0000	0.0000	45.0426	46.4046	47.7504

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SEIU Local 1021 Maintenance and Clerical Chapters

<u>Job Code</u>	<u>Classification Title</u>	<u>Rep Unit</u>	<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
52090	MECHANIC LEAD	D	619	0.0000	0.0000	48.1859	49.6428	51.1075
52080	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	51.5512	53.0707	54.6940
63090	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	39.3185	40.4980	41.6064
47040	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	28.1771	29.4353	30.7315
47030	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	32.4284	33.8773	35.3833
47050	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	37.6710	39.3675	41.1310
47080	OFFICE SPEC SUP M&C	K2	676	38.0236	39.9396	41.9318	44.0383	45.9261
71240	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	34.9411	35.9387	36.9698
71030	PARKING ENFORCEMENT SUP	D	457	0.0000	38.1502	40.0538	42.0655	44.1608
65020	PARKING METER M&C SUP	D	734	40.4353	42.4561	44.5817	45.9639	47.4317
52050	PARKING METER MECH TRNE	D	360	0.0000	0.0000	31.9995	32.8859	33.9439
52110	PARKING METER MECHANIC	D	365	0.0000	0.0000	36.0599	37.1942	38.3955
65050	PARKING METER MNT WORK	D	402	0.0000	0.0000	31.9995	32.8859	33.9439
72240	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	33.4768	35.1165	36.5845
72230	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	46.4415	48.3756	50.4011
51280	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	46.9669	48.5342	50.2285
44020	RECORDS ASSISTANT	K1	707	0.0000	34.0297	35.9839	37.6995	38.5670
14480	RECREATION COORDINATOR	K1	091	38.0904	39.5679	41.0454	42.6849	44.2196
65780	REG VETERINARY TECH	D	821	0.0000	0.0000	32.0135	33.7035	35.4786
51140	ROSARIAN	D	352	0.0000	0.0000	38.2046	39.3963	40.6070
90110	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	39.4820	40.6641	41.8365
72020	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	45.4016	47.1651	48.9953
51150	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	42.9052	44.2510	45.6363
67100	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	34.5730	35.5644	36.7464
67010	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	39.1125	40.2798	41.5695
71320	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	34.9064	35.8884	37.0608
52120	SERVICE TECHNICIAN	D	366	0.0000	0.0000	37.8141	38.9700	40.1261
51110	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	44.1638	45.6206	47.1172
63130	SKILLED LABORER	D	383	0.0000	0.0000	35.1695	36.2463	37.3862
65170	SOLID WASTE LOADER OPR	D	411	32.9543	35.3800	37.1518	39.0116	40.9521
65270	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	40.2208	41.8598	43.0002
65130	SOLID WASTE WORKER	D	406	0.0000	0.0000	33.8315	35.3676	36.3969
72220	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	53.2700	55.4789	57.8069
63010	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	35.7359	37.6168	39.5966
65140	TRACTOR TRAILER DRIVER	D	408	37.1518	39.0116	40.9520	43.0104	45.1534
51070	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	44.5818	45.9543	47.4317
63070	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	33.0957	34.0391	35.1450
63080	TRAFFIC MAINT WORKER II	D	378	0.0000	35.1450	36.2127	37.3471	38.4241
52160	WAREHOUSE OPERATON SPEC	D	589	0.0000	39.0911	41.0358	42.9804	44.9057
65150	WEIGHMASTER	D	409	0.0000	34.6302	36.6224	38.3668	39.2438
65160	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	33.8010	35.3358	36.3650
52060	WELDER MECHANIC	D	361	0.0000	0.0000	45.6287	47.0143	48.3997

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<u>Job Code</u>	<u>Classification Title</u>	<u>Rep Unit</u>	<u>Grade</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
63250	YARDMASTER	D	388	0.0000	0.0000	37.4260	38.6214	39.7618

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SEIU Local 1021 Maintenance and Clerical Chapters

EXHIBIT A - Salary Ranges as of June 30, 2019 (0% Cost of Living Adjustment)

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
42390	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	30.6184	31.9574	33.3493
42400	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	35.4638	37.0320	38.6620
42430	ACCT OFF SPEC SUP MC	K2	673	35.7897	37.5607	39.4020	41.3492	43.0938
31060	ACCT TECHNICIAN	K1	584	34.8999	36.6093	38.4152	40.3095	42.0101
41070	ADMIN ASSISTANT MC	K1	674	35.1448	36.9158	38.7571	40.7041	42.4490
60050	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	33.1713	34.1670	35.1623
66170	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	29.2594	30.0348	30.9070
14490	AQUATICS COORDINATOR	K1	092	35.2066	36.5722	37.9378	39.4532	40.8717
64250	AQUATICS FACILITIES SUP	K1	743	27.9902	29.3965	30.8620	32.4123	34.0304
25860	ASST AQUATICS COORD	K1	200	29.7086	30.9598	32.1404	33.2681	34.5457
25850	ASST REC COORDINATOR	K1	199	29.7098	30.9635	32.1412	33.2680	34.5471
51060	BUILDING MAINT MECH	D	343	0.0000	0.0000	39.6964	40.9932	42.3465
61060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	31.7834	32.7799	33.8884
51170	BUILDING MAINT SUPV	D	354	0.0000	0.0000	44.0943	45.4853	47.0361
72320	COM SERVICE OFFC SUP	J	733	37.5800	39.0796	40.6466	42.4597	44.3656
72330	COM SERVICE OFFICER	J	554	33.5339	34.8690	36.2674	37.6307	39.0625
53020	CONCRETE FINISHER	D	370	0.0000	0.0000	39.2421	40.3872	41.5319
53030	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	36.7512	37.8856	39.1150
63260	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	32.7118	33.7217	34.6949
47150	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	31.3492	33.0002	34.7397
47060	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	35.4638	37.0320	38.6620
47070	CUSTOMER SVC SPVSR	K2	675	35.7897	37.5607	39.4020	41.3492	43.0938
52020	EQUIPMENT PARTS TECH	D	358	0.0000	31.4533	33.2595	34.8453	36.6471
51130	FORESTRY CLIMBER	D	351	0.0000	0.0000	37.7685	38.9465	40.1763
51120	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	43.9378	45.2331	46.5428
67020	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	29.1447	30.3694	31.6030
51160	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	43.9378	45.2331	46.5428
67050	GROUNDSKEEPER	D	444	0.0000	0.0000	29.2593	30.0296	30.9069
66020	JANITOR	D	434	0.0000	0.0000	27.1098	27.7881	28.5723
66010	JANITOR SUPERVISOR	D	433	0.0000	0.0000	31.6030	32.7131	33.6734
63110	LABORER	D	380	0.0000	0.0000	30.6263	31.4971	32.5068
54010	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	37.0514	38.1786	39.2982
67030	LANDSCAPE GARDENER	D	441	0.0000	0.0000	33.8937	34.8366	35.9907
67080	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	43.0476	44.3253	45.5850
67040	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	28.5723	29.3738	30.1934
44010	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	27.7002	28.6779	29.7529
71310	MARINA ASSISTANT MC	D	476	0.0000	0.0000	31.6887	32.5801	33.5943
52070	MECHANIC	D	362	0.0000	0.0000	41.6324	42.8913	44.1352
52090	MECHANIC LEAD	D	619	0.0000	0.0000	44.5377	45.8843	47.2381
52080	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	47.6482	49.0527	50.5631
63090	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	36.3417	37.4319	38.4564
47040	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	26.0438	27.2067	28.4048
47030	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	29.9732	31.3124	32.7044
47050	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	34.8189	36.3870	38.0170
47080	OFFICE SPEC SUP M&C	K2	676	35.1448	36.9158	38.7571	40.7041	42.4490
71240	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	32.2957	33.2178	34.1708
71030	PARKING ENFORCEMENT SUP	D	457	0.0000	35.2618	37.0213	38.8807	40.8174
65020	PARKING METER M&C SUP	D	734	37.3739	39.2417	41.2064	42.4840	43.8406

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Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
52050	PARKING METER MECH TRNE	D	360	0.0000	0.0000	29.5768	30.3961	31.3740
52110	PARKING METER MECHANIC	D	365	0.0000	0.0000	33.3298	34.3782	35.4886
65050	PARKING METER MNT WORK	D	402	0.0000	0.0000	29.5768	30.3961	31.3740
72240	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	30.9423	32.4578	33.8147
72230	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	42.9254	44.7131	46.5852
51280	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	43.4110	44.8597	46.4257
44020	RECORDS ASSISTANT	K1	707	0.0000	31.4533	33.2595	34.8453	35.6471
14480	RECREATION COORDINATOR	K1	091	35.2066	36.5722	37.9378	39.4532	40.8717
65780	REG VETERINARY TECH	D	821	0.0000	0.0000	29.5897	31.1518	32.7925
51140	ROSARIAN	D	352	0.0000	0.0000	35.3121	36.4136	37.5326
90110	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	36.4928	37.5854	38.6690
72020	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	41.9642	43.5942	45.2858
51150	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	39.6568	40.9007	42.1812
67100	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	31.9555	32.8718	33.9643
67010	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	36.1513	37.2302	38.4223
71320	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	32.2636	33.1713	34.2549
52120	SERVICE TECHNICIAN	D	366	0.0000	0.0000	34.9512	36.0196	37.0881
51110	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	40.8201	42.1666	43.5499
63130	SKILLED LABORER	D	383	0.0000	0.0000	32.5068	33.5021	34.5557
65170	SOLID WASTE LOADER OPR	D	411	30.4593	32.7014	34.3390	36.0580	37.8516
65270	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	37.1757	38.6906	39.7446
65130	SOLID WASTE WORKER	D	406	0.0000	0.0000	31.2701	32.6899	33.6413
72220	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	49.2369	51.2786	53.4303
63010	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	33.0303	34.7688	36.5987
65140	TRACTOR TRAILER DRIVER	D	408	34.3390	36.0580	37.8515	39.7541	41.7348
51070	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	41.2065	42.4751	43.8406
63070	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	30.5900	31.4620	32.4842
63080	TRAFFIC MAINT WORKER II	D	378	0.0000	32.4842	33.4710	34.5195	35.5150
52160	WAREHOUSE OPERATON SPEC	D	589	0.0000	36.1315	37.9290	39.7263	41.5059
65150	WEIGHMASTER	D	409	0.0000	32.0083	33.8497	35.4620	36.2726
65160	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	31.2419	32.6605	33.6118
52060	WELDER MECHANIC	D	361	0.0000	0.0000	42.1741	43.4548	44.7353
63250	YARDMASTER	D	388	0.0000	0.0000	34.5925	35.6974	36.7514

EXHIBIT B - VACATION LEAVE ACCRUAL HISTORY

YEARS DURING WHICH SERVICES RENDERED	YEARS OF SERVICE	AUTHORIZED ANNUAL VACATION LEAVE (in work weeks)
All years prior to January 1, 1950		2
January 1, 1950 through December 1, 1956	1st 10 years of service	2
	Years of service in excess of 10	3
January 1, 1957 through December 31, 1961	1st 5 years of service	2
	6 - 25 years of service	3
	Years of service in excess of 25	4
January 1, 1962 through December 31, 1965	1st 5 years of service	2
	6 - 20 years of service	3
	Years of service in excess of 20	4
January 1, 1966 through June 30, 1970	1st 5 years of service	2
	6 - 20 years of service	3
	21 - 25 years of service	4
	Years of service in excess of 25	5
Subsequent to June 30, 1970	1st 5 years of service	2
	6 - 15 years of service	3
	16 - 25 years of service	4
	Years of service in excess of 25	5
January 1, 1978	1st 5 years of service	2
	6 - 15 years of service	3
	16 - 25 years of service	4
	Years of service in excess of 20	5
January 1, 1981	1st 4 years of service	2
	5 - 12 years of service	3
	13 - 20 years of service	4
	Years of service in excess of 20	5
July 1, 1983	1st 3 years of service	2
	4 - 11 years of service	3
	12 - 17 years of service	4
	Years of service in excess of 18	5

This Exhibit is included for historical reference only. Current vacation rates are shown in Section 19.

EXHIBIT C - HOURS AND DAYS OF WORK

1. **Units D and J Work Hours:** The hours and days of work applicable to employees in Representation Units D (Manual Occupations) and J (Para-professional Employees-Police Department), as set by the City Manager, are presently as follows:

a. **Hours Per Day**

Office Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday.
Closed on Saturday.

Field Operations: 8 hours per day - 5 days per week. (Working arrangements may vary as to shifts for field operations in the different departments.)

b. **Hours Per Week (Basic)**

Office: 40 hours
Field Operations: 40 hours

c. **Work Week**

The work week will begin at 12:01 a.m. Sunday and end at Saturday midnight. Regular days off will be considered to be Saturday and Sunday.

2. **Units K-1 and K-2:** The hours and days of work applicable to employees in Representation Unit K-1 (career non-confidential office and clerical employees) and K-2 (supervisory clerical employees), as set by the City Manager, are presently as follows:

a. **Hours Per Day**

Office Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday

Police: 8 hours per day - 5 days per week.

Shop and Field: 8 hours per day - 5 days per week (presently includes):
Information Technology, and Mail assignments.

Shifts: Working arrangements may vary as to shifts for Police,
Shop and Field operations in the different departments.

Flex Time: Working arrangements may vary as to hours of work in
departments having a Flex-Time program.

Subject to the final approval of the Department Head and taking into consideration the recommendation of the Division Head, employees may request variable

working hours, such to include but not limited to, requests that the employee be scheduled four days per week, ten hours per day.

However, employees in work units that provide a six (6) or seven (7) day operation may be required to flex their work schedule based on the needs of the work unit. Flexing of work schedule will be assigned on the basis of inverse seniority unless more senior employees prefer to accept such work. The required flexing of work schedules will be on a day-for-day basis. When an employee is required to work on a regularly scheduled day off, the department will provide that employee with an alternative day off in the same work week when the required flexing occurs

b. **Hours Per Week (Basic):**

Office: 40 hours

Police: 40 hours

Shop and Field: 40 hours

c. **Work Week**

The work week will begin at 12:01 a.m. Sunday and end at Saturday midnight. Regular days off will be considered to be Saturday and Sunday except in those departments with work units that provide six (6) or seven (7) day operations.

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EXHIBIT D - SHOES, TOOLS AND UNIFORMS

Rep Unit	Classification Title	Annual Shoe Allowance	Annual Tool Allowance	Annual Uniform Allowance
D	Animal Control Officer			\$1,400
D	Building Maintenance Mechanic	\$200	\$500	
D	Building Maintenance Mechanic Trainee	\$200	\$500	
D	Building Maintenance Supervisor	\$200	\$500	
K1	City Services Aide	\$200		
J	Community Services Officer			\$1,400
J	Community Service Officer Supervisor			\$1,400
D	Concrete Finisher	\$200		
D	Construction Equipment Operator	\$200		
D	Container Maintenance Welder	\$200	\$220	
D	Equipment Parts Technician	\$200		
D	Forestry Climber	\$200		
D	Forestry Climber Supervisor	\$200		
D	Forestry Climber Trainee	\$200		
D	Forestry Technician	\$200		
D	Groundskeeper	\$200		
D	Janitor	\$200		
D	Janitor Supervisor	\$200		
D	Laborer	\$200		
D	Landscape Equipment Operator	\$200		
D	Landscape Gardener	\$200		
D	Landscape Gardener Supervisor	\$200		
D	Landscape Gardener Trainee	\$200		
D	Marina Assistant	\$200		
D	Mechanic	\$200	\$500	
D	Mechanic Supervisor	\$200	\$500	
D	Mechanical Sweeper Operator	\$200		
K1	Offset Equipment Operator	\$200		
J	Parking Enforcement Officer			\$1,400
D	Parking Meter Maintenance Collection Supervisor	\$200	\$250	\$1,400
D	Parking Meter Maintenance Worker	\$200		\$1,400
D	Parking Meter Mechanic	\$200	\$250	\$1,400
D	Parking Meter Mechanic Trainee	\$200		
K2	Printing Services Supervisor	\$200		
J	Public Safety Dispatcher I			\$1,400
J	Public Safety Dispatcher II			\$1,400
D	Public Works Supervisor	\$200		
D	Solid Waste Truck Driver	\$200		
D	Solid Waste Worker	\$200		

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City of Berkeley

SEIU Local 1021 Maintenance and Clerical Chapters

Rep Unit	Classification Title	Annual Shoe Allowance	Annual Tool Allowance	Annual Uniform Allowance
D	Rosarian	\$200		
D	Security Attendant	\$200		
D	Senior Animal Control Officer	\$200		\$1,400
D	Senior Forestry Climber	\$200		
D	Senior Groundskeeper	\$200		
D	Senior Landscape Gardener	\$200		
J	Senior Police Service Assistant			\$1,400
D	Service Technician	\$200	\$220	
D	Sewer Maintenance Assistant Supervisor	\$200		
D	Skilled Laborer	\$200		
D	Parking Enforcement Officer Supervisor			\$1,400
D	Supervising Parking Meter Mechanic	\$200	\$250	\$1,400
J	Supervising Public Safety Dispatcher			\$1,400
D	Tool Lending Specialist	\$200		
D	Tractor Trailer Driver	\$200		
D	Traffic Maintenance Supervisor	\$200		
D	Traffic Maintenance Worker I	\$200		
D	Traffic Maintenance Worker II	\$200		
D	Warehouse Operations Specialist	\$200		
D	Weighmaster	\$200		
D	Weighmaster Trainee	\$200		
D	Welder Mechanic	\$200	\$500	
D	Wheeled Loader Operator	\$200		

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SEIU Local 1021 Maintenance and Clerical Chapters

**EXHIBIT E – SIDE LETTER AGREEMENT BETWEEN THE CITY
OF BERKELEY AND SEIU LOCAL 1021 MC**

**City of Berkeley and SEIU 1021
Maintenance and Clerical Chapters**

&

Community Services and Part Time Recreation Leaders Association

TENTATIVE AGREEMENT

JULY 1, 2020

The Parties have reached a Tentative Agreement on the following terms:

A. Provisional Employee

Amend MC section 13.4 to include the following:

No employees shall hold a provisional appointment in the same position for more than 12 months. The City Manager may extend the provisional appointment beyond this 12- month limitation ~~after notification and consultation with the union~~ with the mutual agreement of the parties.

B. Limited Reopener

NEW LANGUAGE: If during the fiscal year 2020 -2021 the City reaches agreement with another bargaining unit or extends to unrepresented employees to confer an across the board Cost of Living Adjustment (COLA) increase and/or an additional City contribution towards medical premiums, the City agrees to a limited reopener to meet and confer with SEIU on these increases.

C. Living Wage

NEW LANGUAGE: The City agrees to pay each of its direct employees an hourly wage of no less than \$18.33 effective the first full pay period in January 2021. The City agrees to pay each of its direct employees an hourly wage of no less than \$19.33 effective the first full pay period in June 2021. If the Living Wage increases beyond \$19.33, as outlined in the Berkeley Municipal Code effective July 2021, the City shall implement the increases the first full pay period in September 2021 and July 1st of each year thereafter.

D. Term Duration

Parties agree to a one-year term ending on June 26, 2021.

E. Additional Language on Layoffs for the Term of the MOU

NEW LANGUAGE: The City recognizes the important role that the employee workforce plays in delivering public services; therefore, during the term of this Agreement the City agrees to not layoff any represented career employees. However should the City determine that its expenditures exceed its revenues during the term of this Agreement, the City may notice the Union in writing and the Union shall meet and confer over one-time cost savings and alternatives such as furloughs, union-directed VTO, etc. Nothing in this section requires the City to retain positions (filled or vacant) where state,

federal or grant funding has been reduced or eliminated and would require the City to backfill such positions. All other MOU provisions on Layoffs remain unchanged.

F. COVID19 Related Proposals

- 1. **Additional City Emergency Paid Sick Leave Allocation.** NEW LANGUAGE: The City shall provide an additional 80 hours of emergency paid sick leave to be used for COVID-19 related reasons as listed in the Emergency Paid Sick Leave Act. Part-time employees receive a prorated number of hours. In order to use this additional City emergency paid sick leave, the employee must first exhaust all hours that they received under the Emergency Paid Sick Leave Act. The City will use a specific pay code for this additional emergency paid sick leave and these additional hours will be available until June 30, 2021. These additional 80 emergency paid sick leave hours shall have no cash value and may not be used towards any CalPERS retirement service credit as outline in section 43.7.5 of the Maintenance and Clerical MOU and 47.8.5 of the Community Services MOU.

- 2. **Additional Floating Holidays.** NEW LANGUAGE: For employees who were required to remain in the workplace from March 17, 2020 – June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the MOU. The following classifications which, due to the nature of the assignment, require backfill, employees will be paid a stipend in the amount of the earned floating holiday hours up to a maximum of 32 hours the first full pay period in August 2020:

Solid Waste Drivers, Solid Waste Workers, Long Haul Drivers, Community Services Officer, Public Safety Dispatchers I/II, and Supervising Public Safety Dispatchers.

City will use a specific pay code for these additional floating holiday hours will be available until June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not be used towards CalPERS retirement service credit as outlined in section 43.7.5 of the Maintenance and Clerical MOU and 47.8.5 of the Community Services MOU.

Date: 7/2/2020

For the Union
[Signature]

Date: 7-1-2020

For the City
[Signature]

APPENDIX A - STREETS AND SANITATION – OVERTIME POLICY

Scheduled Overtime (does not include staff on standby or on-call)

For Streets and Sanitation, scheduled overtime shall be defined as an overtime assignment which is known at least twenty four (24) hours in advance.

Work Groups

There are three work groups in Streets and Sanitation:

Sewer Maintenance Operation

Street Cleaning/Clean City Program

Construction Operation which consists of Street Concrete/Paving, Patch/Structural Repair and Stormwater Maintenance

Overtime assignments will be offered first to employees in the work group which is currently assigned to perform the type of work involved. Work shall be offered to the employees in that work group on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee in the work group volunteers to perform the work, the work may be offered to employees in other work groups.

Notification of Overtime Work Opportunities

In the event that scheduled overtime becomes available, the Public Works Maintenance Superintendent, or his/her designee, shall do the following:

1. Post in a designated predetermined area a list of the available overtime assignment; and
2. Broadcast the overtime assignment over the radio to notify employees an overtime assignment is available.

Unscheduled Overtime

Unscheduled overtime shall be defined as any overtime work which becomes available less than twenty-four (24) hours in advance of the work. For unscheduled overtime assignments, the Public Works Maintenance Superintendent, or his/her designee, shall use the radio to contact employees for their availability. Unscheduled overtime

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assignments will be offered first to employees in the work group which usually performs the type of work involved. As with scheduled overtime, work shall be offered on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee in the work group volunteers to perform the work, the work may be offered to employees in other work groups who are qualified to perform the work.

APPENDIX B - SOLID WASTE AND RECYCLING MANAGEMENT DIVISION - OVERTIME POLICY

Scheduled Overtime for Planned Special Events

The following events are covered by this Section:

- July 4th Celebration
- Solano Stroll
- UC Football Home Game Days
- Kite Festival
- Cal Move Out

A schedule for these special events will be created at the beginning of the calendar year. No sooner than forty-five (45) days prior to the special event the overtime will be offered to employees in the classification who normally perform the work. Work shall be offered to employees on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee volunteers to perform the work, the work may be offered to any other employees who are qualified to perform the work.

Scheduled Overtime

Scheduled overtime shall be defined as an overtime assignment other than Planned Special Events which is known at least twenty four (24) hours in advance. Overtime will be offered to employees in the classification who normally perform the work. Work shall be offered to employees on a rotating seniority basis, starting with the most senior employee and proceeding down the list. When all employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list. In the event that no employee volunteers to perform the work the work, may be offered to any other employees who are qualified to perform the work.

Unscheduled Overtime

Unscheduled overtime shall be defined as any overtime work which becomes available less than twenty-four (24) hours in advance of the work. Overtime will be offered to the employees in the classification who normally perform the work. Such work shall be offered first to employees who are on their day off and who are present at the work site and available to work. Work shall be offered to the employees who are present,

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commencing with the employee who would next be eligible for overtime on the seniority list and proceeding down the list. If overtime remains after all employees who are at the work site on their day off have been assigned, the remaining overtime will be offered next to employees who sign up on the unscheduled overtime list created for this purpose. Overtime will be then offered to all employees in the classification who normally perform the work based on a rotating seniority basis, commencing with the most senior employee and proceeding down the list until the last employee on the unscheduled overtime list has been offered an opportunity to work, overtime. When all the employees on the list have worked or been provided the opportunity to work and refused such work, offers of work shall start again with the most senior employee and proceed down the list.

RESOLUTION NO. ##,###-N.S.

APPROVING A NEW CLASSIFICATION AND SALARY RESOLUTION FOR SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 1021 MAINTENANCE AND CLERICAL CHAPTERS AND RESCINDING RESOLUTION NO. 68,533-N.S.

WHEREAS, the City Council has approved a new two-year Memorandum Agreement with Service Employees International Union Local 1021 Maintenance and Clerical Chapters which includes salary increases; and

WHEREAS, it is necessary for the City Council to adopt a new Classification and Salary Resolution to reflect the salary adjustments reflected in the new Memorandum Agreement.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts a new Classification and Salary Resolution for employees in Representation Units D (Manual Operations); Representation Unit J (Para-professional Employees – Police Department); and Representation Unit K-1 (Career Non-confidential Office and Clerical Employees); and Representation Unit K-2 (Supervisory Clerical Employees) effective June 27, 2021 through June 26, 2024 to incorporate changes to the salary schedule as shown in Exhibit A (Effective July 25, 2021); Exhibit B (Effective July 2022) Exhibit C (Effective July 2023) attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that Resolution No. 68,533-N.S. is hereby rescinded.

Exhibits

- A: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution: Effective July 25, 2021
- B: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution: Effective July 2022
- C: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution Period: Effective July 2023

EXHIBIT A - Salary Ranges as of July 25, 2021

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
42390	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	31.8431	33.2357	34.6833
42400	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	36.8824	38.5133	40.2085
42430	ACCT OFF SPEC SUP MC	K2	673	37.2213	39.0631	40.9781	43.0032	44.8176
31060	ACCT TECHNICIAN	K1	584	36.2959	38.0737	39.9518	41.9219	43.6905
41070	ADMIN ASSISTANT MC	K1	674	36.5506	38.3924	40.3074	42.3323	44.1470
60050	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	34.4982	35.5337	36.5688
66170	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	30.4298	31.2362	32.1433
14490	AQUATICS COORDINATOR	K1	092	36.6149	38.0351	39.4553	41.0313	42.5066
64250	AQUATICS FACILITIES SUP	K1	743	29.1098	30.5724	32.0965	33.7088	35.3916
25860	ASST AQUATICS COORD	K1	200	30.8969	32.1982	33.4260	34.5988	35.9275
25850	ASST REC COORDINATOR	K1	199	30.8982	32.2020	33.4268	34.5987	35.9290
51060	BUILDING MAINT MECH	D	343	0.0000	0.0000	41.2843	42.6329	44.0404
61060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	33.0547	34.0911	35.2439
51170	BUILDING MAINT SUPV	D	354	0.0000	0.0000	45.8581	47.3047	48.9175
72320	COM SERVICE OFFC SUP	J	733	39.0832	40.6428	42.2725	44.1581	46.1402
72330	COM SERVICE OFFICER	J	554	34.8753	36.2638	37.7181	39.1359	40.6250
53020	CONCRETE FINISHER	D	370	0.0000	0.0000	40.8118	42.0027	43.1932
53030	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	38.2212	39.4010	40.6796
63260	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	34.0203	35.0706	36.0827
47150	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	32.6032	34.3202	36.1293
47060	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	36.8824	38.5133	40.2085
47070	CUSTOMER SVC SPVSR	K2	675	37.2213	39.0631	40.9781	43.0032	44.8176
52020	EQUIPMENT PARTS TECH	D	358	0.0000	32.7114	34.5899	36.2391	37.0730
51130	FORESTRY CLIMBER	D	351	0.0000	0.0000	39.2792	40.5044	41.7834
51120	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	45.6953	47.0424	48.4045
67020	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	30.3105	31.5842	32.8671
51160	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	45.6953	47.0424	48.4045
67050	GROUNDKEEPER	D	444	0.0000	0.0000	30.4297	31.2308	32.1432
66020	JANITOR	D	434	0.0000	0.0000	28.1942	28.8996	29.7152
66010	JANITOR SUPERVISOR	D	433	0.0000	0.0000	32.8671	34.0216	35.0203
63110	LABORER	D	380	0.0000	0.0000	31.8514	32.7570	33.8071
54010	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	38.5335	39.7057	40.8701
67030	LANDSCAPE GARDENER	D	441	0.0000	0.0000	35.2494	36.2301	37.4303
67080	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	44.7695	46.0983	47.4084
67040	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	29.7152	30.5488	31.4011
44010	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	28.8082	29.8250	30.9430
71310	MARINA ASSISTANT MC	D	476	0.0000	0.0000	32.9562	33.8833	34.9381
52070	MECHANIC	D	362	0.0000	0.0000	43.2977	44.6070	45.9006
52090	MECHANIC LEAD	D	619	0.0000	0.0000	46.3192	47.7197	49.1276
52080	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	49.5541	51.0148	52.5752
63090	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	37.7954	38.9292	39.9947
47040	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	27.0856	28.2950	29.5410
47030	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	31.1721	32.5649	34.0126
47050	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	36.2117	37.8425	39.5377
47080	OFFICE SPEC SUP M&C	K2	676	36.5506	38.3924	40.3074	42.3323	44.1470
71240	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	33.5875	34.5465	35.5376
71030	PARKING ENFORCEMENT SUP	D	457	0.0000	36.6723	38.5022	40.4359	42.4501
65020	PARKING METER M&C SUP	D	734	38.8689	40.8114	42.8547	44.1834	45.5942
52050	PARKING METER MECH TRNE	D	360	0.0000	0.0000	30.7599	31.6119	32.6290
52110	PARKING METER MECHANIC	D	365	0.0000	0.0000	34.6630	35.7533	36.9081
65050	PARKING METER MNT WORK	D	402	0.0000	0.0000	30.7599	31.6119	32.6290
72240	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	32.1800	33.7561	35.1673

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
72230	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	44.6424	46.5016	48.4486
51280	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	45.1474	46.6541	48.2827
44020	RECORDS ASSISTANT	K1	707	0.0000	32.7114	34.5899	36.2391	37.0730
14480	RECREATION COORDINATOR	K1	091	36.6149	38.0351	39.4553	41.0313	42.5066
65780	REG VETERINARY TECH	D	821	0.0000	0.0000	30.7733	32.3979	34.1042
51140	ROSARIAN	D	352	0.0000	0.0000	36.7246	37.8701	39.0339
90110	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	37.9525	39.0888	40.2158
72020	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	43.6428	45.3380	47.0972
51150	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	41.2431	42.5367	43.8684
67100	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	33.2337	34.1867	35.3229
67010	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	37.5974	38.7194	39.9592
71320	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	33.5541	34.4982	35.6251
52120	SERVICE TECHNICIAN	D	366	0.0000	0.0000	36.3492	37.4604	38.5716
51110	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	42.4529	43.8533	45.2919
63130	SKILLED LABORER	D	383	0.0000	0.0000	33.8071	34.8422	35.9379
65170	SOLID WASTE LOADER OPR	D	411	31.6777	34.0095	35.7126	37.5003	39.3657
65270	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	38.6627	40.2382	41.3344
65130	SOLID WASTE WORKER	D	406	0.0000	0.0000	32.5209	33.9975	34.9870
72220	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	51.2064	53.3297	55.5675
63010	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	34.3515	36.1596	38.0626
65140	TRACTOR TRAILER DRIVER	D	408	35.7126	37.5003	39.3656	41.3443	43.4042
51070	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	42.8548	44.1741	45.5942
63070	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	31.8136	32.7205	33.7836
63080	TRAFFIC MAINT WORKER II	D	378	0.0000	33.7836	34.8098	35.9003	36.9356
52160	WAREHOUSE OPERATON SPEC	D	589	0.0000	37.5768	39.4462	41.3154	43.1661
65150	WEIGHMASTER	D	409	0.0000	33.2886	35.2037	36.8805	37.7235
65160	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	32.4916	33.9669	34.9563
52060	WELDER MECHANIC	D	361	0.0000	0.0000	43.8611	45.1930	46.5247
63250	YARDMASTER	D	388	0.0000	0.0000	35.9762	37.1253	38.2215

**EXHIBIT B - Salary Ranges as of July 2022
(3% Cost of Living Adjustment)**

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
67010	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	32.7984	34.2328	35.7238
71320	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	37.9888	39.6687	41.4147
65160	ACCT OFF SPEC SUP MC	K2	673	38.3379	40.2350	42.2074	44.2933	46.1621
52120	ACCT TECHNICIAN	K1	584	37.3848	39.2159	41.1504	43.1795	45.0012
51110	ADMIN ASSISTANT MC	K1	674	37.6471	39.5442	41.5166	43.6022	45.4714
42390	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	35.5331	36.5997	37.6659
42400	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	31.3427	32.1733	33.1076
63130	AQUATICS COORDINATOR	K1	092	37.7133	39.1761	40.6390	42.2623	43.7818
65170	AQUATICS FACILITIES SUP	K1	743	29.9831	31.4895	33.0594	34.7201	36.4534
65270	ASST AQUATICS COORD	K1	200	31.8239	33.1641	34.4288	35.6368	37.0054
65130	ASST REC COORDINATOR	K1	199	31.8251	33.1681	34.4297	35.6367	37.0069
42430	BUILDING MAINT MECH	D	343	0.0000	0.0000	42.5228	43.9119	45.3616
31060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	34.0464	35.1138	36.3013
41070	BUILDING MAINT SUPV	D	354	0.0000	0.0000	47.2338	48.7239	50.3851
65780	COM SERVICE OFFC SUP	J	733	40.2557	41.8621	43.5406	45.4828	47.5244
51140	COM SERVICE OFFICER	J	554	35.9215	37.3517	38.8496	40.3100	41.8438
60050	CONCRETE FINISHER	D	370	0.0000	0.0000	42.0361	43.2628	44.4890
66170	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	39.3679	40.5831	41.9000
14490	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	35.0409	36.1227	37.1652
72220	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	33.5813	35.3498	37.2132
63010	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	37.9888	39.6687	41.4147
52060	CUSTOMER SVC SPVSR	K2	675	38.3379	40.2350	42.2074	44.2933	46.1621
64250	EQUIPMENT PARTS TECH	D	358	0.0000	33.6928	35.6276	37.3263	38.1852
25860	FORESTRY CLIMBER	D	351	0.0000	0.0000	40.4576	41.7195	43.0369
25850	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	47.0662	48.4537	49.8566
51060	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	31.2198	32.5317	33.8531
61060	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	47.0662	48.4537	49.8566
51170	GROUNDKEEPER	D	444	0.0000	0.0000	31.3426	32.1677	33.1075
72320	JANITOR	D	434	0.0000	0.0000	29.0400	29.7666	30.6066
72330	JANITOR SUPERVISOR	D	433	0.0000	0.0000	33.8531	35.0423	36.0709
53020	LABORER	D	380	0.0000	0.0000	32.8069	33.7397	34.8213
53030	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	39.6895	40.8969	42.0962
63260	LANDSCAPE GARDENER	D	441	0.0000	0.0000	36.3069	37.3170	38.5532
47150	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	46.1126	47.4813	48.8307
47060	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	30.6066	31.4652	32.3432
65140	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	29.6725	30.7198	31.8713
47070	MARINA ASSISTANT MC	D	476	0.0000	0.0000	33.9449	34.8998	35.9862
52020	MECHANIC	D	362	0.0000	0.0000	44.5966	45.9452	47.2776
51130	MECHANIC LEAD	D	619	0.0000	0.0000	47.7088	49.1513	50.6015
51120	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	51.0408	52.5453	54.1525
67020	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	38.9292	40.0971	41.1945
51070	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	27.8981	29.1438	30.4272
63070	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	32.1073	33.5418	35.0330

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
63080	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	37.2980	38.9778	40.7238
63250	OFFICE SPEC SUP M&C	K2	676	37.6471	39.5442	41.5166	43.6022	45.4714
51160	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	34.5952	35.5829	36.6038
67050	PARKING ENFORCEMENT SUP	D	457	0.0000	37.7724	39.6572	41.6490	43.7236
66020	PARKING METER M&C SUP	D	734	40.0349	42.0357	44.1403	45.5089	46.9621
66010	PARKING METER MECH TRNE	D	360	0.0000	0.0000	31.6827	32.5603	33.6078
63110	PARKING METER MECHANIC	D	365	0.0000	0.0000	35.7029	36.8259	38.0154
54010	PARKING METER MNT WORK	D	402	0.0000	0.0000	31.6827	32.5603	33.6078
90110	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	33.1454	34.7688	36.2223
72020	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	45.9817	47.8967	49.9021
67030	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	46.5019	48.0537	49.7312
52160	RECORDS ASSISTANT	K1	707	0.0000	33.6928	35.6276	37.3263	38.1852
65150	RECREATION COORDINATOR	K1	091	37.7133	39.1761	40.6390	42.2623	43.7818
67080	REG VETERINARY TECH	D	821	0.0000	0.0000	31.6965	33.3698	35.1273
67040	ROSARIAN	D	352	0.0000	0.0000	37.8263	39.0062	40.2049
44010	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	39.0911	40.2615	41.4222
51150	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	44.9521	46.6981	48.5101
71310	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	42.4804	43.8128	45.1845
52070	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	34.2307	35.2123	36.3826
52090	SENIOR LNDSKP GRDNR	D	439	0.0000	0.0000	38.7253	39.8810	41.1580
52080	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	34.5608	35.5331	36.6938
63090	SERVICE TECHNICIAN	D	366	0.0000	0.0000	37.4397	38.5842	39.7288
47040	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	43.7265	45.1689	46.6507
47030	SKILLED LABORER	D	383	0.0000	0.0000	34.8213	35.8874	37.0161
47050	SOLID WASTE LOADER OPR	D	411	32.6280	35.0297	36.7839	38.6253	40.5466
47080	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	39.8226	41.4454	42.5744
71240	SOLID WASTE WORKER	D	406	0.0000	0.0000	33.4965	35.0174	36.0366
67100	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	52.7426	54.9296	57.2345
71030	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	35.3821	37.2443	39.2045
65020	TRACTOR TRAILER DRIVER	D	408	36.7839	38.6253	40.5465	42.5846	44.7063
52050	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	44.1404	45.4993	46.9621
52110	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	32.7680	33.7021	34.7971
65050	TRAFFIC MAINT WORKER II	D	378	0.0000	34.7971	35.8541	36.9773	38.0437
72240	WAREHOUSE OPERATON SPEC	D	589	0.0000	38.7041	40.6295	42.5548	44.4611
72230	WEIGHMASTER	D	409	0.0000	34.2873	36.2598	37.9869	38.8552
51280	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	33.4663	34.9859	36.0050
44020	WELDER MECHANIC	D	361	0.0000	0.0000	45.1769	46.5488	47.9205
14480	YARDMASTER	D	388	0.0000	0.0000	37.0555	38.2391	39.3681

EXHIBIT C - Salary Ranges as of July, 2023

(1% Cost of Living Adjustment)

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
42390	ACCT OFF SPEC II MC	K1	802	0.0000	0.0000	33.1264	34.5751	36.0810
42400	ACCT OFF SPEC III MC	K1	672	0.0000	0.0000	38.3687	40.0654	41.8289
42430	ACCT OFF SPEC SUP MC	K2	673	38.7213	40.6374	42.6295	44.7362	46.6237
31060	ACCT TECHNICIAN	K1	584	37.7586	39.6080	41.5619	43.6113	45.4512
41070	ADMIN ASSISTANT MC	K1	674	38.0236	39.9396	41.9318	44.0383	45.9261
60050	ANIMAL CONTROL OFFICER	D	521	0.0000	0.0000	35.8884	36.9657	38.0425
66170	ANIMAL SVCS ASSISTANT	D	437	0.0000	0.0000	31.6561	32.4950	33.4387
14490	AQUATICS COORDINATOR	K1	092	38.0904	39.5679	41.0454	42.6849	44.2196
64250	AQUATICS FACILITIES SUP	K1	743	30.2829	31.8044	33.3900	35.0673	36.8179
25860	ASST AQUATICS COORD	K1	200	32.1421	33.4958	34.7731	35.9932	37.3754
25850	ASST REC COORDINATOR	K1	199	32.1434	33.4998	34.7739	35.9930	37.3769
51060	BUILDING MAINT MECH	D	343	0.0000	0.0000	42.9480	44.3510	45.8152
61060	BUILDING MAINT MECH TRN	D	374	0.0000	0.0000	34.3868	35.4650	36.6643
51170	BUILDING MAINT SUPV	D	354	0.0000	0.0000	47.7062	49.2111	50.8889
72320	COM SERVICE OFFC SUP	J	733	40.6583	42.2807	43.9760	45.9377	47.9997
72330	COM SERVICE OFFICER	J	554	36.2807	37.7252	39.2381	40.7131	42.2622
53020	CONCRETE FINISHER	D	370	0.0000	0.0000	42.4565	43.6954	44.9339
53030	CONSTRUCTION EQUIP OPERAT	D	371	0.0000	0.0000	39.7616	40.9889	42.3190
63260	CONTAINER MAINTENA WELDER	D	389	0.0000	0.0000	35.3913	36.4839	37.5368
47150	CUSTOMER SVC SPEC II	K1	818	0.0000	0.0000	33.9171	35.7033	37.5853
47060	CUSTOMER SVC SPEC III	K1	683	0.0000	0.0000	38.3687	40.0654	41.8289
47070	CUSTOMER SVC SPVSR	K2	675	38.7213	40.6374	42.6295	44.7362	46.6237
52020	EQUIPMENT PARTS TECH	D	358	0.0000	34.0297	35.9839	37.6995	38.5670
51130	FORESTRY CLIMBER	D	351	0.0000	0.0000	40.8622	42.1367	43.4672
51120	FORESTRY CLIMBER SUP	D	350	0.0000	0.0000	47.5368	48.9382	50.3552
67020	FORESTRY CLIMBER TRNEE	D	440	0.0000	0.0000	31.5320	32.8570	34.1917
51160	FORESTRY TECHNICIAN	D	607	0.0000	0.0000	47.5368	48.9382	50.3552
67050	GROUNDSKEEPER	D	444	0.0000	0.0000	31.6560	32.4894	33.4385
66020	JANITOR	D	434	0.0000	0.0000	29.3304	30.0643	30.9127
66010	JANITOR SUPERVISOR	D	433	0.0000	0.0000	34.1917	35.3927	36.4317
63110	LABORER	D	380	0.0000	0.0000	33.1350	34.0771	35.1695
54010	LANDSCAPE EQUIP OPER	D	372	0.0000	0.0000	40.0864	41.3059	42.5172
67030	LANDSCAPE GARDENER	D	441	0.0000	0.0000	36.6700	37.6901	38.9388
67080	LANDSCAPE GARDENER SUP	D	448	0.0000	0.0000	46.5737	47.9561	49.3190
67040	LANDSCAPE GARDENER TRAIN	D	443	0.0000	0.0000	30.9127	31.7799	32.6666
44010	MAIL SERVICES AIDE	K1	316	0.0000	0.0000	29.9692	31.0270	32.1900
71310	MARINA ASSISTANT MC	D	476	0.0000	0.0000	34.2844	35.2488	36.3461
52070	MECHANIC	D	362	0.0000	0.0000	45.0426	46.4046	47.7504
52090	MECHANIC LEAD	D	619	0.0000	0.0000	48.1859	49.6428	51.1075
52080	MECHANIC SUPERVISOR	D	363	0.0000	0.0000	51.5512	53.0707	54.6940
63090	MECHANICAL SWEEPR OPER	D	379	0.0000	0.0000	39.3185	40.4980	41.6064
47040	OFFICE SPEC I M&C	K1	339	0.0000	0.0000	28.1771	29.4353	30.7315
47030	OFFICE SPEC II M&C	K1	303	0.0000	0.0000	32.4284	33.8773	35.3833

Job Code	Classification Title	Rep Unit	Grade	Step 1	Step 2	Step 3	Step 4	Step 5
47050	OFFICE SPEC III M&C	K1	291	0.0000	0.0000	37.6710	39.3675	41.1310
47080	OFFICE SPEC SUP M&C	K2	676	38.0236	39.9396	41.9318	44.0383	45.9261
71240	PARKING ENFORCEMENT OFF	D	471	0.0000	0.0000	34.9411	35.9387	36.9698
71030	PARKING ENFORCEMENT SUP	D	457	0.0000	38.1502	40.0538	42.0655	44.1608
65020	PARKING METER M&C SUP	D	734	40.4353	42.4561	44.5817	45.9639	47.4317
52050	PARKING METER MECH TRNE	D	360	0.0000	0.0000	31.9995	32.8859	33.9439
52110	PARKING METER MECHANIC	D	365	0.0000	0.0000	36.0599	37.1942	38.3955
65050	PARKING METER MNT WORK	D	402	0.0000	0.0000	31.9995	32.8859	33.9439
72240	PUBLIC SFTY DISPATCH I	J	611	0.0000	0.0000	33.4768	35.1165	36.5845
72230	PUBLIC SFTY DISPATCH II	J	527	0.0000	0.0000	46.4415	48.3756	50.4011
51280	PUBLIC WORKS SUPERVISOR	D	356	0.0000	0.0000	46.9669	48.5342	50.2285
44020	RECORDS ASSISTANT	K1	707	0.0000	34.0297	35.9839	37.6995	38.5670
14480	RECREATION COORDINATOR	K1	091	38.0904	39.5679	41.0454	42.6849	44.2196
65780	REG VETERINARY TECH	D	821	0.0000	0.0000	32.0135	33.7035	35.4786
51140	ROSARIAN	D	352	0.0000	0.0000	38.2046	39.3963	40.6070
90110	SENIOR ANIMAL CONT OFCR	D	686	0.0000	0.0000	39.4820	40.6641	41.8365
72020	SENIOR CRIME SCENE TECH	J	713	0.0000	0.0000	45.4016	47.1651	48.9953
51150	SENIOR FORESTRY CLIMBER	D	353	0.0000	0.0000	42.9052	44.2510	45.6363
67100	SENIOR GROUNDSKEEPER	D	450	0.0000	0.0000	34.5730	35.5644	36.7464
67010	SENIOR LNDSCP GRDNR	D	439	0.0000	0.0000	39.1125	40.2798	41.5695
71320	SENIOR MARINA ASSIST	D	477	0.0000	0.0000	34.9064	35.8884	37.0608
52120	SERVICE TECHNICIAN	D	366	0.0000	0.0000	37.8141	38.9700	40.1261
51110	SEWER MAINT ASST SUPV	D	349	0.0000	0.0000	44.1638	45.6206	47.1172
63130	SKILLED LABORER	D	383	0.0000	0.0000	35.1695	36.2463	37.3862
65170	SOLID WASTE LOADER OPR	D	411	32.9543	35.3800	37.1518	39.0116	40.9521
65270	SOLID WASTE TRUCK DRIVR	D	415	0.0000	0.0000	40.2208	41.8598	43.0002
65130	SOLID WASTE WORKER	D	406	0.0000	0.0000	33.8315	35.3676	36.3969
72220	SUPERV PUBLIC SFTY DISP	J	529	0.0000	0.0000	53.2700	55.4789	57.8069
63010	TOOL LENDING SPECIALIST	D	375	0.0000	0.0000	35.7359	37.6168	39.5966
65140	TRACTOR TRAILER DRIVER	D	408	37.1518	39.0116	40.9520	43.0104	45.1534
51070	TRAFFIC MAINT SUPV	D	721	0.0000	0.0000	44.5818	45.9543	47.4317
63070	TRAFFIC MAINT WORKER I	D	377	0.0000	0.0000	33.0957	34.0391	35.1450
63080	TRAFFIC MAINT WORKER II	D	378	0.0000	35.1450	36.2127	37.3471	38.4241
52160	WAREHOUSE OPERATON SPEC	D	589	0.0000	39.0911	41.0358	42.9804	44.9057
65150	WEIGHMASTER	D	409	0.0000	34.6302	36.6224	38.3668	39.2438
65160	WEIGHMASTER TRAINEE	D	410	0.0000	0.0000	33.8010	35.3358	36.3650
52060	WELDER MECHANIC	D	361	0.0000	0.0000	45.6287	47.0143	48.3997
63250	YARDMASTER	D	388	0.0000	0.0000	37.4260	38.6214	39.7618



Office of the City Manager

CONSENT CALENDAR
July 20, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: LaTanya Bellow, Director of Human Resources

Subject: Memorandum of Understanding: Berkeley Police Association

RECOMMENDATION

Adopt two Resolutions 1) approving a new two-year Memorandum of Understanding (hereafter referred to as “MOU”) with the Berkeley Police Association (hereafter referred to as the “Union”) which includes cost of living adjustments and market adjustments to two classifications with a term of July 1, 2021 through June 30, 2023 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and 2) approving a new Classification and Salary resolution for Representation Units E and F that implement the salary adjustments reflected in the new MOU and rescinding Resolution No. 68,583,-N.S.

FISCAL IMPACTS OF RECOMMENDATION

The terms of the new MOU provide for a 3% wage increase the first full pay period after Council adoption; 3% wage increase effective the first full pay period in July 2022, for a cumulative wage increase of 6% over two (2) years; 3% longevity pay beginning the 10th year of service; 5% longevity pay beginning the 20th year of service; increasing the Police Lieutenant salary 2.66% and increasing the Police Sergeant salary by 2.61% to align with median compensation for comparative agencies. The cost for the new MOU is approximately \$870,626 over the term of the agreement (Fiscal Year 2022 through Fiscal Year 2023).

The funding for this MOU comes from the General Fund and other special revenue funding sources. The cost of this labor contract will be included in the Fiscal Years 2022 and 2023 Budgets.

CURRENT SITUATION AND ITS EFFECTS

The City’s labor contract with the Union expired and was fully terminated as of June 30, 2021. In an effort to reach agreement on a successor MOU, representatives of the City and representatives of the Union held approximately six negotiating sessions beginning in April of 2021. The parties reached a tentative agreement on June 30, 2021.

While the labor contract expired and fully terminated on June 30, 2021, the laws governing collective bargaining agreements provide that the terms and conditions set forth in the expired contract remain in full force and effect until modified through the collective bargaining process which has now been completed and the parties have reached tentative agreement on all outstanding issues.

BACKGROUND

There are approximately 180 employees represented by the Union in two (2) representational units (Units E and F).

The City's philosophy during negotiations with the Union was to follow City Council policies to protect the City's short and long-range economic health. City Council policies for labor negotiations include, but are not limited to, the following:

- Assure that labor organizations and their members are treated fairly and with respect;
- Negotiate in good faith and within the process established by the parties including honoring the traditional confidentiality of the negotiation process;
- Negotiate contracts based on a "Total Compensation Package" model (changes in current and future salary, premium and specialty pays, and health and welfare benefits) consistent with the City's overall financial conditions, ability to pay and financial policies;
- Any pay adjustments for particular classifications should be factored in the overall Total Compensation Package;
- Strive to achieve salary ranges at the median of comparable jurisdictions whenever possible;
- Assure the City's Total Compensation salary and benefit package is competitive in the marketplace, is fair to existing employees and is competitive with public employers in the Bay Area so that the City is able to recruit and retain quality employees;
- Negotiation of employee benefits should include consideration of uniformity across bargaining units to the extent this is compatible with state law, enhances transparency and is efficient in to administer, while at the same time not resulting in an overall increase in costs. Consideration of uniform benefits will not be utilized as a preemptory tool to negotiate compensation or benefits as such would be contrary to the spirit and intent of bargaining in good faith;
- Include sustainability of benefits as part of negotiating considerations;
- Conduct regular actuarial studies of major unfunded liabilities including CalPERS, retiree health, etc.; and

- Use long-term and multi-year strategies to reduce unfunded liabilities and appropriately fund and achieve sustainable benefits.

Major provisions of the new labor contract are as follows:

Section	Change
10 Duration	Two- years July 1, 2021 through June 30, 2023
15 Longevity Pay	3% at 10 years of service in a classification represented by the Association; and an additional 5% at 20 years of service.
11 Salaries	3% first full pay period after Council adoption, 3% first full pay period in July 2022; 2.66% Police Lieutenant salary increase and 2.61% Police Sergeant salary increase effective the first full pay period after Council adoption.
37 Suspension and Discharge	240 Day Limit on Imposition of Discipline
31.1 Medical Coverage	Effective January 1, 2022, the City shall change the current co-pay Kaiser plan from \$0.00 to a \$20.00 co-pay Kaiser plan.
31.6 Cash-in-lieu	Effective the first full pay period following Council approval of this MOU, and for those employees who show proof of alternate medical coverage, the City will compensate the employee \$560.72 per month, to be paid in equal amounts in each of the twenty-six (26) pay periods.
34 Probationary Period	Lateral appointments shall be tentative and subject to a probationary period of eighteen (18) months of actual service.
9 Finality of Recommendations	Neither party may require the other to meet and confer on any subject matter covered herein or with respect to any presentation of during the term of the MOU. Nothing in this MOU shall preclude the City from requesting Meet and confer during the term of the MOU on matters pertaining to police reform/reimagining. Section 9.5.2 shall sunset on June 30, 2032 unless mutually agreed by parties.
6.1; 37.4 Police Oversight Measure	Update all MOU language regarding Police Oversight Measure (Section 6.1; Section 37.4 – 120-day issue; Extension Agreement – covers 120-day issue and below
19.8 Virtual Attendance	If an employee is required to work outside their regularly scheduled work hours to virtually or remotely perform any official duties including but not limited to meetings, training and court related activities the member will be compensated as if he/she had

	personally appeared or attended at one-half the premium identified in the MOU. This provision does not apply to instances in which the assigned work is contiguous with the beginning or end of the employees' regular scheduled shift.
43 Uniforms	Uniform allowance accrued over the course of a year shall be paid in equal amounts in each of the 26 pay periods.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Representatives of the City worked within policies set by the City Council for guiding contract negotiations and staff met with the City Council in closed session to discuss and receive the policy direction and economic authority to settle this contract. The overall settlement must be within the City's ability to pay based on projected revenue as well as demands for services across the spectrum of programs the City provides the community. I believe this settlement is in keeping with City Council's direction to staff and is fair and equitable to the members of the Union.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, 510-981-6807

Attachments:

- 1: Resolution: Memorandum of Understanding: Berkeley Police Association
 - Exhibit A: Memorandum of Understanding between the City of Berkeley and Berkeley Police Association (Edited Version)
 - Exhibit B: Memorandum of Understanding between the City of Berkeley and Berkeley Police Association (Clean Version)
- 2: Resolution: Approving a new Classification Salary Resolution for Berkeley Police Association and Rescinding Resolution No. 68,583 N.S.
 - Exhibit A: Berkeley Police Association Resolution Period: July 1, 2021 through June 30, 2022
 - Exhibit B: Berkeley Police Association Resolution Period: July 1, 2022 through June 30, 2023

RESOLUTION NO. ##,###-N.S.

MEMORANDUM OF UNDERSTANDING: BERKELEY POLICE ASSOCIATION

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the Berkeley Police Association have met and conferred in good faith and have reached agreement on a new Memorandum of Understanding that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum of Understanding for the period July 1, 2021 through June 30, 2023 with the Berkeley Police Association, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit A.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum of Understanding including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

Exhibits

- A: Memorandum of Understanding between the City of Berkeley and Berkeley Police Association (Edited Version)
- B: Memorandum of Understanding between the City of Berkeley and Berkeley Police Association (Clean Version)



Memorandum of Understanding
between
City of Berkeley
and
Berkeley Police Association

~~July 1, 2017 to June 30, 2021~~ July 1, 2021 to June 30, 2023

RESOLUTION NO. 68,582-N.S.

MEMORANDUM OF UNDERSTANDING: BERKELEY POLICE ASSOCIATION

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Millias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the Berkeley Police Association have met and conferred in good faith and have reached agreement on a new Memorandum of Understanding that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum of Understanding for the period July 1, 2017 through June 30, 2020 with the Berkeley Police Association, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit A.

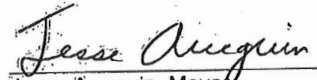
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum of Understanding including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

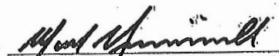
The foregoing Resolution was adopted by the Berkeley City Council on July 31, 2018 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Harrison.


Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk

RESOLUTION NO. 68,583-N.S.

APPROVE A NEW CLASSIFICATION AND SALARY RESOLUTION FOR THE BERKELEY POLICE ASSOCIATION AND RESCINDING RESOLUTION NO. 67-187-N.S.

WHEREAS, the City Council has approved a new three-year Memorandum of Understanding with the Berkeley Police Association which includes cost of living adjustments; and

WHEREAS, it is necessary for the City Council to adopt a new Classification and Salary Resolution to reflect the salary adjustments reflected in the new Memorandum of Understanding.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts a new Classification and Salary Resolution for employees in Representation Units E (sworn, managerial employees in the Police Department), and Representation Unit F (sworn, non-managerial employees in the Police Department) effective July 1, 2017 through June 30, 2020 to incorporate changes to the salary schedule as shown in Exhibit A, attached hereto and made a part hereof.

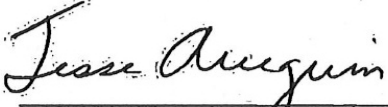
BE IT FURTHER RESOLVED that Resolution No. 67-187-N.S is hereby rescinded.

The foregoing Resolution was adopted by the Berkeley City Council on July 31, 2018 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Harrison.



Jesse Arreguin, Mayor

Attest: 

Mark Numainville, City Clerk

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ARTICLE 1 – ADMINISTRATION

SECTION 1: RECITALS

This Memorandum of Understanding, (hereinafter referred to as “Understanding”) is entered into pursuant to the Meyers-Milias-Brown Act (Government Code, sections 3500 - 3511), as amended, and has been jointly prepared by the parties.

The City Manager is the representative of the City of Berkeley in employer-employee relations as provided in Resolution No. 43,397-N.S., adopted by the City Council on October 14, 1969.

The Berkeley Police Association (hereinafter referred to as "the Association") is the recognized employee organization for Representation Unit E (sworn, managerial employees in the Police Department) and Representation Unit F (sworn, non-managerial employees in the Police Department), which organization has been certified as such pursuant to said Resolution No. 43,397-N.S. The employee positions in such Representation Units are hereinafter set forth in Exhibit A, and the Association is recognized as the sole representative of employees assigned to such positions.

The parties have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment of the employees in said Representation Units E and F, have freely exchanged 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 Understanding shall be presented to the City Council as the joint recommendation of the undersigned.

SECTION 2: RECOGNIZED EMPLOYEE ORGANIZATION

- 2.1 The Association is the majority representative of all employees within Representation Units E and F and shall continue to be recognized as such unless, in accordance with the provisions of Resolution No. 43,397-N.S. or as said Resolution may be amended, the Association is no longer certified as the recognized employee organization for employees in Representation Units E and F.
- 2.2 Responsibility for management of the City and direction of its work force is vested in City officials and the City Manager whose powers and duties are specified by law. In order to fulfill this responsibility, it is the exclusive right of City management to determine the mission of its constituent departments, set standards of service to be offered to the public and exercise control and discretion over the City's organization and operations. It is also the exclusive right of the City Manager to take disciplinary action for just cause, to implement a layoff pursuant to Section 57 of this Understanding, determine the methods, means and personnel by which the City's operations are to be conducted and to take all necessary actions to maintain uninterrupted service to the community and carry out the City's mission in emergencies; provided, however, the Association shall be notified of any proposed changes affecting wages, hours and other terms and conditions of employment of employees represented by the Association, and the City Manager shall, upon request, meet and confer with representatives of the Association and endeavor to reach agreement on the practical consequences of any such changes in wages, hours and other terms and conditions of

employees represented by the Association except as otherwise provided in this Understanding.

SECTION 3: NO DISCRIMINATION

- 3.1 The Association certifies that it has no restriction on membership based on race, color, creed, ethnicity, ancestry, religion, age, gender, sexual orientation, marital or domestic partner status, gender identify or gender expression, parental status, pregnancy, national origin, political affiliation, disability or medical condition, Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law. The Association agrees that it will support programs for making members of minority groups and women aware of employment opportunities within the City, and that it will work with the City to increase recruitment efforts of such minorities and women into City service. The Association recognizes and supports the City's commitment to equal employment opportunity.
- 3.2 Neither the City nor the Association shall discriminate against any employee covered by this Understanding in a manner which would violate any applicable laws because of race, creed, color, religion, political affiliation, sexual orientation, sex, national origin, disability, or age (including AIDS.) The City and the Association agree that no employee shall be discriminated against on the basis of membership or non-membership in the Association or any lawful activity on behalf of the Association.

SECTION 4: ASSOCIATION SECURITY

- 4.1 All employees who are, or hereafter voluntarily choose to become, members of the Association shall maintain such membership in good standing as a condition of continued employment for the duration of this Understanding; provided, however, that withdrawal from membership shall be allowed during the month which precedes the month in which this Understanding expires. Employees may withdraw by sending written notice of withdrawal to the Association (with a copy to the Director of Human Resources of the City) during the withdrawal period.
- 4.2 The Association shall indemnify and save the City harmless from any and all claims, demands, suits, or any other action arising from Section 4 or from complying with any request for termination of employment under Section 4. The Association will not undertake to compensate the City for any time which may be spent by the City Attorney or anyone on the staff of the City Attorney in preparing for or defending any legal action which may be filed. The Association will, however, pay directly any fine or reimburse the City for the payment of any fine which may be assessed against the City by virtue of its agreement to Sections 4.1 and 4.2, and the Association will pay any judgment or award, including the payment of any wages lost by an employee whose services are temporarily or permanently terminated because of his or her failure to comply with the provision of Section 4.
- 4.3 It is understood and agreed that the City Council retains the right, in its sole discretion, to determine that the Association is not discriminating against any employee or class of employees. It is further understood and agreed that the City Council retains the right to

withdraw the Association security privilege if at any time it determines that the Association is discriminating against any individual or classifications prohibited by Section 3 of this Understanding.

- 4.4 The City shall furnish the Association, on a monthly basis, the name, date of hire, salary, classification, and work location of all newly hired employees subject to the Understanding. The City shall furnish newly hired employees with information concerning the Association as supplied by the Association.

SECTION 5: DEDUCTION OF ASSOCIATION DUES

- 5.1 The City shall deduct, once monthly, the amount of the Association's regular and periodic dues, service fees, or insurance premiums as may be specified by the Association under the authority of an authorization card furnished by the Association and signed by the employee. Such deductions, together with a written statement of the names and amounts deducted, shall be forwarded promptly to the Association office.
- 5.2 Upon receipt of a notice from the Association of an increase in the amount of regular and periodic dues, service fees, or insurance premiums, an employee may, within thirty (30) days, revoke the deduction authorization by furnishing written notice of such revocation to the Department of Human Resources. An employee may also revoke the deduction authorization by furnishing written notice of such revocation during the thirty (30) day period immediately preceding the expiration of this Understanding.

SECTION 6: ASSOCIATION REPRESENTATIVES

- 6.1 The City shall allow representatives of the Association, subject to the conditions set forth in Sections 6.2 and 6.3, reasonable time off from work without loss of compensation or other benefits to represent its members in disputes which involve the interpretation or application of those rules, regulations, and resolutions which have been or may hereafter be adopted by the City Council to govern personnel practices and working conditions, including such rules, regulations, and resolutions as may be adopted by the City Council to effect Memoranda of Understanding which may result from the meeting and conferring process, and to represent its members in meeting and conferring in good faith for amendments to this Understanding in the future. The Parties agree to work cooperatively to ~~negotiation~~ negotiate the rules of procedure governing the conduct of the Police Accountability Board with the goal of completing negotiations no later than June 30, 2021 2022.

6.2 Representatives

With respect to the meet-and-confer process, four (4) Association representatives shall be the maximum number who will be allowed concurrent time off. In all other cases, such as disputes defined in Section 6.1, the maximum number allowed concurrent time off shall be two (2).

6.3 Notice Requirements

Association representatives seeking time off to carry out functions described in Section 6.1 shall advise their supervisors at the earliest possible time and, except in emergency cases,

no later than 24 hours in advance before leaving their work assignments. The Department will not unreasonably deny release time to the Association President (or Acting President) so that he or she may schedule the duties specified in Section 6.1; there may be times, however, when the City will, on short notice, need to modify or adjust such release time because of unpredictable service needs.

6.3.1 In emergency situations which require the immediate attention of said employee, the employee shall notify a supervisor upon his or her return to work. It is understood that employees will not leave their work assignments without the approval of the supervisor and that such approval shall not be unreasonably denied.

6.3.2 To the extent possible, the Association will attempt to schedule all release time to avoid impacting service levels. If necessary, however, Association representatives' workloads will be adjusted on the basis of approved release time. Employees shall record release time for activities described in Section 6.1 with the appropriate code on their time sheets and cards.

6.4 Meetings

Reasonable release time will be available so that members can attend periodic meetings of the Association which occur during their shift.

6.5 Bulletin Boards

The City shall provide bulletin board space for Association use at each of its work centers where covered employees are regularly employed.

6.6 Board of Review

All time spent in attendance at Board of Review meetings and Police Review Commission meetings, interviews, and hearings as an official representative of the Association by appointed Association officers shall be considered time worked, and shall be compensated in accordance with Section 19 of this MOU. The compensable time outside of an employee's regularly schedule shall be limited to one person.

6.7 Up to three (3) officers designated by the Board of Directors of the Association may meet with the City Manager and Chief of Police every second month to foster communication. These meetings will be scheduled so that Association representatives can attend during regular work hours. Association representatives will record time spent in such meetings as work (rather than release) time.

SECTION 7: ASSOCIATION RELEASE TIME

The Association will be entitled to up to six hundred (600) hours of paid leave of absence each calendar year to be granted collectively to employees who are designated representatives of the Association to attend seminars, conferences, or conventions away from the job site, where employees are not available to respond to emergencies. The Chief may, in his or her discretion, approve additional Association requests. The Chief or the Chief's designee may not deny such requests solely on the need to post overtime. Time spent on such Association business will be recorded with the appropriate code on time sheets.

SECTION 8: SEVERABILITY OF PROVISIONS

In the event that any provision of this Understanding is declared by a court of competent jurisdiction to be illegal or un-enforceable, that provision of this Understanding shall be null and void, but such nullification shall not affect any other provisions of this Understanding, all of which other provisions shall remain in full force and effect.

SECTION 9: FINALITY OF RECOMMENDATIONS

9.1 This Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior and existing Understanding, understandings, or agreements, whether formal or informal, are hereby superseded and terminated in their entirety. This Understanding cannot be modified except in writing upon the mutual consent of the parties and subject to ratification by the BPA and City Council.

9.2 Existing provisions and/or benefits provided by ordinance or resolution of the City Council or as provided in the Municipal Code and which are referred to in the Understanding shall be provided in accordance with the terms of the Understanding.

9.3 There is no guarantee that working conditions and practices will be continued if they are not included in this Understanding or if they have not been or are not hereafter specifically authorized by ordinance or by a resolution of the City Council.

9.4 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Understanding shall be administered and observed in good faith.

9.5 Although nothing in this Understanding shall preclude the parties from mutually agreeing to meet-and-confer on any subject within the scope of representation during the term of this Understanding, it is understood and agreed that neither party may require the other to meet-and-confer on any subject matter covered herein or with respect to any presentation during the term of this Understanding.

Commented [R1]: This language is in Sec. 9.5.1

Commented [PA2]: This should remain as 9.5 for formatting purposes

9.5.21. Nothing in this MOU shall preclude the City from requesting meet and confer during the term of the MOU on matters pertaining to police reform/reimagining efforts that are within the mandatory scope of bargaining under the Meyers-Milias-Brown Act ("MMBA," Gov. Code section 3500 et seq.). This provision shall not be construed as a waiver of any BPA rights under the MMBA, including but not limited to the right to adequate notice of changes within the mandatory scope of bargaining, good faith negotiation over matters within the mandatory scope of bargaining, negotiation over bargainable effects or impacts to the extent required by law, and any legal or administrative remedies for violation of the MMBA that may exist outside of this MOU.

In the event that the City desires to implement a policy, procedure, ordinance or resolution related to or arising from police reform/reimagining efforts and such matters are within the mandatory scope of bargaining under the Meyers-Milias-

~~Brown Act (Government Code Sec. 3500 et seq.) (“MMBA”), or requires impact or effects bargaining under the MMBA, the City will provide the BPA with prior written notice along with the specific written proposal. Such written notice will be provided in sufficient time to comply with the requirements of applicable local rules and the MMBA but no less than thirty (30) days before its proposed implementation date, except in case of an emergency as defined by MMBA. The meet and confer process shall be conducted to permit a meaningful exchange of ideas and positions. Except as this section 9.5.2 relates to section 9.5.1, the BPA does not waive any legal or administrative collective bargaining rights. Nothing herein shall be construed to expand required bargaining obligations under the MMBA.~~

~~This section, 9.5.21 shall sunset on June 30, 2023, unless mutually agreed by the parties.~~

- 9.6 Amendments to this Understanding shall be effective only when adopted by the City Council and ratified by the Association.

SECTION 10: DURATION

The term of this Understanding shall commence when the terms and conditions set forth herein have been adopted by resolution by the City Council but in no event shall this Understanding be effective prior to 0001 hours July 1, ~~2017~~2021. Those provisions which have been assigned effective dates herein will become effective on those dates. This Understanding and all its rights, obligations, terms and provisions shall expire and otherwise be fully terminated at 2400 hours June 30, ~~2020~~2023.

~~Parties agree to extend the July 1, 2017 to June 30, 2020 Memorandum of Understanding (MOU or Agreement) for a period of one year; until June 30, 2021, with no changes in compensation or terms.~~

~~Parties can further extend the MOU for another year with no additional changes to terms, except that, in the second year, the Union shall have the option to reopen on up to two non-economic issues.~~

~~The Parties agree to meet and confer during the term of this Extension Agreement on any revisions to laws, ordinances, rules, general orders and charter amendments within the mandatory scope of bargaining or, to the extent that such matters are not within the mandatory scope of bargaining, to informally consult upon the request of the Union to receive input regarding the impact of such changes.~~

~~The parties agree to meet at least quarterly to discuss changes in the City’s financial condition during the extended term of this agreement.~~

ARTICLE 2 - SALARIES, HOURS OF WORK AND COMPENSATION ISSUES

SECTION 11: SALARIES

- 11.1.1 Salaries are set according to the classifications and salary ranges assigned to those classifications and with the effective dates listed in Exhibit "A" to this MOU and attached hereto. Effective the first full pay period following Council approval of this July ~~2017-2021~~ – June ~~2020-2023~~ MOU, represented employees still employed in that pay period shall receive ~~the following wage increases: a 4.3.0% wage increase. Also effective the first full pay period following Council approval of this July 2017 – June 2020 MOU, employees still employed in that pay period shall receive a 1-time stipend of \$1,500, less applicable payroll taxes.~~ Effective the first full pay period in July ~~2019~~2021, employees shall receive a ~~further 4.03%~~ further 4.03% wage increase. Effective the first full pay period in ~~January 2020~~July 2022, employees shall receive a further ~~4.3.0%~~ wage-increase.

Commented [R3]: Modified to eliminate reference to 3% and cite to 3% and 3% in year one and two.

Effective July 12, 1998, the salary ranges for the classifications of Police Captain and Police Lieutenant were adjusted in recognition for performance of the duties of the Duty Command Officer. This section is not intended to prohibit a Police Lieutenant from receiving overtime compensation or any other special compensation earned while serving as a Duty Command Officer.

- 11.2 Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class as set forth in Exhibit "A". The minimum rate for the class shall apply to employees upon original appointment to the position except in cases of lateral entry. Lateral entry shall be provided for Police Officer only, and the Chief of Police, with the approval of the Director of Human Resources and City Manager, may pay to lateral entrants a salary above the first step. Employees reinstated or reemployed after layoff shall receive a rate within the range established for the class. Transfers shall not affect an employee's salary rate. Employees appointed to any of the positions set forth in Exhibit "A" and employed or working on a part-time basis shall be paid in proportion to the time worked and described in their appointment.
- 11.3 No salary advancement shall be made so as to exceed the maximum rate established for the class to which the advanced employee's position is allocated. Advancement shall be in accordance with the compensation plan of the City and shall depend upon increased service value of an employee to the City as exemplified by recommendations of the department head, performance record, special training, length of service, and other pertinent evidence.
- 11.3.1 An employee's salary step increase as provided in Section 12 (Salary Advancement) shall not be affected by any leave of absence without pay if the employee is off the payroll for less than one hundred sixty (160) consecutive hours. If the employee is off the payroll for one hundred sixty (160) consecutive hours or more, the total amount of time off shall be made up before the employee shall be entitled to such salary step increase.
- 11.4 Salary reductions may be made as a result of an employee's diminished service value or as part of a general plan to reduce salaries and wages as an economy measure or as part of a

general curtailment program. No reduction shall be made below the minimum rate established for the class to which the reduced employee's position is allocated. Notice of the reduction shall be given to the employee not later than two (2) weeks prior to the effective date of the reduction. Any employee whose salary has been reduced shall be entitled to receive a written statement of the reasons for such action.

11.4.1 Salary reductions which are part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program shall not be subject to the provisions of Sections 11.4, 11.5 or 56.

11.5 Y Rate

Any employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary, or occupying a position in a class, the salary rate or range for which is reduced, shall continue to receive his or her present salary. Such salary shall be designated as a "Y" rate. When an employee on a "Y" rate vacates his or her position, subsequent appointments to that position shall be made in accordance with Section 11.2.

11.6 Pay Periods

Payment of salaries herein established shall be bi-weekly. Each pay period shall begin at 12:01 a.m. Sunday up to and including 12:00 midnight Saturday two weeks following. Each payment shall be made not later than the Friday following the ending of each payroll period and shall include payment for all earnings during the previous payroll period.

11.7 For purposes of calculating pay and benefits, the end of the year shall be defined as the last day of the last full pay period of the calendar year.

11.8 **Effective Date of Salary and Benefit Adjustments**

The City and the Union agree that all future general salary and benefit adjustments shall become effective on the first day of the pay period closest to the date otherwise specified or applicable.

11.9 **Effective Date of Step Increases**

Step increases shall be effective, for payroll purposes only, on the first day of the pay period nearest the date an employee is entitled to a step increase (anniversary date or 1040 hours).

SECTION 12: SALARY ADVANCEMENT

12.1 Effective July 7, 2002, employees in the classification of Police Officer will be placed in the salary step according to the schedule on the chart below. Increases between salary steps shall occur on the employee's anniversary date. The period of time necessary to move from one salary step to the next is expressed in months on the chart below:

Length of Service – Police Officer	Salary Step
0 to completion of 12 months	Step A
Beginning of 13 th month to completion of 24 th month	Step B
Beginning of 25 th month to completion of 36 th month	Step C
Beginning of 37 th month to completion of 48 th month	Step D

Beginning of 49 th month to completion of 60 th month	Step E
Beginning of 61 st month to completion of 72 nd month	Step F
Beginning of 73 rd month and beyond	Step G

12.2 Effective July 7, 2002, employees in the classifications of Police Sergeant, Police Lieutenant and Police Captain will be placed in the salary step according to the schedule on the chart below. Increases between salary steps shall occur on the employee's anniversary date. The period of time necessary to move from one salary step to the next is expressed in months on the chart below:

Length of Service – All Ranks Above Police Officer	Salary Step
Beginning of 25 th month to completion of 36 th month	Step A
Beginning of 37 th month to completion of 48 th month	Step B
Beginning of 49 th month to completion of 60 th month	Step C
Beginning of 61 st month to completion of 72 nd month	Step D
Beginning of 73 rd month and beyond	Step E

12.3 Upon promotion, the employee shall be placed at the step of the higher rank that is commensurate with the employee's length of service in any classifications represented by the Association.

12.4 Lateral Entry Step Placement

An employee appointed through lateral entry may be appointed at either a salary step or longevity range level commensurate with his or her experience as a sworn peace officer.

SECTION 13: PREMIUM/SPECIAL ASSIGNMENT

13.1 Explosives Ordinance Technician

An employee assigned as an Explosives Ordinance Technician shall receive double his or her regular straight-time rate for that time spent (from call to completion) in dealing with explosives. Said double time shall be the total compensation for such time spent, whether on regular duty time or when called in from off-duty. If an employee is assigned as an Explosive Ordinance Technician while on regular duty and not while on overtime, those hours worked as an Explosive Ordinance Technician on regular duty shall be reported to CalPERS as Hazard Premium Pay.

13.2 Special Response Team (S.R.T)

An employee assigned as a member of the Special Response Team (S.R.T.) shall receive a five percent (5%) salary differential when involved in an active S.R.T. incident. If an employee is assigned as a member of the Barricaded Subjects Hostage Negotiation Team while on regular duty and not while on overtime, those hours worked as a S.R.T. member on regular duty shall be reported to CalPERS as Hazard Premium Pay.

13.3 Supervisor Special Assignment

When a Police Sergeant is assigned to function as the Field Training Officer Supervisor, he or she shall receive a five percent (5%) salary differential while occupying that position. If an employee is assigned as the Field Training Officer Supervisor, while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Supervisor Special Assignment Pay.

13.4 Field Training Officer Special Assignment:

Employees assigned as Field Training Officers shall receive a ten percent (10%) differential during any calendar year when actually working as a Field Training Officer. If an employee is assigned as a Field Training Officer while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Supervisor Special Assignment Pay.

13.5 Hazard Premium Pay - Mental Health Crisis Intervention Pay

The City of Berkeley (City) and Berkeley Police Association (Association) agree that the parties may agree under this MOU provision that the City will provide Hazardous Premium Pay for particular hazardous duties and activities. At present, the City and Association have agreed that, effective the first full pay period after Council approval of this MOU, all sworn employees shall receive a Hazard Premium Pay called Mental Health Crisis Intervention Pay equal to 1.0% of base salary, which pay shall be provided on all hours the employee is in a paid status. This pay shall be in recognition of the fact that the City's sworn personnel are routinely and consistently exposed to uniquely hazardous conditions arising from law enforcement interactions with the mentally ill and are required to complete training intended to enhance sworn personnel's ability to perform the hazardous and specialized mental health related law enforcement duties which Berkeley's sworn personnel are consistently and routinely asked to perform, including arrests, potential arrests and addressing other mental health related disputes. Effective the first full pay period of January 2016, the amount of pay shall increase to 2.0% of base salary.

13.6 Homicide Detail

A Police Sergeant assigned to the Homicide Detail shall receive a four percent (4%) salary differential. If a Police Sergeant is assigned to the Homicide Detail while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Detective Division Special Assignment Pay. A Police Officer assigned to the Homicide Detail shall receive a three percent (3%) salary differential. If a Police Officer is assigned to the Homicide Detail while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Detective Division Special Assignment Pay.

13.7 Peace Officer Standards and Training (POST)

In addition to the salary set forth in the Exhibit "A" of this MOU, employees covered by this MOU who qualify under regulations promulgated by the California Commission on Peace Officer Standards and Training shall receive the following educational/training incentive compensation. To receive the Intermediate Certificate and/or Advanced Certificate differential pay below, employees must submit documents required by the Berkeley Police Department Professional Standards Division verifying POST eligibility, including but not limited to copies of college transcripts, proof of a college degree and other related forms. Failure of the employee to submit documents required by the Professional Standards Division shall delay the POST incentive pay eligibility until such time as the employee provides all required documentation.

13.7.1 Intermediate Certificate: Within thirty (30) working days of approval from the Berkeley Police Department Professional Standards Division of an Officers' eligibility for a Peace Officers Standards and Training Intermediate Certificate, the

employee shall receive a two percent (2%) differential to base salary and such payment shall be reported to CalPERS as Peace Officers Standards and Training Certificate Pay as a form of Educational Pay. Effective the first full pay period following Council approval of this MOU, this Intermediate POST Certificate differential shall increase to three percent (3%) of base salary. Effective January 1, 2016, this Intermediate POST Certificate differential shall increase to four percent (4%) of base salary. Effective July 1, 2016, this Intermediate POST Certificate differential shall increase to five percent (5%) of base salary.

13.7.2 **Advanced Certificate:** Within thirty (30) working days of approval from the Berkeley Police Department Professional Standards Division of an Officers' eligibility for a Peace Officers Standards and Training Advanced Certificate, the employee shall receive a two percent (2%) differential to base salary and such payment shall be reported to CalPERS as Peace Officers Standards and Training Certificate Pay as a form of Educational Pay.

13.7.3 An employee may simultaneously receive the Intermediate and Advanced Certificate differential for a total differential of four percent (4%), five percent (5%) following Council approval of this MOU, six percent (6%) effective January 1, 2016, and seven percent (7%) effective July 1, 2016.

SECTION 14: BILINGUAL PREMIUM PAY

The Chief of Police may make a Bilingual Premium Pay Special Assignment of an employee who is able to demonstrate verbal communication skills in a language other than English, including Braille and sign language, and who routinely and consistently utilizes these bilingual skills for the City of Berkeley. Candidates for the Bilingual Premium Pay Special Assignment will be selected in a manner similar to the manner used to select Field Training Officers. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay shall be a five percent (5%) to base pay, shall apply to all hours in a paid status and shall be reported to CalPERS as Bilingual Premium Special Assignment Pay.

SECTION 15: LONGEVITY PAY

Effective the first full pay period after July 1, 2021, employees who have nine (9) years of service in a classification represented by the Association shall receive a three percent (3%) differential beginning with the anniversary date of the beginning the tenth (10th) year of service.

Effective June 28, 2009, employees completing nineteen (19) years of service in a classification represented by the Association shall receive an additional five percent (5%) differential beginning with the anniversary date of the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

SECTION 16: SUPPLEMENTAL RETIREMENT INCOME PROGRAM

Effective December 25, 1988, the City will pay two percent (2%) of the employee's regular annual salary for the first \$32,400 in salary, into a Supplemental Retirement Income Program.

SECTION 17: HIGHER CLASS PAY, TEMPORARY APPOINTMENTS, PROVISIONAL APPOINTMENTS

17.1 Acting Assignment

When an employee occupying a position in any of the classifications covered by this Memorandum of Understanding is specifically assigned by the Chief of Police or his or her authorized representative to temporarily serve in a higher classification for a minimum of one (1) entire shift (either 8, 10 or 12.5 hours depending on the employee's shift schedule), said employee shall be paid at the lowest step of the higher classification which provides at least a five (5) percent differential or the lowest step of the higher classification to which the employee is assigned, whichever is greater. To be eligible for a higher class assignment the employee must meet the minimum qualifications, as outlined in the class description, and perform the duties of the higher classification. In no case, however, will an employee acting in a higher classification be paid in excess of the top step of the salary range of the higher class. In no instance shall an acting assignment last for more than thirty (30) consecutive days; any assignment over thirty (30) consecutive days shall be deemed a provisional assignment.

17.2 Temporary Vacancy

When a temporary vacancy is to be filled in a classification for which there is an existing eligibility list, the City shall attempt to make the temporary assignment from that list.

17.3 Provisional Appointment

An employee who holds a provisional appointment in a classification shall receive step increases in such classification as if the employee held a permanent appointment thereto.

17.4 Duration

Temporary and provisional assignments may be made up to six (6) months in any calendar year.

SECTION 18: HOURS AND DAYS OF WORK

18.1 Subject to the terms of this MOU, hours and days of work shall be governed by rules established by the City Manager and the Chief of Police. The work schedule is attached as Exhibit "B" for illustrative purposes and is described as follows:

18.1.1 **4/10 Work Schedule:** Employees assigned to the 4/10 Work Schedule shall be assigned to begin work on Monday, Tuesday, Wednesday and Thursday. Employees assigned to this Work Schedule shall have a normal work week of four (4) consecutive ten (10) hour days. Scheduled days off shall be Friday, Saturday and Sunday.

18.1.2 **3/12.5 Work Schedule:** Employees assigned to the 3/12.5 Work Schedule shall be assigned to begin work on Friday, Saturday and Sunday. Employees assigned to this Work Schedule shall have a normal work week of three (3) consecutive twelve and

one-half (12.5) hour days. Scheduled days off shall be Monday, Tuesday, Wednesday and Thursday. Employees assigned to this Work Schedule shall also work one additional ten (10) hour shift on either the first, second or third Thursday of each Fair Labor Standards Act (FLSA) 28 consecutive day work period depending on the Team Assignment of the employee.

18.1.3 Either party may request to modify the work schedule after initial implementation and any modification shall be subject to the meet and confer process.

18.1.4 There may be some special assignments including, but not limited to Sergeants assigned to the Internal Affairs Bureau or the Sergeant assigned to the Professional Standards Division who work a 4/10 schedule from Tuesday through Friday with scheduled days off on Saturday, Sunday and Monday.

18.1.5 When an employee's schedule is changed from the 3/12.5 to the 4/10 schedule, the employee shall be given the option of working the additional four (4) hours or taking earned vacation or compensatory time to cover the pay period shortage.

18.1.6 Daylight Savings Time

18.1.6.1 **Spring:** In the Spring when transitioning to Daylight Savings Time (DST), employees working during the one (1) hour transition from Standard Time to DST will be paid only for actual hours worked. Employees working on a shift which includes the one (1) hour transition may be granted an option by the Chief to work an additional hour or use compensatory time, floating holiday, or vacation to make up the lost work hour.

18.1.6.2 **Fall:** In the Fall when transitioning from DST, employees working during the one (1) hour transition will be paid for all hours worked including overtime and one-and-one-half (1½) times the straight-time rate of pay for hours worked in excess of the regular workweek as set forth in either Section 18.1.1 or 18.1.2 of this Understanding, or all hours worked in excess of 171 hours in a 28 consecutive day work period as provided in Section 207(k) of the Fair Labor Standards Act (FLSA).

18.2 Shift Trades

The practice of trading of work shifts (where one Unit F employee trades a shift with another of the same rank) shall be limited as set forth in Police Department General Orders which include the following provisions:

18.2.1 Each Unit F employee shall be allowed no more than four (4) trades of shifts in any calendar month. Employees desiring in excess of four (4) trades of shifts must first seek and receive permission for additional trades of shifts from the Commanding Officer of the division involved.

18.2.2 Notwithstanding the foregoing, under no circumstances will employees be allowed to regularly or systematically trade shifts with one another in a manner that negates or

converts the hours or days any employee is regularly scheduled to work (e.g., to work a four [4] day work week on a regular basis).

18.2.3 Permission for additional trades of shifts shall generally be granted if the request is supported by a bona fide reason and the request will not circumvent the requirements of Section 18.2.2 above.

18.2.4 In no event shall compensatory time off be transferred to compensate for a trade of shift by one employee for another.

18.3 Lunch Period

Employees may, upon clearance by the on-duty supervisor, extend their lunch period by no more than thirty (30) minutes in order to work out. Employees availing themselves of this opportunity will limit their workout within the Berkeley City limits and remain available and reachable by telephone during the entire period in the event of a specific need. As is the case with any lunch period, the needs of the City and Department take precedence.

SECTION 19: OVERTIME/SHIFT EXTENSION

19.1 Employees of the rank of Lieutenant or below shall be entitled to receive overtime pay. No employee may work overtime or extend his or her shift without express prior approval of his or her supervisor. Time spent in a paid status but not actually worked (i.e., sick leave, vacation leave, workers' compensation, holiday time when receiving pay, when being represented, or other approved leaves with pay) shall be considered "time worked" for the purposes of this section. Unless specifically requested by a commanding officer, employees shall not work overtime on their regularly scheduled shift on days they would normally work. On days when they have taken paid time off for any reason other than workers' compensation, they are not automatically restricted from working overtime during those same days on shifts other than their own.

As set forth in Section 18.1 of this Understanding, employees at the rank of Police Lieutenant or below shall be assigned to work either a 4/10 Work Schedule or a 3/12.5 Work Schedule. Overtime is defined as all hours an employee is required to work in excess of the regular workweek as set forth in either Section 18.1.1 or 18.1.2 of this Understanding, or all hours worked in excess of 171 hours in a 28 consecutive day work period as provided in Section 207(k) of the FLSA.

19.1.1 Employees of the rank of Lieutenant or below shall be compensated for as follows:

19.1.1.1 The overtime rate applicable under this section shall be one and one-half (1½) times the straight-time rate based upon the hourly rate of the employee who works the overtime.

19.1.1.2 Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's department director.

- 19.1.1.3 Flexing of shifts will only be used on a voluntary basis. Members shall notify the BPA before they flex their schedule.
- 19.1.1.4 **Work Week:** For the purpose of computing overtime, the workweek shall be defined as beginning at 12:01 a.m. Sunday and ending at 12:00 midnight Saturday.
- 19.2 Employees holding the rank of Captain shall be ineligible for overtime compensation. The practice of permitting Captains to receive overtime for special events such as U.C. Berkeley football games, the Fourth of July celebration, and for Federal Emergency Management Act (FEMA) disaster work is hereby discontinued.
- 19.3 Emergency On-Call Status
An employee shall be paid or given compensatory time off for being placed on emergency on-call status as follows:
- 19.3.1 An employee who is placed on emergency on-call status on his or her regularly scheduled work day shall be paid for a minimum of one hour and at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on emergency on-call status).
- 19.3.2 An employee who is placed on emergency on-call status on his or her regularly scheduled day off shall be paid for a minimum of two hours and at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on emergency on-call status).
- 19.4 Compensatory Time Off
Compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half (1½) hours for each overtime hour worked up to a maximum, effective July 1, 1984, of one hundred twenty (120) hours in such compensatory time. Consistent with FLSA regulations, upon termination of employment, employees will be paid for the full amount of compensation for accumulated but unused compensatory time. Utilization of compensatory time shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of service, consistent with FLSA regulations.
- 19.5 Administrative Leave for Captains
- 19.5.1 Effective January 1 of each year, Captains shall be credited with forty (40) hours of Administrative Leave. Such leave shall be in lieu of overtime earned by individuals in the ranks of Lieutenant and below. After successful completion of six (6) months of initial employment, employees are able to use Administrative Leave. Administrative Leave which is not utilized during any calendar year will be credited to the individual's vacation balance at the end of the calendar year. All rules governing vacation balances and when vacation can be scheduled in Section 22 shall apply to Administrative Leave.
- 19.5.2 Persons appointed to the rank of Captain during the calendar year shall receive Administrative Leave prorated based on the number of pay periods remaining in the calendar year.

19.6 Any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.

19.7 Emergency Overtime
An employee is guaranteed at least three (3) hours overtime when called to emergency overtime duty from his or her residence.

19.8 Virtual Attendance.
If an employee is required to work outside their regularly scheduled work hours to virtually or remotely perform any official duties including but not limited to meetings, training and court related activities the member will be compensated as if he/she had personally appeared or attended at one-half the **minimum** premium identified in the MOU." (~~2-hour minimum~~). This provision does not apply to instances in which the assigned work is contiguous with the beginning or end of the employees' regular scheduled shift.

Commented [R4]: Added "minimum" for clarification.
Commented [PA5]: Deleted 2 hour minimum as it was not in TA

SECTION 20: COURT TIME

20.1 Court Overtime

20.1.1 Court overtime is defined as that overtime worked in connection with an assigned appearance before any criminal or civil court, Police Review Commission meeting or Board of Inquiry, Department Board of Review, and any other specially approved appearance on behalf of another City department or commission.

20.1.2 Unless otherwise approved by a Commanding Officer, all court overtime shall be paid.

20.1.3 A sworn employee who makes an off-duty court appearance shall receive a minimum of four (4) hours overtime unless his or her scheduled duty reporting time, regular shift or overtime shift is less than four hours after the scheduled court appearance in which case the employee will receive overtime in the lesser amount.

20.1.4 Overtime spent conferring with the prosecuting attorney will be considered as court overtime and part of the court session only if the employee's presence is required in court after the conference.

20.1.5 For off-duty, out-of-town court appearances, travel constitutes court overtime and is determined by the round trip time from the Hall of Justice.

20.1.6 To receive court overtime credit, an employee shall submit an Extraordinary Duty Report.

20.1.6.1 Subpoena should be attached and case number indicated if either or both are available.

20.1.6.2 Report is to be completed by the employee and should specify the amount of time required for "testifying/conferring," "time waiting," or if "not needed."

- 20.1.6.3 The employee's supervisor shall review the report for accuracy and complete the lower boxed area, indicating the court paid overtime budget code, the Activity Code and the proper project designation.

20.2 Court Overtime/Telephone Stand-By

- 20.2.1 Sworn employees who are placed on telephone stand-by for the court will be compensated by earned compensatory time as follows:

- 20.2.1.1 **Duty Day:** One hour minimum compensatory time and hour for hour thereafter.

- 20.2.1.2 **Day Off:** Two hour minimum compensatory time and hour for hour thereafter.

- 20.2.2 To receive compensatory overtime credit for telephone stand-by, an officer shall submit an Extraordinary Duty Report.

- 20.2.2.1 Subpoena should be attached and case number indicated if either or both are available.

- 20.2.2.2 Report is to be completed by the officer and shall specify the case number and the name of the Deputy District Attorney placing him or her on telephone stand-by.

SECTION 21: RECOVERY TRANSFER TIME

- 21.1 Recovery Time Transfer is that system whereby an employee grants time from earned compensatory time off, vacation leave or sick leave to another employee. Such transfer of time shall be limited to situations where the recipient of the transfer is, by reason of illness or injury, threatened with the loss of earnings due to his/her exhaustion of employment benefits. Such time transfer request must be in writing, and subject to the approval of the City Manager or designee. Such approval shall not be unreasonably denied. Such transfer shall be credited to the recipient at the donor's rate of pay. Recovery Transfer Time will not be used for industrial injuries or illnesses. The use or receipt of Recovery Transfer Time shall not preclude possible medical separation of the recipient employee. The City reserves the right to require medical verification by a qualified medical practitioner of the recipient employee's medical condition.

- 21.2 An employee may donate compensatory time off or vacation leave.

- 21.3 An employee may donate accrued but unused sick leave as Recovery Transfer Time subject to the following conditions:

- 21.3.1 An employee may donate one hour of sick leave for each hour of compensatory time off and/or vacation leave time donated for Recovery Time Transfer. To donate sick leave hours beyond the number of hours of compensatory time off and/or vacation

leave time, the employee will be charged two hours of sick leave for each hour of sick leave donated for use as Recovery Time Transfer.

21.3.2 The employee donating the sick leave must maintain a sick leave balance of at least 120 hours after the donation of leave for Recovery Transfer Time.

ARTICLE 3 - LEAVES

SECTION 22: VACATION

- 22.1 All employees who have worked for the City six (6) months or more and have worked half-time or more in the preceding year shall be entitled to vacation leave.
- 22.2 The times during the calendar year at which an employee shall take vacation shall be determined by the Chief of Police or his or her designee in accordance with department policies with regard for the wishes of the employee and particular regard for the needs of service. With advance supervisory approval, vacations may be in increments of one (1) hour.
- 22.3 Employees shall be entitled to annual vacation leave as follows:

Years of Service	Vacation Accrual
The first (1) through third (3) years of service (except as provided in Sections 22.4 and 22.5 below)	80 work hours
Fourth (4) through eleventh (11) years of service (except as provided in Sections 22.4 and 22.5 below)	120 work hours
Twelfth (12) through seventeenth (17) years of service (except as provided in Sections 22.4 and 22.5 below)	160 work hours
Eighteenth (18) through twentieth (20) years of service (except as provided in Sections 22.4 and 22.5 below)	200 work hours
Twenty-first (21) and subsequent years of service (except as provided in Sections 22.4 and 22.5 below)	240 work hours

22.3.1 Employees shall accrue vacation leave at the following rates:

Vacation Hours Earned Per Year	Hours of Vacation Earned per Hour of Regularly Scheduled Work
90 80	0.0385
120	0.0577
160	0.0769
200	0.0962
240	0.1154

22.3.2 **Use of Vacation Leave:** Each employee shall be entitled to take during the first two (2) years of employment only such annual vacation leave as the employee earns: provided, however, that no employee with less than six (6) months of service shall be entitled to take earned vacation leave.

22.3.3 **Lateral Entry Vacation Accrual Rate at Time of Appointment:** Subject to the provisions of Section 22.1, an employee appointed through lateral entry shall accrue and take Vacation Leave commensurate with his or her experience as a sworn peace officer.

22.4 Calculation of Vacation for Part-Time or Intermittent Employees

For an employee who has worked on a part-time or intermittent basis, the actual years of service with the City shall be used for the purpose of computing length of service in determining eligibility for vacation as specified in Section 22.3.

22.4.1 Pro-Ration of Vacation for Part-Time or Intermittent Employees: Employees working on an intermittent or part-time basis who have worked half-time or more in the preceding calendar year without termination of employment shall be entitled to a prorated vacation leave based upon the actual years of service with the City and upon the actual amount of time worked in the preceding calendar year.

22.4.2 For the purpose of computing length of service in determining eligibility for vacation, time spent on an extended military leave shall be counted as time spent in the service of the City.

22.5 Maximum Vacation Leave Accrual Carryover

Employees can carry over from one vacation year (see glossary) to the next no more than three hundred twenty (320) hours of earned vacation.

22.5.1 Annual Vacation Leave Sell Back: Once per year, an employee will have the option to sell to the City up to one hundred sixty (160) hours of accumulated vacation time. The employee shall notify the Department on a form provided by the Auditor that he or she is exercising this option no later than March 1 of any calendar year. The City will pay the employee for the purchased vacation hours by March 31 of the same calendar year.

22.5.2 Excess Vacation: Not later than October 1 of each vacation year, the City will notify each affected employee of the amount of the employee's earned vacation projected to exceed three hundred twenty (320) hours at the end of the vacation year. By October 31, those employees notified of projected excess vacation will submit to the Chief of Police a proposal for use of the projected excess vacation prior to the end of the vacation year. Such a proposal may include both vacation leave and "sell back" to the City.

22.5.3 An employee who has attained maximum accumulation, and does not submit a proposal for use of excess vacation, may be required to take all the projected excess earned vacation or receive pay in lieu thereof, at the option of the City. Such time off shall be scheduled in accordance with the provisions of Section 22.2.

22.6 Return from Extended Unpaid Leave

An employee who has returned from extended military leave or any other extended leave of absence without pay or who has been reemployed or reinstated shall be entitled, during the calendar year in which the employee returns to City service, to a prorated vacation based upon the total years of service with the City and upon the total number of months of actual service with the City during the calendar year. For succeeding calendar years, vacation shall be as provided in Section 22.

22.7 Any employee who is granted a leave of absence without pay and who is off the payroll for less than one hundred-sixty (160) consecutive hours shall be entitled to a full vacation. If

such an employee is off the payroll for the employee shall not earn vacation leave credit for each one hundred–sixty (160) consecutive hours that he or she is off the payroll. Vacation leave shall be accrued on hours worked or in a paid status exclusive of overtime.

22.8 Payment upon Death, Termination or Extended Leave

If, after six (6) months of continuous service, an employee dies, is terminated or is granted an extended military leave or other extended leave of absence without pay, such employee, or his or her estate shall be paid for accrued but unused vacation leave.

22.8.1 Upon death or termination, if the vacation balance is negative, for employees who received advanced vacation, such employee, or his or her estate, shall, on the same basis, reimburse the City or the City may deduct the balance due from the employee's salary due, accrued floating holidays, holiday pay due, compensatory time due or sick leave, in the listed order of priority.

22.8.2 Payment for excess of vacation leave shall be made in lump sum at the time of termination or death, as soon as possible.

SECTION 23: HOLIDAYS

23.1 All employees in Representation Units E and F who are required to work on any of the hereinafter enumerated holidays, shall have the option of receiving compensation, in addition to their regular monthly salaries, either in the form of holiday pay or compensatory overtime. The holiday pay will be equivalent to the employee's regular hourly salary multiplied by the number of hours worked during such day, except that the sum of the hours compensated by holiday pay and hours taken as time off shall not exceed eight (8) for any single holiday; or the employee shall receive compensatory time off at the straight-time rate on the same basis. For purposes of overtime computation, holiday pay is not to be considered compensation for time worked. Employees may utilize accrued compensatory time off, vacation, floating holidays and/or administrative leave (if applicable) for the difference between 8 hours and the number of hours in their regularly scheduled shift.

23.2 In the event that any of the enumerated holidays fall on a day which is not a regularly scheduled workday, such employees shall, in addition to the regular salary which such employees receive, be paid for eight (8) hours for each such holiday at straight-time rate based upon their regular monthly salary or shall, at the discretion of the Chief of Police, be given eight (8) hours of compensatory time off at a straight-time rate.

23.3 Recognized holidays for employees in Representation Units E and F to which this section applies are as follows:

<ul style="list-style-type: none"> • New Year's Day • Martin Luther King, Jr.s' Birthday • Washington's Birthday • Lincoln's Birthday • Malcolm X's Birthday • Memorial Day • Independence Day • Labor Day 	<ul style="list-style-type: none"> • Indigenous People's Day • Veteran's Day • Thanksgiving Day • Day after Thanksgiving • Christmas Day <p><i>(Any other special holiday as declared by the City Manager)</i></p>
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23.4 Floating Holidays

After successful completion of six (6) months of initial employment, employees shall be granted three (3) floating holidays, equivalent to eight (8) hours each, during the calendar year. The days selected shall be by mutual agreement between the employee and the Chief of Police or his or her designee. In the event mutual agreement cannot be reached, the time sought shall be added to his or her accrued vacation time. Employees may take floating holidays in one (1) hour increments. Employees who terminate employment within the first six (6) months of initial employment shall not be eligible for payout of any accrued but unused floating holidays.

23.5 Pro-Rated Holidays

A new employee or an employee returning from a long term leave of absence without pay will receive floating holidays on a pro-rated basis, according to the following schedule:

Date of Hire or Return	Floating Holiday Entitlement
January 1 - April 30	3
May 1 - August 30	2
September 1 - December 31	1

23.6 Employees shall receive specially declared holidays on the same basis as they now receive other holidays.

23.7 **Eligibility**

To be eligible for holiday pay, an employee must be on paid leave status on the employee's last regularly scheduled workday before the holiday.

SECTION 24: SICK LEAVE

24.1 Employees shall be entitled to take sick leave with full pay in case of sickness, disability, or serious illness of the employee or of members of the employee's immediate family in accordance with the provisions of Sections 24.2 to 24.7, inclusive.

24.2 Sick Leave Accrual

Each employee shall be credited with one (1) eight-hour work day of sick leave with full pay for each month of service. Provided further that employees hired on or after September 11, 2012 shall accrue eight (8) hours of paid sick leave for each month of service. Employees hired before September 11, 2012 shall accrue sixteen (16) hours of paid sick leave for each month of service after the completion of twenty (20) years of service.

Actual accrual of sick leave will be based upon those days on which the employee was on the payroll and receiving pay.

24.3 An employee working on a part-time basis shall be entitled to use earned sick leave only on a pro rata basis; for example, if an employee works half-time the employee shall be paid for time off on sick leave on a half-time basis.

24.4 Intermittent Employees Use of Sick Leave

An employee who works on an intermittent basis shall be entitled to use earned sick leave only for those days on which the employee would have worked if the employee had not been sick; provided, however, that an employee working on an intermittent basis who works only when called shall be entitled to use earned sick leave only when the employee becomes sick after reporting to work in response to such call.

24.5 Notice Requirements

Except in the case of emergencies, in order to receive compensation while absent on sick leave the employee shall notify the Chief of Police or other personnel designated by the Chief of Police at least one hour prior to the start of the employee's daily duties.

24.6 Sick Leave Program

Effective December 23, 2012, the following Sick Leave Program went into effect.

24.6.1 Five (5) Year Payout to PORAC Trust: If a sworn member of the Berkeley Police Department ("Employee") has an accrued sick leave balance on December 23, 2012 that exceeds 200 hours, one half of all those hours in excess of 200 shall be maintained in a separate account. The financial value of those hours shall be converted and deposited into the employee's retiree Peace Officers Research Association of California (PORAC) medical trust account over five successive years in equal installments commencing on January 1, 2013 to January 1, 2017. The conversion shall be at the Employee's rate of pay on December 23, 2012. The City may accelerate the payment of hours to be converted.

The remaining fifty percent (50%) of the sick leave balance in excess of 200 hours shall be credited into the employee's separate "catastrophic/service time" bank no later than February 1, 2013 up to a maximum of 500 hours.

24.6.2 Annual Conversion to Cash: At the end of each calendar year, if an employee has an accrued sick leave balance of 200 hours or more of sick leave, fifty percent (50%) of all hours accrued in excess of 200 hours shall be converted to a cash equivalent at the end of each calendar year. The annual cash conversion shall be calculated at the employee's hourly rate including additional pay such as POST Pay, Bilingual Pay and Longevity Pay then in effect at the end of the calendar year. The

annual cash conversion shall be limited to 50% of the hours an employee has accrued in excess of 200 hours as of December 31st of each year. The City shall pay the annual cash equivalent into an employee's retiree PORAC medical trust account on behalf of the employee member. Upon retirement, any sick leave hours that have not been converted onto an employee's PORAC medical trust account, used for the purpose of additional retirement service credit as provided in PERL Section 20965, or "catastrophic/service time" bank shall be forfeited.

The remaining fifty percent (50%) of accrued hours in excess of 200 hours, up to a maximum of 500 hours, shall be maintained in the employee's separate "catastrophic/service time" bank. These hours are available for the employee's use in the event that the employee has a catastrophic illness or injury and has exhausted all accrued sick leave hours and compensatory time off hours. At the time of the employee's retirement or termination, any sick leave balance in the catastrophic/service time bank may only be used for additional retirement service credit as provided in PERL Section 20965 and the employee cannot cash it out at retirement or separation.

24.6.3 Catastrophic/Service Time Bank of Hours: The catastrophic/service time bank of hours is available for use subject to the following conditions.

- 24.6.3.1 Employee or employee's dependent family member must be suffering from a catastrophic illness or injury. Catastrophic illness or injury means an unanticipated life threatening illness or injury, either for a permanent or temporary period anticipated to exceed thirty (30) working days, that results in the incapacity of an employee or the employee's dependent family member and by virtue of the illness or injury to the employee or the employee's dependent family member, the employee's ability to perform the essential functions of his or her usual and customary occupation is limited.
- 24.6.3.2 Employees may also utilize "catastrophic/service time" bank hours for the birth or adoption of a child.
- 24.6.3.3 Employee shall provide the City proof of catastrophic injury or illness from an authorized health care provider on a form to be provided by the City
- 24.6.3.4 The employee must have exhausted all of his or her available paid leave balances (except accrued vacation) and, as a result, will be placed on unpaid leave status unless the catastrophic/service time bank is utilized.

24.6.4 Employee is prohibited from using the catastrophic/service time bank under the following circumstances:

- 24.6.4.1 Employee is prohibited from using the catastrophic/service time bank for any industrial injuries or illnesses that are covered by the California workers' compensation laws and regulations, except and

until the employee has exhausted all benefits under Labor Code Section 4850 and all the employee's available paid leave balances.

24.6.4.2 Employee is prohibited from simultaneously using the catastrophic/service time bank and receiving benefits under any Berkeley Police Association sponsored Long Term Disability benefit.

24.6.4.3 The employee is not permitted to extend employment into retirement through the use of catastrophic/service time.

24.6.4.4 Any balance in the catastrophic/service time bank at time of employee's retirement will not be cashed out. However, an employee may use any balance to purchase CalPERS additional service credit.

24.7 Family Sick Leave

Sick leave shall not be considered a privilege which an employee may use at the employee's discretion but shall be allowed only in case of sickness or disability or in the case of serious illness of the employee or within the immediate family of the employee. Not more than fifteen (15) working days in any calendar year may be taken as sick leave because of illness of a member of the employee's immediate family, except for serious medical conditions covered under the provisions of Administrative Regulation 2.4-Family Care Leave, federal Family and Medical Leave Act. The immediate family of an employee, for the purposes of this section, shall include: dependent residing in the employee's household, spouse, son, daughter, parent and other relationships as determined by the City, such as domestic partner (see glossary).

24.8 Sick Leave Bonus

Employees shall be entitled to receive an additional eight (8) hours of paid leave for every six (6) months of uninterrupted non-use of sick leave. Leave of absence for any reason other than Vacation Leave, Administrative Leave, use of Compensatory Time Off or Bereavement Leave, or partial day absences due to a prescribed follow-up physical therapy or medical appointment (Payroll Code M0) for a Workers' Compensation claim, disqualifies an employee for this bonus. This additional leave accrual is prorated for part-time employees. Not more than sixteen (16) additional hours per year may be achieved; this paid leave may be used for any leave purpose covered by this Understanding.

24.11 Absenteeism Control System

The City may implement an absenteeism control system, which will include the detailed and ongoing recording of absences and counseling of employees regarding abuse, with management and supervisory personnel having the discretion to require medical verification in instances where abuse appears evident and to take disciplinary action as appropriate to correct patterns of abuse.

SECTION 25: WORKERS' COMPENSATION

- 25.1 All employees shall be entitled to such compensation as may be allowed pursuant to the applicable provisions of the Workers' Compensation Insurance and Safety Act of the State of California (specifically Labor Code Sections 4850 et seq.).
- 25.2 No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that such injury is covered by the Workers' Compensation laws of the State of California or other provision for payment for time off because of such injury is made by such other employer. In the event such injury is not covered by the Workers' Compensation laws of the State of California and no other provision for payment for time off because of such injury is made by such other employer, sick leave in accordance with the provisions of Section 24 shall be allowed only if such outside employment has been approved by the City.
- 25.3 Workers' Compensation salary in lieu of temporary disability payments as provided in California Labor Code Section 4850 are reportable to CalPERS as compensation earnable for a period not to exceed one year. Any temporary disability benefits, which are coordinated with the employee's available leave accruals, paid after one year is not reportable to CalPERS as compensation earnable.

SECTION 26: FUNERAL LEAVE

- 26.1 In the case of death within the immediate family of an employee such employee shall be entitled to remain absent from duty with pay in order to attend the funeral or memorial service for a period not exceeding three (3) consecutive working days, or, in the case of a funeral or memorial service conducted out of the State of California, for a period not exceeding five (5) consecutive working days. The immediate family of an employee, for the purpose of this section, shall be defined as: wife, husband, domestic partner, (see glossary), mother, father, sister, brother, child, grandmother, grandfather, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and grand-children. A working day for the purpose of this section is based on the actual number of hours an employee is normally scheduled to work (i.e., eight (8) hours; ten (10) hours; or twelve and a half (12.5) hours).
- 26.2 Leave of absence with pay because of death in an employee's immediate family is allowed provided the employee attends a funeral or memorial service during the time off, and such leave shall not be charged against vacation or sick leave which an employee may be entitled to but shall be in addition thereto.

In special cases, with the approval of the Chief of Police, the City Manager may grant a death leave to allow an employee to attend funeral or memorial services because of the death of a person not included within the definition of the immediate family.

In addition, employees may request, and the City will make reasonable efforts to accommodate requests, for employees to supplement funeral leave by using accrued vacation, compensatory time, or floating holidays.

26.3 Bereavement Leave Statement:

Any employee requesting funeral leave must submit a statement and provide documentation if possible, i.e., obituary or funeral home or church program or notice, that the family member meets the definition of “immediate family members” as provided in Section 26.1. In recognition that there may be situations where an employee is unable to provide funeral or memorial service documentation because there was no formal service, the employee must so note that on the statement confirming that the service occurred during the time period the employee was off work on funeral leave.

SECTION 27: MILITARY AND MARITIME LEAVE

Military and Maritime Leave shall be governed by the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and any regulations promulgated to implement the Act, and the California Military and Veteran’s Code. Employees will be granted a leave of absence without pay with appropriate seniority, pay, status and vacation as required by law for the purpose of fulfilling any required military obligation. If allowed by the USERRA and/or the State of California Military and Veteran's Code, where the employee is entitled to receive his/her regular pay during the period of the military leave, military pay is to be deducted from the employee's regular pay from the inception of the military leave.

SECTION 28: FAMILY CARE LEAVE

Administrative Regulation 2.4 (Family Care Leave) is intended to comply with the Family and Medical Leave Act of 1993 and the California Family Rights Act of 1991 as may be amended from time to time. A copy of Administrative Regulation 2.4 is attached to this Memorandum of Understanding for illustrative and convenience purposes. It is not the intent of the parties to incorporate Administrative Regulation 2.4 into this Memorandum of Understanding. The Association will be notified of any revisions to Administrative Regulation 2.4.

SECTION 29: LEAVE OF ABSENCE WITHOUT PAY

29.1 Upon request of the employee, the Chief of Police may grant a leave of absence to an employee within his or her department without pay not to exceed fifteen (15) working days. No leave without pay shall be granted for more than fifteen (15) working days, except upon the written request of an employee and approval of the City Manager. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge.

29.2 An employee must use all available compensatory and vacation leave, including banked vacation, in order to become eligible for an approved leave of absence without pay. In the event of illness, an employee must also exhaust sick leave prior to receiving authorization for leave without pay. However, in the event of an illness or injury requiring the use of sick leave, an employee has an option to notify the City in writing that he/she wishes to freeze the use of sick leave after thirty (30) calendar days prior to receiving authorization for leave without pay in order to take advantage of an Association sponsored Long Term Disability benefit.

29.3 In the event of a request for leave of absence for personal reasons (not related to sickness), an employee must exhaust all compensatory and vacation time available prior to receiving authorization for leave without pay.

SECTION 30: JURY DUTY LEAVE

An employee who is called or required to serve as a trial juror shall be entitled to be absent from duties or service with the City with pay during the period of such service, as defined in the glossary (Exhibit B) or while being present in court as a result of such call. Any employee, working any shift, shall be eligible for this benefit. Jury duty that does not occur during the employee's work shift but does occur on a scheduled work day, shall cause that employee's next scheduled work shift to be shortened by the number of hours spent on jury duty.

City of Berkeley

2017 – 2021 - 2023 Memorandum of Understanding

Berkeley Police Association

ARTICLE 4 - HEALTH AND WELFARE BENEFITS

SECTION 31: HOSPITAL-MEDICAL, DENTAL AND LIFE INSURANCE COVERAGE

31.1 Medical Coverage

~~The City will pay 100% of the premium for the applicable (single, couple, family) Kaiser rate. Plans that are less expensive than or equal to the Kaiser plan shall be fully paid by the City. For coverage under more expensive plans the employee shall pay the difference through payroll deduction. If an employee chooses to complete and submit to the an Affidavit of Domestic Partnership and sign up for medical benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding. The Understanding can be reopened on health plan topics by mutual consent. In addition, the Association agrees to meet with the City during the term of this MOU in a timely fashion following a City request, regarding whether the Association will agree to meet and confer regarding how the City can avoid potential 2018 ACA excise tax obligations and on a new and/or replacement health plan or plans and other methods to reduce the current cost of health benefits. The City will pay 100% of the premium for the applicable (single, couple, family) Kaiser rate. Plans that are less expensive than or equal to the Kaiser plan shall be fully paid by the City. For coverage under more expensive plans the employee shall pay the difference through payroll deduction. If an employee chooses to complete and submit to the an Affidavit of Domestic Partnership and sign up for medical benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.~~

~~The Understanding can be reopened on health plan topics by mutual consent. In addition, the Association agrees to meet with the City during the term of this MOU in a timely fashion following a City request, regarding whether the Association will agree to meet and confer regarding how the City can avoid potential 2018 ACA excise tax obligations and on a new and/or replacement health plan or plans and other methods to reduce the current cost of health benefits.~~

31.2 Dental Coverage

The City shall provide a dental care program for employees. Dental benefits will remain at 90% coverage of the Bay Area Usual, Customary and Reasonable charges for the life of this Understanding. Effective January 1, 2002, the maximum annual coverage will increase to \$3,000 per calendar year and the lifetime limit on orthodontia will be increased to \$3,000. If an employee chooses to complete and submit to ~~the~~ an Affidavit of Domestic Partnership and sign up for dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

31.3 Should the City deem it feasible to provide the same level of benefits through another provider or to provide such benefits on a non-insured basis, it will notify the Association and, upon written request, will meet and confer on the matter.

31.4 Life Insurance

The City shall provide term life insurance of \$100,000 for each employee that shall include a standard accidental death and dismemberment provision of a like amount. In addition, employees may purchase additional life insurance in increments of \$10,000 up to a

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maximum of \$300,000 at a rate offered by the City's insurance carrier and subject to any medical exam as required by the insurance carrier.

31.5 Pro-Ration for Less Than Full-Time Employees

All career and grant-funded provisional employees working less than a full forty (40) hour week shall receive prorated rather than full fringe benefits and shall pay, by payroll deduction, the remainder of the health and dental insurance premiums.

31.6 Cash In-Lieu

Effective the first full pay period following Council approval of this MOU, and for those employees who show proof of alternate medical coverage, the City will compensate the employee \$560.72 per month, to be paid in equal amounts in each of the twenty-six (26) pay periods.

SECTION 32: RETIREE MEDICAL COVERAGE

32.1 Sick Leave Trust Fund

A retiree, with a sixty (60) day notice, may at any time request a lump sum payment of the balance in his or her Sick Leave Trust Fund. Upon the death of the retiree, any money in the account will be disbursed to the employee's estate.

32.2 Retiree Health Coverage

The City will establish an Internal Revenue Code Section 401(a) plan for the purpose of paying the benefit provided in this Section.

The City shall pay to the retiree or his or her surviving spouse an amount equivalent to the two party active Kaiser monthly medical insurance premium until the death of both. (See Exhibit Letter from Kaiser dated September 14, 2001 attached to this Memorandum of Understanding for illustrative and convenience purposes.) The maximum amount the City shall pay to the retiree or his or her surviving spouse is based on the following schedule:

Years of Service	Percentage to be Paid by the City
10 years of Service	City to pay an amount equal to 25% of the 2-party Kaiser plan rate
15 years of Service	City to pay an amount equal to 50% of the 2-party Kaiser plan rate
20 years of Service	City to pay an amount equal to 75% of the 2-party Kaiser plan rate
25 Years of Service	City to pay an amount equal to 100% of the 2-party Kaiser plan rate

32.2.1 Payment: If payment is made under the Code section 401(a) plan, the payment to be made on a monthly basis shall be made directly to the retiree, or if the retiree is deceased, to the surviving spouse. If payment is made under the retiree health premium assistance plan per Section 32.3, the payment to be made on a monthly basis shall be made directly to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse (if spouse is eligible, per Section 32.5.2). The retiree or surviving spouse assumes full responsibility for the tax consequences for this benefit.

32.2.2 Notification of Death: The retiree or surviving spouse is exclusively responsible for notifying the City of a death of his or her spouse. Such notification must be reported in writing to the City by U.S. Postal Service addressed to: Director of Finance, City of Berkeley Finance Department, 2180 Milvia Street, Berkeley, CA. When both the retiree and surviving spouse die all payments under this Section shall cease.

32.2.3 Notification of Change of Address: The retiree or surviving spouse is exclusively responsible for notification to the City of his or her current mailing address. A change in mailing address must be reported in writing to the City by U.S. Postal Service addressed to: Director of Finance, City of Berkeley Finance Department,

2180 Milvia Street, Berkeley, CA. If the U.S. Postal Service returns payment checks for two consecutive months, the City will cease making payments under this Section. However, if the retiree and/or surviving spouse re-establishes contact with the City and notifies the City in writing of a new mailing address, the City shall resume making payments including arrears payments for the period when payment checks were undeliverable.

32.2.4 Payments Commence 10 Years after Retirement Plan: For employees retiring on or after January 1, 1989 through July 5, 1997, the City shall begin making payments to the retiree or his or her surviving spouse ten (10) years after the employee retires. No payments will be made under this Section until January 1, 1999. For the purposes of this Section, a “retiree” is anyone who separated from the City on or after January 1, 1989, is vested in CalPERS, has ten years of service as a sworn officer with the Berkeley Police Department and has reached the age of 50. However, a “retiree” is also anyone, regardless of age, who receives a disability or industrial disability retirement benefit from CalPERS and has at least ten (10) years of sworn service with the Berkeley Police Department.

32.2.5 Payments Commence 5 Years after Retirement Plan: For employees retiring on or after July 6, 1997, the City shall begin making payment to the retiree or his or her surviving spouse, or to the provider of retiree health care coverage through a newly established retiree health premium assistance plan, as applicable, five (5) years after the employee retires. No payments will be made under this Section until July 6, 2002. For the purposes of this Section, a “retiree” is anyone who separated from the City on or after July 7, 1997, is vested in CalPERS, has ten years of service as a sworn officer with the Berkeley Police Department and has reached the age of 50. However, a “retiree” is also anyone, regardless of age, who receives a disability or industrial disability retirement benefit from CalPERS and has at least ten (10) years of sworn service with the Berkeley Police Department.

32.2.6 Payments Commence 2 Years after Retirement Plan: Effective July 1, 2008 for employees retiring after July 1, 2007, the City shall begin making payments to or on behalf of the retiree or his or her surviving spouse two (2) years after the employee retires. The maximum amount the City shall pay to or on behalf of the retiree is based on the following schedule:

Years of Service	Percentage to be Paid by the City
10 years of Service	City to pay an amount equal to 25% of the 2-party Kaiser plan rate
15 years of Service	City to pay an amount equal to 50% of the 2-party Kaiser plan rate
20 years of Service	City to pay an amount equal to 100% of the 2-party Kaiser plan rate

For the purposes of this Section, a “retiree” is anyone who separated from the City on or after July 1, 2007, is vested in CalPERS, has ten years of service as a sworn officer with the Berkeley Police Department and has reached the age of 50.

However, a “retiree” is also anyone, regardless of age, who receives a disability or industrial disability retirement benefit from CalPERS and has at least ten (10) years of sworn service with the Berkeley Police Department.

32.2.7 Overpayments: In the event of an overpayment, the procedures set forth in Section 41 (Payroll Errors) of the Understanding shall apply to the recovery of overpayments under this Section, with adjustments as appropriate to reflect that retirees are no longer on the active payroll, so offsets or reductions must be made to future payments that would become due under the applicable plan providing benefits to the retiree or his or her surviving spouse.

32.3 Retiree Health Premium Assistance Coverage

Effective September 19, 2012, the City will cease making contributions to an Internal Revenue Code Section 401(a) plan for the purpose of paying the retiree health care benefit provided under this Section for any employees hired on or after that date who would otherwise have qualified for benefits under the terms described in this Section 32. Any employees hired on or after September 19, 2012, as well as any current employees who retire on or after such date, shall receive the benefits described in this Section 32.3 as a benefit provided by the City under a newly established retiree health premium assistance plan and related trust agreement. Any benefits payable to employees who have retired prior to such date or to their surviving spouses may continue to be made under the Internal Revenue Code Section 401(a) plan that was established for such purpose to the extent benefits are not provided for such retirees under the new retiree health premium assistance plan. Under the newly established retiree health premium assistance plan, benefits will be the same as previously provided under the 401(a) plan, except for different eligibility criteria and that payment under the 401(a) plan was made directly to the retiree or his or her surviving spouse, and under the new plan the City will pay the retiree health premium assistance amount to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse (if spouse is eligible per Section 32.5.2. Upon the death of the retiree, the amount provided to an eligible surviving spouse will be an amount equivalent to the appropriate percentage of the single party active Kaiser monthly medical insurance premium amount, which will continue until the death of the eligible surviving spouse. The maximum amount the City shall pay towards coverage for the retiree or his or her surviving spouse, either directly or to a health care provider on his or her behalf, is based on the following schedule set forth in Section 32.5 et seq.

32.4 Amendment or Termination of 401(a) Plan

As provided under Section 32.2 (Retiree Health Coverage), the City established an Internal Revenue Code Section 401(a) plan for the purpose of paying the benefits for retirees and their surviving spouses provided under this Section 32 (Retiree Medical Coverage). Section 12 of that plan (Berkeley Police Supplemental Retirement Plan) provides that such plan may be amended or terminated in accordance with a Memorandum of Understanding between the City and the Association. The City and the Association have determined that it is desirable, to the extent legally permissible and administratively practicable, to offer benefits previously provided under that Berkeley Police Supplemental Retirement Plan through a retiree health premium assistance plan and related trust under Section 115 of the Internal Revenue Code. Additionally, the parties have agreed that the City may take reasonable steps to amend or terminate the Berkeley Police Supplemental Retirement Plan, or spin-off assets and liabilities under such Plan for certain covered participants into

a new section 401(a) plan that also may be amended or terminated, to the extent such actions are necessary or desirable to accomplish, in providing future retiree medical premium assistance benefits as described in this Section 32 (Retiree Medical Coverage) for some or all of the covered retirees and their surviving spouses through a newly established retiree health premium assistance plan and related trust.

32.5 Retiree Medical Coverage

For those employees who retire on or after September 19, 2012 and effective immediately upon the date of retirement, the City will assist in the payment of medical insurance premium payments for the retiree and/or surviving spouse/domestic partner by making payments directly to the medical insurance provider. Retirees shall be permitted at their discretion to enroll in non-City sponsored health plans. In that event, the City shall make medical insurance premium payments directly to the health insurance provider equal in value to the City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner will pay the administrative set up fee and the monthly administrative fee established by the third party administrator. No cash payments will be paid directly to the retiree and/or the retiree's spouse/domestic partner.

There shall be no cash in lieu payments made under this benefit.

32.5.1 For employees that retire on or after September 19, 2012 the City will discontinue the current practice of paying directly to the retiree the cash equivalent of the active two-party Kaiser rate. However, for those employees who retired before September 19, 2012, the City shall continue to make cash payments to these retirees under the MOU provisions in effect at the time of their retirement.

32.5.2 **Qualifying Spouse or Domestic Partner.** A retiree will receive the appropriate percentage of two-party coverage for a spouse or domestic partner that meets any of the following criteria ("Qualifying Spouse"): (1) the spouse or domestic partner of the retiree at the time of retirement; (2) for a retiree that did not have a spouse or domestic partner at the time of retirement, the initial spouse or domestic partner a retiree adds to his or her health plan after retirement; or, (3) for any retiree, a subsequent spouse or domestic partner if the previous spouse or domestic partner died. For all times that a retiree does not have a Qualifying Spouse, the City will only pay the appropriate percentage of single party premium for that retiree. If a retiree predeceases a Qualifying Spouse, the City will continue to pay the appropriate percentage of single party premium for that individual.

32.5.3 In the event that an employee retires and initially elects not to utilize the Berkeley retiree medical plan as described above, the employee may opt back into the Berkeley retiree medical plan during any open enrollment period with either single only coverage or two-party coverage, if applicable.

32.5.4 The City will comply with any lawfully executed Qualified Domestic Relations Order (QDRO) but under no circumstances will it provide retiree medical benefits to more than two persons.

32.5.5 In order to be eligible for the Retiree Health Premium Assistance Coverage a "Retiree" must meet all of the following criteria (note, this is different criteria than used for previous plans):

32.5.5.1 A person who is vested in CalPERS, and

32.5.5.2 Has reached the age of 50, and,

32.5.5.3 Has retired from the City at age 50 or thereafter, and

32.5.5.4 Has applied for and is receiving a pension from CalPERS at the time of retirement.

However, a "retiree" is also anyone, regardless of age, who receives a disability retirement benefit, either industrial disability or non-industrial disability, from CalPERS.

32.5.6 The maximum amount the City will contribute toward the payment of medical insurance premiums is based on the employee's years of service as a sworn member of the Berkeley Police Department at time of retirement. The retiree must have at least 10 years of service as a sworn member of the Berkeley Police Department to qualify for this benefit.

32.5.7 The maximum amount the City will contribute toward payment of the medical premium is based on the following schedule:

Years of Service	Percentage to be Paid by the City
10 Years of Service	City to provide medical premium assistance equal to 25% of either the single party or two party amount as determined below
15 Years of Service	City to provide medical premium assistance equal to 50% of either the single party or two party amount as determined below
20 Years of Service	City to provide medical premium assistance equal to 100% of either the single party or two party amount as determined below

There will be no pro-rating of years of service.

32.5.8 The City will assist the retiree and/or surviving spouse/domestic partner in the payment of the medical insurance premium as follows:

32.5.9 **Early Retirees who are not Medicare Eligible:** Beginning September 19, 2012, each month after the employee retires, the City will pay the health care service provider an appropriate percentage based on the chart in Section 32.5.7 of an

amount equal to \$1,200.00 per month for two party coverage for the retiree and a qualifying spouse/domestic partner or \$600.00 per month for single party coverage. Upon the death of either the retiree or the retiree's spouse, the City will only pay the appropriate percentage based on the chart in Section 32.5.7 of the single party rate to the provider on behalf of the surviving retiree or spouse/domestic partner. If there is no spouse/domestic partner at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse/domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost. The funds for this difference will come from the retirees CalPERS retirement account and the retiree must authorize such withdrawal of funds.

Beginning July 1, 2013 and effective each July 1 thereafter, the base rates the City contributes toward payment of the premium amount described in the preceding paragraph shall be increased by either the amount Kaiser increases the early retiree plan medical premium for that year, or 6%, whichever is less. The retiree and/or surviving spouse/domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.

- 32.5.10 **Retirees who reach Medicare eligibility age:** Beginning September 19, 2012, for retirees who reach Medicare eligibility age, the City will pay the health care service provider the appropriate percentage based on the chart in Section 32.5.7 of an amount equal to \$765.80 per month for two-party coverage for the retiree and spouse/domestic partner or \$382.90 month for single party coverage. Upon the death of either the retiree or spouse/domestic partner, the City will only pay the appropriate percentage based on the chart in Section 32.5.7 of the single party rate to the health care service provider on behalf of the surviving retiree or spouse/domestic partner. If there is no spouse at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse/domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost. The funds for this difference will come from the retirees CalPERS retirement account and the retiree must authorize such withdrawal of funds.

Beginning July 1, 2013 and each July 1 thereafter, the base rates the City contributes toward payment of the premium amount described in the preceding paragraph shall be increased by either the amount Kaiser increases the retiree medical premium for that year, or 6% whichever is less. The retiree and/or surviving spouse/domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.

Former employees who leave employment prior to age 50 and do not qualify as a "Retiree" under the definition above ("non-qualifying retiree") will not receive any funds from the City, either directly or indirectly, for payment of medical insurance premiums. However, a non-qualifying retiree shall be permitted to purchase health insurance from the retiree medical pool if **all** of the following criteria are met:

- 32.5.10.1 The former employees is vested in CalPERS, and

- 32.5.10.2 Has reached the age of 50, and,
- 32.5.10.3 Has applied for and is receiving a pension from CalPERS, and
- 32.5.10.4 The City sponsored group health plan permits the retiree to enroll in the retiree medical pool, and
- 32.5.10.5 The retiree pays all cost associated with enrolling and maintaining eligibility in the group health plan, including, but not limited to, the administrative set up fee and the monthly administrative fee established by the third party administrator.

SECTION 33: SUPPLEMENTAL RETIREMENT PLAN

Effective July 1, 2001 the City adopted a Supplemental Retirement Plan and Trust Agreement to provide supplemental retirement income and other benefits for eligible career benefited employees through the liquidation of termination pay.

ARTICLE 5 - TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 34: PROBATIONARY PERIOD

34.1 Police Officer

Original appointments from employment lists for the classification of Police Officer shall be tentative and subject to a probationary period of two (2) years of actual service with the City of Berkeley. Lateral appointments shall be tentative and subject to a probationary period of eighteen (18) months of two (2) years of actual service with the City of Berkeley.

Completion of Probationary Period upon Return from Military Leave: Probationary employees who are granted military leaves of absences shall complete the balance of their probationary period within a period of six (6) months following their return to City service. No provision of this Section 34 shall be interpreted to preclude the City from establishing new classifications which may require probationary periods of varying lengths.

Field Training Officer Rating: Probationary Police Officers will be rated daily/weekly while in the Field Training Officer (FTO) program, and then semi-annually thereafter.

34.2 Other Probationary Periods

Original and promotional appointments to classes above the rank of Police Officer shall be tentative and subject to a probationary period of six (6) months of actual service and shall be completed within a one (1) year period.

34.3 Provisional Appointments during Probationary Period

If, before completing the required probationary period, an employee is provisionally appointed to a higher class in the same or a related series of classes, the time served in such higher class shall be counted toward completion of the probationary period in the lower class.

34.4 Completion of Probationary Period

If the service of the probationary employee has been satisfactory to the Chief of Police, the Chief of Police shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such probationary employee in the service is desired. If such service has been unsatisfactory, the department head shall file with the Director of Human Resources such a statement, in writing, with the recommendation to the City Manager that the employee be rejected.

34.5 Rejection during Probationary Period

During the probationary period, an employee may be rejected at any time without right of appeal or hearing except as provided by the procedures mandated by Government Code 3303 and 3304, as well as provided in Section 40.8.5 of this Understanding. An employee rejected from a position to which the employee has been promoted shall be reinstated to the position from which the employee was promoted unless charges are filed and the employee is discharged as provided in Section 37.

SECTION 35: PROMOTION/EXAMINATION**35.1 Promotional Exams**

Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established.

35.2 Tests and Applications

Regular tests shall be given for all ranks including promotional ranks. Applications for Police Officer shall be accepted on a continuous testing basis. Tests for Sergeant, Lieutenant and Captain shall be given at least every two years.

35.3 From the time that a promotional list no longer contains any names, 1) the City will make a conscientious effort to hold a written examination within ninety (90) days, but in any event will hold the examination within one hundred twenty (120) days; and 2) the City will announce the written examination at least sixty (60) days before the examination takes place.**35.4 Notice of Examinations**

Selection criteria shall be reflected on all examination announcements. All phases of each examination shall be listed in the examination announcement. A study list shall be included in each examination announcement. Each examination shall be announced no less than 60 calendar days in advance of the written test date.

35.5 Open Competitive Examination

If, in the opinion of the City Manager, the best interests of the service can be served by an open, competitive examination instead of a closed, promotional examination, and if there is not already a promotional list for the higher position, which list has not been abolished and from which the vacancy could be filled, then the City Manager may instruct the Director of Human Resources to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and publication of an eligibility list.

35.6 Criteria for Promotion

Employees who have qualified for promotional lists shall be considered for promotion based on the following factors: previous work performance, previous training and experience, merit (proven ability or accomplishment), seniority, current and previous special/temporary duty assignments held.

SECTION 36: DEMOTION**36.1 City Manager Authority**

The City Manager may demote an employee who so requests it, or whose ability to perform required duties falls below standard, or for disciplinary purposes. No employee shall be demoted to a class for which the employee does not possess the minimum qualifications as determined by the Director of Human Resources.

36.2 Notice Requirements

Notice of the demotion shall be given the employee no later than two (2) weeks prior to the effective date of demotion, and a copy of said notice shall be filed with the Director of Human Resources. Any employee who has been demoted shall be entitled to receive a written statement of the reasons for such action.

36.3 Permanent Status

An employee with permanent status who is demoted shall assume permanent status in the class to which the employee is demoted.

36.4 Demotion to Vacant Position

Upon request of the employee, demotion may be made to a vacant position as a substitution for layoff. In such cases, the employee shall be restored to his or her former position without further examination whenever such position is again to be filled in accordance with the reemployment provisions in Section 57.

SECTION 37: SUSPENSION AND DISCHARGE

37.1 30 Calendar Day Maximum Suspension

The City Manager may suspend an employee from his or her position at any time for just cause. Suspension without pay shall not exceed thirty (30) calendar days, nor shall any employee be penalized by suspension for more than thirty (30) calendar days in any one-year period.

37.2 Suspensions of 3 Days or Less

For just cause, the Chief of Police may suspend an employee for not more than three (3) working days for any one offense. Such suspension shall be reported immediately to the City Manager. At any step in the process of reviewing recommended disciplinary actions, the City Manager may elect to impose more severe discipline.

37.3 Discharge

An employee may be discharged at any time by the City Manager, but if the probationary period has been completed, then such discharge must be for a cause. Any employee who has been discharged shall be entitled to receive a written statement of the reasons for such action.

37.4 ~~120~~ 240 Day Limit on Imposition of Discipline

The City agrees that no disciplinary action against an employee covered by this Understanding, which action involves a loss or reduction of pay or discharge, shall be imposed unless such action is taken within ~~one hundred twenty (120)~~ two hundred forty (240) calendar days ~~after the date of the incident giving rise to the disciplinary action or within one hundred twenty (120) calendar days of the date the City has knowledge of the incident giving rise to the disciplinary action~~ from the date of the City's discovery by a person authorized to initiate and investigate an alleged act, omission or other misconduct unless a Government Code section 3304(d) exception applies.

If a letter of advice or written reprimand is issued by the Department, neither the document nor any testimony offered by the Department or the City in an appeal process shall reference any time restrictions set forth in this section, nor reference any other discipline that may have been considered, recommended or imposed, but for the time restrictions set forth herein.

~~If the November 2020 ballot measure amending the City Charter to create the Police Accountability Board is adopted by the voters, the 120 Day Limit on Imposition of Discipline as set forth in Section 37.4 of the MOU shall be amended as follows:~~

~~The City agrees that no disciplinary action against an employee covered by this Understanding, which action involves a loss or reduction of pay or discharge, shall be imposed unless such action is taken within two hundred forty (240) calendar days from the date of the City's discovery by a person authorized to initiate and investigation of an alleged act, omission or other misconduct unless a Government Code section 3304(d) exception applies.~~

- 37.5 Suspension of FLSA Exempt Employees
Notwithstanding any of the above, FLSA exempt employees in the rank of Captain and above shall not be suspended except as permitted by the Fair Labor Standards Act.
- 37.6 All references in Sections 37.1 and 37.2 to "days" shall be calculated in terms of eight (8) hour equivalencies, unless otherwise provided.

SECTION 38: RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with the Chief of Police, at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Director of Human Resources with a statement by the Chief of Police as to the resigned employee's service, performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the notice required shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the Chief of Police immediately. Resignations shall take effect on the last day of the pay period in which an employee works unless the City Manager determines that it is in the City's best interest to accept the resignation immediately.

SECTION 39: REINSTATEMENT

A permanent or probationary employee who has resigned with a good record may be reinstated within two (2) years to the employee's former position, if vacant, or to a vacant position in the same or comparable class without further competitive examination. This section shall not be interpreted as a guarantee of reinstatement to an employee who has resigned with a good record and who requests reinstatement within two (2) years.

ARTICLE 6 - GRIEVANCE AND APPEAL PROCEDURE

SECTION 40: GRIEVANCE & DISCIPLINARY APPEAL PROCEDURE

- 40.1 A grievance is any dispute which involves the interpretation, application, claimed violation, or claimed noncompliance with the provisions of the Understanding between the City and the Association or with any City ordinance, rule, or regulation which may have been or may hereafter be adopted by the City to govern personnel practices or working conditions of City employees covered by the Understanding, including any rule, regulation, or resolution which may be adopted by the City Council which results from the meet-and-confer process. The grievance procedure discussed below shall be the dispute resolution mechanism applicable to employees covered by this Understanding.
- 40.2 A disciplinary appeal is the procedure established hereunder to afford an employee his or her due process rights. An employee may appeal the recommendation or imposition of discipline for demotion, pay reduction, suspension or discharge other than probationary discharge.
- 40.3 Grievance Procedure
Grievances shall be processed in the following manner:
- 40.3.1 **Step 1:** Any employee who believes he or she has a grievance (and/or the employee's Association representative) may discuss the employee's complaint with the Chief of Police or with such subordinate management official as the Chief of Police may designate. Nothing in this Section precludes an employee from utilizing the chain of command to solve grievances and/or complaints. If the issue is not resolved within five (5) days, the employee (and/or the employee's Association representative) may elect to invoke the procedure hereinafter specified.
- 40.3.2 **Step 2:** Any grievance which has not been resolved by the procedures hereinabove set forth may be referred to the City Manager by the affected employee or by the Association within ten (10) working days of receipt of the decision at Step 1. Any such referral shall be in writing, and the specific issues involved shall be detailed in such referral, together with a statement of the resolution which is desired. The City Manager shall designate a representative to investigate the merits of the complaint and to meet with the complaining employee (and/or the employee's Association representative). The City Manager shall issue a written decision to the grievant and the Union within ten (10) working days of the meeting. This shall conclude Step 2 of the Grievance Procedure.
- 40.3.3 **Step 3:** If the Association is not satisfied with the City Manager's decision at Step 2 of the Grievance Procedure, the Association may require that the grievance be referred to an impartial arbitrator by notifying the City Manager within ten (10) days of the conclusion of Step 2. Either the Association or the City may require that the grievance be referred to an impartial arbitrator if for any reason forty-five (45) days have elapsed from the date upon which the grievance was received by the City Manager.

A list of five arbitrators shall be requested from the California State Mediation and Conciliation Services (SMCS). The impartial arbitrator shall be selected by either mutual agreement between the Association and the City Manager, or designee, or by each side taking turns striking a name from the arbitrator list with the question of which party shall strike first determined by a coin flip. The Association shall forward to the City the Association's portion of the SMCS fee within thirty (30) days of selection of the arbitrator. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any.

40.4 Arbitrator Decisions

Arbitrator decisions on matters properly before them which pertain to grievances as defined in Section 40.1 of this Understanding shall be in the forms of recommendations to the City Manager, who may, within five (5) days of receipt of said decision, reject said decision. In the event of said rejection, then, as to that particular grievance, the fees and expenses of the arbitrator and the court reporter shall not be shared by the Association, and full payment thereof shall be the sole responsibility of the City.

40.5 Grievance of Affirmative Action Program

Any grievance which in any way affects the implementation of the City's affirmative action program shall not be subject to arbitration. The decision as to whether or not implementation of the affirmative action program is in any way involved shall be made at the sole discretion of the City Manager. If, in the City Manager's judgment, any grievance involves the affirmative action program, the Equal Employment Opportunity and Diversity Officer shall notify the Association to that effect in writing within seven (7) days of the date upon which the grievance is received in the Human Resources Department and in such notification refer to that section of the affirmative action program which is involved; provided, however, that such notice may come at any time prior to arbitration if additional factors come to the attention of the Equal Employment Opportunity and Diversity Officer on the basis of which he or she considers it appropriate to change his or her original determination.

40.6 No arbitrator shall entertain, hear, decide or make recommendations on any dispute unless the Association seeks a determination or if the dispute involves 1) the issue of unit determination; 2) a question of representation; 3) an aggrieved employee not in a classification of the units represented by the Association; or 4) non-punitive transfers, promotional decisions, and probationary employee terminations except as provided in Sections 34.5 and 40.8.5 et seq. of this Understanding.

40.7 Compensation Grievances

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. In such cases no adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed or thirty (30) days from the date when an employee may reasonably be expected to have learned of said claimed violation. Only complaints which allege that employees are not being compensated in accordance with the rules, regulations, and resolutions of the City Council or in accordance with the understandings contained in any memorandum agreement which has resulted from the meet-and-confer process shall be considered as

grievances. Any other matters of compensation are to be resolved in the meet-and-confer process and, if not detailed in the Memorandum of Understanding which results from such meet-and-confer process, shall be deemed withdrawn until the meet-and-confer process is next opened for such discussion.

40.8 Disciplinary Appeals

Disciplinary Appeals shall be processed in the following manner:

40.8.1 **Step 1:** Except as provided for suspensions of not more than three (3) days as provided in Section 37.2, the imposition of a disciplinary demotion, pay reduction, suspension or discharge of an employee will be in the form of a written recommendation from the Chief of Police to the City Manager. For suspensions of not more than three (3) days, the Chief of Police may impose such discipline subject to the appeal procedures set forth hereunder. No disciplinary appeal involving the disciplinary demotion, pay reduction, suspension or discharge of an employee will be entertained unless it is filed in writing with the Chief of Police within five (5) days of the time at which the affected employee was notified of such action in writing.

40.8.2 **Step 2:** The affected employee may appeal the recommendation to impose discipline, or the imposition of discipline for suspensions of not more than three (3) days, to the Chief of Police or his or her designee. The affected employee shall be entitled to a personal conference with the Chief of Police or his or her designee or the affected employee may choose to make an appeal in written form. The Chief of Police or his or her designee shall communicate a decision in writing within ten (10) days after the completion of the personal conference with the affected employee or receipt of the written appeal. This shall conclude Step 2 of the Disciplinary Appeal Procedure.

40.8.3 **Step 3:** Any disciplinary appeal which has not been resolved by the procedures hereinabove set forth may be referred to the City Manager within five (5) days after conclusion of Step 2 by the affected employee or the Association. The City Manager shall designate a personal representative to meet with the affected employee and/or the employee's Association representative and hear the disciplinary appeal or the affected employee may choose to make an appeal in written form.. The City Manager's designee shall communicate a decision within twenty (20) days after the completion of the personal conference with the affected employee or, if the employee chooses to make an appeal in written form, receipt of the written appeal. If the City Manager's designee, in pursuance of the procedures outlined above resolves a disciplinary appeal as defined in Section 40.2 above, the City Manager's designee may order payment for lost time or wages or reinstatement with or without payment for lost time. This shall conclude Step 3 of the Disciplinary Appeal Procedure.

40.8.4 **Step 4:** If the Association is not satisfied with the City Manager's designee's decision at Step 3 of the disciplinary appeal procedure, the Association may require that the disciplinary appeal be referred to an impartial arbitrator by notifying the City Manager within ten (10) days of the conclusion of Step 3.

A list of five arbitrators shall be requested from the California State Mediation and Conciliation Services (SMCS). The impartial arbitrator shall be selected by mutual agreement between the Association and the City Manager or designee, or by each side taking turns striking a name from the arbitrator list with the question of which party shall strike first determined by a coin flip. The Association shall forward to the City the Association's portion of the SMCS fee within thirty (30) days of receipt of the City Manager's response.

The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any. Arbitrator decisions on matters properly before them which pertain to the disciplinary actions involving the suspension, demotion, pay reduction or discharge of an employee shall be final and binding on both parties.

40.8.5 Notwithstanding their probationary status, probationary employees may use the grievance process for disciplinary actions other than termination.

40.8.5.1 **Probationary Employees' Appeal of Discipline:** Notwithstanding his or her probationary status, a probationary employee has appeal rights for disciplinary action where the employee alleges that the City's action was for an illegal or discriminatory reason, such as the exercise of Association membership, political affiliation, or other constitutionally protected activities; provided, however, that any appeal by a probationary employee of rejection from probation alleging a violation of his or her rights under Title VII (42 U.S.C. Section 2000e, et. seq.) or the California Fair Employment and Housing Act (California Labor Code Section 12900 et. seq.) may be pursued as provided in the City's Affirmative Action program, which shall be specifically amended to allow probationary employees a right of appeal under that program. Nothing in this Section 40.8.5.1 is intended to preclude a probationary employee from seeking enforcement of rights through state and/or federal regulatory agencies or in courts of competent jurisdiction.

40.8.5.2 **"Lubey" Hearing:** A probationary employee who is terminated on grounds of misconduct may establish a formal record of the circumstances surrounding his or her termination, but is not entitled to a determination that his or her dismissal was for "just cause." Such a grievance shall terminate upon the conclusion of Section 40.8.3. The City Manager's decision at Section 40.8.3 is final and is not subject to further review.

40.9 Days Defined

All references in this Section 40 to "days" shall mean calendar days unless otherwise provided.

40.10 Waiver of Time Lines

The time lines contained in this Grievance and Disciplinary Appeal Procedure may be waived for a specific time period at any step in the Procedure with the mutual agreement of the parties.

ARTICLE 7 - MISCELLANEOUS TERMS AND CONDITIONS

SECTION 41: PAYROLL ERRORS

To ensure that system or other errors which affect an employee's pay are processed in an efficient and effective manner, the City shall notify the affected employee(s) as soon as practicable. Payroll errors detected by an employee shall, as soon as practicable, be communicated to the employee's Departmental Payroll Clerk. In the case of under payments, the Payroll Clerk shall submit the appropriate adjustments as soon as practicable.

Payroll errors identified by the Auditor will be communicated to the employee either directly by Auditor staff or through the Departmental Payroll Clerk. Under payments will be processed as soon as practicable.

In the event of an overpayment or underpayment, no adjustment shall be retroactive for more than the applicable statute of limitations. As to any overpayment, the Auditor's Office will determine a reasonable repayment schedule and inform the employee of the schedule directly, or through the Department Payroll Clerk. The affected employee shall be given an opportunity to discuss the schedule of repayment and, if necessary, to request an adjustment to the repayment schedule as a needed and reasonable accommodation. Factors considered in determining a reasonable accommodation for repayment of wages include, but are not limited to, the length of time the overpayment has occurred, the amount of the overpayment, the employee's normal salary, and other financial obligations of the employee.

In the event that the employee disputes the determination of the Auditor's Office as to a reasonable accommodation for repayment, the employee may appeal the Auditor's Office decision to the City Manager. The employee may appeal the decision of the Auditor's Office in writing within thirty (30) days of the Auditor's Office decision as to a repayment schedule. The City Manager, or his/her designee, shall meet with the affected employee and consider the matter for final determination. The City Manager's decision shall be issued no later than thirty (30) days from the date the affected employee met with the City Manager or his or her designee. The determination of the City Manager shall be final.

In the event that (1) the employee does not respond within 5 working days of being notified of the overpayment, or (2) mutual agreement on the repayment schedule is not achieved within 10 working days of the employee being notified of the overpayment, the Auditor's Office will proceed to implement a reasonable repayment schedule.

SECTION 42: PERSONAL CONDUCT

- 42.1 Employees shall follow the General Orders and Regulations of the Berkeley Police Department, as written and as they may be amended.
- 42.2 Off the Job Activities
No employee shall be disciplined for off-the-job activities which do not affect his or her job performance.
- 42.3 Official Badge/Insignia
No official or employee who wears a badge or other official insignia as evidence of his or her authority and identity shall permit such badge insignia to be used or worn by any other person of the same or another department, or otherwise to leave his or her possession, without approval except as to persons regularly and formally appointed by the City Manager to the position designated by the badge or insignia.

SECTION 43: UNIFORMS

- 43.1 Effective June 27, 2010, the annual uniform allowance shall be \$1,400. The uniform allowance is intended to cover uniform expenses incurred by the employee ~~during the six months prior to the payment~~ over the course of the year and shall be paid ~~semi-annually in installments of equal amounts~~ in equal amounts in each of the twenty-six (26) pay periods. However, the amount the City contributes toward the uniform allowance is subject to federal and state income tax withholding. The Uniform Allowance shall be reported to CalPERS as Special Compensation under authority of the statutory requirement provided in the Chapter 2 of Division 1 of Title 2 of the California Code of Regulations Subchapter 1, Article 5, Section 571(a)(5).
- 43.2 Effective June 29, 2008, in addition to the annual uniform allowance set forth in Section 43.1, employees assigned to the Special Response Team (S.R.T) shall be paid an annual uniform allowance of \$1,500. The S.R.T. uniform allowance is intended to cover uniform expenses incurred by the employee in the performance of training and duties related to this assignment and shall be paid ~~annually in December for~~ in equal amounts in each of the twenty-six (26) pay periods to those members of the S.R.T. team who are members of the team on November 1st of any year. However, the amount the City contributes toward the S.R.T. uniform allowance is subject to federal and state income tax withholding. The S.R.T. Uniform Allowance shall be reported to CalPERS as Special Compensation under authority of the statutory requirement provided in the Chapter 2 of Division 1 of Title 2 of the California Code of Regulations Subchapter 1, Article 5, Section 571(a)(5).

43.3 Pro-Rated Uniform Allowance

Employees who are hired during the year or are absent from work by reason of leave without pay shall receive a reduced uniform allowance in accordance with the following schedule:

Absence of:	Percentage Reduction
3 months	25%
6 months	50%
9 months	75%
12 months	100%

43.4 Uniform and Equipment Committee

The Uniform and Equipment Committee will be charged with adopting specifications and regulations governing the wearing of uniforms and plain clothes. All components of the uniform are subject to the approval of the Chief of Police.

43.5 Rain Gear

Rain Gear specifications as currently listed in the Uniform/Equipment Specifications Manual under subsection XIX (e) will be updated to reflect optional rain gear (Jacket and Pants) that may be purchased at the employee’s expense for use during inclement weather.

SECTION 44: SAFETY GLASSES

The City's present safety glass program provides that the City will guarantee replacement of prescriptions broken in the line of duty, but it is understood that the City will be under no obligation to routinely provide safety glasses to every police officer simply desiring a pair.

SECTION 45: SAFETY AND TRAINING

45.1 Responsibility

Responsibility for developing training programs for employees shall be assumed by the City Manager. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of municipal employees in the performance of their duties.

45.2 Special Training Courses

Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed with the Chief of Police.

45.3 Ammunition and Firing Range Program

The City shall provide the necessary amount of ammunition for employees for use in City-sponsored range programs. The Department will enforce requirements of regular employees participating in range programs. Employees who do not perform at a passing

standard will receive instruction and retake the test during the regularly scheduled range program. Employees who are not able to achieve the minimum standard within a reasonable period of time will be immediately assigned to work on an intensive basis with the range master who will evaluate the severity of the problem. Consistent inability to meet the standard may be cause for termination.

45.4 Safety Programs

The City and the Association will make every effort to maintain excellent health and safety standards. No employee shall be required to perform work with unsafe equipment or perform duties that are not in compliance with safety procedures or protocols. To further these purposes, the City shall maintain an ongoing safety program which shall include committees comprised of representatives from the Association and appropriate supervisory personnel.

45.5 No employee shall be required to drive a vehicle, the mechanical condition of which is in violation of the Vehicle Code of the State of California.

SECTION 46: USE OF AUTOMOBILES

The City Manager shall govern the use of City-owned automotive equipment and privately owned automobile equipment by such rules and regulations as he or she may establish. The mileage reimbursement will be equal to the amount established by the Internal Revenue Service, and will change as necessary to comply with the IRS standard mileage rate.

SECTION 47: ANNUAL PHYSICAL EXAMINATION

47.1 Employees in the classifications of Police Officer, Police Sergeant, Police Lieutenant and Police Captain shall each year receive a City-paid mandatory physical examination) physical examination based on the City's specification as to scope of examination and with the City's designated Occupational Medicine Provider.

47.2 As an alternative to receiving an annual physical examination with the City's designated Occupational Medicine Provider, an employee may provide verification that the employee received a physical examination consistent with the City's requirements as to the scope of examination with the employee's own personal physician. Employees who choose their own personal physician must notify Policy Personnel and training at least sixty (60) days prior to a deadline to be announced by the City to conduct the annual physical examination. Failure by the employee to meet the sixty (60) day notification deadline will result in the employee needing to receive the annual physical examination with the City's designated Occupational Medicine provider.

47.3 The City will not ask for, request or receive any confidential medical information from the medical professionals, their agents or contractors administering, conducting or participating in the annual examination described in this Section 47. The only information to be provided to the City will confirm whether the examination was administered.

SECTION 48: ASSIGNMENTS FOR TEMPORARILY DISABLED EMPLOYEES

48.1 **Employees on Workers' Compensation Leave:** The City may assign any employee on Workers' Compensation leave who is medically released to return to modified duty when feasible, to such work within the Police Department which is consistent with medical limitations as determined by the attending physician and the employee's skills and abilities at no reduction in the employee's regular rate of pay. Prior to changing the shift of a member who is medically released to return to work on modified duty, the Department shall make a reasonable and good faith effort to accommodate the member's personal/family scheduling for the duration of the period on modified duty. However, if the Department is not able to accommodate the member's personal/family scheduling for the period of the modified duty the Department is not precluded to change the member's shift.

48.2 Non-industrial Disabilities

48.2.1 The City may accommodate an employee disabled with a non-industrial disability by providing a modified work assignment. The City will periodically review such modified assignments in order to determine whether such assignments continue to meet the needs of the City.

48.2.2 The modified assignment may be in that employee's classification. To be eligible for such a modified assignment, the employee must initially, and subsequently at the request of the City, provide the Human Resources Department with a medical statement from his or her attending physician that clearly states the medical limitations and abilities of the employee and estimates when the employee will be able to return to a regular assignment. If modification of that assignment within that employee's classification does not serve the best interests of the City, other classifications may be considered, subject to the approval of the Director of Human Resources. Compensation will be provided at the level of the classification in which the temporarily disabled employee works during the disability. The employee must meet standards of satisfactory performance for the duration of the work assignment.

SECTION 49: ANNUAL PERFORMANCE EVALUATION

The City may implement a program of annual performance evaluation. Such evaluations shall be conducted by the employee's immediate supervisor and reviewed by additional levels of supervision. Each employee may make written comments on the evaluation which shall be made a part of the employee's personnel record.

In Line of Duty Death Notification Package: At this time, each employee shall be given an opportunity to update or fill out his or her "In Line of Duty Death Notification Package". This Package is to be maintained by the Administrative Captain in a sealed envelope and be opened only in the event of the officer's death.

SECTION 50: RESERVE OFFICER FUNCTIONS

50.1 Reserve officers shall not be regularly assigned to perform, police functions normally performed by a sworn officer working in a pay status (i.e., normal beat patrol, walking beats, normal detective functions, etc.). Reserve officers may be used by the Department to supplement police services, such as for additional staffing for special projects, in emergencies, for traffic or crowd control, in positions where they have been utilized previously, or in other short-term circumstances.

50.2 Special Events

Any outside requests for police services for special events shall be offered first to employees represented by the Association. Reserves can only be used for such events when the overtime, after being offered to regulars, does not sell within 48 hours of the event. In any event, minimal patrol division staffing levels will take priority over special events. Sponsored events traditionally staffed by reserved officers are not affected by this section. These sponsored events include the following which is provided for illustrative purposes:

<ul style="list-style-type: none"> • Asian Pacific Heritage Fair • Berkeley Beer Festival • Berkeley Cycle Club • Berkeley Jazz Festival • Berkeley Kite Festival • Berkeley Unified School District Football Games • Berkeley Unified School District Youth Celebration • Cajun Music Festival • Cinco de Mayo • Civic Center Criterium • Earth Day Celebration • Elmwood Street Fair 	<ul style="list-style-type: none"> • How Berkeley Can You Be? • Indigenous Peoples Day • Juneteenth • July 4th Fireworks • Jupiter Jam Concerts • Korean Day • Live Oak Park Faire • People’s Park Celebration • Solano Stroll • Telegraph Avenue Holiday Fair • Telegraph Avenue Street Fair • Triple Rock Beer Festival • 4th Street Bicycle Race
<p><u>University of California Events (samples listed below)</u></p> <ul style="list-style-type: none"> ○ University of California Football events ○ University of California Basketball Team Parade ○ University of California dignitary visits 	

50.3 If the Association believes that reserve officers are being utilized inappropriately, it may meet with the Chief of Police or his or her designee to discuss such disputes or disagreements and to attempt to resolve any disputes or disagreements. Disputes regarding utilization of reserve officers shall not be subject to the grievance procedure.

SECTION 51: CLEAN WORK SITE

The City shall make every effort to maintain a clean work site with properly equipped lavatory and shower rooms.

SECTION 52: WEIGHT ROOM

The Association will enter into a lease with the City which provides for the Association to lease exercise equipment to the City for use by Police Department employees for the nominal charge of \$1 per year. The lease agreement will hold the Association harmless against any claims related to that equipment or its use. The City agrees to keep the weight room clean and maintain the equipment.

SECTION 53: PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- 53.1 The City may require employees to submit to physical or psychiatric examinations by a City appointed physician where reasonable cause exists to believe that the employee is suffering from a physical or psychiatric condition which adversely impacts the employee's ability to perform his or her duties.
- 53.2 Whenever possible, an employee shall be advised in writing of the basis for the existence of "reasonable cause" and the grounds thereof before being directed to report to any such examination. In any case, such written notice is to be provided within 48 hours of such an examination.
- 53.3 Any psychiatric report to the City shall consist of the psychiatrist's ultimate conclusion as to the employee's fitness to serve and return to work date, if any. If the psychiatrist believes that the employee is not fit for duty he or she may also supply a brief non-intrusive analysis as it relates to the employee's ability to perform his or her duties. The psychiatrist shall respect the physician-patient privilege in all other regards and shall not, without the employee's written permission, release any other information, documents, reports or conclusions to the City.
- 53.4 Failure to report for a medical or psychiatric examination under this section may constitute grounds for discipline under Section 37.

SECTION 54: YMCA MEMBERSHIP

The City shall offer employees a low cost group membership in the Berkeley YMCA. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding. The City of Berkeley or its Claims Administrator may not be liable for any injury which arises out of a City of Berkeley employee's participation in and use of a YMCA membership.

SECTION 55: PARKING

The City agrees to continue to provide 33 parking spaces for sworn employees. The parties recognize that construction in the downtown area will result in the relocation of the spaces from time to time. If relocation becomes necessary, the City agrees that all 33 spaces will remain within their current proximity. The parties recognize their mutual obligation to meet and confer and reach an agreement which meet the interests of each party.

ARTICLE 8 - CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

SECTION 56: PUBLIC EMPLOYEES' RETIREMENT SYSTEM

56.1 Participation

The City shall continue participating under the Safety Members Plan of the California Public Employees' Retirement System (CalPERS).

56.2 "Classic Employees" Definition

Classic Employees are defined as current employees and future employees who do not qualify as a "New Member" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

56.3 "New Members" Definition

New Members are defined in the Public Employees' Pension Reform Act of 2013 (PEPRA), Government Code Section 7522.04(f).

56.4 CalPERS Retirement Formula for New Members as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)

"New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2.7% at age 57 retirement formula with highest three (3) year average final compensation as set forth in PEPRA.

56.5 CalPERS Retirement Formula for Classic Employees Hired on or After November 27, 2012 (current employees and employees who do not qualify as "New Members" under PEPRA)
Current employees or former City of Berkeley employees who were members of CalPERS while employed with the City and had membership with CalPERS prior to December 31, 2012 and who are rehired on or after November 27, 2012 and other employees who do not qualify as "new Members" under PEPRA shall be entitled to or continue to be entitled to the 3% at age 55 retirement formula as provided in Section 21363.1, with highest three years average final compensation as provided in Section 20037.

56.6 CalPERS Retirement Formula for Classic Employees Hired Before November 27, 2012
Employees hired before November 27, 2012 shall continue to be entitled to the 3% at age 50 retirement formula as provided in Section 21362.2 (July 7, 2002), with highest One-Year Final Compensation as provided in Section 20042 (July 22, 1976).

56.7 Optional Benefits

For both Classic and New Members, the City's contract with CalPERS shall include the following optional benefits:

56.7.1 Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (March 1, 1973).

56.7.2 Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).

56.7.3 Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).

56.7.4 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (March 1, 1973).

56.7.5 Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

56.7.6 Fourth Level of 1959 Survivor Benefits as provided in Section 21574 (October 15, 1998).

56.7.7 Pre-Retirement Optional Settlement 2 Death Benefit as provided in Section 21548 (November 6, 1998).

56.7.8 Military Service Credit as Public Service as provided in Section 21024 (November 6, 1998).

56.8 Classic Employees' Pension Contribution

Effective July 1, 1994, the City increased the base salary of employees by nine percent (9%). Employees then assumed and shall continue to assume an obligation to pay this 9% normal employee contribution retirement to CalPERS. Employees also contributed three percent (3%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis from July 1, 2012 through June 30, 2015. The City and Association agree that, effective January 1, 2016 employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. Effective July 1, 2016, employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. The City shall designate such payments to the City's CalPERS employer contribution rate as an Employer Pickup as defined by Section 414(h)(2) of the Internal Revenue Code.

56.9 New Members' Pension Contributions

New Members hired on or after January 1, 2013, shall pay 50% of the normal share of cost required by PEPRA. The City and Association agree that, effective January 1, 2016, employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. Effective July 1, 2016, employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. The City shall designate such payments to the City's CalPERS employer contribution rate as an Employer Pickup as defined by Section 414(h)(2) of the Internal Revenue Code.

ARTICLE 9 - LAYOFF PROCEDURE

SECTION 57: LAYOFF POLICY

This layoff policy for the City of Berkeley is intended to provide the maximum employment protection to the City staff should a layoff become necessary. The policy also aims to minimize the impact such a layoff might have on the City's affirmative action accomplishments.

57.1 Announcement of Layoff

57.1.1 The City Council, City Manager, and the Chief of Police shall make every reasonable effort to manage and budget the City's resources effectively and to plan for the delivery of City services in a manner which will avoid the necessity to layoff career City employees. If a reduction in the work force for more than thirty (30) calendar days is necessitated by, but not limited to, a material change in duties and organization, adverse working conditions, return of employees from leaves of absence, or shortage of work or funds, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

57.1.2 Immediately following a decision which may involve the potential layoff of career employees, the City Manager shall freeze all current vacancies in the Police Department service in similar and related classifications to those likely to be targeted for layoff, as well as all related full-time, benefited, or temporary (see glossary) positions which are expected to last six (6) months or more, and notify the department head that such current and anticipated vacancies will be frozen until further notice in order to implement the provisions of Section 57.6.

57.2 Seniority Service Date

57.2.1 All service of persons in the employ of the City shall be counted toward the establishment of an employee's City seniority service date, including, for example, permanent, probationary, provisional, temporary (full-time and intermittent), seasonal, and exempt employment, as well as leaves of absence for obligatory military service while an employee with the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the City seniority service date. Time off, or vacation or compensatory time forfeited in lieu of time off, as a result of formal disciplinary action will be subtracted from the rank seniority service date, however, such date(s) shall not affect any employee's date(s) relative to bidding for shifts or vacation.

57.2.2 All service of persons in the employ of the City in a promotional rank above the entry-level rank shall be counted toward the establishment of an employee's rank seniority service date including only probationary and permanent service as well as leaves of absence for obligatory military service while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the rank seniority service date. Time off as a result of disciplinary action will be subtracted from the rank seniority service date.

57.2.3 All time spent in an appointed rank shall be credited to the employee's service in the employee's permanent rank. In computing both City and rank seniority, all time spent on paid leaves of absences shall be included, and all time spent on unpaid leaves of absence in excess of two consecutive payroll periods shall be excluded.

57.2.4 The Human Resources Department will maintain up-to-date and current City and rank seniority service dates for all City employees holding probationary and permanent appointments.

57.3 Establishment of Seniority Lists

57.3.1 Whenever a layoff of one or more career employees becomes necessary, as defined above, such layoffs shall be made according to City-wide classification seniority lists. Upon receiving notification that the City Manager must proceed with a possible reduction in the work force and following receipt of information concerning the specific positions, programs, and departments involved, the Human Resources Department will immediately establish separate probationary and permanent seniority lists for each classification targeted for layoff.

57.3.2 The names of all City employees holding permanent and probationary appointments in a given classification will be listed on the appropriate list in descending order by City seniority service date in the entry-level position and by rank seniority service date in promotional positions. Except as provided in Section 57.4 below, employees on all lists shall be laid off on the basis of their seniority service dates (i.e., employees with the least amount of total service shall be laid off first). All emergency, temporary, and provisional employees working in classifications similar to those identified for layoff must be terminated prior to the layoff of probationary or permanent employees. Employees on the probationary seniority list for a specific classification will be laid off prior to employees on the permanent seniority list for that class.

57.3.3 Probationary or permanent employees temporarily acting out of classification and holding a provisional appointment in another classification will only be listed on a seniority list of the class in which they hold permanent or probationary status targeted for layoff.

57.3.4 If two (2) or more employees on a seniority list have identical seniority service dates, the tie shall be broken based on established departmental procedures for awarding commission numbers in such instances.

57.4 Employee Retreat Rights

57.4.1 Before an employee with permanent or probationary status may be released from employment with the City of Berkeley, the Human Resources Department must consider the employee's right to retreat to lower-level classifications through which he or she was originally promoted or any subsequently created intermediate-level career classification series. Retreat rights shall also extend to employees who have not previously been promoted through a classification but for whom the classification is a natural progression or beginning in the classification series.

57.4.2 In the process of retreating, the rank seniority date list shall be utilized. Employees with the least amount of rank seniority shall retreat first; provided, however, that a retreat from any rank below the employee's current rank shall be based on a rank seniority date which is derived from a combination of all credited service in the rank to which the employee has retreated and all credited service in higher ranks held on a probationary or permanent Identification Expert will be available only to employees who have previously held such ranks on a permanent or probationary basis. There shall be no retreat rights to appointed ranks or positions.

57.4.3 If an employee is qualified for retreat into more than one classification with comparable salary ranges or if a vacancy exists in a classification to which an employee is entitled to retreat, the options shall be discussed with the employee, and due consideration shall be given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee.

57.4.4 The retreating employee has a right to be retained in the highest salary range possible which is equal to or less than his or her present salary range. An employee involved in layoff does not have a right of mandatory placement to positions with a higher salary range, i.e., promotion.

57.5 Employee Notification

57.5.1 Emergency, temporary, intermittent, seasonal, etc., employees shall be notified individually, in writing, of pending layoff as soon as possible, but no definite time period is required. However, at least two (2) weeks notification is desirable, if possible.

57.5.2 Provisional employees shall be notified individually, in writing, of pending layoff as soon as possible, with no less than fifteen (15) calendar days notification if targeted for release or reassignment.

57.5.3 Permanent, probationary, and career-exempt employees should be notified individually, in writing, of pending layoffs as soon as possible, with no less than thirty (30) calendar day notification if targeted for release, reassignment, or retreat. Notice to an employee absent from work for any reason shall be sent by United States Mail, return receipt requested.

If an employee fails to accept a bona fide offer of reassignment or retreat in writing within five (5) calendar days after receipt of the offer, the employee forfeits further right to employment retention. Acceptance of a reassignment or retreat does not remove the right of appeal under Section 57.9.

57.6 Flexible Placement Program

57.6.1 In order to minimize the negative impact of a layoff, the City Manager will, as previously stated in Section 57.1, impose a city-wide freeze on all appropriate

vacancies as soon as it has been determined that a layoff of career City employees may be necessary.

57.6.2 Following the release of all emergency, temporary, and provisional employees in classes similar to those targeted for layoff and as soon as employees targeted for layoff or retreat have been identified and the provisions under Section 57.3 and 57.4 have been carried out, the Human Resources Department will review and identify the frozen vacant classifications into which employees ultimately targeted for layoff may be placed on the basis of total experience and education. In making this decision, a waiver of minimum qualification standards and/or the substitution of related experience and education may be made with an understanding on the part of management and supervisory personnel that adequate on-the-job training, which can be completed within no more than six (6) months, will be provided to facilitate job adjustment and to compensate for the waiver of qualification standards, if that has occurred.

57.6.3 Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off.

57.6.4 Offers to positions under the Flexible Placement Program shall be made according to City seniority service date and in accordance with the probationary and permanent seniority list certification process outlined in Section 57.3. All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times.

57.6.5 If an employee fails to accept a bona fide written offer of an alternative job within five (5) calendar days after receipt of the offer, he or she forfeits further rights to employment retention. Acceptance of an alternative job under the Flexible Placement Program in no way jeopardizes an employee's standing on the reemployment priority lists on which his or her name has been placed in accordance with Section 57.7.

57.7 Reemployment Lists

57.7.1 The names of all probationary and permanent employees released or retreated from positions in the competitive service as a result of layoff or retreat must be placed on reemployment priority lists for those classifications from which the employee was removed, as well as all other classifications to which they have retreat rights in accordance with Section 57.4.

57.7.2 The reemployment priority list for employees who were laid off shall remain in effect for three (3) years. Said list shall remain in effect indefinitely for employees who were retreated.

57.7.3 Departments with vacancies in any classification for which there is an active reemployment priority list must use the reemployment priority list to fill their positions and may not use any other recruitment or appointment method to fill a vacancy until appropriate reemployment lists have been exhausted.

56.8.4 When a vacancy occurs in a class for which there is a reemployment priority list, the name of the employee on the appropriate reemployment priority list with the highest seniority date shall be certified to the selecting official. Employees so certified from the reemployment priority list must be appointed to the existing vacancy.

57.7.5 If a former employee fails to accept a bona fide written offer of reemployment within five (5) calendar days, his or her name will be removed permanently from the reemployment priority list from which the offer was made. Failure to accept an offer to reemployment to the class with the highest salary range for which the employee is eligible for reemployment will result in automatic removal from all reemployment priority lists. However, the employee may decline (or accept) reemployment to lower salary range classifications without jeopardizing his or her standing on the reemployment priority list for the classification from which he or she was original terminated.

57.7.6 Upon reappointment to the classification from which the employee was originally separated or demoted, the employee has the right to be placed at the step of the salary range which the employee held at the time of layoff or demotion.

57.8 Career-Exempt Employees

Only those employees holding full-time, benefited, exempt positions who, in the past, have achieved permanent status and have been continuously employed without a break in service between their career and exempt appointment, have the right to retreat to previously held career classifications, placement on the reemployment priority lists, and all other provisions governing layoff procedures. For the purpose of layoff, such employees shall be referred to as "career-exempt."

57.9 Appeal Procedures

Any permanent, probationary, or career-exempt employee who is laid off, demoted, or reassigned as a result of layoff and who believes that the layoff procedure has been administered in violation of the terms of this agreement as it pertains to the employee's case may appeal the action under the grievance procedure, including that provision relating to non-disciplinary arbitration. In addition, employees may at all times before, during, and subsequent to layoff review all records, including seniority lists, reemployment priority lists, documentation pertaining to appointments under the Flexible Placement Program, etc., which pertain to their classification and their rights under the provisions of the layoff policy.

57.10 Audit

57.10.1 On an annual basis, the City Manager's Office shall order an audit by an outside auditor of all vacant positions filled in each department and authorized positions which have not been filled to determine whether the vacancies occurred in classifications for which reemployment priority lists were in existence and, if so, whether the appointments made by the selecting official were in accordance with the procedures outlined in Section 57.7. In the event vacancies for which reemployment priority lists are in existence remain unfilled, the auditor shall offer an opinion as to whether or not the reasons for leaving the positions vacant appear

to be legitimate. A report of the audit must be transmitted to the City Manager and the City Council.

- 57.10.2 If it is determined that a vacancy has been filled by a non-reemployment priority list eligible in a classification for which a reemployment priority list existed which included available applicants at the time, the former employee with reemployment rights shall be hired and given retroactive pay from the date that the vacancy occurred. The employee who was originally to fill the vacancy shall continue to be retained in City employment.

SIGNATURE PAGE

FOR BERKELEY POLICE ASSOCIATION FOR THE CITY OF BERKELEY



Rocky Lucia, Chief Negotiator Jon Holtzman, Chief Negotiator

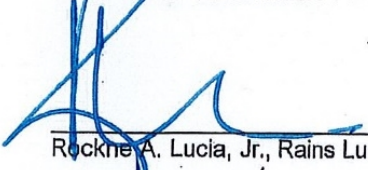
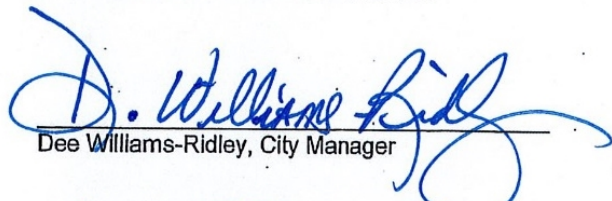

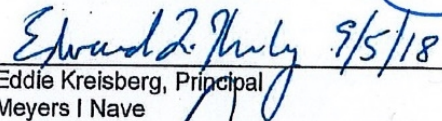
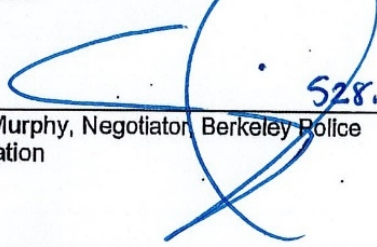
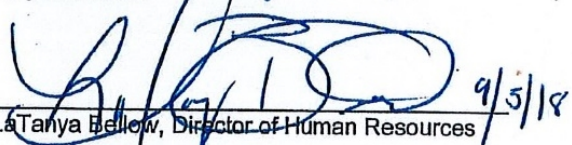
Berkeley Police Association President LaTanya Bellow, Director of Human Resources

Berkeley Police Association Vice President

This Memorandum of Understanding is executed this 31st day of July, 2018, by the employer-employee relations representatives whose signatures appear below for their respective organizations.

FOR THE BERKELEY POLICE

FOR THE CITY OF BERKELEY


Rockne A. Lucia, Jr., Rains Lucia Stern, PC
Dee Williams-Ridley, City Manager
Chris Stines, Negotiator, Berkeley Police Association
Eddie Kreisberg, Principal Meyers I Nave
Emily Murphy, Negotiator, Berkeley Police Association
LaTanya Bellow, Director of Human Resources

Daniel Breaux, Negotiator, Berkeley Police Association

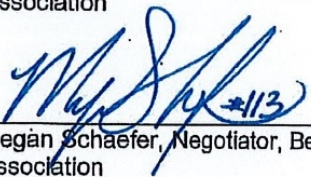

Andrew Greenwood, Police Chief
Megan Schaefer, Negotiator, Berkeley Police Association
Margarita Zamora, Employee Relations Manager

EXHIBIT A

Hourly Salary Schedule as of January 1, 2018

	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
Police Captain	78.8681	81.5017	84.1952	87.0244	89.9210
Police Lieutenant	68.8383	71.1109	73.4734	75.8959	78.4393
Police Officer (Steps A-E)	45.5287	47.6427	49.8625	51.4803	53.1432
Police Officer (Steps F-G)	54.8888	56.6644	-	-	-
Police Sergeant	57.4016	59.2828	61.2317	63.2556	65.3473

Hourly Salary Schedule as of August 12, 2018 (Four Percent (4%) Wage Increase)

	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
Police Captain	82.0228	84.7618	87.5630	90.5054	93.5178
Police Lieutenant	71.5918	73.9553	76.4123	78.9317	81.5769
Police Officer (Steps A-E)	47.3498	49.5484	51.8570	53.5395	55.2689
Police Officer (Steps F-G)	57.0844	58.9310	-	-	-
Police Sergeant	59.6977	61.6541	63.6810	65.7858	67.9612

Hourly Salary Schedule as of July 16, 2019 (Four Percent (4%) Wage Increase)

	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
Police Captain	85.3037	88.1523	91.0655	94.1256	97.2585
Police Lieutenant	74.4555	76.9135	79.4688	82.0890	84.8400
Police Officer (Steps A-E)	49.2438	51.5303	53.9313	55.6811	57.4797
Police Officer (Steps F-G)	59.3678	61.2882	-	-	-
Police Sergeant	62.0856	64.1203	66.2282	68.4172	70.6796

Hourly Salary Schedule as of January July 121, 2020-2021 (One-Three Percent (13%) Wage Increase)

	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
Police Captain	88.741486.1567	91.704889.0338	94.735591.9762	97.918995.0669	101.178098.2311
Police Lieutenant	79.516475.2000	82.141477.6826	84.870580.2635	87.668882.9099	90.606785.6884
Police Officer (Steps A-E)	51.228349.7362	53.607052.0456	56.104754.4706	57.925056.2379	59.796158.0545
Police Officer (Steps F-G)	61.760359.9615	63.758161.9011	-	-	-
Police Sergeant	66.273462.7065	68.445364.7615	70.695466.8905	73.032069.1014	75.447071.3864

<u>Hourly Salary Schedule as of July 1, 2022 (Three Percent (3%) Wage Increase)</u>					
	<u>STEP</u>	<u>STEP</u>	<u>STEP</u>	<u>STEP</u>	<u>STEP</u>
<u>CLASSIFICATION TITLE</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Police Captain	91.4036	94.4560	97.5776	100.8565	104.2134
Police Lieutenant	81.9019	84.6056	87.4166	90.2988	93.3249
Police Officer (Steps A-E)	52.7651	55.2152	57.7879	59.6628	61.5900
Police Officer (Steps F-G)	63.6132	65.6709			
Police Sergeant	68.2616	70.4986	72.8163	75.2230	77.7104

EXHIBIT C

GLOSSARY

Allocation: The assignment of a single position to the proper class in accordance with the duties performed, and the authority and responsibilities exercised.

Classification (class): A group of positions sufficiently similar in respect to their duties and responsibilities that: (a) the same descriptive title may be used with clarity to designate each position allocated to the class; (b) the same minimum requirements as to education, experience, knowledge, ability and other qualifications may be required of all incumbents; (c) the same tests of fitness may be used to choose qualified employees and, (d) the same schedule of compensation can be made to apply with equity under the same employment conditions.

Career Employee: An employee who is appointed to a position in the competitive service and who has a probationary or permanent appointment with the City of Berkeley.

Continuous Testing: An examination process in which applications are accepted on a continuous basis, not subject to a closing date with a viable list maintained at all times.

Demotion: The movement of an employee from one class to another class having a lower maximum rate of pay.

Domestic Partner: A person residing with and sharing the common necessities of life with a City of Berkeley employee, where both intend to continue this arrangement indefinitely. They are unmarried; at least eighteen (18) years of age; not related by blood closer than would bar marriage in the State of California, and mentally competent to consent to contracts.

Employee: A person who has been legally appointed under the City of Berkeley Personnel Ordinance and the Personnel Rules and Regulations, who is on the City payroll and whose employment has not been terminated and whose position is included in this representation unit.

Flexing of Shifts (aka Offsetting of Overtime): Changing of hours of work to avoid the payment of overtime.

Full-Time: An assignment of forty hours per week; a full-time employee works an assignment of forty hours per week or a combination of assignments totaling forty hours per week.

High Risk Classifications: A group of positions whose duties and responsibilities present: (a) significant probability or chance of injury, damage or loss of life; (b) exposure to risk and; (c) ability to incur the risk.

Impasse: "Impasse" means that the City and the Association have a dispute over matters within the scope of representation and have reached a point in meeting and negotiating over the dispute at which their differences in positions are so substantial or prolonged that future meetings would be futile.

Jury Duty Period: The period of time from which an employee appears in court as required by law to serve on an inquest jury or trial jury until such time as the employee is discharged from such

service by the court. "Jury Duty Period" expressly covers only that period of time spent by the employee in service of the court as a juror and does not include any time spent in court by the employee as a result of being a party to the action, being a witness to the action, or being subpoenaed to testify in the action.

Lateral Entry: Recruitment and selection status of candidates who have successfully completed P.O.S.T. academy training and meet the minimum requirement for Police Officer-Lateral classification.

Position: A grouping of duties and responsibilities which constitute a single assignment which is in a classification covered by this Memorandum of Understanding.

Promotion: The movement of an employee from one class to another class having a higher maximum rate of pay.

Promotional Examination: An examination for promotion to a class in the competitive service in which participation is limited to current employees with permanent status and/or to former permanent or probationary employees who are on current mandatory reemployment lists of layoff.

Provisional: A career employee who is temporarily serving in a higher level or unclassified position as a temporary assignment, pending examination, classification, or in the absence of the permanent incumbent.

Reclassification: Reallocation of a position from one classification to another classification based upon consideration of the kind and level of assigned duties and responsibilities.

Reemployment: Reappointment of a former probationary or permanent employee to a vacant position who has been laid off under Section 55.7 of the Layoff section in this Understanding.

Regular Hourly Salary: The Regular Monthly Salary multiplied by twelve (12) months and divided by 2080 annual work hours.

Regular Monthly Salary: The base pay for a classification (as included in Exhibit A of this Understanding).

Reinstatement: Appointment to a vacant position of a former probationary or permanent employee, within two years of the termination date, without obtaining new eligibility through examination. Reinstatement is not mandatory and a former employee must request consideration in writing. Eligibility for reinstatement is no guarantee of appointment and former probationary employees who did not obtain permanent status must complete their probationary period in accordance with Section 32.

Rejection (Probation): The separation of any employee from the service before the completion of the probationary period.

Release Time: Paid time off permitted employees, during their scheduled hours of work, to perform Association activities as provided by this Memorandum of Understanding. This paid time off is in addition to the employee paid leave and is subject to the conditions of the applicable sections of this Understanding.

Termination: The separation of an employee from the service of the City. Termination may include death, discharge, layoff, resignation, retirement, and work completion.

Transfer: The movement of any employee from one position to another within the same class in another department or the movement of an employee from one class to another class having a comparable level of duties and responsibilities and the same maximum rate of pay.

Vacation Year: A period that annually commences at the close of the last City pay period for which the payday falls in March. For example, if paychecks were issued on March 27 to pay employees for the pay period running from March 8 until March 21, the next vacation year would commence on March 22.

Y-Rate: An employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary or occupying a position in a class the salary rate or range for which is reduced, shall continue to receive his or her present salary. Such salary shall be designated as a Y-rate and when that employee vacates this position, it shall be filled in accordance with new salary range established. Y-rating shall not apply to employees who are demoted for just cause, including unacceptable level of performance, or as a result of demotion under the provisions of the Layoff policy.



Memorandum of Understanding

between

City of Berkeley

and

Berkeley Police Association

July 1, 2021 to June 30, 2023

RESOLUTION NO. 68,582-N.S.

MEMORANDUM OF UNDERSTANDING: BERKELEY POLICE ASSOCIATION

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Millias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the Berkeley Police Association have met and conferred in good faith and have reached agreement on a new Memorandum of Understanding that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum of Understanding for the period July 1, 2017 through June 30, 2020 with the Berkeley Police Association, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit A.

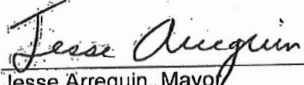
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum of Understanding including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

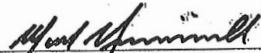
The foregoing Resolution was adopted by the Berkeley City Council on July 31, 2018 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Harrison.


Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk

RESOLUTION NO. 68,583-N.S.

APPROVE A NEW CLASSIFICATION AND SALARY RESOLUTION FOR THE BERKELEY POLICE ASSOCIATION AND RESCINDING RESOLUTION NO. 67-187-N.S.

WHEREAS, the City Council has approved a new three-year Memorandum of Understanding with the Berkeley Police Association which includes cost of living adjustments; and

WHEREAS, it is necessary for the City Council to adopt a new Classification and Salary Resolution to reflect the salary adjustments reflected in the new Memorandum of Understanding.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts a new Classification and Salary Resolution for employees in Representation Units E (sworn, managerial employees in the Police Department), and Representation Unit F (sworn, non-managerial employees in the Police Department) effective July 1, 2017 through June 30, 2020 to incorporate changes to the salary schedule as shown in Exhibit A, attached hereto and made a part hereof.

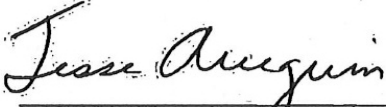
BE IT FURTHER RESOLVED that Resolution No. 67-187-N.S is hereby rescinded.

The foregoing Resolution was adopted by the Berkeley City Council on July 31, 2018 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Harrison.



Jesse Arreguin, Mayor

Attest: 

Mark Numhainville, City Clerk

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ARTICLE 1 – ADMINISTRATION

SECTION 1: RECITALS

This Memorandum of Understanding, (hereinafter referred to as “Understanding”) is entered into pursuant to the Meyers-Milias-Brown Act (Government Code, sections 3500 - 3511), as amended, and has been jointly prepared by the parties.

The City Manager is the representative of the City of Berkeley in employer-employee relations as provided in Resolution No. 43,397-N.S., adopted by the City Council on October 14, 1969.

The Berkeley Police Association (hereinafter referred to as "the Association") is the recognized employee organization for Representation Unit E (sworn, managerial employees in the Police Department) and Representation Unit F (sworn, non-managerial employees in the Police Department), which organization has been certified as such pursuant to said Resolution No. 43,397-N.S. The employee positions in such Representation Units are hereinafter set forth in Exhibit A, and the Association is recognized as the sole representative of employees assigned to such positions.

The parties have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment of the employees in said Representation Units E and F, have freely exchanged 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 Understanding shall be presented to the City Council as the joint recommendation of the undersigned.

SECTION 2: RECOGNIZED EMPLOYEE ORGANIZATION

- 2.1 The Association is the majority representative of all employees within Representation Units E and F and shall continue to be recognized as such unless, in accordance with the provisions of Resolution No. 43,397-N.S. or as said Resolution may be amended, the Association is no longer certified as the recognized employee organization for employees in Representation Units E and F.
- 2.2 Responsibility for management of the City and direction of its work force is vested in City officials and the City Manager whose powers and duties are specified by law. In order to fulfill this responsibility, it is the exclusive right of City management to determine the mission of its constituent departments, set standards of service to be offered to the public and exercise control and discretion over the City's organization and operations. It is also the exclusive right of the City Manager to take disciplinary action for just cause, to implement a layoff pursuant to Section 57 of this Understanding, determine the methods, means and personnel by which the City's operations are to be conducted and to take all necessary actions to maintain uninterrupted service to the community and carry out the City's mission in emergencies; provided, however, the Association shall be notified of any proposed changes affecting wages, hours and other terms and conditions of employment of employees represented by the Association, and the City Manager shall, upon request, meet and confer with representatives of the Association and endeavor to reach agreement on the practical consequences of any such changes in wages, hours and other terms and conditions of

employees represented by the Association except as otherwise provided in this Understanding.

SECTION 3: NO DISCRIMINATION

- 3.1 The Association certifies that it has no restriction on membership based on race, color, creed, ethnicity, ancestry, religion, age, gender, sexual orientation, marital or domestic partner status, gender identify or gender expression, parental status, pregnancy, national origin, political affiliation, disability or medical condition, Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law. The Association agrees that it will support programs for making members of minority groups and women aware of employment opportunities within the City, and that it will work with the City to increase recruitment efforts of such minorities and women into City service. The Association recognizes and supports the City's commitment to equal employment opportunity.
- 3.2 Neither the City nor the Association shall discriminate against any employee covered by this Understanding in a manner which would violate any applicable laws because of race, creed, color, religion, political affiliation, sexual orientation, sex, national origin, disability, or age (including AIDS.) The City and the Association agree that no employee shall be discriminated against on the basis of membership or non-membership in the Association or any lawful activity on behalf of the Association.

SECTION 4: ASSOCIATION SECURITY

- 4.1 All employees who are, or hereafter voluntarily choose to become, members of the Association shall maintain such membership in good standing as a condition of continued employment for the duration of this Understanding; provided, however, that withdrawal from membership shall be allowed during the month which precedes the month in which this Understanding expires. Employees may withdraw by sending written notice of withdrawal to the Association (with a copy to the Director of Human Resources of the City) during the withdrawal period.
- 4.2 The Association shall indemnify and save the City harmless from any and all claims, demands, suits, or any other action arising from Section 4 or from complying with any request for termination of employment under Section 4. The Association will not undertake to compensate the City for any time which may be spent by the City Attorney or anyone on the staff of the City Attorney in preparing for or defending any legal action which may be filed. The Association will, however, pay directly any fine or reimburse the City for the payment of any fine which may be assessed against the City by virtue of its agreement to Sections 4.1 and 4.2, and the Association will pay any judgment or award, including the payment of any wages lost by an employee whose services are temporarily or permanently terminated because of his or her failure to comply with the provision of Section 4.
- 4.3 It is understood and agreed that the City Council retains the right, in its sole discretion, to determine that the Association is not discriminating against any employee or class of employees. It is further understood and agreed that the City Council retains the right to

withdraw the Association security privilege if at any time it determines that the Association is discriminating against any individual or classifications prohibited by Section 3 of this Understanding.

- 4.4 The City shall furnish the Association, on a monthly basis, the name, date of hire, salary, classification, and work location of all newly hired employees subject to the Understanding. The City shall furnish newly hired employees with information concerning the Association as supplied by the Association.

SECTION 5: DEDUCTION OF ASSOCIATION DUES

- 5.1 The City shall deduct, once monthly, the amount of the Association's regular and periodic dues, service fees, or insurance premiums as may be specified by the Association under the authority of an authorization card furnished by the Association and signed by the employee. Such deductions, together with a written statement of the names and amounts deducted, shall be forwarded promptly to the Association office.
- 5.2 Upon receipt of a notice from the Association of an increase in the amount of regular and periodic dues, service fees, or insurance premiums, an employee may, within thirty (30) days, revoke the deduction authorization by furnishing written notice of such revocation to the Department of Human Resources. An employee may also revoke the deduction authorization by furnishing written notice of such revocation during the thirty (30) day period immediately preceding the expiration of this Understanding.

SECTION 6: ASSOCIATION REPRESENTATIVES

- 6.1 The City shall allow representatives of the Association, subject to the conditions set forth in Sections 6.2 and 6.3, reasonable time off from work without loss of compensation or other benefits to represent its members in disputes which involve the interpretation or application of those rules, regulations, and resolutions which have been or may hereafter be adopted by the City Council to govern personnel practices and working conditions, including such rules, regulations, and resolutions as may be adopted by the City Council to effect Memoranda of Understanding which may result from the meeting and conferring process, and to represent its members in meeting and conferring in good faith for amendments to this Understanding in the future. The Parties agree to work cooperatively to negotiate the rules of procedure governing the conduct of the Police Accountability Board with the goal of completing negotiations no later than June 30, 2022
- 6.2 Representatives**
With respect to the meet-and-confer process, four (4) Association representatives shall be the maximum number who will be allowed concurrent time off. In all other cases, such as disputes defined in Section 6.1, the maximum number allowed concurrent time off shall be two (2).
- 6.3 Notice Requirements**
Association representatives seeking time off to carry out functions described in Section 6.1 shall advise their supervisors at the earliest possible time and, except in emergency cases,

no later than 24 hours in advance before leaving their work assignments. The Department will not unreasonably deny release time to the Association President (or Acting President) so that he or she may schedule the duties specified in Section 6.1; there may be times, however, when the City will, on short notice, need to modify or adjust such release time because of unpredictable service needs.

6.3.1 In emergency situations which require the immediate attention of said employee, the employee shall notify a supervisor upon his or her return to work. It is understood that employees will not leave their work assignments without the approval of the supervisor and that such approval shall not be unreasonably denied.

6.3.2 To the extent possible, the Association will attempt to schedule all release time to avoid impacting service levels. If necessary, however, Association representatives' workloads will be adjusted on the basis of approved release time. Employees shall record release time for activities described in Section 6.1 with the appropriate code on their time sheets and cards.

6.4 Meetings

Reasonable release time will be available so that members can attend periodic meetings of the Association which occur during their shift.

6.5 Bulletin Boards

The City shall provide bulletin board space for Association use at each of its work centers where covered employees are regularly employed.

6.6 Board of Review

All time spent in attendance at Board of Review meetings and Police Review Commission meetings, interviews, and hearings as an official representative of the Association by appointed Association officers shall be considered time worked, and shall be compensated in accordance with Section 19 of this MOU. The compensable time outside of an employee's regularly schedule shall be limited to one person.

6.7 Up to three (3) officers designated by the Board of Directors of the Association may meet with the City Manager and Chief of Police every second month to foster communication. These meetings will be scheduled so that Association representatives can attend during regular work hours. Association representatives will record time spent in such meetings as work (rather than release) time.

SECTION 7: ASSOCIATION RELEASE TIME

The Association will be entitled to up to six hundred (600) hours of paid leave of absence each calendar year to be granted collectively to employees who are designated representatives of the Association to attend seminars, conferences, or conventions away from the job site, where employees are not available to respond to emergencies. The Chief may, in his or her discretion, approve additional Association requests. The Chief or the Chief's designee may not deny such requests solely on the need to post overtime. Time spent on such Association business will be recorded with the appropriate code on time sheets.

SECTION 8: SEVERABILITY OF PROVISIONS

In the event that any provision of this Understanding is declared by a court of competent jurisdiction to be illegal or un-enforceable, that provision of this Understanding shall be null and void, but such nullification shall not affect any other provisions of this Understanding, all of which other provisions shall remain in full force and effect.

SECTION 9: FINALITY OF RECOMMENDATIONS

- 9.1 This Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior and existing Understanding, understandings, or agreements, whether formal or informal, are hereby superseded and terminated in their entirety. This Understanding cannot be modified except in writing upon the mutual consent of the parties and subject to ratification by the BPA and City Council.
- 9.2 Existing provisions and/or benefits provided by ordinance or resolution of the City Council or as provided in the Municipal Code and which are referred to in the Understanding shall be provided in accordance with the terms of the Understanding.
- 9.3 There is no guarantee that working conditions and practices will be continued if they are not included in this Understanding or if they have not been or are not hereafter specifically authorized by ordinance or by a resolution of the City Council.
- 9.4 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Understanding shall be administered and observed in good faith.
- 9.5 Although nothing in this Understanding shall preclude the parties from mutually agreeing to meet-and-confer on any subject within the scope of representation during the term of this Understanding, it is understood and agreed that neither party may require the other to meet-and-confer on any subject matter covered herein or with respect to any presentation during the term of this Understanding.
 - 9.5.1 Nothing in this MOU shall preclude the City from requesting meet and confer during the term of the MOU on matters pertaining to police reform/reimagining efforts that are within the mandatory scope of bargaining under the Meyers-Milias-Brown Act ("MMBA;" Gov. Code section 3500 et seq.). This provision shall not be construed as a waiver of any BPA rights under the MMBA, including but not limited to the right to adequate notice of changes within the mandatory scope of bargaining, good faith negotiation over matters within the mandatory scope of bargaining, negotiation over bargainable effects or impacts to the extent required by law, and any legal or administrative remedies for violation of the MMBA that may exist outside of this MOU.

This section, 9.5.1 shall sunset on June 30, 2023, unless mutually agreed by the parties.

9.6 Amendments to this Understanding shall be effective only when adopted by the City Council and ratified by the Association.

SECTION 10: DURATION

The term of this Understanding shall commence when the terms and conditions set forth herein have been adopted by resolution by the City Council but in no event shall this Understanding be effective prior to 0001 hours July 1, 2021. Those provisions which have been assigned effective dates herein will become effective on those dates. This Understanding and all its rights, obligations, terms and provisions shall expire and otherwise be fully terminated at 2400 hours June 30, 2023.

ARTICLE 2 - SALARIES, HOURS OF WORK AND COMPENSATION ISSUES

SECTION 11: SALARIES

- 11.1.1 Salaries are set according to the classifications and salary ranges assigned to those classifications and with the effective dates listed in Exhibit "A" to this MOU and attached hereto. Effective the first full pay period following Council approval of this July 2021 – June 2023 MOU, represented employees still employed in that pay period shall receive the following wage increases: ~~a 3.0% wage increase.~~ Effective the first full pay period in July 2021, employees shall receive a 3% wage increase. Effective the first full pay period in July 2022, employees shall receive a further 3% increase.

Effective July 12, 1998, the salary ranges for the classifications of Police Captain and Police Lieutenant were adjusted in recognition for performance of the duties of the Duty Command Officer. This section is not intended to prohibit a Police Lieutenant from receiving overtime compensation or any other special compensation earned while serving as a Duty Command Officer.

- 11.2 Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class as set forth in Exhibit "A". The minimum rate for the class shall apply to employees upon original appointment to the position except in cases of lateral entry. Lateral entry shall be provided for Police Officer only, and the Chief of Police, with the approval of the Director of Human Resources and City Manager, may pay to lateral entrants a salary above the first step. Employees reinstated or reemployed after layoff shall receive a rate within the range established for the class. Transfers shall not affect an employee's salary rate. Employees appointed to any of the positions set forth in Exhibit "A" and employed or working on a part-time basis shall be paid in proportion to the time worked and described in their appointment.
- 11.3 No salary advancement shall be made so as to exceed the maximum rate established for the class to which the advanced employee's position is allocated. Advancement shall be in accordance with the compensation plan of the City and shall depend upon increased service value of an employee to the City as exemplified by recommendations of the department head, performance record, special training, length of service, and other pertinent evidence.
- 11.3.1 An employee's salary step increase as provided in Section 12 (Salary Advancement) shall not be affected by any leave of absence without pay if the employee is off the payroll for less than one hundred sixty (160) consecutive hours. If the employee is off the payroll for one hundred sixty (160) consecutive hours or more, the total amount of time off shall be made up before the employee shall be entitled to such salary step increase.
- 11.4 Salary reductions may be made as a result of an employee's diminished service value or as part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program. No reduction shall be made below the minimum rate established for the class to which the reduced employee's position is allocated. Notice of the

reduction shall be given to the employee not later than two (2) weeks prior to the effective date of the reduction. Any employee whose salary has been reduced shall be entitled to receive a written statement of the reasons for such action.

11.4.1 Salary reductions which are part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program shall not be subject to the provisions of Sections 11.4, 11.5 or 56.

11.5 Y Rate

Any employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary, or occupying a position in a class, the salary rate or range for which is reduced, shall continue to receive his or her present salary. Such salary shall be designated as a "Y" rate. When an employee on a "Y" rate vacates his or her position, subsequent appointments to that position shall be made in accordance with Section 11.2.

11.6 Pay Periods

Payment of salaries herein established shall be bi-weekly. Each pay period shall begin at 12:01 a.m. Sunday up to and including 12:00 midnight Saturday two weeks following. Each payment shall be made not later than the Friday following the ending of each payroll period and shall include payment for all earnings during the previous payroll period.

11.7 For purposes of calculating pay and benefits, the end of the year shall be defined as the last day of the last full pay period of the calendar year.

11.8 **Effective Date of Salary and Benefit Adjustments**

The City and the Union agree that all future general salary and benefit adjustments shall become effective on the first day of the pay period closest to the date otherwise specified or applicable.

11.9 **Effective Date of Step Increases**

Step increases shall be effective, for payroll purposes only, on the first day of the pay period nearest the date an employee is entitled to a step increase (anniversary date or 1040 hours).

SECTION 12: SALARY ADVANCEMENT

12.1 Effective July 7, 2002, employees in the classification of Police Officer will be placed in the salary step according to the schedule on the chart below. Increases between salary steps shall occur on the employee's anniversary date. The period of time necessary to move from one salary step to the next is expressed in months on the chart below:

Length of Service – Police Officer	Salary Step
0 to completion of 12 months	Step A
Beginning of 13 th month to completion of 24 th month	Step B
Beginning of 25 th month to completion of 36 th month	Step C
Beginning of 37 th month to completion of 48 th month	Step D
Beginning of 49 th month to completion of 60 th month	Step E
Beginning of 61 st month to completion of 72 nd month	Step F

Beginning of 73 rd month and beyond	Step G
--	--------

12.2 Effective July 7, 2002, employees in the classifications of Police Sergeant, Police Lieutenant and Police Captain will be placed in the salary step according to the schedule on the chart below. Increases between salary steps shall occur on the employee's anniversary date. The period of time necessary to move from one salary step to the next is expressed in months on the chart below:

Length of Service – All Ranks Above Police Officer	Salary Step
Beginning of 25 th month to completion of 36 th month	Step A
Beginning of 37 th month to completion of 48 th month	Step B
Beginning of 49 th month to completion of 60 th month	Step C
Beginning of 61 st month to completion of 72 nd month	Step D
Beginning of 73 rd month and beyond	Step E

12.3 Upon promotion, the employee shall be placed at the step of the higher rank that is commensurate with the employee's length of service in any classifications represented by the Association.

12.4 Lateral Entry Step Placement
 An employee appointed through lateral entry may be appointed at either a salary step or longevity range level commensurate with his or her experience as a sworn peace officer.

SECTION 13: PREMIUM/SPECIAL ASSIGNMENT

13.1 Explosives Ordinance Technician
 An employee assigned as an Explosives Ordinance Technician shall receive double his or her regular straight-time rate for that time spent (from call to completion) in dealing with explosives. Said double time shall be the total compensation for such time spent, whether on regular duty time or when called in from off-duty. If an employee is assigned as an Explosive Ordinance Technician while on regular duty and not while on overtime, those hours worked as an Explosive Ordinance Technician on regular duty shall be reported to CalPERS as Hazard Premium Pay.

13.2 Special Response Team (S.R.T)
 An employee assigned as a member of the Special Response Team (S.R.T.) shall receive a five percent (5%) salary differential when involved in an active S.R.T. incident. If an employee is assigned as a member of the Barricaded Subjects Hostage Negotiation Team while on regular duty and not while on overtime, those hours worked as a S.R.T. member on regular duty shall be reported to CalPERS as Hazard Premium Pay.

13.3 Supervisor Special Assignment
 When a Police Sergeant is assigned to function as the Field Training Officer Supervisor, he or she shall receive a five percent (5%) salary differential while occupying that position. If an employee is assigned as the Field Training Officer Supervisor, while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Supervisor Special Assignment Pay.

13.4 Field Training Officer Special Assignment:

Employees assigned as Field Training Officers shall receive a ten percent (10%) differential during any calendar year when actually working as a Field Training Officer. If an employee is assigned as a Field Training Officer while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Supervisor Special Assignment Pay.

13.5 Hazard Premium Pay - Mental Health Crisis Intervention Pay

The City of Berkeley (City) and Berkeley Police Association (Association) agree that the parties may agree under this MOU provision that the City will provide Hazardous Premium Pay for particular hazardous duties and activities. At present, the City and Association have agreed that, effective the first full pay period after Council approval of this MOU, all sworn employees shall receive a Hazard Premium Pay called Mental Health Crisis Intervention Pay equal to 1.0% of base salary, which pay shall be provided on all hours the employee is in a paid status. This pay shall be in recognition of the fact that the City's sworn personnel are routinely and consistently exposed to uniquely hazardous conditions arising from law enforcement interactions with the mentally ill and are required to complete training intended to enhance sworn personnel's ability to perform the hazardous and specialized mental health related law enforcement duties which Berkeley's sworn personnel are consistently and routinely asked to perform, including arrests, potential arrests and addressing other mental health related disputes. Effective the first full pay period of January 2016, the amount of pay shall increase to 2.0% of base salary.

13.6 Homicide Detail

A Police Sergeant assigned to the Homicide Detail shall receive a four percent (4%) salary differential. If a Police Sergeant is assigned to the Homicide Detail while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Detective Division Special Assignment Pay. A Police Officer assigned to the Homicide Detail shall receive a three percent (3%) salary differential. If a Police Officer is assigned to the Homicide Detail while on regular duty and not while on overtime, this differential for hours worked on regular duty shall be reported to CalPERS as Detective Division Special Assignment Pay.

13.7 Peace Officer Standards and Training (POST)

In addition to the salary set forth in the Exhibit "A" of this MOU, employees covered by this MOU who qualify under regulations promulgated by the California Commission on Peace Officer Standards and Training shall receive the following educational/training incentive compensation. To receive the Intermediate Certificate and/or Advanced Certificate differential pay below, employees must submit documents required by the Berkeley Police Department Professional Standards Division verifying POST eligibility, including but not limited to copies of college transcripts, proof of a college degree and other related forms. Failure of the employee to submit documents required by the Professional Standards Division shall delay the POST incentive pay eligibility until such time as the employee provides all required documentation.

13.7.1 Intermediate Certificate: Within thirty (30) working days of approval from the Berkeley Police Department Professional Standards Division of an Officers' eligibility for a Peace Officers Standards and Training Intermediate Certificate, the

employee shall receive a two percent (2%) differential to base salary and such payment shall be reported to CalPERS as Peace Officers Standards and Training Certificate Pay as a form of Educational Pay. Effective the first full pay period following Council approval of this MOU, this Intermediate POST Certificate differential shall increase to three percent (3%) of base salary. Effective January 1, 2016, this Intermediate POST Certificate differential shall increase to four percent (4%) of base salary. Effective July 1, 2016, this Intermediate POST Certificate differential shall increase to five percent (5%) of base salary.

13.7.2 **Advanced Certificate:** Within thirty (30) working days of approval from the Berkeley Police Department Professional Standards Division of an Officers' eligibility for a Peace Officers Standards and Training Advanced Certificate, the employee shall receive a two percent (2%) differential to base salary and such payment shall be reported to CalPERS as Peace Officers Standards and Training Certificate Pay as a form of Educational Pay.

13.7.3 An employee may simultaneously receive the Intermediate and Advanced Certificate differential for a total differential of four percent (4%), five percent (5%) following Council approval of this MOU, six percent (6%) effective January 1, 2016, and seven percent (7%) effective July 1, 2016.

SECTION 14: BILINGUAL PREMIUM PAY

The Chief of Police may make a Bilingual Premium Pay Special Assignment of an employee who is able to demonstrate verbal communication skills in a language other than English, including Braille and sign language, and who routinely and consistently utilizes these bilingual skills for the City of Berkeley. Candidates for the Bilingual Premium Pay Special Assignment will be selected in a manner similar to the manner used to select Field Training Officers. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay shall be a five percent (5%) to base pay, shall apply to all hours in a paid status and shall be reported to CalPERS as Bilingual Premium Special Assignment Pay.

SECTION 15: LONGEVITY PAY

Effective the first full pay period after July 1, 2021, employees who have nine (9) years of service in a classification represented by the Association shall receive a three percent (3%) differential beginning with the anniversary date of the beginning the tenth (10th) year of service.

Effective June 28, 2009, employees completing nineteen (19) years of service in a classification represented by the Association shall receive an additional five percent (5%) differential beginning with the anniversary date of the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

SECTION 16: SUPPLEMENTAL RETIREMENT INCOME PROGRAM

Effective December 25, 1988, the City will pay two percent (2%) of the employee's regular annual salary for the first \$32,400 in salary, into a Supplemental Retirement Income Program.

SECTION 17: HIGHER CLASS PAY, TEMPORARY APPOINTMENTS, PROVISIONAL APPOINTMENTS

17.1 Acting Assignment

When an employee occupying a position in any of the classifications covered by this Memorandum of Understanding is specifically assigned by the Chief of Police or his or her authorized representative to temporarily serve in a higher classification for a minimum of one (1) entire shift (either 8, 10 or 12.5 hours depending on the employee's shift schedule), said employee shall be paid at the lowest step of the higher classification which provides at least a five (5) percent differential or the lowest step of the higher classification to which the employee is assigned, whichever is greater. To be eligible for a higher class assignment the employee must meet the minimum qualifications, as outlined in the class description, and perform the duties of the higher classification. In no case, however, will an employee acting in a higher classification be paid in excess of the top step of the salary range of the higher class. In no instance shall an acting assignment last for more than thirty (30) consecutive days; any assignment over thirty (30) consecutive days shall be deemed a provisional assignment.

17.2 Temporary Vacancy

When a temporary vacancy is to be filled in a classification for which there is an existing eligibility list, the City shall attempt to make the temporary assignment from that list.

17.3 Provisional Appointment

An employee who holds a provisional appointment in a classification shall receive step increases in such classification as if the employee held a permanent appointment thereto.

17.4 Duration

Temporary and provisional assignments may be made up to six (6) months in any calendar year.

SECTION 18: HOURS AND DAYS OF WORK

18.1 Subject to the terms of this MOU, hours and days of work shall be governed by rules established by the City Manager and the Chief of Police. The work schedule is attached as Exhibit "B" for illustrative purposes and is described as follows:

18.1.1 **4/10 Work Schedule:** Employees assigned to the 4/10 Work Schedule shall be assigned to begin work on Monday, Tuesday, Wednesday and Thursday. Employees assigned to this Work Schedule shall have a normal work week of four (4) consecutive ten (10) hour days. Scheduled days off shall be Friday, Saturday and Sunday.

18.1.2 **3/12.5 Work Schedule:** Employees assigned to the 3/12.5 Work Schedule shall be assigned to begin work on Friday, Saturday and Sunday. Employees assigned to this Work Schedule shall have a normal work week of three (3) consecutive twelve and

one-half (12.5) hour days. Scheduled days off shall be Monday, Tuesday, Wednesday and Thursday. Employees assigned to this Work Schedule shall also work one additional ten (10) hour shift on either the first, second or third Thursday of each Fair Labor Standards Act (FLSA) 28 consecutive day work period depending on the Team Assignment of the employee.

18.1.3 Either party may request to modify the work schedule after initial implementation and any modification shall be subject to the meet and confer process.

18.1.4 There may be some special assignments including, but not limited to Sergeants assigned to the Internal Affairs Bureau or the Sergeant assigned to the Professional Standards Division who work a 4/10 schedule from Tuesday through Friday with scheduled days off on Saturday, Sunday and Monday.

18.1.5 When an employee's schedule is changed from the 3/12.5 to the 4/10 schedule, the employee shall be given the option of working the additional four (4) hours or taking earned vacation or compensatory time to cover the pay period shortage.

18.1.6 Daylight Savings Time

18.1.6.1 **Spring:** In the Spring when transitioning to Daylight Savings Time (DST), employees working during the one (1) hour transition from Standard Time to DST will be paid only for actual hours worked. Employees working on a shift which includes the one (1) hour transition may be granted an option by the Chief to work an additional hour or use compensatory time, floating holiday, or vacation to make up the lost work hour.

18.1.6.2 **Fall:** In the Fall when transitioning from DST, employees working during the one (1) hour transition will be paid for all hours worked including overtime and one-and-one-half (1½) times the straight-time rate of pay for hours worked in excess of the regular workweek as set forth in either Section 18.1.1 or 18.1.2 of this Understanding, or all hours worked in excess of 171 hours in a 28 consecutive day work period as provided in Section 207(k) of the Fair Labor Standards Act (FLSA).

18.2 Shift Trades

The practice of trading of work shifts (where one Unit F employee trades a shift with another of the same rank) shall be limited as set forth in Police Department General Orders which include the following provisions:

18.2.1 Each Unit F employee shall be allowed no more than four (4) trades of shifts in any calendar month. Employees desiring in excess of four (4) trades of shifts must first seek and receive permission for additional trades of shifts from the Commanding Officer of the division involved.

18.2.2 Notwithstanding the foregoing, under no circumstances will employees be allowed to regularly or systematically trade shifts with one another in a manner that negates or

converts the hours or days any employee is regularly scheduled to work (e.g., to work a four [4] day work week on a regular basis).

18.2.3 Permission for additional trades of shifts shall generally be granted if the request is supported by a bona fide reason and the request will not circumvent the requirements of Section 18.2.2 above.

18.2.4 In no event shall compensatory time off be transferred to compensate for a trade of shift by one employee for another.

18.3 Lunch Period

Employees may, upon clearance by the on-duty supervisor, extend their lunch period by no more than thirty (30) minutes in order to work out. Employees availing themselves of this opportunity will limit their workout within the Berkeley City limits and remain available and reachable by telephone during the entire period in the event of a specific need. As is the case with any lunch period, the needs of the City and Department take precedence.

SECTION 19: OVERTIME/SHIFT EXTENSION

19.1 Employees of the rank of Lieutenant or below shall be entitled to receive overtime pay. No employee may work overtime or extend his or her shift without express prior approval of his or her supervisor. Time spent in a paid status but not actually worked (i.e., sick leave, vacation leave, workers' compensation, holiday time when receiving pay, when being represented, or other approved leaves with pay) shall be considered "time worked" for the purposes of this section. Unless specifically requested by a commanding officer, employees shall not work overtime on their regularly scheduled shift on days they would normally work. On days when they have taken paid time off for any reason other than workers' compensation, they are not automatically restricted from working overtime during those same days on shifts other than their own.

As set forth in Section 18.1 of this Understanding, employees at the rank of Police Lieutenant or below shall be assigned to work either a 4/10 Work Schedule or a 3/12.5 Work Schedule. Overtime is defined as all hours an employee is required to work in excess of the regular workweek as set forth in either Section 18.1.1 or 18.1.2 of this Understanding, or all hours worked in excess of 171 hours in a 28 consecutive day work period as provided in Section 207(k) of the FLSA.

19.1.1 Employees of the rank of Lieutenant or below shall be compensated for as follows:

19.1.1.1 The overtime rate applicable under this section shall be one and one-half (1½) times the straight-time rate based upon the hourly rate of the employee who works the overtime.

19.1.1.2 Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's department director.

- 19.1.1.3 Flexing of shifts will only be used on a voluntary basis. Members shall notify the BPA before they flex their schedule.
- 19.1.1.4 **Work Week:** For the purpose of computing overtime, the workweek shall be defined as beginning at 12:01 a.m. Sunday and ending at 12:00 midnight Saturday.
- 19.2 Employees holding the rank of Captain shall be ineligible for overtime compensation. The practice of permitting Captains to receive overtime for special events such as U.C. Berkeley football games, the Fourth of July celebration, and for Federal Emergency Management Act (FEMA) disaster work is hereby discontinued.
- 19.3 Emergency On-Call Status
An employee shall be paid or given compensatory time off for being placed on emergency on-call status as follows:
- 19.3.1 An employee who is placed on emergency on-call status on his or her regularly scheduled work day shall be paid for a minimum of one hour and at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on emergency on-call status).
- 19.3.2 An employee who is placed on emergency on-call status on his or her regularly scheduled day off shall be paid for a minimum of two hours and at a one-quarter time rate (i.e., 0.25 multiplied by the hourly rate and multiplied by the number of hours placed on emergency on-call status).
- 19.4 Compensatory Time Off
Compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half (1½) hours for each overtime hour worked up to a maximum, effective July 1, 1984, of one hundred twenty (120) hours in such compensatory time. Consistent with FLSA regulations, upon termination of employment, employees will be paid for the full amount of compensation for accumulated but unused compensatory time. Utilization of compensatory time shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of service, consistent with FLSA regulations.
- 19.5 Administrative Leave for Captains
- 19.5.1 Effective January 1 of each year, Captains shall be credited with forty (40) hours of Administrative Leave. Such leave shall be in lieu of overtime earned by individuals in the ranks of Lieutenant and below. After successful completion of six (6) months of initial employment, employees are able to use Administrative Leave. Administrative Leave which is not utilized during any calendar year will be credited to the individual's vacation balance at the end of the calendar year. All rules governing vacation balances and when vacation can be scheduled in Section 22 shall apply to Administrative Leave.
- 19.5.2 Persons appointed to the rank of Captain during the calendar year shall receive Administrative Leave prorated based on the number of pay periods remaining in the calendar year.

- 19.6 Any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.
- 19.7 **Emergency Overtime**
An employee is guaranteed at least three (3) hours overtime when called to emergency overtime duty from his or her residence.
- 19.8 **Virtual Attendance.**
If an employee is required to work outside their regularly scheduled work hours to virtually or remotely perform any official duties including but not limited to meetings, training and court related activities the member will be compensated as if he/she had personally appeared or attended at one-half the minimum premium identified in the MOU. This provision does not apply to instances in which the assigned work is contiguous with the beginning or end of the employees' regular scheduled shift.

SECTION 20: COURT TIME

20.1 Court Overtime

- 20.1.1 Court overtime is defined as that overtime worked in connection with an assigned appearance before any criminal or civil court, Police Review Commission meeting or Board of Inquiry, Department Board of Review, and any other specially approved appearance on behalf of another City department or commission.
- 20.1.2 Unless otherwise approved by a Commanding Officer, all court overtime shall be paid.
- 20.1.3 A sworn employee who makes an off-duty court appearance shall receive a minimum of four (4) hours overtime unless his or her scheduled duty reporting time, regular shift or overtime shift is less than four hours after the scheduled court appearance in which case the employee will receive overtime in the lesser amount.
- 20.1.4 Overtime spent conferring with the prosecuting attorney will be considered as court overtime and part of the court session only if the employee's presence is required in court after the conference.
- 20.1.5 For off-duty, out-of-town court appearances, travel constitutes court overtime and is determined by the round trip time from the Hall of Justice.
- 20.1.6 To receive court overtime credit, an employee shall submit an Extraordinary Duty Report.
- 20.1.6.1 Subpoena should be attached and case number indicated if either or both are available.
- 20.1.6.2 Report is to be completed by the employee and should specify the amount of time required for "testifying/conferring," "time waiting," or if "not needed."

- 20.1.6.3 The employee's supervisor shall review the report for accuracy and complete the lower boxed area, indicating the court paid overtime budget code, the Activity Code and the proper project designation.

20.2 Court Overtime/Telephone Stand-By

- 20.2.1 Sworn employees who are placed on telephone stand-by for the court will be compensated by earned compensatory time as follows:

- 20.2.1.1 **Duty Day:** One hour minimum compensatory time and hour for hour thereafter.

- 20.2.1.2 **Day Off:** Two hour minimum compensatory time and hour for hour thereafter.

- 20.2.2 To receive compensatory overtime credit for telephone stand-by, an officer shall submit an Extraordinary Duty Report.

- 20.2.2.1 Subpoena should be attached and case number indicated if either or both are available.

- 20.2.2.2 Report is to be completed by the officer and shall specify the case number and the name of the Deputy District Attorney placing him or her on telephone stand-by.

SECTION 21: RECOVERY TRANSFER TIME

- 21.1 Recovery Time Transfer is that system whereby an employee grants time from earned compensatory time off, vacation leave or sick leave to another employee. Such transfer of time shall be limited to situations where the recipient of the transfer is, by reason of illness or injury, threatened with the loss of earnings due to his/her exhaustion of employment benefits. Such time transfer request must be in writing, and subject to the approval of the City Manager or designee. Such approval shall not be unreasonably denied. Such transfer shall be credited to the recipient at the donor's rate of pay. Recovery Transfer Time will not be used for industrial injuries or illnesses. The use or receipt of Recovery Transfer Time shall not preclude possible medical separation of the recipient employee. The City reserves the right to require medical verification by a qualified medical practitioner of the recipient employee's medical condition.

- 21.2 An employee may donate compensatory time off or vacation leave.

- 21.3 An employee may donate accrued but unused sick leave as Recovery Transfer Time subject to the following conditions:

- 21.3.1 An employee may donate one hour of sick leave for each hour of compensatory time off and/or vacation leave time donated for Recovery Time Transfer. To donate sick leave hours beyond the number of hours of compensatory time off and/or vacation

leave time, the employee will be charged two hours of sick leave for each hour of sick leave donated for use as Recovery Time Transfer.

21.3.2 The employee donating the sick leave must maintain a sick leave balance of at least 120 hours after the donation of leave for Recovery Transfer Time.

ARTICLE 3 - LEAVES

SECTION 22: VACATION

- 22.1 All employees who have worked for the City six (6) months or more and have worked half-time or more in the preceding year shall be entitled to vacation leave.
- 22.2 The times during the calendar year at which an employee shall take vacation shall be determined by the Chief of Police or his or her designee in accordance with department policies with regard for the wishes of the employee and particular regard for the needs of service. With advance supervisory approval, vacations may be in increments of one (1) hour.
- 22.3 Employees shall be entitled to annual vacation leave as follows:

Years of Service	Vacation Accrual
The first (1) through third (3) years of service (except as provided in Sections 22.4 and 22.5 below)	80 work hours
Fourth (4) through eleventh (11) years of service (except as provided in Sections 22.4 and 22.5 below)	120 work hours
Twelfth (12) through seventeenth (17) years of service (except as provided in Sections 22.4 and 22.5 below)	160 work hours
Eighteenth (18) through twentieth (20) years of service (except as provided in Sections 22.4 and 22.5 below)	200 work hours
Twenty-first (21) and subsequent years of service (except as provided in Sections 22.4 and 22.5 below)	240 work hours

22.3.1 Employees shall accrue vacation leave at the following rates:

Vacation Hours Earned Per Year	Hours of Vacation Earned per Hour of Regularly Scheduled Work
80	0.0385
120	0.0577
160	0.0769
200	0.0962
240	0.1154

22.3.2 **Use of Vacation Leave:** Each employee shall be entitled to take during the first two (2) years of employment only such annual vacation leave as the employee earns: provided, however, that no employee with less than six (6) months of service shall be entitled to take earned vacation leave.

22.3.3 **Lateral Entry Vacation Accrual Rate at Time of Appointment:** Subject to the provisions of Section 22.1, an employee appointed through lateral entry shall accrue and take Vacation Leave commensurate with his or her experience as a sworn peace officer.

22.4 Calculation of Vacation for Part-Time or Intermittent Employees

For an employee who has worked on a part-time or intermittent basis, the actual years of service with the City shall be used for the purpose of computing length of service in determining eligibility for vacation as specified in Section 22.3.

22.4.1 Pro-Ration of Vacation for Part-Time or Intermittent Employees: Employees working on an intermittent or part-time basis who have worked half-time or more in the preceding calendar year without termination of employment shall be entitled to a prorated vacation leave based upon the actual years of service with the City and upon the actual amount of time worked in the preceding calendar year.

22.4.2 For the purpose of computing length of service in determining eligibility for vacation, time spent on an extended military leave shall be counted as time spent in the service of the City.

22.5 Maximum Vacation Leave Accrual Carryover

Employees can carry over from one vacation year (see glossary) to the next no more than three hundred twenty (320) hours of earned vacation.

22.5.1 Annual Vacation Leave Sell Back: Once per year, an employee will have the option to sell to the City up to one hundred sixty (160) hours of accumulated vacation time. The employee shall notify the Department on a form provided by the Auditor that he or she is exercising this option no later than March 1 of any calendar year. The City will pay the employee for the purchased vacation hours by March 31 of the same calendar year.

22.5.2 Excess Vacation: Not later than October 1 of each vacation year, the City will notify each affected employee of the amount of the employee's earned vacation projected to exceed three hundred twenty (320) hours at the end of the vacation year. By October 31, those employees notified of projected excess vacation will submit to the Chief of Police a proposal for use of the projected excess vacation prior to the end of the vacation year. Such a proposal may include both vacation leave and "sell back" to the City.

22.5.3 An employee who has attained maximum accumulation, and does not submit a proposal for use of excess vacation, may be required to take all the projected excess earned vacation or receive pay in lieu thereof, at the option of the City. Such time off shall be scheduled in accordance with the provisions of Section 22.2.

22.6 Return from Extended Unpaid Leave

An employee who has returned from extended military leave or any other extended leave of absence without pay or who has been reemployed or reinstated shall be entitled, during the calendar year in which the employee returns to City service, to a prorated vacation based upon the total years of service with the City and upon the total number of months of actual service with the City during the calendar year. For succeeding calendar years, vacation shall be as provided in Section 22.

22.7 Any employee who is granted a leave of absence without pay and who is off the payroll for less than one hundred-sixty (160) consecutive hours shall be entitled to a full vacation. If

such an employee is off the payroll for the employee shall not earn vacation leave credit for each one hundred–sixty (160) consecutive hours that he or she is off the payroll. Vacation leave shall be accrued on hours worked or in a paid status exclusive of overtime.

22.8 Payment upon Death, Termination or Extended Leave

If, after six (6) months of continuous service, an employee dies, is terminated or is granted an extended military leave or other extended leave of absence without pay, such employee, or his or her estate shall be paid for accrued but unused vacation leave.

22.8.1 Upon death or termination, if the vacation balance is negative, for employees who received advanced vacation, such employee, or his or her estate, shall, on the same basis, reimburse the City or the City may deduct the balance due from the employee's salary due, accrued floating holidays, holiday pay due, compensatory time due or sick leave, in the listed order of priority.

22.8.2 Payment for excess of vacation leave shall be made in lump sum at the time of termination or death, as soon as possible.

SECTION 23: HOLIDAYS

23.1 All employees in Representation Units E and F who are required to work on any of the hereinafter enumerated holidays, shall have the option of receiving compensation, in addition to their regular monthly salaries, either in the form of holiday pay or compensatory overtime. The holiday pay will be equivalent to the employee's regular hourly salary multiplied by the number of hours worked during such day, except that the sum of the hours compensated by holiday pay and hours taken as time off shall not exceed eight (8) for any single holiday; or the employee shall receive compensatory time off at the straight-time rate on the same basis. For purposes of overtime computation, holiday pay is not to be considered compensation for time worked. Employees may utilize accrued compensatory time off, vacation, floating holidays and/or administrative leave (if applicable) for the difference between 8 hours and the number of hours in their regularly scheduled shift.

23.2 In the event that any of the enumerated holidays fall on a day which is not a regularly scheduled workday, such employees shall, in addition to the regular salary which such employees receive, be paid for eight (8) hours for each such holiday at straight-time rate based upon their regular monthly salary or shall, at the discretion of the Chief of Police, be given eight (8) hours of compensatory time off at a straight-time rate.

23.3 Recognized holidays for employees in Representation Units E and F to which this section applies are as follows:

<ul style="list-style-type: none"> • New Year's Day • Martin Luther King, Jr.s' Birthday • Washington's Birthday • Lincoln's Birthday • Malcolm X's Birthday • Memorial Day • Independence Day • Labor Day 	<ul style="list-style-type: none"> • Indigenous People's Day • Veteran's Day • Thanksgiving Day • Day after Thanksgiving • Christmas Day <p><i>(Any other special holiday as declared by the City Manager)</i></p>
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23.4 Floating Holidays

After successful completion of six (6) months of initial employment, employees shall be granted three (3) floating holidays, equivalent to eight (8) hours each, during the calendar year. The days selected shall be by mutual agreement between the employee and the Chief of Police or his or her designee. In the event mutual agreement cannot be reached, the time sought shall be added to his or her accrued vacation time. Employees may take floating holidays in one (1) hour increments. Employees who terminate employment within the first six (6) months of initial employment shall not be eligible for payout of any accrued but unused floating holidays.

23.5 Pro-Rated Holidays

A new employee or an employee returning from a long term leave of absence without pay will receive floating holidays on a pro-rated basis, according to the following schedule:

Date of Hire or Return	Floating Holiday Entitlement
January 1 - April 30	3
May 1 - August 30	2
September 1 - December 31	1

23.6 Employees shall receive specially declared holidays on the same basis as they now receive other holidays.

23.7 Eligibility

To be eligible for holiday pay, an employee must be on paid leave status on the employee's last regularly scheduled workday before the holiday.

SECTION 24: SICK LEAVE

24.1 Employees shall be entitled to take sick leave with full pay in case of sickness, disability, or serious illness of the employee or of members of the employee's immediate family in accordance with the provisions of Sections 24.2 to 24.7, inclusive.

24.2 Sick Leave Accrual

Each employee shall be credited with one (1) eight-hour work day of sick leave with full pay for each month of service. Provided further that employees hired on or after September 11, 2012 shall accrue eight (8) hours of paid sick leave for each month of service. Employees hired before September 11, 2012 shall accrue sixteen (16) hours of paid sick leave for each month of service after the completion of twenty (20) years of service.

Actual accrual of sick leave will be based upon those days on which the employee was on the payroll and receiving pay.

24.3 An employee working on a part-time basis shall be entitled to use earned sick leave only on a pro rata basis; for example, if an employee works half-time the employee shall be paid for time off on sick leave on a half-time basis.

24.4 Intermittent Employees Use of Sick Leave

An employee who works on an intermittent basis shall be entitled to use earned sick leave only for those days on which the employee would have worked if the employee had not been sick; provided, however, that an employee working on an intermittent basis who works only when called shall be entitled to use earned sick leave only when the employee becomes sick after reporting to work in response to such call.

24.5 Notice Requirements

Except in the case of emergencies, in order to receive compensation while absent on sick leave the employee shall notify the Chief of Police or other personnel designated by the Chief of Police at least one hour prior to the start of the employee's daily duties.

24.6 Sick Leave Program

Effective December 23, 2012, the following Sick Leave Program went into effect.

24.6.1 Five (5) Year Payout to PORAC Trust: If a sworn member of the Berkeley Police Department ("Employee") has an accrued sick leave balance on December 23, 2012 that exceeds 200 hours, one half of all those hours in excess of 200 shall be maintained in a separate account. The financial value of those hours shall be converted and deposited into the employee's retiree Peace Officers Research Association of California (PORAC) medical trust account over five successive years in equal installments commencing on January 1, 2013 to January 1, 2017. The conversion shall be at the Employee's rate of pay on December 23, 2012. The City may accelerate the payment of hours to be converted.

The remaining fifty percent (50%) of the sick leave balance in excess of 200 hours shall be credited into the employee's separate "catastrophic/service time" bank no later than February 1, 2013 up to a maximum of 500 hours.

24.6.2 Annual Conversion to Cash: At the end of each calendar year, if an employee has an accrued sick leave balance of 200 hours or more of sick leave, fifty percent (50%) of all hours accrued in excess of 200 hours shall be converted to a cash equivalent at the end of each calendar year. The annual cash conversion shall be calculated at the employee's hourly rate including additional pay such as POST Pay, Bilingual Pay and Longevity Pay then in effect at the end of the calendar year. The

annual cash conversion shall be limited to 50% of the hours an employee has accrued in excess of 200 hours as of December 31st of each year. The City shall pay the annual cash equivalent into an employee's retiree PORAC medical trust account on behalf of the employee member. Upon retirement, any sick leave hours that have not been converted onto an employee's PORAC medical trust account, used for the purpose of additional retirement service credit as provided in PERL Section 20965, or "catastrophic/service time" bank shall be forfeited.

The remaining fifty percent (50%) of accrued hours in excess of 200 hours, up to a maximum of 500 hours, shall be maintained in the employee's separate "catastrophic/service time" bank. These hours are available for the employee's use in the event that the employee has a catastrophic illness or injury and has exhausted all accrued sick leave hours and compensatory time off hours. At the time of the employee's retirement or termination, any sick leave balance in the catastrophic/service time bank may only be used for additional retirement service credit as provided in PERL Section 20965 and the employee cannot cash it out at retirement or separation.

24.6.3 Catastrophic/Service Time Bank of Hours: The catastrophic/service time bank of hours is available for use subject to the following conditions.

- 24.6.3.1 Employee or employee's dependent family member must be suffering from a catastrophic illness or injury. Catastrophic illness or injury means an unanticipated life threatening illness or injury, either for a permanent or temporary period anticipated to exceed thirty (30) working days, that results in the incapacity of an employee or the employee's dependent family member and by virtue of the illness or injury to the employee or the employee's dependent family member, the employee's ability to perform the essential functions of his or her usual and customary occupation is limited.
- 24.6.3.2 Employees may also utilize "catastrophic/service time" bank hours for the birth or adoption of a child.
- 24.6.3.3 Employee shall provide the City proof of catastrophic injury or illness from an authorized health care provider on a form to be provided by the City
- 24.6.3.4 The employee must have exhausted all of his or her available paid leave balances (except accrued vacation) and, as a result, will be placed on unpaid leave status unless the catastrophic/service time bank is utilized.

24.6.4 Employee is prohibited from using the catastrophic/service time bank under the following circumstances:

- 24.6.4.1 Employee is prohibited from using the catastrophic/service time bank for any industrial injuries or illnesses that are covered by the California workers' compensation laws and regulations, except and

until the employee has exhausted all benefits under Labor Code Section 4850 and all the employee's available paid leave balances.

24.6.4.2 Employee is prohibited from simultaneously using the catastrophic/service time bank and receiving benefits under any Berkeley Police Association sponsored Long Term Disability benefit.

24.6.4.3 The employee is not permitted to extend employment into retirement through the use of catastrophic/service time.

24.6.4.4 Any balance in the catastrophic/service time bank at time of employee's retirement will not be cashed out. However, an employee may use any balance to purchase CalPERS additional service credit.

24.7 Family Sick Leave

Sick leave shall not be considered a privilege which an employee may use at the employee's discretion but shall be allowed only in case of sickness or disability or in the case of serious illness of the employee or within the immediate family of the employee. Not more than fifteen (15) working days in any calendar year may be taken as sick leave because of illness of a member of the employee's immediate family, except for serious medical conditions covered under the provisions of Administrative Regulation 2.4-Family Care Leave, federal Family and Medical Leave Act. The immediate family of an employee, for the purposes of this section, shall include: dependent residing in the employee's household, spouse, son, daughter, parent and other relationships as determined by the City, such as domestic partner (see glossary).

24.8 Sick Leave Bonus

Employees shall be entitled to receive an additional eight (8) hours of paid leave for every six (6) months of uninterrupted non-use of sick leave. Leave of absence for any reason other than Vacation Leave, Administrative Leave, use of Compensatory Time Off or Bereavement Leave, or partial day absences due to a prescribed follow-up physical therapy or medical appointment (Payroll Code M0) for a Workers' Compensation claim, disqualifies an employee for this bonus. This additional leave accrual is prorated for part-time employees. Not more than sixteen (16) additional hours per year may be achieved; this paid leave may be used for any leave purpose covered by this Understanding.

24.11 Absenteeism Control System

The City may implement an absenteeism control system, which will include the detailed and ongoing recording of absences and counseling of employees regarding abuse, with management and supervisory personnel having the discretion to require medical verification in instances where abuse appears evident and to take disciplinary action as appropriate to correct patterns of abuse.

SECTION 25: WORKERS' COMPENSATION

- 25.1 All employees shall be entitled to such compensation as may be allowed pursuant to the applicable provisions of the Workers' Compensation Insurance and Safety Act of the State of California (specifically Labor Code Sections 4850 et seq.).
- 25.2 No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that such injury is covered by the Workers' Compensation laws of the State of California or other provision for payment for time off because of such injury is made by such other employer. In the event such injury is not covered by the Workers' Compensation laws of the State of California and no other provision for payment for time off because of such injury is made by such other employer, sick leave in accordance with the provisions of Section 24 shall be allowed only if such outside employment has been approved by the City.
- 25.3 Workers' Compensation salary in lieu of temporary disability payments as provided in California Labor Code Section 4850 are reportable to CalPERS as compensation earnable for a period not to exceed one year. Any temporary disability benefits, which are coordinated with the employee's available leave accruals, paid after one year is not reportable to CalPERS as compensation earnable.

SECTION 26: FUNERAL LEAVE

- 26.1 In the case of death within the immediate family of an employee such employee shall be entitled to remain absent from duty with pay in order to attend the funeral or memorial service for a period not exceeding three (3) consecutive working days, or, in the case of a funeral or memorial service conducted out of the State of California, for a period not exceeding five (5) consecutive working days. The immediate family of an employee, for the purpose of this section, shall be defined as: wife, husband, domestic partner, (see glossary), mother, father, sister, brother, child, grandmother, grandfather, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and grand-children. A working day for the purpose of this section is based on the actual number of hours an employee is normally scheduled to work (i.e., eight (8) hours; ten (10) hours; or twelve and a half (12.5) hours).
- 26.2 Leave of absence with pay because of death in an employee's immediate family is allowed provided the employee attends a funeral or memorial service during the time off, and such leave shall not be charged against vacation or sick leave which an employee may be entitled to but shall be in addition thereto.

In special cases, with the approval of the Chief of Police, the City Manager may grant a death leave to allow an employee to attend funeral or memorial services because of the death of a person not included within the definition of the immediate family.

In addition, employees may request, and the City will make reasonable efforts to accommodate requests, for employees to supplement funeral leave by using accrued vacation, compensatory time, or floating holidays.

26.3 Bereavement Leave Statement:

Any employee requesting funeral leave must submit a statement and provide documentation if possible, i.e., obituary or funeral home or church program or notice, that the family member meets the definition of "immediate family members" as provided in Section 26.1. In recognition that there may be situations where an employee is unable to provide funeral or memorial service documentation because there was no formal service, the employee must so note that on the statement confirming that the service occurred during the time period the employee was off work on funeral leave.

SECTION 27: MILITARY AND MARITIME LEAVE

Military and Maritime Leave shall be governed by the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and any regulations promulgated to implement the Act, and the California Military and Veteran's Code. Employees will be granted a leave of absence without pay with appropriate seniority, pay, status and vacation as required by law for the purpose of fulfilling any required military obligation. If allowed by the USERRA and/or the State of California Military and Veteran's Code, where the employee is entitled to receive his/her regular pay during the period of the military leave, military pay is to be deducted from the employee's regular pay from the inception of the military leave.

SECTION 28: FAMILY CARE LEAVE

Administrative Regulation 2.4 (Family Care Leave) is intended to comply with the Family and Medical Leave Act of 1993 and the California Family Rights Act of 1991 as may be amended from time to time. A copy of Administrative Regulation 2.4 is attached to this Memorandum of Understanding for illustrative and convenience purposes. It is not the intent of the parties to incorporate Administrative Regulation 2.4 into this Memorandum of Understanding. The Association will be notified of any revisions to Administrative Regulation 2.4.

SECTION 29: LEAVE OF ABSENCE WITHOUT PAY

29.1 Upon request of the employee, the Chief of Police may grant a leave of absence to an employee within his or her department without pay not to exceed fifteen (15) working days. No leave without pay shall be granted for more than fifteen (15) working days, except upon the written request of an employee and approval of the City Manager. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge.

29.2 An employee must use all available compensatory and vacation leave, including banked vacation, in order to become eligible for an approved leave of absence without pay. In the event of illness, an employee must also exhaust sick leave prior to receiving authorization for leave without pay. However, in the event of an illness or injury requiring the use of sick leave, an employee has an option to notify the City in writing that he/she wishes to freeze the use of sick leave after thirty (30) calendar days prior to receiving authorization for leave without pay in order to take advantage of an Association sponsored Long Term Disability benefit.

29.3 In the event of a request for leave of absence for personal reasons (not related to sickness), an employee must exhaust all compensatory and vacation time available prior to receiving authorization for leave without pay.

SECTION 30: JURY DUTY LEAVE

An employee who is called or required to serve as a trial juror shall be entitled to be absent from duties or service with the City with pay during the period of such service, as defined in the glossary (Exhibit B) or while being present in court as a result of such call. Any employee, working any shift, shall be eligible for this benefit. Jury duty that does not occur during the employee's work shift but does occur on a scheduled work day, shall cause that employee's next scheduled work shift to be shortened by the number of hours spent on jury duty.

ARTICLE 4 - HEALTH AND WELFARE BENEFITS

SECTION 31: HOSPITAL-MEDICAL, DENTAL AND LIFE INSURANCE COVERAGE

31.1 Medical Coverage

The City will pay 100% of the premium for the applicable (single, couple, family) Kaiser rate. Plans that are less expensive than or equal to the Kaiser plan shall be fully paid by the City. For coverage under more expensive plans the employee shall pay the difference through payroll deduction. If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for medical benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding. The Understanding can be reopened on health plan topics by mutual consent. In addition, the Association agrees to meet with the City during the term of this MOU in a timely fashion following a City request, regarding whether the Association will agree to meet and confer regarding how the City can avoid potential 2018 ACA excise tax obligations and on a new and/or replacement health plan or plans and other methods to reduce the current cost of health benefits.

31.2 Dental Coverage

The City shall provide a dental care program for employees. Dental benefits will remain at 90% coverage of the Bay Area Usual, Customary and Reasonable charges for the life of this Understanding. Effective January 1, 2002, the maximum annual coverage will increase to \$3,000 per calendar year and the lifetime limit on orthodontia will be increased to \$3,000. If an employee chooses to complete and submit to an Affidavit of Domestic Partnership and sign up for dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

31.3 Should the City deem it feasible to provide the same level of benefits through another provider or to provide such benefits on a non-insured basis, it will notify the Association and, upon written request, will meet and confer on the matter.

31.4 Life Insurance

The City shall provide term life insurance of \$100,000 for each employee that shall include a standard accidental death and dismemberment provision of a like amount. In addition, employees may purchase additional life insurance in increments of \$10,000 up to a maximum of \$300,000 at a rate offered by the City's insurance carrier and subject to any medical exam as required by the insurance carrier.

31.5 Pro-Ration for Less Than Full-Time Employees

All career and grant-funded provisional employees working less than a full forty (40) hour week shall receive prorated rather than full fringe benefits and shall pay, by payroll deduction, the remainder of the health and dental insurance premiums.

31.6 Cash In-Lieu

Effective the first full pay period following Council approval of this MOU, and for those employees who show proof of alternate medical coverage, the City will compensate the employee \$560.72 per month, to be paid in equal amounts in each of the twenty-six (26) pay periods.

SECTION 32: RETIREE MEDICAL COVERAGE

32.1 Sick Leave Trust Fund

A retiree, with a sixty (60) day notice, may at any time request a lump sum payment of the balance in his or her Sick Leave Trust Fund. Upon the death of the retiree, any money in the account will be disbursed to the employee's estate.

32.2 Retiree Health Coverage

The City will establish an Internal Revenue Code Section 401(a) plan for the purpose of paying the benefit provided in this Section.

The City shall pay to the retiree or his or her surviving spouse an amount equivalent to the two party active Kaiser monthly medical insurance premium until the death of both. (See Exhibit Letter from Kaiser dated September 14, 2001 attached to this Memorandum of Understanding for illustrative and convenience purposes.) The maximum amount the City shall pay to the retiree or his or her surviving spouse is based on the following schedule:

Years of Service	Percentage to be Paid by the City
10 years of Service	City to pay an amount equal to 25% of the 2-party Kaiser plan rate
15 years of Service	City to pay an amount equal to 50% of the 2-party Kaiser plan rate
20 years of Service	City to pay an amount equal to 75% of the 2-party Kaiser plan rate
25 Years of Service	City to pay an amount equal to 100% of the 2-party Kaiser plan rate

32.2.1 Payment: If payment is made under the Code section 401(a) plan, the payment to be made on a monthly basis shall be made directly to the retiree, or if the retiree is deceased, to the surviving spouse. If payment is made under the retiree health premium assistance plan per Section 32.3, the payment to be made on a monthly basis shall be made directly to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse (if spouse is eligible, per Section 32.5.2). The retiree or surviving spouse assumes full responsibility for the tax consequences for this benefit.

32.2.2 Notification of Death: The retiree or surviving spouse is exclusively responsible for notifying the City of a death of his or her spouse. Such notification must be reported in writing to the City by U.S. Postal Service addressed to: Director of Finance, City of Berkeley Finance Department, 2180 Milvia Street, Berkeley, CA. When both the retiree and surviving spouse die all payments under this Section shall cease.

32.2.3 Notification of Change of Address: The retiree or surviving spouse is exclusively responsible for notification to the City of his or her current mailing address. A change in mailing address must be reported in writing to the City by U.S. Postal Service addressed to: Director of Finance, City of Berkeley Finance Department,

2180 Milvia Street, Berkeley, CA. If the U.S. Postal Service returns payment checks for two consecutive months, the City will cease making payments under this Section. However, if the retiree and/or surviving spouse re-establishes contact with the City and notifies the City in writing of a new mailing address, the City shall resume making payments including arrears payments for the period when payment checks were undeliverable.

32.2.4 Payments Commence 10 Years after Retirement Plan: For employees retiring on or after January 1, 1989 through July 5, 1997, the City shall begin making payments to the retiree or his or her surviving spouse ten (10) years after the employee retires. No payments will be made under this Section until January 1, 1999. For the purposes of this Section, a “retiree” is anyone who separated from the City on or after January 1, 1989, is vested in CalPERS, has ten years of service as a sworn officer with the Berkeley Police Department and has reached the age of 50. However, a “retiree” is also anyone, regardless of age, who receives a disability or industrial disability retirement benefit from CalPERS and has at least ten (10) years of sworn service with the Berkeley Police Department.

32.2.5 Payments Commence 5 Years after Retirement Plan: For employees retiring on or after July 6, 1997, the City shall begin making payment to the retiree or his or her surviving spouse, or to the provider of retiree health care coverage through a newly established retiree health premium assistance plan, as applicable, five (5) years after the employee retires. No payments will be made under this Section until July 6, 2002. For the purposes of this Section, a “retiree” is anyone who separated from the City on or after July 7, 1997, is vested in CalPERS, has ten years of service as a sworn officer with the Berkeley Police Department and has reached the age of 50. However, a “retiree” is also anyone, regardless of age, who receives a disability or industrial disability retirement benefit from CalPERS and has at least ten (10) years of sworn service with the Berkeley Police Department.

32.2.6 Payments Commence 2 Years after Retirement Plan: Effective July 1, 2008 for employees retiring after July 1, 2007, the City shall begin making payments to or on behalf of the retiree or his or her surviving spouse two (2) years after the employee retires. The maximum amount the City shall pay to or on behalf of the retiree is based on the following schedule:

Years of Service	Percentage to be Paid by the City
10 years of Service	City to pay an amount equal to 25% of the 2-party Kaiser plan rate
15 years of Service	City to pay an amount equal to 50% of the 2-party Kaiser plan rate
20 years of Service	City to pay an amount equal to 100% of the 2-party Kaiser plan rate

For the purposes of this Section, a “retiree” is anyone who separated from the City on or after July 1, 2007, is vested in CalPERS, has ten years of service as a sworn officer with the Berkeley Police Department and has reached the age of 50.

However, a “retiree” is also anyone, regardless of age, who receives a disability or industrial disability retirement benefit from CalPERS and has at least ten (10) years of sworn service with the Berkeley Police Department.

32.2.7 Overpayments: In the event of an overpayment, the procedures set forth in Section 41 (Payroll Errors) of the Understanding shall apply to the recovery of overpayments under this Section, with adjustments as appropriate to reflect that retirees are no longer on the active payroll, so offsets or reductions must be made to future payments that would become due under the applicable plan providing benefits to the retiree or his or her surviving spouse.

32.3 Retiree Health Premium Assistance Coverage

Effective September 19, 2012, the City will cease making contributions to an Internal Revenue Code Section 401(a) plan for the purpose of paying the retiree health care benefit provided under this Section for any employees hired on or after that date who would otherwise have qualified for benefits under the terms described in this Section 32. Any employees hired on or after September 19, 2012, as well as any current employees who retire on or after such date, shall receive the benefits described in this Section 32.3 as a benefit provided by the City under a newly established retiree health premium assistance plan and related trust agreement. Any benefits payable to employees who have retired prior to such date or to their surviving spouses may continue to be made under the Internal Revenue Code Section 401(a) plan that was established for such purpose to the extent benefits are not provided for such retirees under the new retiree health premium assistance plan. Under the newly established retiree health premium assistance plan, benefits will be the same as previously provided under the 401(a) plan, except for different eligibility criteria and that payment under the 401(a) plan was made directly to the retiree or his or her surviving spouse, and under the new plan the City will pay the retiree health premium assistance amount to the provider who is providing retiree health coverage to the retiree or his or her surviving spouse (if spouse is eligible per Section 32.5.2. Upon the death of the retiree, the amount provided to an eligible surviving spouse will be an amount equivalent to the appropriate percentage of the single party active Kaiser monthly medical insurance premium amount, which will continue until the death of the eligible surviving spouse. The maximum amount the City shall pay towards coverage for the retiree or his or her surviving spouse, either directly or to a health care provider on his or her behalf, is based on the following schedule set forth in Section 32.5 et seq.

32.4 Amendment or Termination of 401(a) Plan

As provided under Section 32.2 (Retiree Health Coverage), the City established an Internal Revenue Code Section 401(a) plan for the purpose of paying the benefits for retirees and their surviving spouses provided under this Section 32 (Retiree Medical Coverage). Section 12 of that plan (Berkeley Police Supplemental Retirement Plan) provides that such plan may be amended or terminated in accordance with a Memorandum of Understanding between the City and the Association. The City and the Association have determined that it is desirable, to the extent legally permissible and administratively practicable, to offer benefits previously provided under that Berkeley Police Supplemental Retirement Plan through a retiree health premium assistance plan and related trust under Section 115 of the Internal Revenue Code. Additionally, the parties have agreed that the City may take reasonable steps to amend or terminate the Berkeley Police Supplemental Retirement Plan, or spin-off assets and liabilities under such Plan for certain covered participants into

a new section 401(a) plan that also may be amended or terminated, to the extent such actions are necessary or desirable to accomplish, in providing future retiree medical premium assistance benefits as described in this Section 32 (Retiree Medical Coverage) for some or all of the covered retirees and their surviving spouses through a newly established retiree health premium assistance plan and related trust.

32.5 Retiree Medical Coverage

For those employees who retire on or after September 19, 2012 and effective immediately upon the date of retirement, the City will assist in the payment of medical insurance premium payments for the retiree and/or surviving spouse/domestic partner by making payments directly to the medical insurance provider. Retirees shall be permitted at their discretion to enroll in non-City sponsored health plans. In that event, the City shall make medical insurance premium payments directly to the health insurance provider equal in value to the City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner will pay the administrative set up fee and the monthly administrative fee established by the third party administrator. No cash payments will be paid directly to the retiree and/or the retiree's spouse/domestic partner.

There shall be no cash in lieu payments made under this benefit.

32.5.1 For employees that retire on or after September 19, 2012 the City will discontinue the current practice of paying directly to the retiree the cash equivalent of the active two-party Kaiser rate. However, for those employees who retired before September 19, 2012, the City shall continue to make cash payments to these retirees under the MOU provisions in effect at the time of their retirement.

32.5.2 **Qualifying Spouse or Domestic Partner.** A retiree will receive the appropriate percentage of two-party coverage for a spouse or domestic partner that meets any of the following criteria ("Qualifying Spouse"): (1) the spouse or domestic partner of the retiree at the time of retirement; (2) for a retiree that did not have a spouse or domestic partner at the time of retirement, the initial spouse or domestic partner a retiree adds to his or her health plan after retirement; or, (3) for any retiree, a subsequent spouse or domestic partner if the previous spouse or domestic partner died. For all times that a retiree does not have a Qualifying Spouse, the City will only pay the appropriate percentage of single party premium for that retiree. If a retiree predeceases a Qualifying Spouse, the City will continue to pay the appropriate percentage of single party premium for that individual.

32.5.3 In the event that an employee retires and initially elects not to utilize the Berkeley retiree medical plan as described above, the employee may opt back into the Berkeley retiree medical plan during any open enrollment period with either single only coverage or two-party coverage, if applicable.

32.5.4 The City will comply with any lawfully executed Qualified Domestic Relations Order (QDRO) but under no circumstances will it provide retiree medical benefits to more than two persons.

32.5.5 In order to be eligible for the Retiree Health Premium Assistance Coverage a "Retiree" must meet all of the following criteria (note, this is different criteria than used for previous plans):

32.5.5.1 A person who is vested in CalPERS, and

32.5.5.2 Has reached the age of 50, and,

32.5.5.3 Has retired from the City at age 50 or thereafter, and

32.5.5.4 Has applied for and is receiving a pension from CalPERS at the time of retirement.

However, a "retiree" is also anyone, regardless of age, who receives a disability retirement benefit, either industrial disability or non-industrial disability, from CalPERS.

32.5.6 The maximum amount the City will contribute toward the payment of medical insurance premiums is based on the employee's years of service as a sworn member of the Berkeley Police Department at time of retirement. The retiree must have at least 10 years of service as a sworn member of the Berkeley Police Department to qualify for this benefit.

32.5.7 The maximum amount the City will contribute toward payment of the medical premium is based on the following schedule:

Years of Service	Percentage to be Paid by the City
10 Years of Service	City to provide medical premium assistance equal to 25% of either the single party or two party amount as determined below
15 Years of Service	City to provide medical premium assistance equal to 50% of either the single party or two party amount as determined below
20 Years of Service	City to provide medical premium assistance equal to 100% of either the single party or two party amount as determined below

There will be no pro-rating of years of service.

32.5.8 The City will assist the retiree and/or surviving spouse/domestic partner in the payment of the medical insurance premium as follows:

32.5.9 **Early Retirees who are not Medicare Eligible:** Beginning September 19, 2012, each month after the employee retires, the City will pay the health care service provider an appropriate percentage based on the chart in Section 32.5.7 of an

amount equal to \$1,200.00 per month for two party coverage for the retiree and a qualifying spouse/domestic partner or \$600.00 per month for single party coverage. Upon the death of either the retiree or the retiree's spouse, the City will only pay the appropriate percentage based on the chart in Section 32.5.7 of the single party rate to the provider on behalf of the surviving retiree or spouse/domestic partner. If there is no spouse/domestic partner at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse/domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost. The funds for this difference will come from the retirees CalPERS retirement account and the retiree must authorize such withdrawal of funds.

Beginning July 1, 2013 and effective each July 1 thereafter, the base rates the City contributes toward payment of the premium amount described in the preceding paragraph shall be increased by either the amount Kaiser increases the early retiree plan medical premium for that year, or 6%, whichever is less. The retiree and/or surviving spouse/domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.

- 32.5.10 **Retirees who reach Medicare eligibility age:** Beginning September 19, 2012, for retirees who reach Medicare eligibility age, the City will pay the health care service provider the appropriate percentage based on the chart in Section 32.5.7 of an amount equal to \$765.80 per month for two-party coverage for the retiree and spouse/domestic partner or \$382.90 month for single party coverage. Upon the death of either the retiree or spouse/domestic partner, the City will only pay the appropriate percentage based on the chart in Section 32.5.7 of the single party rate to the health care service provider on behalf of the surviving retiree or spouse/domestic partner. If there is no spouse at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse/domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost. The funds for this difference will come from the retirees CalPERS retirement account and the retiree must authorize such withdrawal of funds.

Beginning July 1, 2013 and each July 1 thereafter, the base rates the City contributes toward payment of the premium amount described in the preceding paragraph shall be increased by either the amount Kaiser increases the retiree medical premium for that year, or 6% whichever is less. The retiree and/or surviving spouse/domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.

Former employees who leave employment prior to age 50 and do not qualify as a "Retiree" under the definition above ("non-qualifying retiree") will not receive any funds from the City, either directly or indirectly, for payment of medical insurance premiums. However, a non-qualifying retiree shall be permitted to purchase health insurance from the retiree medical pool if **all** of the following criteria are met:

- 32.5.10.1 The former employees is vested in CalPERS, and

- 32.5.10.2 Has reached the age of 50, and,
- 32.5.10.3 Has applied for and is receiving a pension from CalPERS, and
- 32.5.10.4 The City sponsored group health plan permits the retiree to enroll in the retiree medical pool, and
- 32.5.10.5 The retiree pays all cost associated with enrolling and maintaining eligibility in the group health plan, including, but not limited to, the administrative set up fee and the monthly administrative fee established by the third party administrator.

SECTION 33: SUPPLEMENTAL RETIREMENT PLAN

Effective July 1, 2001 the City adopted a Supplemental Retirement Plan and Trust Agreement to provide supplemental retirement income and other benefits for eligible career benefited employees through the liquidation of termination pay.

ARTICLE 5 - TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 34: PROBATIONARY PERIOD

34.1 Police Officer

Original appointments from employment lists for the classification of Police Officer shall be tentative and subject to a probationary period of two (2) years of actual service with the City of Berkeley. Lateral appointments shall be tentative and subject to a probationary period of eighteen (18) months of ~~two (2) years~~ of actual service with the City of Berkeley.

Completion of Probationary Period upon Return from Military Leave: Probationary employees who are granted military leaves of absences shall complete the balance of their probationary period within a period of six (6) months following their return to City service. No provision of this Section 34 shall be interpreted to preclude the City from establishing new classifications which may require probationary periods of varying lengths.

Field Training Officer Rating: Probationary Police Officers will be rated daily/weekly while in the Field Training Officer (FTO) program, and then semi-annually thereafter.

34.2 Other Probationary Periods

Original and promotional appointments to classes above the rank of Police Officer shall be tentative and subject to a probationary period of six (6) months of actual service and shall be completed within a one (1) year period.

34.3 Provisional Appointments during Probationary Period

If, before completing the required probationary period, an employee is provisionally appointed to a higher class in the same or a related series of classes, the time served in such higher class shall be counted toward completion of the probationary period in the lower class.

34.4 Completion of Probationary Period

If the service of the probationary employee has been satisfactory to the Chief of Police, the Chief of Police shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such probationary employee in the service is desired. If such service has been unsatisfactory, the department head shall file with the Director of Human Resources such a statement, in writing, with the recommendation to the City Manager that the employee be rejected.

34.5 Rejection during Probationary Period

During the probationary period, an employee may be rejected at any time without right of appeal or hearing except as provided by the procedures mandated by Government Code 3303 and 3304, as well as provided in Section 40.8.5 of this Understanding. An employee rejected from a position to which the employee has been promoted shall be reinstated to the position from which the employee was promoted unless charges are filed and the employee is discharged as provided in Section 37.

SECTION 35: PROMOTION/EXAMINATION**35.1 Promotional Exams**

Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established.

35.2 Tests and Applications

Regular tests shall be given for all ranks including promotional ranks. Applications for Police Officer shall be accepted on a continuous testing basis. Tests for Sergeant, Lieutenant and Captain shall be given at least every two years.

35.3 From the time that a promotional list no longer contains any names, 1) the City will make a conscientious effort to hold a written examination within ninety (90) days, but in any event will hold the examination within one hundred twenty (120) days; and 2) the City will announce the written examination at least sixty (60) days before the examination takes place.**35.4 Notice of Examinations**

Selection criteria shall be reflected on all examination announcements. All phases of each examination shall be listed in the examination announcement. A study list shall be included in each examination announcement. Each examination shall be announced no less than 60 calendar days in advance of the written test date.

35.5 Open Competitive Examination

If, in the opinion of the City Manager, the best interests of the service can be served by an open, competitive examination instead of a closed, promotional examination, and if there is not already a promotional list for the higher position, which list has not been abolished and from which the vacancy could be filled, then the City Manager may instruct the Director of Human Resources to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and publication of an eligibility list.

35.6 Criteria for Promotion

Employees who have qualified for promotional lists shall be considered for promotion based on the following factors: previous work performance, previous training and experience, merit (proven ability or accomplishment), seniority, current and previous special/temporary duty assignments held.

SECTION 36: DEMOTION**36.1 City Manager Authority**

The City Manager may demote an employee who so requests it, or whose ability to perform required duties falls below standard, or for disciplinary purposes. No employee shall be demoted to a class for which the employee does not possess the minimum qualifications as determined by the Director of Human Resources.

36.2 Notice Requirements

Notice of the demotion shall be given the employee no later than two (2) weeks prior to the effective date of demotion, and a copy of said notice shall be filed with the Director of Human Resources. Any employee who has been demoted shall be entitled to receive a written statement of the reasons for such action.

36.3 Permanent Status

An employee with permanent status who is demoted shall assume permanent status in the class to which the employee is demoted.

36.4 Demotion to Vacant Position

Upon request of the employee, demotion may be made to a vacant position as a substitution for layoff. In such cases, the employee shall be restored to his or her former position without further examination whenever such position is again to be filled in accordance with the reemployment provisions in Section 57.

SECTION 37: SUSPENSION AND DISCHARGE

37.1 30 Calendar Day Maximum Suspension

The City Manager may suspend an employee from his or her position at any time for just cause. Suspension without pay shall not exceed thirty (30) calendar days, nor shall any employee be penalized by suspension for more than thirty (30) calendar days in any one-year period.

37.2 Suspensions of 3 Days or Less

For just cause, the Chief of Police may suspend an employee for not more than three (3) working days for any one offense. Such suspension shall be reported immediately to the City Manager. At any step in the process of reviewing recommended disciplinary actions, the City Manager may elect to impose more severe discipline.

37.3 Discharge

An employee may be discharged at any time by the City Manager, but if the probationary period has been completed, then such discharge must be for a cause. Any employee who has been discharged shall be entitled to receive a written statement of the reasons for such action.

37.4 240 Day Limit on Imposition of Discipline

The City agrees that no disciplinary action against an employee covered by this Understanding, which action involves a loss or reduction of pay or discharge, shall be imposed unless such action is taken within two hundred forty (240) calendar days from the date of the City's discovery by a person authorized to initiate and investigate an alleged act, omission or other misconduct unless a Government Code section 3304(d) exception applies.

If a letter of advice or written reprimand is issued by the Department, neither the document nor any testimony offered by the Department or the City in an appeal process shall reference any time restrictions set forth in this section, nor reference any other discipline

that may have been considered, recommended or imposed, but for the time restrictions set forth herein.

- 37.5 Suspension of FLSA Exempt Employees
Notwithstanding any of the above, FLSA exempt employees in the rank of Captain and above shall not be suspended except as permitted by the Fair Labor Standards Act.
- 37.6 All references in Sections 37.1 and 37.2 to “days” shall be calculated in terms of eight (8) hour equivalencies, unless otherwise provided.

SECTION 38: RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with the Chief of Police, at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Director of Human Resources with a statement by the Chief of Police as to the resigned employee's service, performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the notice required shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported by the Chief of Police immediately. Resignations shall take effect on the last day of the pay period in which an employee works unless the City Manager determines that it is in the City's best interest to accept the resignation immediately.

SECTION 39: REINSTATEMENT

A permanent or probationary employee who has resigned with a good record may be reinstated within two (2) years to the employee's former position, if vacant, or to a vacant position in the same or comparable class without further competitive examination. This section shall not be interpreted as a guarantee of reinstatement to an employee who has resigned with a good record and who requests reinstatement within two (2) years.

ARTICLE 6 - GRIEVANCE AND APPEAL PROCEDURE

SECTION 40: GRIEVANCE & DISCIPLINARY APPEAL PROCEDURE

- 40.1 A grievance is any dispute which involves the interpretation, application, claimed violation, or claimed noncompliance with the provisions of the Understanding between the City and the Association or with any City ordinance, rule, or regulation which may have been or may hereafter be adopted by the City to govern personnel practices or working conditions of City employees covered by the Understanding, including any rule, regulation, or resolution which may be adopted by the City Council which results from the meet-and-confer process. The grievance procedure discussed below shall be the dispute resolution mechanism applicable to employees covered by this Understanding.
- 40.2 A disciplinary appeal is the procedure established hereunder to afford an employee his or her due process rights. An employee may appeal the recommendation or imposition of discipline for demotion, pay reduction, suspension or discharge other than probationary discharge.
- 40.3 Grievance Procedure
Grievances shall be processed in the following manner:
- 40.3.1 **Step 1:** Any employee who believes he or she has a grievance (and/or the employee's Association representative) may discuss the employee's complaint with the Chief of Police or with such subordinate management official as the Chief of Police may designate. Nothing in this Section precludes an employee from utilizing the chain of command to solve grievances and/or complaints. If the issue is not resolved within five (5) days, the employee (and/or the employee's Association representative) may elect to invoke the procedure hereinafter specified.
- 40.3.2 **Step 2:** Any grievance which has not been resolved by the procedures hereinabove set forth may be referred to the City Manager by the affected employee or by the Association within ten (10) working days of receipt of the decision at Step 1. Any such referral shall be in writing, and the specific issues involved shall be detailed in such referral, together with a statement of the resolution which is desired. The City Manager shall designate a representative to investigate the merits of the complaint and to meet with the complaining employee (and/or the employee's Association representative). The City Manager shall issue a written decision to the grievant and the Union within ten (10) working days of the meeting. This shall conclude Step 2 of the Grievance Procedure.
- 40.3.3 **Step 3:** If the Association is not satisfied with the City Manager's decision at Step 2 of the Grievance Procedure, the Association may require that the grievance be referred to an impartial arbitrator by notifying the City Manager within ten (10) days of the conclusion of Step 2. Either the Association or the City may require that the grievance be referred to an impartial arbitrator if for any reason forty-five (45) days have elapsed from the date upon which the grievance was received by the City Manager.

A list of five arbitrators shall be requested from the California State Mediation and Conciliation Services (SMCS). The impartial arbitrator shall be selected by either mutual agreement between the Association and the City Manager, or designee, or by each side taking turns striking a name from the arbitrator list with the question of which party shall strike first determined by a coin flip. The Association shall forward to the City the Association's portion of the SMCS fee within thirty (30) days of selection of the arbitrator. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any.

40.4 Arbitrator Decisions

Arbitrator decisions on matters properly before them which pertain to grievances as defined in Section 40.1 of this Understanding shall be in the forms of recommendations to the City Manager, who may, within five (5) days of receipt of said decision, reject said decision. In the event of said rejection, then, as to that particular grievance, the fees and expenses of the arbitrator and the court reporter shall not be shared by the Association, and full payment thereof shall be the sole responsibility of the City.

40.5 Grievance of Affirmative Action Program

Any grievance which in any way affects the implementation of the City's affirmative action program shall not be subject to arbitration. The decision as to whether or not implementation of the affirmative action program is in any way involved shall be made at the sole discretion of the City Manager. If, in the City Manager's judgment, any grievance involves the affirmative action program, the Equal Employment Opportunity and Diversity Officer shall notify the Association to that effect in writing within seven (7) days of the date upon which the grievance is received in the Human Resources Department and in such notification refer to that section of the affirmative action program which is involved; provided, however, that such notice may come at any time prior to arbitration if additional factors come to the attention of the Equal Employment Opportunity and Diversity Officer on the basis of which he or she considers it appropriate to change his or her original determination.

40.6 No arbitrator shall entertain, hear, decide or make recommendations on any dispute unless the Association seeks a determination or if the dispute involves 1) the issue of unit determination; 2) a question of representation; 3) an aggrieved employee not in a classification of the units represented by the Association; or 4) non-punitive transfers, promotional decisions, and probationary employee terminations except as provided in Sections 34.5 and 40.8.5 et seq. of this Understanding.

40.7 Compensation Grievances

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. In such cases no adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed or thirty (30) days from the date when an employee may reasonably be expected to have learned of said claimed violation. Only complaints which allege that employees are not being compensated in accordance with the rules, regulations, and resolutions of the City Council or in accordance with the understandings contained in any memorandum agreement which has resulted from the meet-and-confer process shall be considered as

grievances. Any other matters of compensation are to be resolved in the meet-and-confer process and, if not detailed in the Memorandum of Understanding which results from such meet-and-confer process, shall be deemed withdrawn until the meet-and-confer process is next opened for such discussion.

40.8 Disciplinary Appeals

Disciplinary Appeals shall be processed in the following manner:

40.8.1 **Step 1:** Except as provided for suspensions of not more than three (3) days as provided in Section 37.2, the imposition of a disciplinary demotion, pay reduction, suspension or discharge of an employee will be in the form of a written recommendation from the Chief of Police to the City Manager. For suspensions of not more than three (3) days, the Chief of Police may impose such discipline subject to the appeal procedures set forth hereunder. No disciplinary appeal involving the disciplinary demotion, pay reduction, suspension or discharge of an employee will be entertained unless it is filed in writing with the Chief of Police within five (5) days of the time at which the affected employee was notified of such action in writing.

40.8.2 **Step 2:** The affected employee may appeal the recommendation to impose discipline, or the imposition of discipline for suspensions of not more than three (3) days, to the Chief of Police or his or her designee. The affected employee shall be entitled to a personal conference with the Chief of Police or his or her designee or the affected employee may choose to make an appeal in written form. The Chief of Police or his or her designee shall communicate a decision in writing within ten (10) days after the completion of the personal conference with the affected employee or receipt of the written appeal. This shall conclude Step 2 of the Disciplinary Appeal Procedure.

40.8.3 **Step 3:** Any disciplinary appeal which has not been resolved by the procedures hereinabove set forth may be referred to the City Manager within five (5) days after conclusion of Step 2 by the affected employee or the Association. The City Manager shall designate a personal representative to meet with the affected employee and/or the employee's Association representative and hear the disciplinary appeal or the affected employee may choose to make an appeal in written form.. The City Manager's designee shall communicate a decision within twenty (20) days after the completion of the personal conference with the affected employee or, if the employee chooses to make an appeal in written form, receipt of the written appeal. If the City Manager's designee, in pursuance of the procedures outlined above resolves a disciplinary appeal as defined in Section 40.2 above, the City Manager's designee may order payment for lost time or wages or reinstatement with or without payment for lost time. This shall conclude Step 3 of the Disciplinary Appeal Procedure.

40.8.4 **Step 4:** If the Association is not satisfied with the City Manager's designee's decision at Step 3 of the disciplinary appeal procedure, the Association may require that the disciplinary appeal be referred to an impartial arbitrator by notifying the City Manager within ten (10) days of the conclusion of Step 3.

A list of five arbitrators shall be requested from the California State Mediation and Conciliation Services (SMCS). The impartial arbitrator shall be selected by mutual agreement between the Association and the City Manager or designee, or by each side taking turns striking a name from the arbitrator list with the question of which party shall strike first determined by a coin flip. The Association shall forward to the City the Association's portion of the SMCS fee within thirty (30) days of receipt of the City Manager's response.

The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post-hearing briefs, if any. Arbitrator decisions on matters properly before them which pertain to the disciplinary actions involving the suspension, demotion, pay reduction or discharge of an employee shall be final and binding on both parties.

40.8.5 Notwithstanding their probationary status, probationary employees may use the grievance process for disciplinary actions other than termination.

40.8.5.1 **Probationary Employees' Appeal of Discipline:** Notwithstanding his or her probationary status, a probationary employee has appeal rights for disciplinary action where the employee alleges that the City's action was for an illegal or discriminatory reason, such as the exercise of Association membership, political affiliation, or other constitutionally protected activities; provided, however, that any appeal by a probationary employee of rejection from probation alleging a violation of his or her rights under Title VII (42 U.S.C. Section 2000e, et. seq.) or the California Fair Employment and Housing Act (California Labor Code Section 12900 et. seq.) may be pursued as provided in the City's Affirmative Action program, which shall be specifically amended to allow probationary employees a right of appeal under that program. Nothing in this Section 40.8.5.1 is intended to preclude a probationary employee from seeking enforcement of rights through state and/or federal regulatory agencies or in courts of competent jurisdiction.

40.8.5.2 **"Lubey" Hearing:** A probationary employee who is terminated on grounds of misconduct may establish a formal record of the circumstances surrounding his or her termination, but is not entitled to a determination that his or her dismissal was for "just cause." Such a grievance shall terminate upon the conclusion of Section 40.8.3. The City Manager's decision at Section 40.8.3 is final and is not subject to further review.

40.9 Days Defined

All references in this Section 40 to "days" shall mean calendar days unless otherwise provided.

40.10 Waiver of Time Lines

The time lines contained in this Grievance and Disciplinary Appeal Procedure may be waived for a specific time period at any step in the Procedure with the mutual agreement of the parties.

ARTICLE 7 - MISCELLANEOUS TERMS AND CONDITIONS

SECTION 41: PAYROLL ERRORS

To ensure that system or other errors which affect an employee's pay are processed in an efficient and effective manner, the City shall notify the affected employee(s) as soon as practicable. Payroll errors detected by an employee shall, as soon as practicable, be communicated to the employee's Departmental Payroll Clerk. In the case of under payments, the Payroll Clerk shall submit the appropriate adjustments as soon as practicable.

Payroll errors identified by the Auditor will be communicated to the employee either directly by Auditor staff or through the Departmental Payroll Clerk. Under payments will be processed as soon as practicable.

In the event of an overpayment or underpayment, no adjustment shall be retroactive for more than the applicable statute of limitations. As to any overpayment, the Auditor's Office will determine a reasonable repayment schedule and inform the employee of the schedule directly, or through the Department Payroll Clerk. The affected employee shall be given an opportunity to discuss the schedule of repayment and, if necessary, to request an adjustment to the repayment schedule as a needed and reasonable accommodation. Factors considered in determining a reasonable accommodation for repayment of wages include, but are not limited to, the length of time the overpayment has occurred, the amount of the overpayment, the employee's normal salary, and other financial obligations of the employee.

In the event that the employee disputes the determination of the Auditor's Office as to a reasonable accommodation for repayment, the employee may appeal the Auditor's Office decision to the City Manager. The employee may appeal the decision of the Auditor's Office in writing within thirty (30) days of the Auditor's Office decision as to a repayment schedule. The City Manager, or his/her designee, shall meet with the affected employee and consider the matter for final determination. The City Manager's decision shall be issued no later than thirty (30) days from the date the affected employee met with the City Manager or his or her designee. The determination of the City Manager shall be final.

In the event that (1) the employee does not respond within 5 working days of being notified of the overpayment, or (2) mutual agreement on the repayment schedule is not achieved within 10 working days of the employee being notified of the overpayment, the Auditor's Office will proceed to implement a reasonable repayment schedule.

SECTION 42: PERSONAL CONDUCT

- 42.1 Employees shall follow the General Orders and Regulations of the Berkeley Police Department, as written and as they may be amended.
- 42.2 Off the Job Activities
No employee shall be disciplined for off-the-job activities which do not affect his or her job performance.
- 42.3 Official Badge/Insignia
No official or employee who wears a badge or other official insignia as evidence of his or her authority and identity shall permit such badge insignia to be used or worn by any other person of the same or another department, or otherwise to leave his or her possession, without approval except as to persons regularly and formally appointed by the City Manager to the position designated by the badge or insignia.

SECTION 43: UNIFORMS

- 43.1 Effective June 27, 2010, the annual uniform allowance shall be \$1,400. The uniform allowance is intended to cover uniform expenses incurred by the employee over the course of the year and shall be paid in equal amounts in each of the twenty-six (26) pay periods. However, the amount the City contributes toward the uniform allowance is subject to federal and state income tax withholding. The Uniform Allowance shall be reported to CalPERS as Special Compensation under authority of the statutory requirement provided in the Chapter 2 of Division 1 of Title 2 of the California Code of Regulations Subchapter 1, Article 5, Section 571(a)(5).
- 43.2 Effective June 29, 2008, in addition to the annual uniform allowance set forth in Section 43.1, employees assigned to the Special Response Team (S.R.T) shall be paid an annual uniform allowance of \$1,500. The S.R.T. uniform allowance is intended to cover uniform expenses incurred by the employee in the performance of training and duties related to this assignment and shall be paid in equal amounts in each of the twenty-six (26) pay periods to those members of the S.R.T. team who are members of the team on November 1st of any year. However, the amount the City contributes toward the S.R.T. uniform allowance is subject to federal and state income tax withholding. The S.R.T. Uniform Allowance shall be reported to CalPERS as Special Compensation under authority of the statutory requirement provided in the Chapter 2 of Division 1 of Title 2 of the California Code of Regulations Subchapter 1, Article 5, Section 571(a)(5).

43.3 Pro-Rated Uniform Allowance

Employees who are hired during the year or are absent from work by reason of leave without pay shall receive a reduced uniform allowance in accordance with the following schedule:

Absence of:	Percentage Reduction
3 months	25%
6 months	50%
9 months	75%
12 months	100%

43.4 Uniform and Equipment Committee

The Uniform and Equipment Committee will be charged with adopting specifications and regulations governing the wearing of uniforms and plain clothes. All components of the uniform are subject to the approval of the Chief of Police.

43.5 Rain Gear

Rain Gear specifications as currently listed in the Uniform/Equipment Specifications Manual under subsection XIX (e) will be updated to reflect optional rain gear (Jacket and Pants) that may be purchased at the employee’s expense for use during inclement weather.

SECTION 44: SAFETY GLASSES

The City's present safety glass program provides that the City will guarantee replacement of prescriptions broken in the line of duty, but it is understood that the City will be under no obligation to routinely provide safety glasses to every police officer simply desiring a pair.

SECTION 45: SAFETY AND TRAINING

45.1 Responsibility

Responsibility for developing training programs for employees shall be assumed by the City Manager. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the efficiency and broadening the knowledge of municipal employees in the performance of their duties.

45.2 Special Training Courses

Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed with the Chief of Police.

45.3 Ammunition and Firing Range Program

The City shall provide the necessary amount of ammunition for employees for use in City-sponsored range programs. The Department will enforce requirements of regular employees participating in range programs. Employees who do not perform at a passing

standard will receive instruction and retake the test during the regularly scheduled range program. Employees who are not able to achieve the minimum standard within a reasonable period of time will be immediately assigned to work on an intensive basis with the range master who will evaluate the severity of the problem. Consistent inability to meet the standard may be cause for termination.

45.4 Safety Programs

The City and the Association will make every effort to maintain excellent health and safety standards. No employee shall be required to perform work with unsafe equipment or perform duties that are not in compliance with safety procedures or protocols. To further these purposes, the City shall maintain an ongoing safety program which shall include committees comprised of representatives from the Association and appropriate supervisory personnel.

45.5 No employee shall be required to drive a vehicle, the mechanical condition of which is in violation of the Vehicle Code of the State of California.

SECTION 46: USE OF AUTOMOBILES

The City Manager shall govern the use of City-owned automotive equipment and privately owned automobile equipment by such rules and regulations as he or she may establish. The mileage reimbursement will be equal to the amount established by the Internal Revenue Service, and will change as necessary to comply with the IRS standard mileage rate.

SECTION 47: ANNUAL PHYSICAL EXAMINATION

47.1 Employees in the classifications of Police Officer, Police Sergeant, Police Lieutenant and Police Captain shall each year receive a City-paid mandatory physical examination) physical examination based on the City's specification as to scope of examination and with the City's designated Occupational Medicine Provider.

47.2 As an alternative to receiving an annual physical examination with the City's designated Occupational Medicine Provider, an employee may provide verification that the employee received a physical examination consistent with the City's requirements as to the scope of examination with the employee's own personal physician. Employees who choose their own personal physician must notify Policy Personnel and training at least sixty (60) days prior to a deadline to be announced by the City to conduct the annual physical examination. Failure by the employee to meet the sixty (60) day notification deadline will result in the employee needing to receive the annual physical examination with the City's designated Occupational Medicine provider.

47.3 The City will not ask for, request or receive any confidential medical information from the medical professionals, their agents or contractors administering, conducting or participating in the annual examination described in this Section 47. The only information to be provided to the City will confirm whether the examination was administered.

SECTION 48: ASSIGNMENTS FOR TEMPORARILY DISABLED EMPLOYEES

48.1 **Employees on Workers' Compensation Leave:** The City may assign any employee on Workers' Compensation leave who is medically released to return to modified duty when feasible, to such work within the Police Department which is consistent with medical limitations as determined by the attending physician and the employee's skills and abilities at no reduction in the employee's regular rate of pay. Prior to changing the shift of a member who is medically released to return to work on modified duty, the Department shall make a reasonable and good faith effort to accommodate the member's personal/family scheduling for the duration of the period on modified duty. However, if the Department is not able to accommodate the member's personal/family scheduling for the period of the modified duty the Department is not precluded to change the member's shift.

48.2 Non-industrial Disabilities

48.2.1 The City may accommodate an employee disabled with a non-industrial disability by providing a modified work assignment. The City will periodically review such modified assignments in order to determine whether such assignments continue to meet the needs of the City.

48.2.2 The modified assignment may be in that employee's classification. To be eligible for such a modified assignment, the employee must initially, and subsequently at the request of the City, provide the Human Resources Department with a medical statement from his or her attending physician that clearly states the medical limitations and abilities of the employee and estimates when the employee will be able to return to a regular assignment. If modification of that assignment within that employee's classification does not serve the best interests of the City, other classifications may be considered, subject to the approval of the Director of Human Resources. Compensation will be provided at the level of the classification in which the temporarily disabled employee works during the disability. The employee must meet standards of satisfactory performance for the duration of the work assignment.

SECTION 49: ANNUAL PERFORMANCE EVALUATION

The City may implement a program of annual performance evaluation. Such evaluations shall be conducted by the employee's immediate supervisor and reviewed by additional levels of supervision. Each employee may make written comments on the evaluation which shall be made a part of the employee's personnel record.

In Line of Duty Death Notification Package: At this time, each employee shall be given an opportunity to update or fill out his or her "In Line of Duty Death Notification Package". This Package is to be maintained by the Administrative Captain in a sealed envelope and be opened only in the event of the officer's death.

SECTION 50: RESERVE OFFICER FUNCTIONS

50.1 Reserve officers shall not be regularly assigned to perform, police functions normally performed by a sworn officer working in a pay status (i.e., normal beat patrol, walking beats, normal detective functions, etc.). Reserve officers may be used by the Department to supplement police services, such as for additional staffing for special projects, in emergencies, for traffic or crowd control, in positions where they have been utilized previously, or in other short-term circumstances.

50.2 Special Events

Any outside requests for police services for special events shall be offered first to employees represented by the Association. Reserves can only be used for such events when the overtime, after being offered to regulars, does not sell within 48 hours of the event. In any event, minimal patrol division staffing levels will take priority over special events. Sponsored events traditionally staffed by reserved officers are not affected by this section. These sponsored events include the following which is provided for illustrative purposes:

<ul style="list-style-type: none"> • Asian Pacific Heritage Fair • Berkeley Beer Festival • Berkeley Cycle Club • Berkeley Jazz Festival • Berkeley Kite Festival • Berkeley Unified School District Football Games • Berkeley Unified School District Youth Celebration • Cajun Music Festival • Cinco de Mayo • Civic Center Criterium • Earth Day Celebration • Elmwood Street Fair 	<ul style="list-style-type: none"> • How Berkeley Can You Be? • Indigenous Peoples Day • Juneteenth • July 4th Fireworks • Jupiter Jam Concerts • Korean Day • Live Oak Park Faire • People’s Park Celebration • Solano Stroll • Telegraph Avenue Holiday Fair • Telegraph Avenue Street Fair • Triple Rock Beer Festival • 4th Street Bicycle Race
<p><u>University of California Events (samples listed below)</u></p> <ul style="list-style-type: none"> ○ University of California Football events ○ University of California Basketball Team Parade ○ University of California dignitary visits 	

50.3 If the Association believes that reserve officers are being utilized inappropriately, it may meet with the Chief of Police or his or her designee to discuss such disputes or disagreements and to attempt to resolve any disputes or disagreements. Disputes regarding utilization of reserve officers shall not be subject to the grievance procedure.

SECTION 51: CLEAN WORK SITE

The City shall make every effort to maintain a clean work site with properly equipped lavatory and shower rooms.

SECTION 52: WEIGHT ROOM

The Association will enter into a lease with the City which provides for the Association to lease exercise equipment to the City for use by Police Department employees for the nominal charge of \$1 per year. The lease agreement will hold the Association harmless against any claims related to that equipment or its use. The City agrees to keep the weight room clean and maintain the equipment.

SECTION 53: PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- 53.1 The City may require employees to submit to physical or psychiatric examinations by a City appointed physician where reasonable cause exists to believe that the employee is suffering from a physical or psychiatric condition which adversely impacts the employee's ability to perform his or her duties.
- 53.2 Whenever possible, an employee shall be advised in writing of the basis for the existence of "reasonable cause" and the grounds thereof before being directed to report to any such examination. In any case, such written notice is to be provided within 48 hours of such an examination.
- 53.3 Any psychiatric report to the City shall consist of the psychiatrist's ultimate conclusion as to the employee's fitness to serve and return to work date, if any. If the psychiatrist believes that the employee is not fit for duty he or she may also supply a brief non-intrusive analysis as it relates to the employee's ability to perform his or her duties. The psychiatrist shall respect the physician-patient privilege in all other regards and shall not, without the employee's written permission, release any other information, documents, reports or conclusions to the City.
- 53.4 Failure to report for a medical or psychiatric examination under this section may constitute grounds for discipline under Section 37.

SECTION 54: YMCA MEMBERSHIP

The City shall offer employees a low cost group membership in the Berkeley YMCA. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding. The City of Berkeley or its Claims Administrator may not be liable for any injury which arises out of a City of Berkeley employee's participation in and use of a YMCA membership.

SECTION 55: PARKING

The City agrees to continue to provide 33 parking spaces for sworn employees. The parties recognize that construction in the downtown area will result in the relocation of the spaces from time to time. If relocation becomes necessary, the City agrees that all 33 spaces will remain within their current proximity. The parties recognize their mutual obligation to meet and confer and reach an agreement which meet the interests of each party.

ARTICLE 8 - CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

SECTION 56: PUBLIC EMPLOYEES' RETIREMENT SYSTEM

- 56.1 Participation
The City shall continue participating under the Safety Members Plan of the California Public Employees' Retirement System (CalPERS).
- 56.2 "Classic Employees" Definition
Classic Employees are defined as current employees and future employees who do not qualify as a "New Member" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).
- 56.3 "New Members" Definition
New Members are defined in the Public Employees' Pension Reform Act of 2013 (PEPRA), Government Code Section 7522.04(f).
- 56.4 CalPERS Retirement Formula for New Members as Defined Under the Public Employees' Pension Reform Act of 2013 (PEPRA)
"New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2.7% at age 57 retirement formula with highest three (3) year average final compensation as set forth in PEPRA.
- 56.5 CalPERS Retirement Formula for Classic Employees Hired on or After November 27, 2012 (current employees and employees who do not qualify as "New Members" under PEPRA)
Current employees or former City of Berkeley employees who were members of CalPERS while employed with the City and had membership with CalPERS prior to December 31, 2012 and who are rehired on or after November 27, 2012 and other employees who do not qualify as "new Members" under PEPRA shall be entitled to or continue to be entitled to the 3% at age 55 retirement formula as provided in Section 21363.1, with highest three years average final compensation as provided in Section 20037.
- 56.6 CalPERS Retirement Formula for Classic Employees Hired Before November 27, 2012
Employees hired before November 27, 2012 shall continue to be entitled to the 3% at age 50 retirement formula as provided in Section 21362.2 (July 7, 2002), with highest One-Year Final Compensation as provided in Section 20042 (July 22, 1976).
- 56.7 Optional Benefits
For both Classic and New Members, the City's contract with CalPERS shall include the following optional benefits:
- 56.7.1 Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (March 1, 1973).
- 56.7.2 Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).
- 56.7.3 Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).

56.7.4 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (March 1, 1973).

56.7.5 Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

56.7.6 Fourth Level of 1959 Survivor Benefits as provided in Section 21574 (October 15, 1998).

56.7.7 Pre-Retirement Optional Settlement 2 Death Benefit as provided in Section 21548 (November 6, 1998).

56.7.8 Military Service Credit as Public Service as provided in Section 21024 (November 6, 1998).

56.8 Classic Employees' Pension Contribution

Effective July 1, 1994, the City increased the base salary of employees by nine percent (9%). Employees then assumed and shall continue to assume an obligation to pay this 9% normal employee contribution retirement to CalPERS. Employees also contributed three percent (3%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis from July 1, 2012 through June 30, 2015. The City and Association agree that, effective January 1, 2016 employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. Effective July 1, 2016, employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. The City shall designate such payments to the City's CalPERS employer contribution rate as an Employer Pickup as defined by Section 414(h)(2) of the Internal Revenue Code.

56.9 New Members' Pension Contributions

New Members hired on or after January 1, 2013, shall pay 50% of the normal share of cost required by PEPR. The City and Association agree that, effective January 1, 2016, employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. Effective July 1, 2016, employees will pay an additional 1% contribution to the City's CalPERS employer contribution rate via automatic payroll deduction. The City shall designate such payments to the City's CalPERS employer contribution rate as an Employer Pickup as defined by Section 414(h)(2) of the Internal Revenue Code.

ARTICLE 9 - LAYOFF PROCEDURE

SECTION 57: LAYOFF POLICY

This layoff policy for the City of Berkeley is intended to provide the maximum employment protection to the City staff should a layoff become necessary. The policy also aims to minimize the impact such a layoff might have on the City's affirmative action accomplishments.

57.1 Announcement of Layoff

57.1.1 The City Council, City Manager, and the Chief of Police shall make every reasonable effort to manage and budget the City's resources effectively and to plan for the delivery of City services in a manner which will avoid the necessity to layoff career City employees. If a reduction in the work force for more than thirty (30) calendar days is necessitated by, but not limited to, a material change in duties and organization, adverse working conditions, return of employees from leaves of absence, or shortage of work or funds, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

57.1.2 Immediately following a decision which may involve the potential layoff of career employees, the City Manager shall freeze all current vacancies in the Police Department service in similar and related classifications to those likely to be targeted for layoff, as well as all related full-time, benefited, or temporary (see glossary) positions which are expected to last six (6) months or more, and notify the department head that such current and anticipated vacancies will be frozen until further notice in order to implement the provisions of Section 57.6.

57.2 Seniority Service Date

57.2.1 All service of persons in the employ of the City shall be counted toward the establishment of an employee's City seniority service date, including, for example, permanent, probationary, provisional, temporary (full-time and intermittent), seasonal, and exempt employment, as well as leaves of absence for obligatory military service while an employee with the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the City seniority service date. Time off, or vacation or compensatory time forfeited in lieu of time off, as a result of formal disciplinary action will be subtracted from the rank seniority service date, however, such date(s) shall not affect any employee's date(s) relative to bidding for shifts or vacation.

57.2.2 All service of persons in the employ of the City in a promotional rank above the entry-level rank shall be counted toward the establishment of an employee's rank seniority service date including only probationary and permanent service as well as leaves of absence for obligatory military service while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the rank seniority service date. Time off as a result of disciplinary action will be subtracted from the rank seniority service date.

57.2.3 All time spent in an appointed rank shall be credited to the employee's service in the employee's permanent rank. In computing both City and rank seniority, all time spent on paid leaves of absences shall be included, and all time spent on unpaid leaves of absence in excess of two consecutive payroll periods shall be excluded.

57.2.4 The Human Resources Department will maintain up-to-date and current City and rank seniority service dates for all City employees holding probationary and permanent appointments.

57.3 Establishment of Seniority Lists

57.3.1 Whenever a layoff of one or more career employees becomes necessary, as defined above, such layoffs shall be made according to City-wide classification seniority lists. Upon receiving notification that the City Manager must proceed with a possible reduction in the work force and following receipt of information concerning the specific positions, programs, and departments involved, the Human Resources Department will immediately establish separate probationary and permanent seniority lists for each classification targeted for layoff.

57.3.2 The names of all City employees holding permanent and probationary appointments in a given classification will be listed on the appropriate list in descending order by City seniority service date in the entry-level position and by rank seniority service date in promotional positions. Except as provided in Section 57.4 below, employees on all lists shall be laid off on the basis of their seniority service dates (i.e., employees with the least amount of total service shall be laid off first). All emergency, temporary, and provisional employees working in classifications similar to those identified for layoff must be terminated prior to the layoff of probationary or permanent employees. Employees on the probationary seniority list for a specific classification will be laid off prior to employees on the permanent seniority list for that class.

57.3.3 Probationary or permanent employees temporarily acting out of classification and holding a provisional appointment in another classification will only be listed on a seniority list of the class in which they hold permanent or probationary status targeted for layoff.

57.3.4 If two (2) or more employees on a seniority list have identical seniority service dates, the tie shall be broken based on established departmental procedures for awarding commission numbers in such instances.

57.4 Employee Retreat Rights

57.4.1 Before an employee with permanent or probationary status may be released from employment with the City of Berkeley, the Human Resources Department must consider the employee's right to retreat to lower-level classifications through which he or she was originally promoted or any subsequently created intermediate-level career classification series. Retreat rights shall also extend to employees who have not previously been promoted through a classification but for whom the classification is a natural progression or beginning in the classification series.

57.4.2 In the process of retreating, the rank seniority date list shall be utilized. Employees with the least amount of rank seniority shall retreat first; provided, however, that a retreat from any rank below the employee's current rank shall be based on a rank seniority date which is derived from a combination of all credited service in the rank to which the employee has retreated and all credited service in higher ranks held on a probationary or permanent Identification Expert will be available only to employees who have previously held such ranks on a permanent or probationary basis. There shall be no retreat rights to appointed ranks or positions.

57.4.3 If an employee is qualified for retreat into more than one classification with comparable salary ranges or if a vacancy exists in a classification to which an employee is entitled to retreat, the options shall be discussed with the employee, and due consideration shall be given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee.

57.4.4 The retreating employee has a right to be retained in the highest salary range possible which is equal to or less than his or her present salary range. An employee involved in layoff does not have a right of mandatory placement to positions with a higher salary range, i.e., promotion.

57.5 Employee Notification

57.5.1 Emergency, temporary, intermittent, seasonal, etc., employees shall be notified individually, in writing, of pending layoff as soon as possible, but no definite time period is required. However, at least two (2) weeks notification is desirable, if possible.

57.5.2 Provisional employees shall be notified individually, in writing, of pending layoff as soon as possible, with no less than fifteen (15) calendar days notification if targeted for release or reassignment.

57.5.3 Permanent, probationary, and career-exempt employees should be notified individually, in writing, of pending layoffs as soon as possible, with no less than thirty (30) calendar day notification if targeted for release, reassignment, or retreat. Notice to an employee absent from work for any reason shall be sent by United States Mail, return receipt requested.

If an employee fails to accept a bona fide offer of reassignment or retreat in writing within five (5) calendar days after receipt of the offer, the employee forfeits further right to employment retention. Acceptance of a reassignment or retreat does not remove the right of appeal under Section 57.9.

57.6 Flexible Placement Program

57.6.1 In order to minimize the negative impact of a layoff, the City Manager will, as previously stated in Section 57.1, impose a city-wide freeze on all appropriate

vacancies as soon as it has been determined that a layoff of career City employees may be necessary.

57.6.2 Following the release of all emergency, temporary, and provisional employees in classes similar to those targeted for layoff and as soon as employees targeted for layoff or retreat have been identified and the provisions under Section 57.3 and 57.4 have been carried out, the Human Resources Department will review and identify the frozen vacant classifications into which employees ultimately targeted for layoff may be placed on the basis of total experience and education. In making this decision, a waiver of minimum qualification standards and/or the substitution of related experience and education may be made with an understanding on the part of management and supervisory personnel that adequate on-the-job training, which can be completed within no more than six (6) months, will be provided to facilitate job adjustment and to compensate for the waiver of qualification standards, if that has occurred.

57.6.3 Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off.

57.6.4 Offers to positions under the Flexible Placement Program shall be made according to City seniority service date and in accordance with the probationary and permanent seniority list certification process outlined in Section 57.3. All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times.

57.6.5 If an employee fails to accept a bona fide written offer of an alternative job within five (5) calendar days after receipt of the offer, he or she forfeits further rights to employment retention. Acceptance of an alternative job under the Flexible Placement Program in no way jeopardizes an employee's standing on the reemployment priority lists on which his or her name has been placed in accordance with Section 57.7.

57.7 Reemployment Lists

57.7.1 The names of all probationary and permanent employees released or retreated from positions in the competitive service as a result of layoff or retreat must be placed on reemployment priority lists for those classifications from which the employee was removed, as well as all other classifications to which they have retreat rights in accordance with Section 57.4.

57.7.2 The reemployment priority list for employees who were laid off shall remain in effect for three (3) years. Said list shall remain in effect indefinitely for employees who were retreated.

57.7.3 Departments with vacancies in any classification for which there is an active reemployment priority list must use the reemployment priority list to fill their positions and may not use any other recruitment or appointment method to fill a vacancy until appropriate reemployment lists have been exhausted.

56.8.4 When a vacancy occurs in a class for which there is a reemployment priority list, the name of the employee on the appropriate reemployment priority list with the highest seniority date shall be certified to the selecting official. Employees so certified from the reemployment priority list must be appointed to the existing vacancy.

57.7.5 If a former employee fails to accept a bona fide written offer of reemployment within five (5) calendar days, his or her name will be removed permanently from the reemployment priority list from which the offer was made. Failure to accept an offer to reemployment to the class with the highest salary range for which the employee is eligible for reemployment will result in automatic removal from all reemployment priority lists. However, the employee may decline (or accept) reemployment to lower salary range classifications without jeopardizing his or her standing on the reemployment priority list for the classification from which he or she was original terminated.

57.7.6 Upon reappointment to the classification from which the employee was originally separated or demoted, the employee has the right to be placed at the step of the salary range which the employee held at the time of layoff or demotion.

57.8 Career-Exempt Employees

Only those employees holding full-time, benefited, exempt positions who, in the past, have achieved permanent status and have been continuously employed without a break in service between their career and exempt appointment, have the right to retreat to previously held career classifications, placement on the reemployment priority lists, and all other provisions governing layoff procedures. For the purpose of layoff, such employees shall be referred to as "career-exempt."

57.9 Appeal Procedures

Any permanent, probationary, or career-exempt employee who is laid off, demoted, or reassigned as a result of layoff and who believes that the layoff procedure has been administered in violation of the terms of this agreement as it pertains to the employee's case may appeal the action under the grievance procedure, including that provision relating to non-disciplinary arbitration. In addition, employees may at all times before, during, and subsequent to layoff review all records, including seniority lists, reemployment priority lists, documentation pertaining to appointments under the Flexible Placement Program, etc., which pertain to their classification and their rights under the provisions of the layoff policy.

57.10 Audit

57.10.1 On an annual basis, the City Manager's Office shall order an audit by an outside auditor of all vacant positions filled in each department and authorized positions which have not been filled to determine whether the vacancies occurred in classifications for which reemployment priority lists were in existence and, if so, whether the appointments made by the selecting official were in accordance with the procedures outlined in Section 57.7. In the event vacancies for which reemployment priority lists are in existence remain unfilled, the auditor shall offer an opinion as to whether or not the reasons for leaving the positions vacant appear

to be legitimate. A report of the audit must be transmitted to the City Manager and the City Council.

- 57.10.2 If it is determined that a vacancy has been filled by a non-reemployment priority list eligible in a classification for which a reemployment priority list existed which included available applicants at the time, the former employee with reemployment rights shall be hired and given retroactive pay from the date that the vacancy occurred. The employee who was originally to fill the vacancy shall continue to be retained in City employment.

SIGNATURE PAGE

FOR BERKELEY POLICE ASSOCIATION FOR THE CITY OF BERKELEY



Rocky Lucia, Chief Negotiator Jon Holtzman, Chief Negotiator

Berkeley Police Association President LaTanya Bellow, Director of Human Resources

Berkeley Police Association Vice President

EXHIBIT A

Hourly Salary Schedule as of July 1, 2021 (Three Percent (3%) Wage Increase)					
	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
Police Captain	88.7414	91.7048	94.7355	97.9189	101.1780
Police Lieutenant	79.5164	82.1414	84.8705	87.6688	90.6067
Police Officer (Steps A-E)	51.2283	53.6070	56.1047	57.9250	59.7961
Police Officer (Steps F-G)	61.7603	63.7581			
Police Sergeant	66.2734	68.4453	70.6954	73.0320	75.4470

Hourly Salary Schedule as of July 1, 2022 (Three Percent (3%) Wage Increase)					
	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
Police Captain	91.4036	94.4560	97.5776	100.8565	104.2134
Police Lieutenant	81.9019	84.6056	87.4166	90.2988	93.3249
Police Officer (Steps A-E)	52.7651	55.2152	57.7879	59.6628	61.5900
Police Officer (Steps F-G)	63.6132	65.6709			
Police Sergeant	68.2616	70.4986	72.8163	75.2230	77.7104

EXHIBIT C

GLOSSARY

Allocation: The assignment of a single position to the proper class in accordance with the duties performed, and the authority and responsibilities exercised.

Classification (class): A group of positions sufficiently similar in respect to their duties and responsibilities that: (a) the same descriptive title may be used with clarity to designate each position allocated to the class; (b) the same minimum requirements as to education, experience, knowledge, ability and other qualifications may be required of all incumbents; (c) the same tests of fitness may be used to choose qualified employees and, (d) the same schedule of compensation can be made to apply with equity under the same employment conditions.

Career Employee: An employee who is appointed to a position in the competitive service and who has a probationary or permanent appointment with the City of Berkeley.

Continuous Testing: An examination process in which applications are accepted on a continuous basis, not subject to a closing date with a viable list maintained at all times.

Demotion: The movement of an employee from one class to another class having a lower maximum rate of pay.

Domestic Partner: A person residing with and sharing the common necessities of life with a City of Berkeley employee, where both intend to continue this arrangement indefinitely. They are unmarried; at least eighteen (18) years of age; not related by blood closer than would bar marriage in the State of California, and mentally competent to consent to contracts.

Employee: A person who has been legally appointed under the City of Berkeley Personnel Ordinance and the Personnel Rules and Regulations, who is on the City payroll and whose employment has not been terminated and whose position is included in this representation unit.

Flexing of Shifts (aka Offsetting of Overtime): Changing of hours of work to avoid the payment of overtime.

Full-Time: An assignment of forty hours per week; a full-time employee works an assignment of forty hours per week or a combination of assignments totaling forty hours per week.

High Risk Classifications: A group of positions whose duties and responsibilities present: (a) significant probability or chance of injury, damage or loss of life; (b) exposure to risk and; (c) ability to incur the risk.

Impasse: "Impasse" means that the City and the Association have a dispute over matters within the scope of representation and have reached a point in meeting and negotiating over the dispute at which their differences in positions are so substantial or prolonged that future meetings would be futile.

Jury Duty Period: The period of time from which an employee appears in court as required by law to serve on an inquest jury or trial jury until such time as the employee is discharged from such

service by the court. "Jury Duty Period" expressly covers only that period of time spent by the employee in service of the court as a juror and does not include any time spent in court by the employee as a result of being a party to the action, being a witness to the action, or being subpoenaed to testify in the action.

Lateral Entry: Recruitment and selection status of candidates who have successfully completed P.O.S.T. academy training and meet the minimum requirement for Police Officer-Lateral classification.

Position: A grouping of duties and responsibilities which constitute a single assignment which is in a classification covered by this Memorandum of Understanding.

Promotion: The movement of an employee from one class to another class having a higher maximum rate of pay.

Promotional Examination: An examination for promotion to a class in the competitive service in which participation is limited to current employees with permanent status and/or to former permanent or probationary employees who are on current mandatory reemployment lists of layoff.

Provisional: A career employee who is temporarily serving in a higher level or unclassified position as a temporary assignment, pending examination, classification, or in the absence of the permanent incumbent.

Reclassification: Reallocation of a position from one classification to another classification based upon consideration of the kind and level of assigned duties and responsibilities.

Reemployment: Reappointment of a former probationary or permanent employee to a vacant position who has been laid off under Section 55.7 of the Layoff section in this Understanding.

Regular Hourly Salary: The Regular Monthly Salary multiplied by twelve (12) months and divided by 2080 annual work hours.

Regular Monthly Salary: The base pay for a classification (as included in Exhibit A of this Understanding).

Reinstatement: Appointment to a vacant position of a former probationary or permanent employee, within two years of the termination date, without obtaining new eligibility through examination. Reinstatement is not mandatory and a former employee must request consideration in writing. Eligibility for reinstatement is no guarantee of appointment and former probationary employees who did not obtain permanent status must complete their probationary period in accordance with Section 32.

Rejection (Probation): The separation of any employee from the service before the completion of the probationary period.

Release Time: Paid time off permitted employees, during their scheduled hours of work, to perform Association activities as provided by this Memorandum of Understanding. This paid time off is in addition to the employee paid leave and is subject to the conditions of the applicable sections of this Understanding.

Termination: The separation of an employee from the service of the City. Termination may include death, discharge, layoff, resignation, retirement, and work completion.

Transfer: The movement of any employee from one position to another within the same class in another department or the movement of an employee from one class to another class having a comparable level of duties and responsibilities and the same maximum rate of pay.

Vacation Year: A period that annually commences at the close of the last City pay period for which the payday falls in March. For example, if paychecks were issued on March 27 to pay employees for the pay period running from March 8 until March 21, the next vacation year would commence on March 22.

Y-Rate: An employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary or occupying a position in a class the salary rate or range for which is reduced, shall continue to receive his or her present salary. Such salary shall be designated as a Y-rate and when that employee vacates this position, it shall be filled in accordance with new salary range established. Y-rating shall not apply to employees who are demoted for just cause, including unacceptable level of performance, or as a result of demotion under the provisions of the Layoff policy.

RESOLUTION NO. ##,###-N.S.

APPROVING A SALARY RESOLUTION FOR BERKELEY POLICE ASSOCIATION, AND RESCINDING RESOLUTION NO. 68,583-N.S.

WHEREAS, the City Council has approved a new two-year Memorandum Agreement with Berkeley Police Association which includes cost of living adjustments and market adjustments to two classifications with a term of July 1, 2021 through June 30, 2023 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and

WHEREAS, the City Council has approved a new Classification and Salary Resolution for Representation Units E and F to implement the salary adjustments reflected in the new Memorandum of Understanding, and rescinding Resolution No. 68,583,-N.S.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts a new two-year Memorandum Agreement with Berkeley Police Association and new Classification and Salary Resolution for employees in Representation Unit E (sworn, managerial employees in the Police Department), and Representation Unit F (sworn, non-managerial employees in the Police Department) effective the first pay period July, 2021 through June 30, 2023 to incorporate changes to the salary schedule as shown in Exhibit A (July 20, 2021) attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that Resolution No. 68,583-N.S. is hereby rescinded.

Exhibit

- A: Berkeley Police Association Classification/Salary Resolution Period: July 20, 2021 through June 30, 2022
- B: Berkeley Police Association Classification/Salary Resolution Period: July 1, 2022 through June 30, 2023

EXHIBIT A & B Hourly Salary Schedule**As of July 20, 2021 (3.0% Salary Increase)**

Hourly Salary Schedule as of July 1, 2021 (Three Percent (3%) Wage Increase)					
	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
Police Captain	88.7414	91.7048	94.7355	97.9189	101.178
Police Lieutenant	79.5163	82.1414	84.8704	87.6687	90.6067
Police Officer (Steps A-E)	51.2283	53.6070	56.1047	57.9250	59.7961
Police Officer (Steps F-G)	61.7603	63.7581			
Police Sergeant	66.2734	68.4453	70.6954	73.0321	75.4471

As of July 1, 2022 (3.0% Salary Increase)

Hourly Salary Schedule as of July 1, 2022 (Three Percent (3%) Wage Increase)					
	STEP	STEP	STEP	STEP	STEP
CLASSIFICATION TITLE	A	B	C	D	E
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Police Officer (Steps A-E)	52.7651	55.2152	57.7879	59.6628	61.5900
Police Officer (Steps F-G)	63.6132	65.6709			
Police Sergeant	68.2616	70.4986	72.8163	75.2230	77.7105



Office of the City Manager

CONSENT CALENDAR
July 20, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: LaTanya Bellow, Director of Human Resources
 Subject: Unrepresented Employees: Salary Adjustments and Update to
 Unrepresented Employee Manual

RECOMMENDATION

Adopt two Resolutions: 1) approving salary increases for the Unrepresented Employees in Units X-1; X-2; Z-1; Z-2; Z-3; Z-6; and Z-9, for the period July 20, 2021 through June 30, 2024 and rescinding Resolution No. 68,534-N.S. Classification and Salary Resolution; and 2) adopt as amended the Unrepresented Employee Manual to attach a three (3) year Agreement with terms and conditions (hereafter referred to as "Agreement") with the Unrepresented Employees group (hereafter referred to as the "Unrep Group") with a term of July 20, 2021 to June 30, 2024 that includes a new Payroll Specialty Pay, Salary, Longevity Pay, Recognized Holidays, Employee Contribution Toward Pension, and revisions to Cash-In-Lieu Payments and Public Safety Uniform Allowance for compliance, and rescinding Resolution No. 69, 538-N.S.

FISCAL IMPACTS OF RECOMMENDATION

The terms of the new Agreement provide for wage increases (4% year one, 3% year 2, 1% year 3) for a total amount of 8% and two \$500 lump sum retention incentive payment for Payroll Clerks required to do additional work related to ERMA implementation. Median salary adjustments will also be made to Deputy City Attorney II, Health Officer Certified, Human Resources Manager, and Secretary to City Manager classification to remain competitive with comparative agencies. The changes to the Unrepresented Employees salary and benefits mirror the settlement with the Service Employees International Union (SEIU), Local 1021 Maintenance and Clerical Chapters (MC).

The cumulative total cost of the new Agreement is expected to have a moderate fiscal effect over the term of the Agreement (Fiscal Year 2022 - 2024), however, the cost of the first year of the labor contract is not currently included in the Fiscal Year 2021 – 2022 budget and will need to be appropriated into the FY 2022 budget. The funding for this Agreement comes from the General Fund and other funding sources.

CURRENT SITUATION AND ITS EFFECTS

Council will consider adopting a resolution to approve a three (3) year Memorandum Agreement with the SEIU Local 1021 Maintenance and Clerical Chapters. The City and

SEIU MC reached an agreement with the following major provision of the new labor contract as follows:

10 Duration	Three-years 6/27/21 – 6/30/2024
1.15.1 Salaries	4%, 3%, 1%; \$1,000 lump sum
1.15 New Payroll Specialty Pay	\$500 paid first full pay period after Council approval; \$500 paid first full pay period in January 2022 to 15 “Payroll Clerks” identified by SEIU
4.15.1 Salary Continuation (New)	New language added to incorporate the SEIU and City Workers’ Compensation Salary Continuation Side Letter Settlement Agreement into the Manual.
5.1 Recognized Holidays	Eliminate Lincoln’s Birthday and Add Cesar Chavez and Juneteenth Holiday – <u>If all other bargaining units agree</u>
8.4.6 PEPRA Contributions	PEPRA Pension contribution ramp down of six years; 1%, 1%, 1%, 2%, 2%, 1%, with reopener upon request in January 2024
8.8 Public Safety Uniform Allowance	Payments paid over twenty-six (26) equal biweekly payments instead twice a year.
13.4 Health Insurance Cash-In-Lieu Payments	Payments paid over twenty-six (26) equal biweekly payments instead twice a year.
13.25-26 Longevity	3% at 20 years

Traditionally, the Unrepresented Employee Group salary and benefits mirror the economic settlement with the Service Employees International Union (SEIU), Local 1021 Maintenance and Clerical Chapters (MC) in order to maintain internal equity and external competitiveness.

Council is requested to adopt two resolutions to approve an amended Unrepresented Employee Manual for three fiscal years that implements considerations including an 8% salary increase over three years, an additional Holiday, a step up of City contribution for PEPRA members over six years, amendments in Cash-In-Lieu Payments and Bi-Weekly Uniform Payments to comply with CALPERS, new language to incorporate the Salary Continuation Benefit, and rescinding Resolutions No. 68, 534-N.S. and 69,538-N.S.

BACKGROUND

There are approximately 101 Unrepresented employees divided into seven (7) representational units: Z-1, Z-2, Z-3, Z-6, Z-9, X-1, and X-2.

The City’s philosophy during negotiations with the Union was to follow City Council policies to protect the City’s short and long-range economic health. City Council policies for labor negotiations include, but are not limited to, the following:

1. Assure that labor organizations and their members are treated fairly and with respect.
2. Negotiate in good faith and within the process established by the parties including honoring the traditional confidentiality of the negotiation process.
3. Negotiate contracts based on a “Total Compensation Package” model (changes in current and future salary, and health and welfare benefits) within the City’s overall financial conditions. The City’s current overall condition included the recent declaration of a fiscal emergency on June 16, 2020.

Major provisions of the Manual are as follows:

Section	Change
Term Duration	Three-year term Agreement ending on June 30, 2024
Salary 1.15.1	<p>Effective the first full pay period in July 2021 after Council adoption on its regular agenda, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall receive a salary increase of four percent (4.0%).</p> <p>Effective the first full pay period in July 2022, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by three percent (3.0%)</p> <p>Effective the first full pay period in July 2023, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by one percent (1%).</p> <p>Effective the first full pay period after City Council adoption on its regular agenda, a onetime non-pensionable lump sum payment of \$1,000.00 for each career bargaining unit employee shall be conferred. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice.</p>
1.15 Payroll Specialty Pay	<p>NEW LANGUAGE: City shall provide Payroll Clerks identified by the City in Unrepresented Employees a one-time lump sum payment of \$500.00 effective the first full pay period after Council adoption of this successor agreement and a second \$500.00 one-time lump sum payment the first</p>

Section	Change
	full pay period in January 2022 for only those employees in the Accounting Office Specialist III classification. Such payments are subject to applicable payroll taxes and will not be considered pensionable salary. At the time of each payment, employee must be still employed by the City and must still be in the Accounting Office Specialist III classification. Employees working less than full-time (40 hours per week, 2,080 hours per year) shall receive a pro rata share of the one-time lump sum payment based on the number of hours they are assigned to work. For example, an employee working 30 hours per week, shall receive 75% of the one-time lump sum payment (\$375 effective the first full pay period after Union ratification and Council adoption of this successor agreement and \$375.00 the first full pay period in January 2022) as outlined 1.15 of the Unrepresented Employees Manual.
4.15.1 Salary Continuation (New)	New language added to incorporate the SEIU and City Workers' Compensation Salary Continuation Side Letter Settlement Agreement into the Manual.
Holidays 5.1	Eliminate Lincoln's Birthday and Add Cesar Chavez and Juneteenth Holiday if ALL OTHER GROUPS AGREE.
8.4.6 PEPRA Contributions	<p>Miscellaneous New Member contributions in Sections 8.4.6.2, 8.4.6.3, and 8.4.6.4 to the CalPERS 20516 employee contributions towards the employer rate will be amended and reduced as follows:</p> <p>8.4.6.4.a</p> <ul style="list-style-type: none"> • FY2021-22: 1% (Effective as soon as administratively possible following adoption of successor contract by the City Council) • FY2022-23: 1% effective July 1, 2022 • FY2023-24: 1% effective July 1, 2023 • FY2024-25: 2% effective July 1, 2024 • FY2025-26: 2% effective July 1, 2025 • FY2026-27: 1% effective July 1, 2026 <p>8.4.6.4.b No change to Classic members' contributions during the contract term.</p>
8.8 Biweekly Uniform Payments	To comply with CALPERS requirement, uniform allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

Section	Change
13.4 Biweekly Health Insurance Cash-In-Lieu Payments	To comply with CALPERS requirement FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment once a month.
Longevity Pay 13.25	Effective the first pay period in July 2021, employees in Representation Units Z-2, Z-3 and Z-6 who complete nineteen (19) years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as "Longevity Pay" under PERL Section 571.a.(1) Incentive Pay.
Longevity Pay 13.26	Effective the first pay period in July 2021, and except as noted below in Section 13.24.1 (Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief), employees in Representation Unit Z-1 who have completed nineteen (19) years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

In a separate item on this July 20, 2021 Agenda, City Council will be considering salary and benefit adjustments for the SEIU Local 1021 Maintenance and Clerical Chapters. In general, it has been a longstanding policy of the City to approve cost of living adjustments and benefit changes for Unrepresented employees that are similar to those approved for represented employees in order to maintain internal equity and external competitiveness.

Representatives of the City worked within policies set by the City Council for guiding contract negotiations and staff met with the City Council in closed session to discuss and receive the policy direction and economic authority to settle this contract. The overall settlement must be within the City's ability to pay based on projected revenue as well as demands for services across the spectrum of programs the City provides the community. The changes to the Manual are consistent with City Council's direction to staff and is fair and equitable to the Unrepresented staff.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, 981-6807

Attachments:

- 1: Resolution: Unrepresented Employees Manual
 - Exhibit A: Unrepresented Employees Manual (Edited Version)
 - Exhibit B: Unrepresented Employees Manual between the City of Berkeley and the Unrepresented Employees (Clean Version)
- 2: Resolution: Approving a new Classification Salary Resolution for Unrepresented Employees and Rescinding Resolution No. 68,534 N.S.
 - Exhibit A: Unrepresented Employees Classification/Salary Resolution Period: July 20, 2021 to the first full pay period in July period in July 2022
 - Exhibit B: Unrepresented Employees Classification/Salary Resolution Period: Effective the first full pay period in July, 2022 to the first full pay period in July period in July 2023
 - Exhibit C: Unrepresented Employees Classification/Salary Resolution Period: Effective the first full pay period in July, 2023 to the first full pay period in July period in July 2024
3. Unrepresented Median Salary Adjustments Chart

RESOLUTION NO. ##,###-N.S.

UNREPRESENTED EMPLOYEES MANUAL

WHEREAS, on July 30, 2020, the City Council adopted Resolution No. 69,538-N.S., the Unrepresented Employee Manual, that establishes rules governing working conditions, benefits and compensation for unrepresented career benefited and regular at-will employees; and

WHEREAS, in a separate agenda item on July 20, 2021, the City Council will consider a new Memoranda Agreement with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters that provides for an additional three-years and modifies its members' benefits; and

WHEREAS, the City Manager is recommending similar changes in terms and conditions for the unrepresented employees in Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); Z-6 (Legislative Analysts); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program); and

WHEREAS, the Unrepresented Employee Manual is amended as a result of the attached Agreement July 20, 2021.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley rescind Resolution No. 69, 538-N.S. (Unrepresented Employee Manual) and all other resolutions amendatory thereto and that the Unrepresented Employee Manual that includes the executed Memoranda Agreement as shown in Exhibit A attached hereto and made a part hereof, is hereby adopted as the City of Berkeley Unrepresented Employee Manual.

The foregoing Resolution was adopted by the Berkeley City Council on July 20, 2021 by the following vote:

Exhibit

- A: Amended Unrepresented Employee Manual Redline
- B: Unrepresented Employee Manual Clean



City of Berkeley

Unrepresented Employee Manual

July ~~30~~17, ~~2020~~2021

RESOLUTION

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 – 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City of Berkeley Negotiating Team and Service Employees International Union Local 1021 Maintenance and Clerical Chapters have met and conferred in good faith and have reached agreement on a new Memorandum Agreement that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum Agreement for the period June 27, 2021 through June 26, 2024 with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters, including changes in certain benefits on dates specified in the Memorandum Agreement which is attached hereto, made a part hereof and marked Exhibit A.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum Agreement including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

Exhibit A:

Memorandum Agreement between the City of Berkeley and Service Employees International Union Local 1021 Maintenance and Clerical Chapters.

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UNREPRESENTED EMPLOYEE MANUAL

This document establishes the rules governing benefits and working conditions, which are in effect for Unrepresented employees which have been approved by the City Council of the City of Berkeley.

This Unrepresented Employment Manual provides the personnel policies and procedures that affect the working conditions and benefits of unrepresented employees in the City of Berkeley. For purpose of categorization, all classifications are designated by a representation unit. Unrepresented employees are in classifications included in representation units Z-1; Z-2; Z-3; Z-9; X; and X-1, as noted in the City's Classification/Salary Resolution. The working conditions and benefits for represented employees are contained in their respective memoranda agreements. Rules, which describe general policies of the City's personnel system, are found in the City of Berkeley Personnel Rules and Regulations.

ARTICLE 1 - SALARY, OTHER PAY AND OVERTIME

1.1 Intent

This Section (Salary, Other Pay and Overtime) is intended only to define the normal hours of work and the time for which salary shall be paid, and to provide the basis for the calculation of overtime pay. Nothing in these rules shall be construed as a guarantee of hours of work per day or per week, or of days of work per week. The City's pay records, practices and procedures shall govern the payment of all wages.

1.2 Hours and Days of Work

Hours and days of work shall be governed by rules established by the City.

1.3 Workweek

The workweek shall consist of seven days beginning at 12:01 a.m. on Sunday to and including 12:00 midnight the following Saturday.

1.4 Regular Workweek

The regular workweek shall consist of forty hours of work within the workweek.

1.5 Payment of Salaries

Payment of salaries shall be bi-weekly and shall cover a pay period of two (2) consecutive workweeks. Each payment shall be made not later than Friday following the ending of each payroll period and shall include payment for all earnings reported during the previous payroll period.

1.6 Salary Ranges without Salary Steps

In those classes of positions for which a salary range is established without a designation of salary steps, the City Manager is authorized to fix the salary rate at any point within the established salary range.

1.7 Automobile Allowances

In addition to the salaries provided in the salary resolution, employees may be reimbursed for the use of automobiles owned by employees of the City of Berkeley and used on City business, as authorized by the City. Current automobile allowances are appended to this Manual, as shown in the Appendix, Section 13.27 (Automobile Allowance).

1.8 Mandatory Professional Fees and Licenses

The City will assume full payment of the mandatory professional fees and licenses required by employees in the following unrepresented classes in order to maintain their continued employment with the City of Berkeley:

Director of Public Works	City Attorney
Deputy Director of Public Works (Registered)	The Attorney Class Series
Rent Stabilization Board Staff Attorney Class Series	Audit Manager
Classes requiring a license to practice medicine	

1.9 Bilingual Pay

Employees appointed to positions requiring bilingual abilities, including Braille and sign language shall receive additional compensation as established by the City Council. Only those employees who possess second language competency, can demonstrate second language competency, and are serving in a position requiring competency in that particular language are entitled to receive the bilingual premium pay. The current level of approved compensation and procedures for qualifying and receiving bilingual pay are appended to these Rules, as shown in Appendix, Section 13.3 (Bilingual Premium Pay).

1.10 Overtime for FLSA Non-Exempt Employees

All employees who are covered by the overtime provisions of the Fair Labor Standards Act are designated as "FLSA non-exempt employees." Unless otherwise required by the Fair Labor Standards Act, all FLSA non-exempt employees, and employees in the classification of Battalion Chief, who are required to work in excess of their regular workweek shall be paid overtime compensation at the rate of one and one-half times the straight time rate based upon the regular monthly salaries or shall be given compensatory time off in lieu of payment at the rate of one and one-half hours off with pay for each overtime hour worked. The following provisions regarding overtime apply only to FLSA non-exempt employees and do not apply to FLSA exempt employees. FLSA non-exempt employees, temporarily promoted to FLSA exempt classifications, will be ineligible for overtime compensation for the duration of the appointment.

- 1.10.1 **Manner of Compensation:** An employee may be compensated for overtime by either compensatory time off or by payment; the method of overtime compensation shall be agreed upon by the employee and the supervisor at the time of obtaining approval to work overtime.
- 1.10.2 **Pre-Authorization:** No employee may work overtime without the express prior approval of his or her department head.
- 1.10.3 **Accrual Limit on Compensatory Time:** Compensatory time shall not accumulate in excess of sixty (60) overtime hours worked which is the equivalent of ninety (90) hours of compensatory time. Overtime accumulation in excess of sixty (60) hours shall be paid as compensation.

- 1.10.4 **Use of Compensatory Time:** All use of compensatory time off must be approved, in advance, by the employee's department head, on forms provided by the City.
- 1.10.5 **Effect of Termination on Compensatory Time:** An employee is entitled to compensation for any accumulated overtime upon resignation or termination.

1.11 Emergency Overtime

All FLSA non-exempt employees who are called to duty from their living quarters outside of their regular work hours and work days shall be paid emergency overtime compensation for the actual time worked provided, however, that each employee shall be paid a minimum of two (2) hours pay for emergency overtime unless such emergency overtime work is performed prior to the beginning of his or her work regularly scheduled work period without a break in service in which case, compensation shall be paid only for the actual time worked.

1.12 Shift Differential

All unrepresented FLSA non-exempt employees (except for Police Aides) who regularly work a shift of eight hours or more, which includes more than four hours between the hours of 5:00 p.m. and 12:00 a.m., or between 12:00 a.m. and 7:00 a.m., are paid a shift differential in addition to their regular base rate of pay in an amount established by the City Council. The current shift differential rate paid to unrepresented employees is in the Appendix to this Manual.

1.13 Fifty-Six (56) Hour per Week Work Schedule Leave Conversion Factor

The conversion factor for Fire Management employees accruing and using vacation leave, sick leave or sick leave bonus bank of hours is as shown below. The intent of the parties is to have the dollar value of the vacation leave, sick leave or sick leave bonus bank of hours accrued be the same whether an employee is assigned to a fifty-six (56) hour per week schedule or a forty (40) hour per week schedule.

- 1.13.1 **Leave Accrual for 56 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a fifty-six (56) hour per week scheduled is converted to a forty (40) hour per week schedule by multiplying number of hours of vacation leave or sick leave accrued by the conversion factor of 0.7143.
- 1.13.2 **Leave Accrual for 40 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a forty (40) hour per week scheduled is converted to a fifty-six (56) hour per week schedule by multiplying number of hours of vacation leave accrued by the conversion factor of 1.4.

1.14 One-Time Allocation

Employees in Units Z-1, Z-2, Z-3, Z-6, and Z-9 who are in paid status as of July 29, 2018 will receive a one-time allocation of \$2,000.00 (prorated for part-time employees) on August 17, 2018, minus applicable local, state and/or federal taxes.

1.15 Payroll Specialty Pay

City shall provide ("payroll clerks") identified by the City in Unrepresented Employees a one-time lump sum payment of \$500.00 effective the first full pay period after Council adoption of this successor agreement and a second \$500.00 one-time lump sum payment the first full pay period in January 2022 for only those employees in the Accounting Office Specialist III classification. Such payments are subject to applicable payroll taxes and will not be considered pensionable salary. At the time of each payment, employee must be still employed by the City and must still be in the Accounting Office Specialist III classification. Employees working less than full-time (40 hours per week, 2,080 hours per year) shall receive a pro rata share of the one-time lump sum payment based on the number of hours they are assigned to work. For example, an employee working 30 hours per week, shall receive 75% of the one-time lump sum payment (\$375 effective the first full pay period after Union ratification and Council adoption of this successor agreement and \$375.00 the first full pay period in January 2022).

1.15.1 Salary Resolution

Effective the first full pay period in July 2021 after Council adoption on its regular agenda, the salary ranges for those classifications covered by this Manual shall receive a salary increase of four percent (4.0%).

Effective the first full pay period in July 2022, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by three percent (3.0%)

Effective the first full pay period in July 2023, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by one percent (1%).

Effective the first full pay period after City Council adoption on its regular agenda, a onetime non-pensionable lump sum payment of \$1,000.00 for each career bargaining unit employee shall be conferred. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this

lump sum provision does not create or bind the City to any precedent or past practice.

ARTICLE 2 - PROBATIONARY PERIOD

2.1 Length of Probationary Period

All original and promotional appointments to positions in the career service shall be tentative and subject to a probationary period. The length of the probationary period shall be determined for each class by the City Council. However, the length of the probationary period shall not be less than six months of actual service (1040 hours) or more than two years of actual service (4160 hours). A six (6) month probationary period must be completed in no more than one (1) year. A one (1) year probationary period (2080 hours) must be completed in no more than two (2) years. A two (2) year probationary period must be completed in no more than three (3) years. A current schedule of probationary periods for unrepresented classes is appended to this Manual, as shown in Appendix, Section 13.16 (Probationary Periods for Unrepresented Classifications).

2.2 Objectives of Probationary Period

The probationary period shall be regarded as a part of the selection process and shall be used to closely observe and evaluate the employee's work, to secure the most effective adjustment of a new employee to his or her position, and to eliminate any probationary employee whose performance does not meet the required standards of work.

2.3 Rejection of Probationers

During the probationary period, an employee may be rejected from employment at any time by the City Manager without cause and without the right of appeal.

2.4 Rejection during Probationary Promotion

An employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he or she was promoted unless charges are filed and he or she is discharged in the manner provided in the Personnel Ordinance and these rules.

ARTICLE 3 - VACATION

3.1 Vacation Leave

All benefitted employees shall be entitled to annual vacation leave subject to the provisions in this chapter.

3.2 Vacation Approval

All vacations must be approved, in advance, by the employee's department head, on forms provided by the City.

3.3 Vacation Accrual

3.3.1 **Full Time Benefitted Employees:** During the first two (2) calendar years of employment, all full time benefitted employees shall be entitled to take only such annual vacation leave as the employees earn based on their continuous length of service measured from the date of hire. After two (2) years of service, employees may request, and upon approval, take up to a maximum of two (2) weeks of their annual vacation, in advance of actual earning. Approval of requests for advance vacation shall be solely at the discretion of management.

Vacation accrues according to schedules established by the City Council and can vary for different groups of employees. The current vacation schedules for full time unrepresented employees are in the Appendix to this Manual.

3.3.2 **Part Time and Temporary Employees:** Benefitted part-time employees working a minimum of twenty (20) hours per week accrue vacation benefits on a pro rata basis. Employees who work less than twenty (20) hours per week and temporary employees, unless otherwise authorized, do not accrue leave benefits

3.3.3 **Accrual of Vacation Credits:** Vacation leave credits are only accrued for each straight time hour for which the employee is paid.

3.3.4 **Effect of Extended Leave on Vacation Accrual:** An employee who has returned from extended military leave or an extended authorized leave of absence without pay of six (6) months or more or who has been re-employed or reinstated shall be entitled, during the calendar year in which the employee returns to the City service, to earn vacation according to a schedule based upon the total years in the career service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, the employee's vacation leave shall accrue as provided in this Manual.

3.3.5 New Hire Vacation Accrual: For new hires, the City Manager may authorize vacation accrual at a higher rate, up to the maximum accrual rate, depending upon the paid leave accrual of the potential employee at his or her present employer. The new hire must be able to document his or her current paid leave accrual, which has been earned for general use, such as vacation. The waiting period to advance to the next accrual rate would be the actual number of years between the respective accrual levels.

3.4 Vacation Scheduling

The times during the calendar year at which an employee shall take his or her vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head cannot permit the employee to take an annual vacation leave or any part of such leave within a particular calendar year, the employee may accrue vacation according to Section 3.3 (Vacation Accrual) of this Manual.

3.5 Maximum Vacation Accumulation

Employees may defer vacation earned up to a maximum cumulative total of eight (8) weeks. An employee who has attained maximum accumulation may be required to take all excess earned vacation at the option of the City. Not later than October 1 of each year, the City will advise employees who have attained a maximum accumulation of vacation whether such excess earned vacation must be scheduled as time off prior to March 31. Such time off shall be scheduled in accordance with the provisions of Section 3.2 (Vacation Approval).

The City shall require all employees to reduce their accrued vacation balances to no more than 320 hours, as of the last pay period in February of each year. To effectuate the requirement that employees not accrue more than 320 hours vacation leave, no later than November 15 of each year the City will provide Department Heads with a report identifying all employees who have accrued two hundred and eighty (280) hours of vacation leave and appear in danger of exceeding the 320 hour limit.

Employees who have accrued 280 hours of vacation leave, as of that date, will be advised by their supervisor that they must take vacation leave to reduce their vacation leave accrual by February of the following year.

Supervisors should be flexible in granting employee vacation requests to those employees above, or approaching the 320 hours limit, and further, that with regard to employees who are in danger of exceeding the 320 hour limit, no vacation request by such an employee shall be unreasonably denied. If an employee who is in danger of exceeding the 320 hour limit fails by December 31 to schedule a vacation to be taken before the last pay period in February, the City has the

authority to direct the employee to go on vacation leave to reduce the employee's accrued vacation.

If, due to operational necessity, a department head denies an employee vacation leave and does not provide the employee with an alternate vacation date, and as a result causes the employee to exceed the 320 vacation leave limit, said employee shall nonetheless be entitled to use that vacation leave in the next calendar year to the extent necessary to reduce their accrued vacation to not more than 320 hours. Under no circumstances will the City liquidate any vacation leave balances for any employee during employment.

3.6 Vacation Leave before Retirement

Accumulated vacation shall not be used immediately prior to retirement, which has the effect of extending the date of retirement, but shall be paid out in full upon retirement.

3.7 Vacation Leave in Lieu of Sick Leave

Except for absences that qualify for benefits under Administrative Regulation 2.4 (Family Care Leave) Vacation leave shall not be used in lieu of accrued sick leave for absences due to illness. If accrued sick leave is exhausted, vacation leave may be used for absences due to illness, only if such leave is approved by the employee's department head.

3.8 Payout upon Termination or Extended Unpaid Leave

Upon termination, including death, extended military leave or other extended leave without pay, an employee or his or her estate shall be paid for all accrued unused vacation leave at the employee's base rate at the time of his or her termination, and such employee or his or her estate shall reimburse the City for any vacation leave taken before it had accrued, in accordance with provisions established by the City Manager.

3.9 Holidays Occurring during Vacation

If an observed City holiday occurs during an employee's scheduled vacation, no deduction from accrued vacation will be made for the holiday period.

ARTICLE 4 - SICK LEAVE

4.1 Eligibility

All full-time benefitted employees are eligible for one (1) sick leave day (eight [8] hours) per month of service, except that the Police Chief hired before September 11, 2012 is eligible for two (2) sick leave days for each month of service during the twenty-first (21) year of employment and thereafter. Employees in the classifications of Fire Chief and Deputy Fire Chief shall be credited with two (2) sick leave days for each month of service during the seventeenth (17th) year of employment and thereafter. Part time benefitted employees are eligible to accrue sick leave on a pro rata basis.

4.2 Sick Leave Not a Privilege

Sick leave shall not be considered a privilege, which an employee may use at his or her discretion, but shall be allowed only in the case of his or her sickness or disability or in the case of illness within the defined family of the employee.

4.3 Family Sick Leave

As of January 1, 1999, employees may use up to fifteen (15) working days of accrued sick leave in a calendar year to care for a family member, limited to one of the following: a legal dependent, parent, spouse, son, daughter or domestic partner.

4.4 Notice to Department Head

In order to qualify for sick leave benefits, the employee shall notify his or her department head or designee prior to or within two (2) hours after the time set for the beginning of the employee's daily duties, or as otherwise required by the department head. Leave for non-emergency medical appointments shall be requested in advance of the workday.

4.5 Medical Verification

The City of Berkeley retains the right to request a verification from a licensed medical practitioner under appropriate circumstances which include (1) showing that an employee's illness or disability has started or ended, before the City will allow an employee to take a leave or to return from leave, (2) showing regular updates during a medical leave of absence regarding the employee's medical status and the date the employee expects to return to work, (3) where reasonable cause exists to believe that the employee is not medically fit to perform the essential functions of the job or that the employee cannot perform the job without endangering the health and safety of the employee or others, and (4) where reasonable cause exists to believe that the employee is abusing sick leave or family sick leave. Sick leave pay may be withheld if a satisfactory verification is not received.

4.6 Injury Incurred in Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that the injury is covered by California's workers' compensation law or by provisions of the other employer granting payment for time off because of the injury. In the event the injury is not covered either by the workers' compensation law or by the other employer's provisions, sick leave will be granted in accordance with this chapter only if the outside employment had been authorized by the City before the injury occurred.

4.7 Bonus for Unused Sick Leave

For every six (6) months of perfect attendance, the employee will receive eight (8) hours of bonus time. "Perfect attendance" means the employee has not received sick leave or salary continuation benefits and has not taken or been placed on leave without pay. Benefitted part time employees will receive sick leave bonus time on a pro rata basis. Sick leave bonus can be used for any leave purpose authorized by this Manual.

4.8 Accumulation of Sick Leave

Employees may accumulate sick leave up to a maximum of two hundred (200) days (1600 hours) except for the classifications named below.

The Police Chief and Fire Chief may accumulate sick leave in excess of the 1600-hour limit by 100 hours per year.

4.9 Payout for Excessive Sick Leave for Employees Hired on or Before June 30, 2013

All employees, except employees in the classification of Deputy Fire Chief hired on or before June 30, 2013 in the career service who regularly work one-half time or more who have attained the two hundred (200) day maximum sick leave accumulation shall be entitled to receive payment for one-third (1/3) of the first twelve (12) days of sick leave days (or if earning sick leave at the rate of two (2) working days each month of service, one-third (1/3) of the first twenty-four (24) days of sick leave days), for which sick leave days they become eligible, they do not use and they would otherwise forfeit because of the two hundred (200) day maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar year basis, and payment for such sick leave for any calendar year shall be made not later than the first full pay period in January. Such payment shall be at the employee's salary rate in effect on the preceding December 31, and shall be made only in units of whole days and will not be made for any fraction of a day.

4.9.1 **Deputy Fire Chief:** For employees in the classification of Deputy Fire Chief, the following provisions shall apply. In each year following that 1200 hour base year, the employee may, on a form provided by the City, elect to receive pay for excess sick leave or may elect to increase his or her sick leave accumulated base by the 96 hours and take any additional

excess sick leave in pay at the following prescribed rate: employees who choose to increase their sick leave accumulated base by the 96 hours will receive 50% pay off rate in March; employees who choose to receive pay out for excess sick leave over the base, and do not exercise the option of increasing their accumulated sick leave base by 96 hours in any particular year, will be paid for excess sick leave at the 38% pay off rate in March.

Forms, provided by the City along with projected excess sick leave balances, shall be distributed to affected employees by February of each year and shall be returned to the City by February 15th. If an employee uses part of an established "sick leave maximum accumulation level", the employee may replenish the used portion at the applicable rate.

Determination of eligibility for such payment shall be made on an annual basis, and payment for such sick leave for any calendar year shall be made during the month of March each year. Such payment shall be made at the employee's regular monthly salary rate in effect on the last day of the first pay period to end in March. An employee shall be eligible for this provision whether or not the employee is on the payroll as of the last day of the first pay period to begin and end in March.

- 4.9.2 **Police Chief and Fire Chief Hired on or before June 30, 2013:** For the Police Chief and Fire Chief hired on or before June 30, 2013, the maximum sick leave accrual allowed shall be adjusted at the rate of 100 additional hours per year above the 1600-hour limit. The employee may elect to receive pay for the excess sick leave or may elect to increase the base by 100 hours, in each subsequent year. Payment for excess sick leave is prescribed at 1/3 of the excess leave balance.

4.10 Effect of Leave without Pay on Sick Leave Accrual

Sick leave will not accrue during any period of absence without pay. Sick leave credits are accrued on the basis of actual straight time hours worked or paid, based on a forty-hour workweek.

4.11 Accrued Sick Leave Canceled Upon Termination

Except as otherwise provided under the CalPERS conversion of sick leave retirement credit benefit (California Government Code Section 20965) and the other exceptions set forth below, all accrued sick leave shall be canceled upon termination of an employee. Such leave shall be credited back to the employee if the employee returns to City employment within two (2) years of termination except as otherwise provided by the City Council, or within three (3) years of termination if re-employed under the City's Layoff Policy provided in this Manual.

- 4.11.1 **CalPERS Miscellaneous Members, Chief of Police Hired on or before June 30, 2013 Sick Leave Payout:** For CalPERS

Miscellaneous members and Chief of Police hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty (20) years of benefitted City of Berkeley service or to employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City shall be entitled to liquidate a portion of their accrued but unused sick leave as follows: Upon termination, employees with between twenty (20) years and twenty-eight (28) years of benefitted City of Berkeley service shall be entitled to receive payment in an amount equal to 38% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days.

All employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

Employees hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty-eight (28) years of benefitted City of Berkeley service or employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City, with at least twenty-eight years of benefitted City of Berkeley service, shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days. Employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

- 4.11.2 **Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout:** For employees hired on or before June 30, 2014 in the classification of Fire Chief and Deputy Fire Chief who retire or voluntarily terminate with twenty (20) years of service or who retire on permanent disability arising out of and incurred in the course and scope of their employment with the City, shall be entitled to receive payment at retirement or termination of unused sick leave days, based on the following schedule:

Number of Days	% of Payment
0-75 Days	38%
75-99 Days	41%
100-124 Days	44%
125-149 Days	47%
150 Days and over	50%

Employees in classifications identified in this Section 4.11.2 (Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout) hired on or after July 1, 2014 shall not be eligible for payment of any unused sick leave days.

4.12 City of Berkeley Supplemental Retirement Plan [Termination 401(a)]

Employees who retire on a vested pension shall be eligible to participate in the City of Berkeley Supplemental Retirement Plan. The Supplemental Retirement Plan provides for negotiated required roll-forwards of accrued but unused leave, and also permits the City to do a "tax pick-up" of employee contributions under Section 414(h)(2) of the Internal Revenue Code. A tax pick-up works through an irrevocable payroll deduction authorization, on an individual by individual elective basis, to contribute accrued but unused sick leave, vacation leave, compensatory time, floating holiday and bonus sick leave into an Internal Revenue Code 401(a) defined contribution plan. The Supplemental Retirement Plan Document shall govern administration of the Plan.

4.13 Accrued Sick Leave Applied to CalPERS Retirement Credit

The conversion of unused sick leave to retirement credit benefit under Government Code Section 20965 offered by CalPERS as an optional benefit to contracting agencies shall be made available to employees who retire with a vested pension.

4.14 Sick Leave Benefits and State Disability Insurance

Employees may use their accrued sick leave benefits during the normal seven day period before the eligible employees are paid benefits from State Disability Insurance. Following the seven day period, an employee will continue to receive accrued sick pay until exhausted and then, upon approval by the department head, accrued vacation or compensatory pay, less the disability benefits actually received.

4.15 Workers' Compensation and Salary Continuation

Workers' compensation payments shall commence in accordance with State law, on the fourth day following an industrial injury, unless the employee is hospitalized in which case payment commences on the first day of injury. For the purpose of this Section (Workers' Compensation and Salary Continuation), "hospitalized" means confinement.

For all career and regular at-will employees who are receiving or shall receive workers' compensation benefits for an industrial injury, the City will pay retroactive compensation benefits to the eligible employee for the normal three day waiting period before the employee is paid workers' compensation benefits for temporary disability pursuant to California law governing the industrial injury or illness.

Payments under the workers' compensation law for temporary disability or a recurrence thereof arising out of and in the course of employment shall be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability pay, but shall not exclude any salary adjustments to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under State law and the City shall cease to pay the difference.

4.15.1 Salary Continuation Benefit

1. New Accepted Claim with Overlapping Previously Accepted Injury - Where an Employee sustains a subsequent industrial injury as part of a new accepted workers' compensation claim that includes a previously accepted body part in the same five (5) year period, Employee shall be entitled to a period of time not to exceed 183 days of Salary Continuation Benefits.
2. New Accepted Claim with No Overlapping Previously Accepted Injury - Where an Employee sustains another industrial injury resulting in a new accepted workers' compensation claim within the same five (5) year period that does not include a previously accepted body part, the Employee's new accepted claim shall be entitled to a period of time not to exceed 365 days of the Salary Continuation Benefit.
3. New Accepted Claim for Same Previously Accepted Injury after Five (5) Years - Where an Employee sustains an industrial injury to a previously claimed body part after five (5) years from the initial Date of Injury, the Employee shall be entitled to a new period of time not to exceed 365 days of the Salary Continuation Benefit. In effect, after five (5) years from the initial Date of Injury, the benefit resets with respect to a previously claimed body part.
4. Workers' Compensation Medical Appointments and Salary Continuation - For the purposes of the Salary Continuation Benefit, effective January 1, 2019, the City shall calculate absences from work to attend medical appointments for the treatment of an accepted industrial injury in one (1) hour increments for the purposes of running against the maximum 365 days of Salary Continuation.

4.16 Sick Leave Accrual for Department Heads and Deputy City Managers

At the time of appointment of new hires in regular at-will department head classifications and Deputy City Managers, the City Manager may authorize credit for accrual of sick leave based on sick leave accrual with a prior employer in an amount that does not exceed four weeks of sick leave credit.

ARTICLE 5 - HOLIDAYS

5.1 Holidays

The City observes the following holidays and provides all full time regular, at-will and career employees. Contingent upon agreement by all Employee Bargaining Units, the parties agree that the Lincoln Holiday shall be eliminated and that Cesar Chavez Day – observed on March 31, or on the Monday or Friday closest to March 31 if it falls on a Saturday or Sunday would be added instead.

Holiday	Day Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	Third Monday in February
Malcolm X's Birthday	Monday or Friday nearest May 19
Memorial Day	Last Monday in May
<u>Juneteenth</u>	<u>June 19</u>
Independence Day	July 4
Labor Day	First Monday in September
Indigenous People's Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	Fourth Friday in November
Christmas	December 25

5.2 Floating Holidays

Full time, regular at-will, and career employees who have worked for the City six (6) months or more shall be granted three (3) floating holidays each calendar year. Employees may take floating holidays in one (1) hour increments. Employees who terminate employment within the first six (6) months of initial employment shall not be eligible for payout of any accrued but unused floating holiday.

In the first calendar year of employment, employees shall be granted prorated floating holidays as follows:

Date of Hire	Number of Floating Holidays
Hired January 1 - April 30	3 days
Hired May 1 - August 31	2 days
Hired September 1- December 31	1 day

All use of floating holidays must be approved, in advance, by the employee's department head, on forms approved by the City. The days on which the employee shall take his or her floating holiday(s) shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head

cannot permit the employee to take the floating holiday(s) within a particular calendar year, the employee shall add the unused floating holiday(s) to the employee's accrued vacation according to Section 3.5 (Maximum Vacation Accumulation).

5.3 Eligibility

In order to be eligible for holiday pay, an employee must be on paid leave status on his or her regularly scheduled workdays before the holiday.

5.4 Part-Time Employee Eligibility

Benefitted part time employees are eligible for holiday benefits on a pro rata basis.

5.5 No Work on the Holiday

Employees in the career service who are not scheduled to work on the day observed as a holiday will be granted an alternative scheduled holiday. The alternative holiday must be scheduled, by the department head, during the same workweek.

5.6 Work on the Holiday

FLSA non-exempt benefitted employees who work on a scheduled holiday shall be paid at one and one-half times their normal base rate for all hours worked or shall be granted the equivalent amount of compensatory time off. In either event, the holiday pay shall be in addition to the employees' regular salary.

ARTICLE 6 - OTHER PAID LEAVES OF ABSENCE

6.1 Family Bereavement Leave

Any benefitted employee who experiences a death in the immediate family is granted death leave of up to three (3) working days for the purpose of attending the funeral or memorial service in the State of California, or up to five (5) working days for the purpose of attending the funeral or memorial service outside the State of California. Employees in the classification of Fire Chief and Deputy Fire Chief shall be granted one week (five (5) consecutive calendar days) for a death in the immediate family whether in state or out of state for the purpose of attending the funeral or memorial service.

For all employees except those employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren, dependent or domestic partner. For employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, domestic partner mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren or dependent residing within the household.

Bereavement leave will be paid at the employee's normal base rate of pay for the actual time lost and is allowed solely for the purpose of attending funeral or memorial services. The department head may, within his or her discretion, grant the employee additional time off provided that all accrued vacation and/or sick leave shall be used prior to taking a leave of absence without pay for this purpose.

In special cases, with the approval of the department head, the City Manager may grant death leave within his or her discretion to allow an employee to attend a funeral or memorial services because of the death of persons not included within the definition of immediate family.

6.2 Jury Duty Leave

Any benefitted employee who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his or her department head, shall be entitled to be absent with pay from his or her duties with the City during the period of such service and while necessarily being present in court as a result of such call. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any requirements (on-call status) made by the court that may affect the employee's ability to simultaneously fulfill his or her jury duty service and employment obligations. The employee will keep any payment received for jury service including mileage reimbursement.

6.3 Continuing Education Leave

The City will grant a continuing education leave of absence with pay up to forty hours per year to benefitted employees who are required by their employment or continuing employment with the City of Berkeley to pursue course work in order to:

- (a) renew a license issued by the State of California; or
- (b) obtain a license issued by the State of California provided that employees verify to the City that the course work for the initial license was not offered as a part of their basic curriculum.

Upon prior approval of the department head, FLSA non-exempt employees who take required course work during non-scheduled work hours in order to obtain or renew a job-required license shall be allowed time off from work on an hour-for-hour basis without loss of compensation or other benefits.

6.4 Administrative Leave Program

The City Manager provides for paid administrative leave to eligible employees as set forth in the Appendix to this Manual. Administrative leave is not charged against other accrued leave balances.

6.5 Temporary Employees – Earned Leave

A temporary employee who works one thousand forty (1040) hours or more in a calendar year and is in active employment during December of such year, shall be credited with forty (40) hours of paid time off to be used by such employee in the subsequent calendar year for either paid vacation or paid sick leave. The following conditions shall apply to the use of this earned leave as paid time off:

- a. To qualify for earned leave as vacation, the employee must apply, in writing, to the employee's supervisor at least thirty calendar days in advance of the desired time off. The granting or denial of the requested time off shall be in writing and shall be controlled by program considerations as established by the City.
- b. To qualify for earned as sick leave, the employee must notify the employee's supervisor of an inability to report to work by reason of illness or injury in advance of the scheduled work.
- c. An employee who has any unused earned leave credit shall receive payment for such time upon termination of temporary employment. All credited earned leave not utilized by employees at the end of the calendar year in which the employees are eligible to take such leave will be paid at the end of such year as wages and this earned leave shall not be accumulated from year to year.

6.6 Abolishment of Temporary Employees – Earned Leave

Effective July 1, 2015, Section 6.5 (Temporary Employees – Earned Leave) is abolished in its entirety and replaced with the following Section 6.7 (Temporary Employees Sick Leave).

6.7 Temporary Employees Sick Leave

Effective January 1, 2015, Temporary Employees who have been employed for at least 90 days on July 1, 2015 are eligible to accrue and use sick leave based on hours worked after July 1, 2015 as provided in Section 6.8 (Sick Leave Accrual) below.

6.8 Sick Leave Accrual

Effective July 1, 2015, once a temporary employee works for 30 days within a calendar year, the employee shall be eligible to accrue one (1) hour of sick leave for every 30 hours worked thereafter, to a maximum accumulation of 48 hours. Once an employee accrues 48 hours sick leave, the employee shall not accrue any additional sick leave hours until his or her sick leave balance is below the maximum of 48 hours. Under no circumstances will an employee be allowed to accrue more than 48 hours sick leave.

6.9 Sick Leave Use

Temporary Employees shall be eligible to use sick leave beginning on the 90th day of work. Sick leave shall be used in a minimum of two (2) hours increments, and limited to a maximum of 24 hours use each calendar year. Unused accrued sick leave hours shall carry over to the following calendar year. The following conditions shall apply to the use of this sick leave as paid time off:

- a. Sick Leave may be used for the following purposes: Diagnosis, care, or treatment, of an existing health condition or, preventive care for, an employee or an employee's family member; for an employee who is a victim of domestic violence, sexual assault, or stalking. To qualify for earned as sick leave and if the need for sick leave is foreseeable, the employee must notify the employee's supervisor of an inability to report to work in advance of the scheduled work. If the need for sick leave is unforeseeable, the employee shall provide notice to the immediate supervisor of the need for the leave as soon as practicable.
- b. All accrued and unused sick leave shall be cancelled upon separation/termination of employment. Such previously accrued and unused sick leave shall be credited back to the employee if the employee returns to City employment within one (1) year from the date of separation.

ARTICLE 7 - LEAVES OF ABSENCE WITHOUT PAY

7.1 Power to Grant Leave

The City Manager shall have the power within his or her sole discretion to grant leaves of absence, with and without pay.

7.2 Authorized Leave Without Pay

Upon request of the employee, a department head may grant or deny a leave of absence to an employee within his or her department without pay for a period not to exceed thirty working days. No leave without pay shall be granted for more than thirty working days except upon written request of the employee and written approval of the City Manager.

7.2.1 **Required Exhaustion of Accrued Leave:** In the event of an authorized absence due to illness, the employee must use all accrued sick, compensatory and vacation leave prior to receiving authorization for leave without pay. In the event of personal leaves not related to sickness, the employee must use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay. However, employees in the classifications of Legislative Assistant and Assistant to the Mayor are not required to use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay for the employee's respective appointing Councilmember or the Mayor. This subsection does not apply to parental leave or to the exhaustion of sick leave by employees in the classification of Deputy Fire Chief as referenced in Section 7.2.2 (Fire Chief and Deputy Fire Chief Use of Sick Leave), below.

7.2.2 **Fire Chief and Deputy Fire Chief Use of Sick Leave:** In the event of illness or injury of an employee in the classification of Fire Chief and Deputy Fire Chief requiring the use of sick leave, the employee has the option to notify the City in writing that he/she wishes to freeze the use of sick leave after thirty (30) days, prior to receiving authorization for leave without pay, in order to utilize the International Association of Fire Fighters sponsored Long Term Disability benefit.

7.2.3 **Grounds for Discharge:** Failure on the part of an employee to report to work promptly at the expiration of the authorized leave without pay will result in discipline up to and including termination.

7.3 Unauthorized Leave of Absence

All paid and unpaid leaves of absence must be approved in accordance with the applicable sections of this Manual. Any absence on the part of the employee who has failed to obtain such approval or failure of an employee to report for duty without appropriate authorization as required by each department will result in the employee being placed on unauthorized leave of absence without pay.

7.3.1 **Grounds for Discharge:** Unauthorized leave of absence without pay shall be cause for disciplinary action up to and including termination.

7.4 Parental Leave

Any employee with one or more years of benefitted employment with the City of Berkeley shall be entitled to up to one year of parental leave upon the birth of a child or the adoption of a child who is five years or younger as provided in Administrative Regulation 2.4 (Family Care Leave).

7.5 Family Care Leave

The City will fully comply with the requirements of the state and federal law regarding pregnancy disability leave and medical/family illness/child care leave where their provisions are more generous than those provided elsewhere in this Manual or Administrative Regulation 2.4 (Family Care Leave). Leaves under this Section 7.5 (Family Care Leave) and Section 7.4 (Parental Leave) and as provided in Administrative Regulation 2.4 may not be combined to yield a larger amount of leave than the state or federal maximums and may not be combined to exceed the maximum one year period of parental leave provided by the City of Berkeley.

7.6 Military Leave

Employees will be granted a leave of absence without pay with appropriate seniority, pay, status and vacation as required by law for the purpose of fulfilling any required military obligation.

ARTICLE 8 - EMPLOYEE FRINGE BENEFITS

8.1 Group Medical-Dental Insurance Benefits

Benefitted employees and their dependents may participate in the City's group medical and dental benefits, which are summarized in the Appendix.

8.1.1 **Part Time Employment:** All benefitted employees who work a minimum of twenty hours, but less than forty hours per week, qualify to receive prorated health and dental benefits and shall pay a pro rata portion of the health and dental insurance premiums. Full time career employees who accept part time employment in lieu of layoff shall continue to receive full health and dental benefits paid by the City.

8.1.2 **Medical Plan for Part-Time Employees:** Effective November 1, 2016, the City will pay 75% of the cost of the medical plan which is fully paid for full-time employees for those benefitted part-time employees who work twenty (20) to twenty-nine (29) hours per week. The City will pay 100% of the cost of the medical plan which is fully paid for benefitted full-time employees for those part-time employees who work thirty (30) or more hours per week.

8.1.3 **Medical Contribution Executive Managers:** Effective July 1, 2019, the City Manager, Deputy City Manager, and all department heads shall pay fifty dollars (\$50.00) per month via pre-tax payroll deduction toward their health premium, and the City will pay an amount equal to the balance of the Kaiser monthly premium rate for the employee's applicable single, two-party, or family employee category.

8.2 Life Insurance

The City provides basic group life insurance coverage by a carrier of the City's choice to all benefitted employees and pays the full amount of the life insurance coverage. The City also provides the option to benefitted employees to purchase additional coverage, at their own expense. A summary of the terms of the life insurance coverage is in the Appendix.

8.3 Hourly Rated Employees in Lieu of Benefits

Except for employees in the Aquatics Specialist II and Senior Aquatics Specialist classifications, the Salary Resolution shall provide that hourly-rated employees working in career benefitted classifications will receive an additional seven percent (7.0%) in lieu of benefits.

8.4 Public Employees Retirement System:

8.4.1 **Participation:** The City shall continue to participate in the Miscellaneous Employees Plan, the Safety Fire Plan and the Safety

Police Plan of the California Public Employees Retirement System ("CalPERS"). All benefitted employees shall participate in one of these plans.

8.4.2 **"Classic Employees" Definition:** Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

8.4.3 **CalPERS Retirement Formula for Miscellaneous Employees "New Members" as Defined under PEPRA:** Miscellaneous Employees "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2% at age 62 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.4 **CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees:** Effective January 1, 2003, the City amended its Miscellaneous Employees Plan contract with CalPERS to provide the 2.7% at age 55-retirement formula benefit improvement and the City's contribution to CalPERS on behalf of Miscellaneous employees increased from 7% to 8%. Effective July 3, 1994, contributions made pursuant to this Section shall be reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The contributions in Section 8.4.4 (CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees) shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked or for other differentials; nor shall such contributions be taken into account in determining the level of any other benefit which is a function of or percentage of salary.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this Section or any penalty that may be imposed therefore.

8.4.5 **Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment**

- 8.4.5.1 **June 4, 2017:** Effective June 4, 2017, Miscellaneous employees will contribute one percent (1%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.
- 8.4.5.2 **December 31, 2017:** Effective December 31, 2017, Miscellaneous employees will contribute an additional seven percent (7%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions on a pre-tax basis, for a total of eight percent (8.0%), via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions. The parties recognize that the Employer Paid Member Contributions (EPMC) shall remain in effect as long as the CalPERS amendment stays in effect.
- 8.4.5.3 If legislation is enacted requiring employers under the CalPERS retirement system to pay all of the employee's share of retirement, thus eliminating the Employer Paid Member Contribution, the City may convert the employee's contribution to the employer's share under this Section 20516 CalPERS contract amendment to the employee's share toward retirement and may continue to pay the 5.58% wage increase provided on December 31, 2017 associated with the CalPERS swap for Miscellaneous Classic Employees.

8.4.6 **Miscellaneous New Members' Pension Contribution**

- 8.4.6.1 Miscellaneous New Members as defined in the California Public Employees' Pension Reform Act of 2013 (PEPRA), shall continue to pay 50% of the Normal Cost required under PEPRA.
- 8.4.6.2 **June 4, 2017:** Effective June 4, 2017, in addition to the contribution in Section 8.4.6.1, Miscellaneous New Members shall contribute one percent (1.0%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allow such contributions as pre-tax via automatic payroll deduction. Such employee deductions by the City shall be used toward the City's CalPERS required contributions.
- 8.4.6.3 **December 31, 2017:** Effective December 31, 2017, in addition to the contributions in Sections 8.4.6.1 and 8.4.6.2 above,

Miscellaneous New Members shall contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions as pre-tax, for a total of eight percent (8.0%) via automatic payroll deduction. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

8.4.6.4 Miscellaneous New Member contributions in Sections 8.4.6.2 and 8.4.6.3 to the CalPERS 20516 employee contributions towards the employer rate are in addition to the required 50% of the normal share of cost of "New Members" (required pursuant to PEPRA). ~~B~~benefits and made in consideration of additional salary increases effective June 4, 2017 and December 31, 2017 and set forth in the Salary Resolution (a total of 5.58% in exchange for employees paying an additional eight percent (8.0%) towards CalPERS pension costs).

8.4.6.5 Miscellaneous New Member contributions in Sections 8.4.6.2, 8.4.6.3, and 8.4.6.4 to the CalPERS 20516 employee contributions towards the employer rate will be amended and reduced as follows:

8.4.6.5.a

- FY2021-22: 1% (Effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% effective July 1, 2022
- FY2023-24: 1% effective July 1, 2023
- FY2024-25: 2% effective July 1, 2024
- FY2025-26: 2% effective July 1, 2025
- FY 2026-27: 1% effective July 1, 2026

8.4.6.5.b No change to Classic members' contributions during the contract term.

8.4.7 **Public Safety CalPERS Retirement Formula for "New Members" as Defined Under PEPRA:** Public Safety "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2.7% at age 57 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.8 **Public Safety Classic Employees CalPERS Retirement Formula:** The City agrees to provide the 3% at age 50-retirement formula benefit improvement (December 22, 2000 for Classic Fire Safety; and July 7, 2002 for Classic Police Safety hired prior to December 28, 2011).

For Classic Police Safety Employees hired on or after December 28, 2011, the City provides the 3% at age 55-retirement formula benefit.

- 8.4.9 **Public Safety Fire Classic Employees' CalPERS Pension Contribution:** On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Fire Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Cost Share: Effective November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Public Safety Fire Classic Employees shall contribute two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

- 8.4.10 **Public Safety Police Classic Employees' CalPERS Pension Contribution:** On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Police Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Effective January 3, 2016, Police Public Safety Classic Employees shall contribute one percent (1%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety Classic employees shall contribute an additional one percent (1%), for a total of two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

- 8.4.11 **Public Safety Fire New Members CalPERS Pension Contribution:** Public Safety Fire New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost as required pursuant to PEPR.

Cost Share: Effective November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Fire New Members shall also contribute an additional two percent (2%) of pensionable compensation, in addition to the PEPR mandated 50% of

the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis

- 8.4.12 **Public Safety Police New Members CalPERS Pension Contribution:** Public Safety Police New Members New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost required by PEPRRA.

Cost Share: Effective January 3, 2016, Public Safety Police New Members shall also contribute one percent (1%) of pensionable compensation (in addition to contributing 50% of the normal share of cost) towards the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety New Members shall contribute an additional one percent (1%), for a total of two percent (2%), in addition to the PEPRRA mandated 50% of the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis.

- 8.4.13 **CalPERS Options Available to Berkeley Employees:** The City's contract with CalPERS includes the following optional benefits:

- a) Classic Employees Only - One-Year Final Compensation as provided in Section 20042 (July 9, 1978 for Miscellaneous; July 22, 1976 for Fire and Police).
- b) Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).
- c) Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).
- d) Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).
- e) 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).
- f) Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

- g) Fourth Level of 1959 Survivor Benefits as provided in Section 21574 for Police Safety only (October 15, 1998).
- h) Military Service Credit as Public Service as provided in Section 21024 (April 9, 1999 for Miscellaneous; July 14, 2000 for Fire; November 6, 1998 for Police).
- i) Public Service Credit for Peace Corps or America Corps: Vista Service as provided in Section 21023.5. (April 14, 2000).
- j) Classic Fire - 3% @ 50 for Local Safety Members as provided in Section 21362.2 for Fire members only, (December 22, 2000); and for Police members only (July 7, 2002.).
- k) Classic Police Hired Prior to December 28, 2012: 3% @ 50 for Local Safety Classic Members as provided in Section 21362.2 for Police members only (July 7, 2002).
- l) Classic Police: 3% @ 55 for Local Safety Classic Members as provided in Section 21363.1 for Police members only (December 28, 2012).
- m) Classic Miscellaneous: 2.7% at age 55 for miscellaneous members as provided in Section 21354.2 on January 5, 2003.
- n) New Members Miscellaneous: 2% at age 62 for Miscellaneous New Members as defined by PEPRA on January 1, 2013.
- o) New Members Police and Fire: 2.7% @ 57 for Local Safety New Members as defined by PEPRA (January 1, 2013).
- p) Indexed Level of 1959 Survivor Benefits as provided in Section 21574.5 for Fire Safety only (June 13, 2003).

8.4.14 **Unused Sick Leave Conversion:** The conversion of unused sick leave to CalPERS Retirement Credit for Unused Sick Leave under Government Section 20965 shall be made available to qualified retiring employees. This allows employees to convert unused accumulated sick leave at time of retirement, for which the employee receives no compensation, to additional service credit at the rate of 0.004 year of service credit for each day. This credit applies to qualified employees whose effective date of retirement is within four months of separation

from employment. The CalPERS sick leave conversion applies to accumulated sick leave, exclusive of the amount of accumulated sick leave paid out to the employee pursuant to Section 4.11 (Accrued Sick Leave Cancellation Upon Termination), of this Manual.

- 8.4.15 **Retirement Benefit Allowance:** CalPERS retirement benefits are calculated on a formula based on the participating employee's years of service, age at retirement, and percentage of highest year compensation. For employees participating in the Local Miscellaneous Employees Plan, the percentage is 2.7% at age 55 effective January 5, 2003. For Classic Employees participating in the Fire Safety Employees Plan, the percentage is three percent (3%) at age 50 effective December 22, 2000. For Classic Employees participating in the Police Safety Employees Plan, the percentage is three percent (3%) at age 50 effective July 7, 2002. For Classic Employees participating in the Police Safety Employee Plan effective December 28, 2012, the percentage is three percent (3%) at age 55.

8.5 Supplementary Retirement and Income Plans

In lieu of participating in the Federal Social Security Program, the City provides a supplemental retirement and income plan to most benefitted employees. There are three supplementary retirement and income plans: Supplementary Retirement and Income Plans I, II and III ("SRIP I, II and III"). The City's contributions to these plans on behalf of participating employees is not subject to income tax until it is paid out to the employees upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

- 8.5.1 **SRIP I:** In SRIP I, the City contributes 5.7% of the participating employee's salary (up to a maximum annual salary of \$32,400) into an investment account and 1% into a long term permanent disability plan. SRIP I was closed to new participants on July 22, 1988.
- 8.5.2 **SRIP II:** In SRIP II, the City contributes 6.7% of the participating employee's salary (up to a maximum annual salary of \$32,400) into an investment account and pays into a disability insurance benefit plan on the employee's behalf; and employees may also borrow up to 50% of the balance in their SRIP II investment accounts, subject to certain limitations. All employees, including the Fire Chief, hired (or who are subsequently enrolled by resolution of the City Council) after July 22, 1988 are automatically enrolled in SRIP II.

The Deputy Fire Chief is enrolled, effective July 1, 1993.

- 8.5.3 **SRIP III:** For eligible Police Safety employees, the City contributes 2% of the employee's salary (up to a maximum annual salary of \$32,400) into the investment account, SRIP III.

8.6 Deferred Compensation

Benefitted City employees are eligible to participate in the City's Deferred Compensation Plan through voluntary payroll deductions from the employee's salary. The Deferred Compensation Plan allows employees to defer part of their salaries, in accordance with Internal Revenue Service limits, to a separate fund, which is not subject to income tax until it is paid out to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.7 PARS

At-will employees who are not eligible to receive fringe benefits under this chapter are automatically enrolled in the Public Agency Retirement System ("PARS"). Each pay period, such employee shall contribute 3.75% of his or her salary into the employee's PARS account on a tax deferred basis and the City shall contribute a matching amount equaling 3.75 % of the employee's salary. The employee's PARS account balance will be distributed to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.8 Public Safety Uniform Allowance

Due to the requirement for sworn fire and police department management personnel to wear standard and dress uniforms in the performance of their duties, the City Manager may provide for the payment of uniform allowance, in keeping with the allowance provided to other fire and police personnel, as shown in the Appendix. The uniform allowance is intended to cover uniform expenses incurred during active service prior to the payment and shall be paid semi-annually, in installments of equal amounts. To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

8.9 Supplemental Retirement Plan and Trust Agreement

Effective July 1, 2001, the City adopted a Supplemental Retirement Plan and Trust Agreement to provide supplemental retirement income and other benefits for eligible unrepresented career benefitted and regular at-will employees through the liquidation of termination pay. Termination pay means pay due to an eligible unrepresented career benefitted and regular at-will employee from the City on account of termination of his or her employment, but only including the commuted value of the following such accumulated pay: vacation, sick leave, sick leave bonus, compensatory time and floating holidays. The Supplemental Retirement Plan includes both mandatory contributions of termination pay and voluntary contributions for employees who provide the City with an irrevocable payroll deduction authorization at least 90 days in advance of the date of termination.

ARTICLE 9 - EMPLOYMENT AT-WILL

9.1 Employment At-Will

An employee who is employed in a position that is excluded from the career service by Berkeley Municipal Code Section 4.04.120 of the Personnel Ordinance is employed by the City in an "at-will" status. This means that both the at-will employee and the City have the right to terminate employment at any time, with or without advance notice, and with or without cause. No employee or officer of the City of Berkeley has the authority to alter the employee's at-will status or to enter into an oral or written agreement for employment for a specified period of time, or to make any promises, assurances or agreements contrary to this the provisions of this Section.

9.2 No Right to Appeal Discharge

An at-will employee who is discharged has no right of appeal or hearing in any manner provided by this Manual.

9.3 Benefits

Those offices, positions and employments named in the Berkeley Municipal Code, Sections 4.04.120 (A), (B) and (C) who regularly work twenty or more hours per week are classified as regular at-will employees and shall be entitled to those benefits as specified for benefitted employees by this. A list of regular at-will positions entitled to receive such benefits is in the Appendix.

All other offices, positions and employments named in the Berkeley Municipal Code, Section 4.04.120, are not eligible for any benefits provided under these Rules, except those expressly specified for temporary employees, such as the Earned Leave benefit or those required by State or Federal law such as Family Care Leave and enrollment in the City's PARS retirement plan, as provided in this Manual.

9.4 Standards of Conduct

At-will employees are subject to the same standards of conduct that prevail over employees in the career service. Any evaluations, warnings or disciplinary action provided to at-will employees regarding their conduct or job performance does not create any obligation or duty on the City's part to provide a warning or evaluation or corrective progressive discipline prior to discharge and in no way negates or otherwise abrogates the City's right to discharge at-will employees for any reason without notice at any time during their employment and without right of appeal.

9.5 Transfer or Appointment of Career Employee to an At-Will Position

Any employee in the career service who accepts a transfer or appointment to an at-will position shall be reinstated to the career position from which he or she was transferred or appointed if within six months after such transfer or appointment, action is taken to dismiss the employee, unless charges are filed and the employee

is discharged in accordance with these Rules. After expiration of the six month period, the employee is excluded from the career service and from any retreat rights to former career positions and is subject to termination at any time, with or without advance notice, with or without cause, and without the right of appeal.

ARTICLE 10 - LAYOFF POLICY AND PROCEDURE

10.1 Statement of Intent

This layoff policy is intended to provide the maximum employment protection to employees in the career service and to minimize the impact on the City's affirmative action accomplishments should a layoff become necessary.

10.2 Announcement of Layoff

The City Council, City Manager and department heads shall make every reasonable effort to manage and budget the City's resources effectively, and to plan for the delivery of City services in a manner which will avoid the necessity to lay off career City employees. A reduction in the workforce for more than thirty calendar days is necessitated by, but not limited to, the following a material change in duties and organization, adverse working conditions, return of employee from leave of absence, or shortage of work or fund. In the event of a layoff, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

10.3 Vacancy Freeze

Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the career service in similar and related classes to those likely to be targeted for layoff. The City Manager shall notify the department heads of a freeze of vacancies in their departments and shall require that requisitions continue to be submitted for any budgeted positions which the department head intends to fill and for which funding is available.

10.4 Seniority Service Date

All service in the employ of the City shall be counted toward the establishment of an employee's Seniority Service Date, including permanent, probationary, provisional, temporary, part time (on a prorated basis), seasonal, regular at-will employment, and approved military and parental leaves of absence. All other leaves without pay, including time off as a result of formal disciplinary action will be subtracted from the Seniority Service Date.

10.5 Establishment of Seniority Lists

Layoffs shall be made according to City-wide class Seniority Lists which the Human Resources Department will immediately establish for probationary and permanent employees in each class targeted for layoff. The names of all City employees holding permanent and probationary appointments in a given class will be listed on the appropriate list in descending order by Seniority Service Date.

Probationary or permanent employees temporarily acting out of class and holding a provisional appointment in another class will be listed on the Seniority List of the class in which they hold permanent or probationary status.

10.6 Order of Layoff

Employees within a specific class shall be laid off on the basis of their Seniority Service Date; i.e., employees with the least amount of total service shall be laid off first. All emergency, temporary and provisional employees working in classes similar to those identified for layoff must be terminated prior to the layoff of probationary and permanent employees. Probationary employees will be laid off prior to permanent employees for a specific class.

10.6.1 **Tie:** If two or more employees on a Seniority List have an identical Seniority Service Date, the tie shall be broken in the following order: (1) time in class--the employee having least time in the class shall be laid off first, and (2) by lot.

10.6.2 **Administrative & Fiscal Services Manager Position in the Berkeley Public Library:** This is a specialty designated position within the Administrative & Fiscal Services Manager classification, and will be treated as a separate classification for the purpose of administering the Layoff Policy and Procedure.

10.7 Notification

Permanent and probationary employees should be notified individually, in writing, of pending layoffs as soon as possible, with no less than thirty calendar days notification if targeted for termination or retreat to a lower class.

All other employees to be laid off shall be given, whenever possible, at least a fourteen (14) calendar day prior notice.

10.8 Employee Retreat Rights

A probationary or permanent employee affected by layoff shall have the right to displace an employee in a lower level class in which the affected employee once had permanent status or in a subsequently created intermediate level career class which provides normal progression through the class series. Retreat rights shall also extend to employees who have not previously been promoted through a class but for whom the class is a natural progression or beginning in the class series. Retreat rights into a lower class will be granted in order of the highest seniority date on the Seniority List for employees in that class.

10.8.1 **Qualified to Retreat into More than One Classification:** When an employee is qualified to retreat into more than one class, the options shall be discussed with the employee and due consideration given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee

10.8.2 **Salary Step:** Employees retreating to a lower class or being flexibly placed in a similar class shall be placed at the salary step representing

the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

- 10.8.3 **Reinstatement after Transfer:** An employee whose position is abolished and is transferred in lieu of layoff shall have the right to return to the position if it is restored within one year of the date of the transfer.

10.9 Flexible Placement Program

After all frozen vacant positions have been filled by employees entitled to retreat rights under Section 10.8 (Employee Retreat Rights) of this chapter, the Human Resources Department will review and identify the remaining frozen vacant classes into which career employees targeted for layoff who have not retreated into a lower class may be placed on the basis of total experience and education.

- 10.9.1 **Failure to Meet Minimum Requirements:** Where the targeted employee does not meet the minimum qualifications of a frozen vacant position, the City Manager has the discretion to either waive the minimum qualifications and/or substitute the targeted employee's job-related experience and education for the minimum qualifications, but under no circumstances is the City Manager required to do so. Where the employee does not meet the minimum qualifications, flexible placement can occur only if the City Manager determines that management and supervisory personnel are able to provide adequate supervised on-the-job training to the employee to meet the requirements of the job. The employee must successfully complete the training within six months as determined by the Director of Human Resources or the employee shall be again subject to the layoff procedures.
- 10.9.2 **Salary Range:** Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off.
- 10.9.3 **Order of Assignment:** Offers to positions under the Flexible Placement Program shall be made according to the employee's standing on the Seniority List.

10.10 Failure to Accept Offer under Layoff

Failure on the part of an employee to accept a written bona fide offer to retreat to a lower class or be flexibly placed in an alternative job within ten calendar days after the offer is made shall result in forfeiture of any further right to employment retention. Acceptance of a reassignment to a lower class does not remove the employee's right of appeal under Section 10.12 (Appeal Procedures) nor does acceptance of an alternative job under the Flexible Placement Program jeopardize an employee's standing on the re-employment lists as further provided in this Section 10.10 (Failure to Accept Offer under Layoff).

10.11 Re-Employment List

The names of probationary and permanent employees laid off in accordance with this chapter shall be entered on a re-employment list for both those classes from which they were separated as well as other classes to which they have retreat rights.

- 10.11.1 **Duration of List:** Re-employment lists for laid off employees who are separated from City service shall remain in effect for three years. Re-employment lists for laid off employees who are demoted shall remain in effect indefinitely.
- 10.11.2 **Use of List:** Re-employment lists shall be used by each department when a vacancy arises in the same or lower class of position before certification is made from an eligible list.
- 10.11.3 **Order of Appointment:** Employees on the re-employment list shall be certified and appointed to a vacancy in the appropriate class according to their standing on the Seniority List.
- 10.11.4 **Failure to Appoint from Re-Employment List:** If a vacancy is filled from an eligible list in a class for which a re-employment list exists which is a violation of this Section, the employee on the re-employment list who should have been appointed shall be appointed to the vacancy and paid retroactively from the date the vacancy occurred.
- 10.11.5 **Failure to Accept Bona Fide Offer:** Failure on the part of the employee on the re-employment list to accept a bona fide written offer of re-employment within fifteen calendar days will result in removal of the employee's name from the re-employment list from which the offer was made. Failure to accept an offer of re-employment to the class with the highest salary range for which the employee is eligible for re-employment will result in automatic removal of the employee's name from all re-employment lists. The employee may, however, accept or decline temporary re-employment without jeopardizing his or her standing the re-employment list for the class from which he or she was originally terminated.
- 10.11.6 **Salary Step:** Upon reappointment to the class from which the employee was originally separated or demoted, the employee shall be placed at the salary step that the employee held at the time of the separation or demotion.
- 10.11.7 **Reinstatement List:** Any former employee on a re-employment list shall be included as an eligible on the reinstatement list for a specific class at or below the class from which layoff occurred, upon written request by the employee for reinstatement which is submitted with a current, completed City of Berkeley application and upon meeting the

minimum qualifications of the specific class unless waived by the City Manager as provided under flexible placement.

10.12 Appeal Procedures

The decision of the City Manager to implement a layoff is not appealable. Any unrepresented career employee who believes that the layoff procedure, as defined herein, has been improperly administered as to the employee may appeal the action under the Complaints, Appeals and Hearing Procedure of this Manual. Employees are entitled to review all records pertaining to their class and their rights under the provisions of the layoff policy.

10.13 Audit

In the event of a dispute between an employee and the City over the application of the re-employment list and if either party so requests, the City Manager's Office shall order an audit by an outside auditor of all vacant positions filled in each department to determine whether vacancies were filled in compliance with the procedures for appointments from re-employment lists set forth in Section 10.11 (Re-Employment List) of this Manual. In the event vacancies for which re-employment lists were in existence remain unfilled, the auditor shall offer an opinion as to whether or not the reasons for leaving the positions vacant appear to be legitimate. A report of the audit shall be transmitted to the City Manager and the City Council.

ARTICLE 11 - DISCIPLINARY ACTION

11.1 Policy

Prior to the suspension, disciplinary demotion or discharge of an employee in the career service for disciplinary purposes, the procedure set forth in this Article 11 (Disciplinary Action) shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to the notice, rights and procedures provided under Section 11.3 (Disciplinary Actions).

11.2 Final Decision Maker for Disciplinary Action

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

11.3 Disciplinary Actions

The department head shall initiate disciplinary procedures, as set forth here. The department head may suspend a subordinate employee for not more than three working days at any one time. For suspensions of more than three days, disciplinary demotions and discharge, the department head shall make a recommendation to the final decision-maker. The final decision-maker may suspend an employee from a position at any time for cause. Suspension without pay shall not exceed thirty working days, nor shall any employee be penalized by suspension for more than thirty working days in any continuous twelve month period. However, FLSA exempt employees shall not be suspended in less than regular workweek increments except for safety or security violations. A "regular workweek" is defined elsewhere by this Manual.

11.4 Written Reprimands for Fire Safety Employees

Consistent with the Firefighter Bill of Rights Act, the Deputy Fire Chief receiving a written reprimand shall have the right to a non-evidentiary administrative appeal to the Fire Chief or Fire Chief's designee. The employee must request an administrative appeal in writing to the Fire Chief within ten (10) working days of receipt of the written reprimand. Failure to do so shall be deemed a waiver of the employee's right to appeal. The Fire Chief or Fire Chief's designee shall have discretion regarding how the appeal meeting is conducted, including whether and the extent to which witnesses other than the employee and employee's representative are required and may participate. The Fire Chief or Fire Chief's designee shall notify the employee of his or her decision within ten (10) working days of the appeal meeting. An employee and the Association have no further right to appeal or grieve a written reprimand beyond the administrative appeal described in this paragraph.

11.5 Written Reprimands for Non- Safety Employees

In the event that an employee receives a written reprimand, the employee may write a rebuttal within thirty (30) calendar days of receiving the written reprimand and such rebuttal will be placed in the Personnel File along with the written reprimand. Employees have not right to appeal or grieve a written reprimand.

ARTICLE 12 - COMPLAINTS, APPEALS AND HEARINGS

12.1 Policy

The procedure for filing complaints and appeals by employees set forth under this Article 12 shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to file complaints with the City and appeals to the Personnel Board pursuant to the provisions of this Manual.

12.2 Final Decision Maker for Purposes of this Article

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

12.3 Complaints

Disciplinary action shall be taken in accordance with Article 11 (Disciplinary Action) of this Manual. All other complaints by employees, except complaints about compensation, which allege a violation of the Personnel Ordinance or this Manual shall be filed through proper channels, commencing with the department head, and then to the final decision maker.

12.3.1 **Compensation Complaints:** All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. The Director of Human Resources shall respond in writing within thirty (30) working days. If the complaint has not been resolved within thirty (30) working days of filing with the Director of Human Resources, the complaint may be moved to the final decision maker. Only complaints, which allege that employees are not being compensated in accordance with the policies, rules and resolutions of the City Council, shall be considered as complaints under this Section. No compensation adjustment shall be retroactive for more than thirty calendar days from the date upon which the complaint was filed or thirty calendar days from the date when an employee may reasonably be expected to have learned of the claimed violation.

Appeal: If the grievant is not satisfied with the decision of the Director of Human Resources or his or her designee, the grievant may move the complaint to the final decision maker within ten (10) days of receipt of the decision rendered under Section 12.3.1 above. Failure by the employee to file an appeal within the specified time limits specified constitutes a dropping of the complaint. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.

12.3.2 **Discrimination Complaints:** An employee may file a complaint concerning a violation of the "FAIR EMPLOYMENT" provision specified by the rules of this Manual, and the complaint shall be processed in accordance with the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley EEO/Affirmative Action Program, as established in Resolution No. 54,926-N.S., as amended from time to time.

12.4 Right of Appeal

An aggrieved employee shall have the right to appeal the decision of the final decision-maker regarding the aggrieved employee's disciplinary dismissal, demotion, suspension or complaint to the Personnel Board except in instances where the right to appeal is prohibited by the Personnel Ordinance or the provisions of this Manual.

12.5 Method of Appeal

Appeals to the Personnel Board shall be in writing, signed by the aggrieved employee and filed with the Director of Human Resources within ten calendar days after the action is imposed. The appeal shall be a written statement, addressed to the Chair of the Personnel Board, explaining the matter appealed from and setting forth a statement of the action desired by the aggrieved employee, supported by his or her reasons. The Director of Human Resources shall, within ten calendar days after receipt of the appeal, inform the Chair of the Personnel Board, the City Manager and the affected department head of the filing and contents of the appeal with the Board.

12.6 Investigations and Hearings

Upon receipt of any appeal, the Personnel Board shall make such investigation, as it may deem necessary.

An aggrieved employee who has been demoted for a disciplinary purpose, suspended or discharged is entitled to a hearing upon appeal before the Personnel Board. As to all other appeals, the Personnel Board may grant a hearing or decide the appeal without a hearing as it may deem warranted.

12.7 Hearing Procedures

In cases where the employee is entitled to a hearing as a matter of right and in other cases whenever the Board may deem it advisable to hold a hearing, these procedures shall apply.

12.7.1 **Notice:** The Personnel Board shall schedule a hearing on the appeal within forty-five calendar days from the date of the filing of an appeal. The Director of Human Resources shall notify all interested parties of the date, time and place of the hearing at such places as the Personnel Board shall prescribe.

12.7.2 **Hearing Procedure:** The aggrieved employee shall appear personally unless physically unable to do so before the Personnel Board at the time and place of the hearing. The aggrieved employee may be represented by any person or attorney as may be selected and may at the hearing produce relevant oral or documentary evidence. The party who has the burden of proof shall state the case first after which opposition matter may be presented. Rebuttal matter that is not repetitive may be allowed at the discretion of the Personnel Board. Cross-examination of witnesses shall be permitted. Hearings need not be conducted according to technical rules relating to evidence and witnesses, but shall be conducted according to any rules of applicable procedures. Hearings shall be closed unless otherwise required by the Ralph M. Brown Act, Government Code Section 54950, as amended from time to time, or any other applicable law.

12.8 Findings and Recommendations

The Personnel Board shall, within thirty calendar days after the conclusion of the hearing, or if no hearing was conducted, within thirty calendar days of its decision, certify its findings and recommendation(s) in writing to the aggrieved employee and to the final decision-maker. The final decision maker shall review the findings and recommendation(s) of the Personnel Board and may then affirm, reject or modify the Personnel Board's findings and recommendation(s) as, in his or her judgment, seems warranted, and the final decision maker's decision shall be final. Any member of the Personnel Board may submit a minority or supplemental report which shall be attached to the findings and recommendation(s) of the Board.

APPENDIX

This Appendix contains detailed information regarding benefits and compensation which covers unrepresented benefitted employees. It is appended to the Unrepresented Employee Manual but the contents are not part of the resolution establishing the Unrepresented Employee Manual and may be changed to reflect changes in benefit details, as approved by the City Council by resolution.

13.1 Administrative Leave

Employees who are in career, benefitted, or at-will benefitted classifications which are FLSA Exempt may be approved by the City Manager to receive up to an additional 50 hours of compensated administrative leave beginning on January 1, 2016, and at the beginning of each calendar year thereafter, or prorated during the course of the year when employed less than a full year. This administrative leave is granted to employees whose job responsibilities cause them to work numerous hours in excess of the normal City workweek. The City Manager has the authority to rescind administrative leave in those instances of abuse or misuse of the intent of this provision.

Administrative leave taken must be approved in advance by the department head and posted to the employee's timecard. Unused administrative leave may be carried over to the next calendar year, providing the total of excess vacation and unused administrative leave do not exceed 320 hours. Otherwise, the excess administrative leave must be taken within the calendar year in which it was earned or it may be forfeited. Upon termination or retirement, no monetary award will be authorized for unused accumulated administrative leave.

13.1.1 Prorated Administrative Leave: A benefitted employee who is otherwise eligible for overtime and who is on a temporary or provisional benefitted appointment in an FLSA Exempt classification for a period of one month or longer, and is ineligible to earn overtime, shall be entitled to prorated Administrative leave for the duration of the temporary or provisional appointment. Any unused administrative leave at the end of the temporary or provisional appointment will roll into vacation, provided the total of accrued and unused vacation and accrued administrative leave do not exceed 320 hours.

13.2 Automobile Allowance

The City reimbursement rate for the use of a private automobile on authorized City business will be equal to the amount established by the Internal Revenue Service.

13.3 Bilingual Premium Pay

13.3.1 As Part of Regular Job Assignment: An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, routinely and consistently as part of his or her regular job assignment as determined by the City

will receive a Bilingual Premium Pay Differential of 5%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 5% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

- 13.3.2 **Occasional Assignments:** An employee assigned occasionally to provide non-English language services, including Braille and sign language, when either a) assigned by management, or b) at the request of the employee with the supervisor's agreement, or, c) after a job audit will receive a Bilingual Premium Pay Differential of 2%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 2% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.
- 13.3.3 **Competency and Management Rights:** The bilingual premium will not be applicable under any circumstances except to an employee who possesses second language competency. Management reserves the right to test for second language appropriate competency prior to a Bilingual Premium Pay Differential.
- 13.3.4 **Temporary Designation:** The City may designate an employee to receive either the 5% or 2% Bilingual Premium Pay Differential on a temporary basis for a specified period provided the employee met the requirements contained in the first or second paragraph of this Section.

13.4 Cash-In-Lieu Payments

For those employees who are able to show proof of ongoing alternate medical coverage, the City will compensate employees \$560.00 per month, prorated for less than full-time employees. This benefit shall be frozen at this amount. To comply with FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments instead of once a month.

13.5 Dependent Care

Employees shall be allowed to designate a specific amount of salary, consistent with State and Federal tax laws, to be redirected to pay for dependent care costs through pre-tax salary deductions. The amount of funds designated should be considered carefully, because under the current tax code, any unexpended funds which have not been spent for the specific purpose of paid dependent care and remain in the employee's account at the end of the year, will be forfeited.

13.6 Life Insurance

The City shall provide paid group life insurance, by a carrier of the City's choice, in the amount of \$25,000 which shall include a standard accidental death and dismemberment provision of a like amount. Employees in the classification of Police Chief and Fire Chief shall be provided with life insurance in the amount of \$100,000, which shall include a standard accidental death and dismemberment provision of a like amount. Life insurance shall become effective the first day of the calendar month following appointment, and shall continue until the last day of the calendar month in a pay status.

In addition, all unrepresented benefitted employees may purchase additional coverage, in increments of \$10,000, up to a maximum of \$300,000, at the rate offered by the City's insurance carrier, subject to any rules and restrictions of the carrier, including but not limited to any medical exam that might be required by the insurance carrier.

13.7 Medical/Dental Insurance for Employees/Dependents

Except as provided in Section 8.1 (Group Medical-Dental Insurance Benefits), the City offers fully paid and/ or partially paid health insurance plans and a fully paid dental plan for the employee and eligible dependents, including a domestic partner. The dental plan currently provides orthodontic coverage for the employee's dependent children through age 26 and 90% of the Bay Area Usual, Customary and Reasonable charges. Effective January 1, 2007, the maximum annual coverage will be \$2,000 annual coverage, and \$2,000 lifetime orthodontia limit. Any employee, who is required to partially pay premiums, shall be allowed to make these payments with pre-tax deductions. The medical and dental benefit coverage for dependent children extends to the date of their 26th birthday, providing they meet the Internal Revenue Service definition of "dependent". If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for medical benefits and/or dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

Medical and dental benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status, except in the case of parental and Family and Medical Leave Act, as described in the Administrative Regulation No. 2.4. Maximum annual coverage amounts are found in the Employee Benefits Handbook.

- 13.7.1 **Dental Coverage for Fire Management:** Effective January 15, 2015, employees in the classification of Fire Chief and Deputy Fire Chief, shall be provided with dental insurance with an annual maximum coverage of \$3,000 and lifetime orthodontia limit of \$3,000.

13.8 Retiree Medical Plan

The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

13.9 Amendment of Retiree Health Premium Assistance Plans I and II, effective June 28, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after June 21, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City will also amend the Retiree Premium Assistance Plans I and II to allow eligible retirees who retired prior to June 21, 2015 to enroll in a non-City sponsored health plan.

13.10 Retiree Medical for Unrepresented Benefitted Employees

Effective June 28, 1998, the City will provide the retiree medical coverage set forth below for all unrepresented benefitted employees, except employees in the classifications of Police Chief, Fire Chief, and Deputy Fire Chief (see separate plans below). An employee's entitlement to any and all benefits provided by the City under this retiree medical plan is subject to the funding limitations set forth in the plan document.

- 13.10.1 Eligibility and Percentage of City Contribution:** An employee is eligible for the retiree health insurance coverage as set forth in Sections 13.10.3 (Pre Age 65 Retiree Health Insurance) and 13.10.4 (Retiree

Benefits for Employees Age 65 or Over) below if he or she meets all the following criteria:

- a. retires from career service on or after June 28, 1998;
- b. is vested with CalPERS;
- c. has at least eight (8) years of CalPERS qualifying service with the City; and
- d. is at least age 55.

An “Eligible Retiree” also includes individuals who meet the definition as set forth in Section 2.11.1 of the Retiree Health Premium Assistance Plan I for Confidential and Executive Management Employees (Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials) Restated and Amended effective as of March 22, 2011 (Resolution No. 65,196-N.S.) for “Eligible Retiree.”

Percentage of City Contribution: The actual monthly amount of money the City will contribute on the employee’s behalf will be based on the employee’s total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percentage of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

- 13.10.2 **Annual Increase:** Retirees will pay the difference between the City’s monthly contribution and the actual monthly medical insurance premium charged by the health plan he or she has elected for retiree medical coverage. If the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year’s contribution. No increases in the amount the City contributes shall occur before July 1, 1999. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

- 13.10.3 **Pre Age 65 Retiree Health Insurance:** Beginning June 28, 1998, the City shall make available health insurance coverage to the employee and his or her spouse or domestic partner. The City will pay on the employee's behalf no more than \$166.26 per month for an employee electing single party health coverage and no more than \$332.52 per month for an employee electing two party coverage.
- 13.10.4 **Retiree Benefits for Employees Age 65 and over:** Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his or her eligibility for the retiree medical benefits set forth in Section 13.10.1 (Eligibility) ceases. On reaching age 65, the City will make available health insurance coverage in addition to Medicare. When an employee or retiree reaches age 65, the City will contribute no more than \$16.17 per month on the employee's behalf for single party health insurance coverage and no more than \$32.34 per month for two-party health coverage.
- 13.10.5 **Termination by City of Retiree Medical Benefit:** Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under Section 13.10 (Retiree Medical for Unrepresented Benefitted Employees).
- 13.10.6 **Retiree Medical Benefit for Employees Retiring between the Ages of 50 and 55:** An employee who is at least 50 years of age, but less than 55, has at least eight (8) years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in group health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.
- 13.10.7 **Employees Retiring with a CalPERS Approved Disability Retirement:** If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide

any benefits under this Section to the employee and/or his spouse or domestic partner.

- 13.10.8 **City Funding of Retiree Health Benefit:** City contributions to the retiree medical benefit began on July 1, 1998. Funding of this benefit has been set aside in a trust to be established by the City.

The retiree medical benefit will be funded by a charge of 0.25% of payroll in each year, so that contributions are at 1% of the payroll after four years. The City will fund the benefit at approximately 1% of the payroll for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

Effective July 4, 2004, an additional charge of 0.25% of payroll was charged each year in the subsequent four years so that contributions are at 2% by July 1, 2007. The purpose of this 1% increase in payroll contribution is to fund post age 65 Medicare supplement plans. As a result of this change, the amount the City contributes toward the post-65 Medicare Supplement coverage under the Retiree Health Premium Assistance Plan was \$102 effective July 7, 2002 for all post 65 retirees as well as future retirees.

- 13.10.9 **Retiree Medical Plan for Unrepresented Employees (Rep Units Z-2, Z-3, Z-6):** Eligible retirees who retired from positions in Representation Units Z-2, Z-3 and Z-6 on or after July 1, 2008.

Not Medicare Eligible: Effective July 1, 2008, between the ages of 55 and 65 who retire on or after June 29, 2008 the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by \$50 per month in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2009, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional \$25 per month (i.e., an aggregate \$75 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2011, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional \$25 per month (i.e., an aggregate \$100 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase).

- 13.10.10 **Retiree Medical Plan for Confidential and Executive Management Employees (Rep Unit Z-1; Z-5; Z-7; Z-9; and Elected Officials):** Eligible retirees who retired from positions in Representation Unit Z-1 on or after July 1, 2008.

Medicare and Not Medicare Eligible: Effective June 29, 2008, an additional charge of 0.50% of payroll will be charged so that contributions are at 2.5%. The purpose of this 0.50% increase in payroll contribution is to fund both pre-65 retiree health care premium costs and post age 65 Medicare Supplement plans for eligible retiree who retired from positions in Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials on or after July 1, 2008. As a result of this change, the amount the City contributes toward pre age 65 health insurance premium costs shall increase from \$258.19 per month to \$309.39 per month for single coverage and from \$516.38 per month to \$618.78 per month for 2-party coverage. The City's contribution toward the post-65 Medicare Supplement coverage shall increase from \$132.83 per month to \$184.03 per month for single coverage and from \$265.67 per month to \$368.06 per month for 2-party coverage.

13.11 Reimbursement Plan

After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow for the reimbursement of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both. If there is no spouse or domestic partner at the time of retirement, the City shall only reimburse the single party rate. The reimbursement shall be paid directly to the retiree or surviving spouse or domestic partner. The maximum amount the City will reimburse for the cost of Medical Insurance Premiums is based on the schedule described in Section 13.10.1 (Eligibility and Percentage of City Contribution) above.

13.11.1 Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z-9; and Elected Officials) Who Retire on or After June 28, 1998 through June 30, 2008

13.11.1.1 **Not Medicare Eligible:** For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$166.26 for single party coverage for the retiree or \$332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

- b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total \$338.60 for single party coverage for the retiree or \$677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.1.2 **Medicare Eligible:** For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$16.17 for single party coverage for the retiree or \$32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of July 7, 2002:** Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$102.00 for single party coverage for the retiree or \$204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- c. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$172.98 for single party coverage for the retiree or \$345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.2 **Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z9 and Elected Officials) Who Retire on or After July 1, 2008**

- 13.11.2.1 **Not Medicare Eligible:** For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:
- a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling \$309.39 for single party coverage for the retiree or \$618.78 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
 - b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$405.73 for single party coverage for the retiree or \$811.46 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- 13.11.2.2 **Medicare Eligible:** For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:
- a. **Reimbursement as of July 1, 2008:** Effective July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$184.03 for single party coverage for the retiree or \$368.06 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
 - b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$239.65 for single party coverage for the retiree or \$479.31 for two party

coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3 Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; Z-6) Who Retire on or After June 28, 1998 through June 30, 2008

13.11.3.1 Not Medicare Eligible: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$166.26 for single party coverage for the retiree or \$332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total \$338.60 for single party coverage for the retiree or \$677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3.2 Medicare Eligible: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$16.17 for single party coverage for the retiree or \$32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of July 7, 2002:** Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of

Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$102.00 for single party coverage for the retiree or \$204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

- c. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$180.76 for single party coverage for the retiree or \$361.53 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.4 **Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; and Z-6) Who Retire on or After June 29, 2008**

13.11.4.1 **Not Medicare Eligible:** For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling \$297.08 for single party coverage for the retiree or \$544.16 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of July 1, 2009:** As of July 1, 2009, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), total \$335.45 for single party coverage for the retiree or \$593.64 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- c. **Reimbursement as of July 1, 2011:** As of July 1, 2011, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical

Plan for Unrepresented Employees), total \$391.32 for single party coverage for the retiree or \$673.27 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

- d. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$469.92 for single party coverage for the retiree or \$808.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

3.11.4.2 **Medicare Eligible:** For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of July 1, 2008:** As of July 1, 2008, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$138.81 for single party coverage for the retiree or \$277.62 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$172.98 for single party coverage for the retiree or \$345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.5 **Enrollment in City Group Plans**

Retiring employees may receive continuing health coverage in City sponsored group health plans subject to the limitations and co-pay amounts permitted by the health care providers.

13.12 **Fire Chief and Deputy Fire Chief Retiree Medical Plan**

Internal City of Berkeley candidates who promote and are appointed to the Fire Chief or Deputy Fire Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn fire employees in Representation Unit B.

- 13.12.1 **Retiree Medical Benefits for External Appointments:** External City of Berkeley candidates appointed to the Fire Chief or Deputy Fire Chief classifications shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.13 Retiree Medical for Police Chief Classification

Internal City of Berkeley candidates who promote and are appointed to the Police Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn police employees in Representation Units E and F.

- 13.13.1 **Retiree Medical Benefits for External Appointments:** External City of Berkeley candidates appointed to the Police Chief classification shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.14 Partially Subsidized YMCA Membership

The City currently provides a partially subsidized membership in the Berkeley YMCA for those employees who agree to pay the required monthly fee. Use of a YMCA membership by a City of Berkeley employee, as provided by this provision, is not part of the employee's work related duties, is not required for continued employment and is not considered part of a City sponsored physical fitness program. The City of Berkeley nor its Claims Administrator shall not be liable for any injury that may arise out of a City of Berkeley employee's participation in and use of a YMCA membership. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding.

13.15 Part-Time Employees Eligible for Full Benefits

Those part time employees who have been continuously employed by the City in benefitted part time career positions since prior to July 1, 1977 and who have not accepted a full time career position are eligible to participate in the City's health and dental insurance programs with the City's payment of premiums at the same level as for full time benefitted employees.

13.16 Probationary Periods for Unrepresented Classifications

The competitive appointment to a career classification will include a probationary period during which time the incumbent may be dismissed without right of appeal. The probationary period for unrepresented classifications varies from six (6) months of actual work hours (1040 hours for full time employees and 520 hours for half time) to one year of actual work hours (2080 hours for full time and 1040 hours for half time).

Presently, unrepresented classifications require a six (6) month probationary period except for the following unrepresented classifications which require a one year probationary period:

- (a) All classifications in Unit Z-1 in the career service; and
- (b) All classifications in Unit Z-2 in the career service.

13.17 Public Safety Uniform Allowance

- (a) Fire Uniform Allowance: Effective November 9, 2004, \$1,000 annual allowance. Effective December 1, 2015, \$1,100 annual allowance.
- (b) Police Uniform Allowance: Effective July 7, 2002, \$1,000 annual allowance.
- (c) To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

13.18 Regular “At-Will” Classifications

The following classifications are exempt from the career service and in accordance with the Personnel Ordinance (Berkeley Municipal Code Section 4.04.120), At-Will appointments are eligible to receive benefits:

- All department heads
- Assistant City Manager
- Assistant to the City Manager
- Assistant to the Mayor
- Assistant, Associate and Senior Management Analyst in the City Manager's Department and in the Office of Budget and Fiscal Management
- Budget Manager
- Capital Improvement Programs Manager
- Deputy City Manager
- Economic Development Manager
- Health Officer
- Legislative Assistant
- Police Review Commission Investigator
- Police Review Commission Officer
- Secretary to the Mayor, Administrative Secretary and Secretary in the Mayor's Office
- Supervising Psychiatrist

13.19 City Manager Department Differential

Assistant, Associate and Senior Management Analysts in the City Manager's Department and in the Office of Budget and Fiscal Management shall receive a 5% salary differential.

13.20 Shift Differential

Employees whose regular schedules meet the definition, as specified by Unrepresented Employee Manual Section 1.12 (Shift Differential), for shift differential, for the hours of 5:00 p.m. to 12:00 a.m., shall be paid their regular salary plus seven and one-half percent (7.5%) of their monthly salary per month. Those whose regular schedule meets the definition for shift differential, for the hours of 12:00 a.m. to 7:00 a.m., shall be paid their regular monthly salary plus ten percent (10%) of their monthly salary per month.

13.21 SRIP II Disability Insurance

The City shall pay the premium for the current cost of long term disability insurance for SRIP covered employees who are enrolled in the SRIP II (Supplementary Retirement and Income Plan).

13.22 Vacation Schedules

Unrepresented employees, except those confidential executive, management and professional employees in Section 13.20.1 (Confidential Executive Management and Professional Employees) below, shall be entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workweeks (FTE 80 hours)	During the first 3-years
3-workweeks (FTE 120 hours)	During the 4 th through 11 th year
4-workweeks (FTE 160 hours)	During the 12 th through 17 th year
5-workweeks (FTE 200 hours)	During the 18 th through 24 th year
6 workweeks (FTE 240 hours)	During the 25 th and subsequent years

- 13.22.1 **Confidential Executive, Management and Professional Employees:** Confidential executive, management and professional employees who were eligible under the City's Administrative Leave Policy are entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workweeks (FTE 80 hours)	During the first 2-years
3-workweeks (FTE 120 hours)	During the 3 rd through 5 th year
4-workweeks (FTE 160 hours)	During the 6 th through 17 th year
5-workweeks (FTE 200 hours)	During the 18 th through 24 th year

6 workweeks (FTE 240 hours)	During the 25 th and subsequent years
-----------------------------	--

13.22.2 **Director of Library Services and Deputy Director of Library Services:** Employees in the classifications of Director of Library Services and Deputy Director of Library Services are entitled to earn annual vacation Leave as follows:

Years of Actual Benefited Service	Authorized Annual Vacation Accrual
Through the first 5 Years of Service	3 weeks (120 Hours)
Beginning the 6th through 17th Years of Service	4 weeks (160 Hours)
Beginning the 18th through 24th Years of Service	5 weeks (200 Hours)
Beginning the 25th and subsequent Years of Service	6 weeks (240 Hours)

13.23 Special Pay for Camps Personnel

When an employee, who has a valid Red Cross Senior Lifesaving Certificate and occupies a camps classification, is specifically assigned in writing by the Camps Manager or an authorized representative, with approval by the City Manager, to temporarily serve as a lifeguard for one day or more, said employee shall be paid a five percent (5%) differential, more than the employee's current salary.

13.24 Hazard Premium Pay for Clerical Mental Health Personnel

Clerical employees who are regularly assigned to work in Mental Health Programs, in direct contact with clinic patients, shall receive a five percent (5%) differential. This Hazard Premium Pay shall be reported to CalPERS as "Hazard Premium" under PERL Section 571 (Definition of Special Compensation), (4) Special Assignment Pay.

13.25 Longevity Pay

Effective ~~June 28, 2009~~ the first full pay period after Council adoption, employees in Representation Units Z-2, Z-3 and Z-6 who complete nineteen (19) years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the ~~twentieth-fifth (25th)~~ 20th year of service and shall apply to all hours in a paid status. Longevity pay shall be paid at the beginning of the pay period following completion of the ~~24-20~~ 20 years of service. This Longevity Pay shall be reported to CalPERS as "Longevity Pay" under PERL Section 571.a.(1) Incentive Pay.

13.26 Longevity Pay for Confidential and Executive Management Employees

Effective ~~June 29, 2008~~ the first full pay period after Council adoption, and except as noted below in Section 13.24.1 (Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief), employees in Representation Unit Z-1 who have completed nineteen

(19) years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the ~~twenty-fifth~~^{25th}~~20th~~ year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

13.26.1 **Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief:** The longevity pay for the Fire Chief and Deputy Fire Chief classifications is intended to provide the same benefits as the Longevity Pay for represented sworn fire employees under the Berkeley Fire Fighters Association (Unit B) Memorandum of Understanding.

13.27 Automobile Allowance for Police Chief

The City Manager may authorize an automobile allowance of \$400 per month in lieu of a City provided vehicle for an employee appointed after November 1, 2009 to the classification of Police Chief.

13.28 Video Display Terminal Screening/Glasses

The City offers VDT screening and glasses as medically required, every two years, to employees who in the course of their employment operate VDT equipment more than four hours in a work day.

13.29 Emergency Medical Technician

Effective September 13, 2015, Unit Z-1 Fire Chief and Deputy Fire Chief who maintain current Emergency Medical Technician (EMT) certification shall receive an EMT pay differential of four percent (4.0%).

13.30 Shoe Allowance

An annual allowance of two hundred dollars (\$200) shall be paid to benefitted employees in the classification of Janitor, Groundskeeper, Laborer, and Solid Waste Worker.

13.31 Training Differential

13.31.1 **Trainer Differential:** Effective July 1, 2016, any employee, excluding those classifications that require training as part of the assignment (e.g. supervisors), designated by the department and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills (identified by the departments in consultation with Human Resources) who is required to provide formalized training to a new employee or an employee who management has identified as needing formalized training, shall receive a five percent (5%) differential in salary for that time served in such capacity. Such assignment shall be in writing by the department and approved by the Director of Human Resources. This Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported

“compensation earnable” in California Government Code Section 20635.

- 13.31.2 **Higher Class Training Differential:** For training purposes, employees not meeting all of the minimum qualifications of a higher classification may be temporarily assigned for a minimum of one (1) week, to perform the duties of the higher classification and will receive a five percent (5%) increase in their current base salary for the duration of the temporary assignment. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.
- 13.31.3 **Trainee Differential:** For training purposes and to enhance an employee skills and abilities, any employee designated in advance by the department director and approved by the Director of Human Resources to perform duties that are outside of the employee's classification, shall receive a three percent (3%) differential in salary for that time served in such capacity. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.

13.32 Summary of May 2017 Changes to the Unrepresented Employee Manual

- Included reference to Unrepresented Unit Z-9 (Deputy Director Rent Stabilization Program).
- Former Section 1.14 (One-Time Allocation) - deleted obsolete provision.
- Section 5.2 (Floating Holidays) - corrected omission of one (1) day.
- Section 8.3 (Hourly Rated Employees in Lieu of Benefits) – codified existing benefit.
- Section 13.11 (Reimbursement Plan) – revise plan as reimbursement.
- Section 13.12 (Fire Chief and Deputy Fire Chief Retiree Medical Plan) – clarified benefit for internal and external appointments.
- Section 13.13 (Retiree medical for Police Chief Classification) – clarified benefit for internal and external appointments.
- Section 13.18 (Regular “At-Will” Classifications) – deleted duplicate classification.
- Section 13.31.3 (Trainee Differential) – included provision authorizing differential for employees assigned duties outside of classification.

13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual

- Section 8.4.5 Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment – added subsection 8.4.5.3
-

13.34 Summary of July 2018 Changes to the Unrepresented Employee Manual

- Section 1.14 (One-Time Allocation) - \$2,000 paid August 17, 2018.
 - Section 8.1.3 (Medical Contribution Executive Managers) – Cost-share of \$50.00 for medical contributions by all department heads, City Manager and Deputy City Manager effective July 1, 2019.
 - Section 8.4.6.4 – Correct typographical error.
 - Section 11.5 (Written Reprimand for Non-Safety Employees) – Include provision allowing written rebuttal.
 - Section 12.3.1 (Compensation Complaints) – Include provision that specifies appeal time lines.
 - 13.1 (Administrative Leave) – Clarify leave extended to career and benefitted at-will employees; benefit is prorated based on assignment; and codifies practice that unused administrative leave rolls into vacation.
 - 13.24 (Hazard Premium Pay for Clerical Mental Health Personnel) – Clarify pay is reportable to CalPERS.
 - 13.25 (Longevity Pay) – Include CalPERS reportable section.
 - 13.30 (Shoe Allowance) – Clarify benefit extended to benefitted employees.
 - Shoe Allowance
 - 13.31 Training Differential
 - 13.32 Summary of July 2018 Changes to the Unrepresented Employee Manual
 - 13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual
-

13.35 Summary of July 2020 Changes to the Unrepresented Employee Manual

Section	Change
Term Duration	Parties agree to a one-year term Agreement ending on June 30, 2021
Living Wage –	NEW LANGUAGE: The City agrees to pay each of its direct employees an hourly wage of no less than \$18.33 effective the first full pay period in January 2021. The City agrees to pay each of its direct employees an hourly wage of no less than \$19.33 effective the first

Section	Change
	<p>full pay period in June 2021. If the Living Wage increases beyond \$19.33, as outlined in the Berkeley Municipal Code effective July 2021, the City shall implement the increases the first full pay period in September 2021 and July 1st of each year thereafter.</p>
<p>Additional City Emergency Paid Sick Leave Allocation</p>	<p>NEW LANGUAGE: The City shall provide an additional 80 hours of emergency paid sick leave to be used for COVID-19 related reasons as listed in the Emergency Paid Sick Leave Act. Part-time employees receive a prorated number of hours. In order to use this additional City emergency paid sick leave, the employee must first exhaust all hours that they received under the Emergency Paid Sick Leave Act. The City will use a specific pay code for this additional emergency paid sick leave and these additional hours will be available until June 30, 2021. These additional 80 emergency paid sick leave hours shall have no cash value and may not be used towards any CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.</p>
<p>Additional Floating Holidays</p>	<p>NEW LANGUAGE: For employees who were required to remain in the workplace from March 17, 2020 – June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the Agreement for classifications which, due to the nature of the assignment, require backfill, employees will be paid a stipend in the amount of the earned floating holiday hours up to a maximum of 32 hours the first full pay period in August 2020. The City will use a specific pay code for these additional floating holiday hours will be available until June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not be used towards CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.</p>
<p>Additional language on Layoffs for the Term of the Agreement</p>	<p>NEW LANGUAGE: The City recognizes the important role that the employee workforce plays in delivering public services; therefore, during the period ending June 30, 2021 the City agrees to not layoff any Unrepresented career employees. However, should the City determine that its expenditures exceed its revenues during the period ending June 24, 2021, the City may</p>

Section	Change
	notice the Unrepresented group in writing and the Unrepresented group shall be provided an opportunity to meet and discuss one-time cost savings and alternatives such as furloughs, VTO, etc. Nothing in this section requires the City to retain positions (filled or vacant) where state, federal or grant funding has been reduced or eliminated and would require the City to backfill such positions. All other provisions on Layoffs remain unchanged.
Provisional Employee	No employees shall hold a provisional appointment in the same position for more than 12 months. The City Manager may extend the provisional appointment beyond this 12- month limitation with the mutual agreement of the parties.
Limited Reopener	If during the fiscal year 2020 -2021 the City reaches agreement with SEIU or extends to other unrepresented employees an opportunity to confer on an across the board Cost of Living Adjustment (COLA) increase and/or an additional City contribution towards medical premiums, the City agrees to a limited reopener to meet and discuss with the Unrepresented group on these increases.

13.36 Summary of July 2021 Changes to the Unrepresented Employee Manual

Section	Change
<u>10 Duration</u>	<u>Three-years 6/27/21 – 6/26/2024</u>
<u>17.10 Longevity</u>	<u>3% at 20 years</u>
<u>11 Salaries</u>	<u>4%, 3%, 1%; \$1000 lump sum</u>
<u>Payroll Specialty Pay</u>	<u>\$500 paid after first full pay period after Council approval; \$500 paid first full pay period in January 2011 to 15 “Payroll Clerks” identified by SEIU</u>
<u>22.1 Salary Continuation (New)</u>	<u>Incorporate SLA</u>
<u>16.5 Zero Waste Route Reduction Premium</u>	<u>2.5% for impacted employee of permanent elimination of routes below 27</u>
<u>20.1 Recognized Holidays</u>	<u>Eliminate Lincoln’s Birthday and Add Cesar Chavez and Juneteenth Holiday – If all other bargaining units agree</u>
<u>43.9.4 (New)</u>	<u>PEPRA Pension contribution ramp down of six years; 1%, 1%, 1%, 2%, 2%, 1%, with reopener upon request in January 2024</u>



City of Berkeley

Unrepresented Employee Manual

July 17, 2021

RESOLUTION

WHEREAS, on July 30, 2020, the City Council adopted Resolution No. 69,538-N.S., the Unrepresented Employee Manual, that establishes rules governing working conditions, benefits and compensation for unrepresented career benefited and regular at-will employees; and

WHEREAS, in a separate agenda item on July 20, 2021, the City Council will consider a new Memoranda Agreement with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters that provides for an additional three-years and modifies its members' benefits; and

WHEREAS, the City Manager is recommending similar changes in terms and conditions for the unrepresented employees in Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); Z-6 (Legislative Analysts); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program); and

WHEREAS, the Unrepresented Employee Manual is amended as a result of the attached Agreement July 20, 2021.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley rescind Resolution No. 69, 538-N.S. (Unrepresented Employee Manual) and all other resolutions amendatory thereto and that the Unrepresented Employee Manual that includes the executed Memoranda Agreement as shown in Exhibit A attached hereto and made a part hereof, is hereby adopted as the City of Berkeley Unrepresented Employee Manual.

The foregoing Resolution was adopted by the Berkeley City Council on July 20, 2021 by the following vote:

Exhibit

- A: Amended Unrepresented Employee Manual Redline
- B: Unrepresented Employee Manual Clean

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UNREPRESENTED EMPLOYEE MANUAL

This document establishes the rules governing benefits and working conditions, which are in effect for Unrepresented employees which have been approved by the City Council of the City of Berkeley.

This Unrepresented Employment Manual provides the personnel policies and procedures that affect the working conditions and benefits of unrepresented employees in the City of Berkeley. For purpose of categorization, all classifications are designated by a representation unit. Unrepresented employees are in classifications included in representation units Z-1; Z-2; Z-3; Z-9; X; and X-1, as noted in the City's Classification/Salary Resolution. The working conditions and benefits for represented employees are contained in their respective memoranda agreements. Rules, which describe general policies of the City's personnel system, are found in the City of Berkeley Personnel Rules and Regulations.

ARTICLE 1 - SALARY, OTHER PAY AND OVERTIME

1.1 Intent

This Section (Salary, Other Pay and Overtime) is intended only to define the normal hours of work and the time for which salary shall be paid, and to provide the basis for the calculation of overtime pay. Nothing in these rules shall be construed as a guarantee of hours of work per day or per week, or of days of work per week. The City's pay records, practices and procedures shall govern the payment of all wages.

1.2 Hours and Days of Work

Hours and days of work shall be governed by rules established by the City.

1.3 Workweek

The workweek shall consist of seven days beginning at 12:01 a.m. on Sunday to and including 12:00 midnight the following Saturday.

1.4 Regular Workweek

The regular workweek shall consist of forty hours of work within the workweek.

1.5 Payment of Salaries

Payment of salaries shall be bi-weekly and shall cover a pay period of two (2) consecutive workweeks. Each payment shall be made not later than Friday following the ending of each payroll period and shall include payment for all earnings reported during the previous payroll period.

1.6 Salary Ranges without Salary Steps

In those classes of positions for which a salary range is established without a designation of salary steps, the City Manager is authorized to fix the salary rate at any point within the established salary range.

1.7 Automobile Allowances

In addition to the salaries provided in the salary resolution, employees may be reimbursed for the use of automobiles owned by employees of the City of Berkeley and used on City business, as authorized by the City. Current automobile allowances are appended to this Manual, as shown in the Appendix, Section 13.27 (Automobile Allowance).

1.8 Mandatory Professional Fees and Licenses

The City will assume full payment of the mandatory professional fees and licenses required by employees in the following unrepresented classes in order to maintain their continued employment with the City of Berkeley:

Director of Public Works	City Attorney
Deputy Director of Public Works (Registered)	The Attorney Class Series
Rent Stabilization Board Staff Attorney Class Series	Audit Manager
Classes requiring a license to practice medicine	

1.9 Bilingual Pay

Employees appointed to positions requiring bilingual abilities, including Braille and sign language shall receive additional compensation as established by the City Council. Only those employees who possess second language competency, can demonstrate second language competency, and are serving in a position requiring competency in that particular language are entitled to receive the bilingual premium pay. The current level of approved compensation and procedures for qualifying and receiving bilingual pay are appended to these Rules, as shown in Appendix, Section 13.3 (Bilingual Premium Pay).

1.10 Overtime for FLSA Non-Exempt Employees

All employees who are covered by the overtime provisions of the Fair Labor Standards Act are designated as "FLSA non-exempt employees." Unless otherwise required by the Fair Labor Standards Act, all FLSA non-exempt employees, and employees in the classification of Battalion Chief, who are required to work in excess of their regular workweek shall be paid overtime compensation at the rate of one and one-half times the straight time rate based upon the regular monthly salaries or shall be given compensatory time off in lieu of payment at the rate of one and one-half hours off with pay for each overtime hour worked. The following provisions regarding overtime apply only to FLSA non-exempt employees and do not apply to FLSA exempt employees. FLSA non-exempt employees, temporarily promoted to FLSA exempt classifications, will be ineligible for overtime compensation for the duration of the appointment.

- 1.10.1 **Manner of Compensation:** An employee may be compensated for overtime by either compensatory time off or by payment; the method of overtime compensation shall be agreed upon by the employee and the supervisor at the time of obtaining approval to work overtime.
- 1.10.2 **Pre-Authorization:** No employee may work overtime without the express prior approval of his or her department head.
- 1.10.3 **Accrual Limit on Compensatory Time:** Compensatory time shall not accumulate in excess of sixty (60) overtime hours worked which is the equivalent of ninety (90) hours of compensatory time. Overtime accumulation in excess of sixty (60) hours shall be paid as compensation.

- 1.10.4 **Use of Compensatory Time:** All use of compensatory time off must be approved, in advance, by the employee's department head, on forms provided by the City.
- 1.10.5 **Effect of Termination on Compensatory Time:** An employee is entitled to compensation for any accumulated overtime upon resignation or termination.

1.11 Emergency Overtime

All FLSA non-exempt employees who are called to duty from their living quarters outside of their regular work hours and work days shall be paid emergency overtime compensation for the actual time worked provided, however, that each employee shall be paid a minimum of two (2) hours pay for emergency overtime unless such emergency overtime work is performed prior to the beginning of his or her work regularly scheduled work period without a break in service in which case, compensation shall be paid only for the actual time worked.

1.12 Shift Differential

All unrepresented FLSA non-exempt employees (except for Police Aides) who regularly work a shift of eight hours or more, which includes more than four hours between the hours of 5:00 p.m. and 12:00 a.m., or between 12:00 a.m. and 7:00 a.m., are paid a shift differential in addition to their regular base rate of pay in an amount established by the City Council. The current shift differential rate paid to unrepresented employees is in the Appendix to this Manual.

1.13 Fifty-Six (56) Hour per Week Work Schedule Leave Conversion Factor

The conversion factor for Fire Management employees accruing and using vacation leave, sick leave or sick leave bonus bank of hours is as shown below. The intent of the parties is to have the dollar value of the vacation leave, sick leave or sick leave bonus bank of hours accrued be the same whether an employee is assigned to a fifty-six (56) hour per week schedule or a forty (40) hour per week schedule.

- 1.13.1 **Leave Accrual for 56 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a fifty-six (56) hour per week scheduled is converted to a forty (40) hour per week schedule by multiplying number of hours of vacation leave or sick leave accrued by the conversion factor of 0.7143.
- 1.13.2 **Leave Accrual for 40 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a forty (40) hour per week scheduled is converted to a fifty-six (56) hour per week schedule by multiplying number of hours of vacation leave accrued by the conversion factor of 1.4.

1.14 One-Time Allocation

Employees in Units Z-1, Z-2, Z-3, Z-6, and Z-9 who are in paid status as of July 29, 2018 will receive a one-time allocation of \$2,000.00 (prorated for part-time employees) on August 17, 2018, minus applicable local, state and/or federal taxes.

1.15 Payroll Specialty Pay

City shall provide (“payroll clerks”) identified by the City in Unrepresented Employees a one-time lump sum payment of \$500.00 effective the first full pay period after Council adoption of this successor agreement and a second \$500.00 one-time lump sum payment the first full pay period in January 2022 for only those employees in the Accounting Office Specialist III classification. Such payments are subject to applicable payroll taxes and will not be considered pensionable salary. At the time of each payment, employee must be still employed by the City and must still be in the Accounting Office Specialist III classification. Employees working less than full-time (40 hours per week, 2,080 hours per year) shall receive a pro rata share of the one-time lump sum payment based on the number of hours they are assigned to work. For example, an employee working 30 hours per week, shall receive 75% of the one-time lump sum payment (\$375 effective the first full pay period after Union ratification and Council adoption of this successor agreement and \$375.00 the first full pay period in January 2022).

1.15.1 Salary Resolution

Effective the first full pay period in July 2021 after Council adoption on its regular agenda, the salary ranges for those classifications covered by this Manual shall receive a salary increase of four percent (4.0%).

Effective the first full pay period in July 2022, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by three percent (3.0%)

Effective the first full pay period in July 2023, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by one percent (1%).

Effective the first full pay period after City Council adoption on its regular agenda, a onetime non-pensionable lump sum payment of \$1,000.00 for each career bargaining unit employee shall be conferred. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this

lump sum provision does not create or bind the City to any precedent or past practice.

ARTICLE 2 - PROBATIONARY PERIOD

2.1 Length of Probationary Period

All original and promotional appointments to positions in the career service shall be tentative and subject to a probationary period. The length of the probationary period shall be determined for each class by the City Council. However, the length of the probationary period shall not be less than six months of actual service (1040 hours) or more than two years of actual service (4160 hours). A six (6) month probationary period must be completed in no more than one (1) year. A one (1) year probationary period (2080 hours) must be completed in no more than two (2) years. A two (2) year probationary period must be completed in no more than three (3) years. A current schedule of probationary periods for unrepresented classes is appended to this Manual, as shown in Appendix, Section 13.16 (Probationary Periods for Unrepresented Classifications).

2.2 Objectives of Probationary Period

The probationary period shall be regarded as a part of the selection process and shall be used to closely observe and evaluate the employee's work, to secure the most effective adjustment of a new employee to his or her position, and to eliminate any probationary employee whose performance does not meet the required standards of work.

2.3 Rejection of Probationers

During the probationary period, an employee may be rejected from employment at any time by the City Manager without cause and without the right of appeal.

2.4 Rejection during Probationary Promotion

An employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he or she was promoted unless charges are filed and he or she is discharged in the manner provided in the Personnel Ordinance and these rules.

ARTICLE 3 - VACATION

3.1 Vacation Leave

All benefitted employees shall be entitled to annual vacation leave subject to the provisions in this chapter.

3.2 Vacation Approval

All vacations must be approved, in advance, by the employee's department head, on forms provided by the City.

3.3 Vacation Accrual

3.3.1 **Full Time Benefitted Employees:** During the first two (2) calendar years of employment, all full time benefitted employees shall be entitled to take only such annual vacation leave as the employees earn based on their continuous length of service measured from the date of hire. After two (2) years of service, employees may request, and upon approval, take up to a maximum of two (2) weeks of their annual vacation, in advance of actual earning. Approval of requests for advance vacation shall be solely at the discretion of management.

Vacation accrues according to schedules established by the City Council and can vary for different groups of employees. The current vacation schedules for full time unrepresented employees are in the Appendix to this Manual.

3.3.2 **Part Time and Temporary Employees:** Benefitted part-time employees working a minimum of twenty (20) hours per week accrue vacation benefits on a pro rata basis. Employees who work less than twenty (20) hours per week and temporary employees, unless otherwise authorized, do not accrue leave benefits

3.3.3 **Accrual of Vacation Credits:** Vacation leave credits are only accrued for each straight time hour for which the employee is paid.

3.3.4 **Effect of Extended Leave on Vacation Accrual:** An employee who has returned from extended military leave or an extended authorized leave of absence without pay of six (6) months or more or who has been re-employed or reinstated shall be entitled, during the calendar year in which the employee returns to the City service, to earn vacation according to a schedule based upon the total years in the career service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, the employee's vacation leave shall accrue as provided in this Manual.

3.3.5 New Hire Vacation Accrual: For new hires, the City Manager may authorize vacation accrual at a higher rate, up to the maximum accrual rate, depending upon the paid leave accrual of the potential employee at his or her present employer. The new hire must be able to document his or her current paid leave accrual, which has been earned for general use, such as vacation. The waiting period to advance to the next accrual rate would be the actual number of years between the respective accrual levels.

3.4 Vacation Scheduling

The times during the calendar year at which an employee shall take his or her vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head cannot permit the employee to take an annual vacation leave or any part of such leave within a particular calendar year, the employee may accrue vacation according to Section 3.3 (Vacation Accrual) of this Manual.

3.5 Maximum Vacation Accumulation

Employees may defer vacation earned up to a maximum cumulative total of eight (8) weeks. An employee who has attained maximum accumulation may be required to take all excess earned vacation at the option of the City. Not later than October 1 of each year, the City will advise employees who have attained a maximum accumulation of vacation whether such excess earned vacation must be scheduled as time off prior to March 31. Such time off shall be scheduled in accordance with the provisions of Section 3.2 (Vacation Approval).

The City shall require all employees to reduce their accrued vacation balances to no more than 320 hours, as of the last pay period in February of each year. To effectuate the requirement that employees not accrue more than 320 hours vacation leave, no later than November 15 of each year the City will provide Department Heads with a report identifying all employees who have accrued two hundred and eighty (280) hours of vacation leave and appear in danger of exceeding the 320 hour limit.

Employees who have accrued 280 hours of vacation leave, as of that date, will be advised by their supervisor that they must take vacation leave to reduce their vacation leave accrual by February of the following year.

Supervisors should be flexible in granting employee vacation requests to those employees above, or approaching the 320 hours limit, and further, that with regard to employees who are in danger of exceeding the 320 hour limit, no vacation request by such an employee shall be unreasonably denied. If an employee who is in danger of exceeding the 320 hour limit fails by December 31 to schedule a vacation to be taken before the last pay period in February, the City has the

authority to direct the employee to go on vacation leave to reduce the employee's accrued vacation.

If, due to operational necessity, a department head denies an employee vacation leave and does not provide the employee with an alternate vacation date, and as a result causes the employee to exceed the 320 vacation leave limit, said employee shall nonetheless be entitled to use that vacation leave in the next calendar year to the extent necessary to reduce their accrued vacation to not more than 320 hours. Under no circumstances will the City liquidate any vacation leave balances for any employee during employment.

3.6 Vacation Leave before Retirement

Accumulated vacation shall not be used immediately prior to retirement, which has the effect of extending the date of retirement, but shall be paid out in full upon retirement.

3.7 Vacation Leave in Lieu of Sick Leave

Except for absences that qualify for benefits under Administrative Regulation 2.4 (Family Care Leave) Vacation leave shall not be used in lieu of accrued sick leave for absences due to illness. If accrued sick leave is exhausted, vacation leave may be used for absences due to illness, only if such leave is approved by the employee's department head.

3.8 Payout upon Termination or Extended Unpaid Leave

Upon termination, including death, extended military leave or other extended leave without pay, an employee or his or her estate shall be paid for all accrued unused vacation leave at the employee's base rate at the time of his or her termination, and such employee or his or her estate shall reimburse the City for any vacation leave taken before it had accrued, in accordance with provisions established by the City Manager.

3.9 Holidays Occurring during Vacation

If an observed City holiday occurs during an employee's scheduled vacation, no deduction from accrued vacation will be made for the holiday period.

ARTICLE 4 - SICK LEAVE

4.1 Eligibility

All full-time benefitted employees are eligible for one (1) sick leave day (eight [8] hours) per month of service, except that the Police Chief hired before September 11, 2012 is eligible for two (2) sick leave days for each month of service during the twenty-first (21) year of employment and thereafter. Employees in the classifications of Fire Chief and Deputy Fire Chief shall be credited with two (2) sick leave days for each month of service during the seventeenth (17th) year of employment and thereafter. Part time benefitted employees are eligible to accrue sick leave on a pro rata basis.

4.2 Sick Leave Not a Privilege

Sick leave shall not be considered a privilege, which an employee may use at his or her discretion, but shall be allowed only in the case of his or her sickness or disability or in the case of illness within the defined family of the employee.

4.3 Family Sick Leave

As of January 1, 1999, employees may use up to fifteen (15) working days of accrued sick leave in a calendar year to care for a family member, limited to one of the following: a legal dependent, parent, spouse, son, daughter or domestic partner.

4.4 Notice to Department Head

In order to qualify for sick leave benefits, the employee shall notify his or her department head or designee prior to or within two (2) hours after the time set for the beginning of the employee's daily duties, or as otherwise required by the department head. Leave for non-emergency medical appointments shall be requested in advance of the workday.

4.5 Medical Verification

The City of Berkeley retains the right to request a verification from a licensed medical practitioner under appropriate circumstances which include (1) showing that an employee's illness or disability has started or ended, before the City will allow an employee to take a leave or to return from leave, (2) showing regular updates during a medical leave of absence regarding the employee's medical status and the date the employee expects to return to work, (3) where reasonable cause exists to believe that the employee is not medically fit to perform the essential functions of the job or that the employee cannot perform the job without endangering the health and safety of the employee or others, and (4) where reasonable cause exists to believe that the employee is abusing sick leave or family sick leave. Sick leave pay may be withheld if a satisfactory verification is not received.

4.6 Injury Incurred in Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that the injury is covered by California's workers' compensation law or by provisions of the other employer granting payment for time off because of the injury. In the event the injury is not covered either by the workers' compensation law or by the other employer's provisions, sick leave will be granted in accordance with this chapter only if the outside employment had been authorized by the City before the injury occurred

4.7 Bonus for Unused Sick Leave

For every six (6) months of perfect attendance, the employee will receive eight (8) hours of bonus time. "Perfect attendance" means the employee has not received sick leave or salary continuation benefits and has not taken or been placed on leave without pay. Benefitted part time employees will receive sick leave bonus time on a pro rata basis. Sick leave bonus can be used for any leave purpose authorized by this Manual.

4.8 Accumulation of Sick Leave

Employees may accumulate sick leave up to a maximum of two hundred (200) days (1600 hours) except for the classifications named below.

The Police Chief and Fire Chief may accumulate sick leave in excess of the 1600-hour limit by 100 hours per year.

4.9 Payout for Excessive Sick Leave for Employees Hired on or Before June 30, 2013

All employees, except employees in the classification of Deputy Fire Chief hired on or before June 30, 2013 in the career service who regularly work one-half time or more who have attained the two hundred (200) day maximum sick leave accumulation shall be entitled to receive payment for one-third (1/3) of the first twelve (12) days of sick leave days (or if earning sick leave at the rate of two (2) working days each month of service, one-third (1/3) of the first twenty-four (24) days of sick leave days), for which sick leave days they become eligible, they do not use and they would otherwise forfeit because of the two hundred (200) day maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar year basis, and payment for such sick leave for any calendar year shall be made not later than the first full pay period in January. Such payment shall be at the employee's salary rate in effect on the preceding December 31, and shall be made only in units of whole days and will not be made for any fraction of a day.

4.9.1 **Deputy Fire Chief:** For employees in the classification of Deputy Fire Chief, the following provisions shall apply. In each year following that 1200 hour base year, the employee may, on a form provided by the City, elect to receive pay for excess sick leave or may elect to increase his or her sick leave accumulated base by the 96 hours and take any additional

excess sick leave in pay at the following prescribed rate: employees who choose to increase their sick leave accumulated base by the 96 hours will receive 50% pay off rate in March; employees who choose to receive pay out for excess sick leave over the base, and do not exercise the option of increasing their accumulated sick leave base by 96 hours in any particular year, will be paid for excess sick leave at the 38% pay off rate in March.

Forms, provided by the City along with projected excess sick leave balances, shall be distributed to affected employees by February of each year and shall be returned to the City by February 15th. If an employee uses part of an established "sick leave maximum accumulation level", the employee may replenish the used portion at the applicable rate.

Determination of eligibility for such payment shall be made on an annual basis, and payment for such sick leave for any calendar year shall be made during the month of March each year. Such payment shall be made at the employee's regular monthly salary rate in effect on the last day of the first pay period to end in March. An employee shall be eligible for this provision whether or not the employee is on the payroll as of the last day of the first pay period to begin and end in March.

- 4.9.2 **Police Chief and Fire Chief Hired on or before June 30, 2013:** For the Police Chief and Fire Chief hired on or before June 30, 2013, the maximum sick leave accrual allowed shall be adjusted at the rate of 100 additional hours per year above the 1600-hour limit. The employee may elect to receive pay for the excess sick leave or may elect to increase the base by 100 hours, in each subsequent year. Payment for excess sick leave is prescribed at 1/3 of the excess leave balance.

4.10 Effect of Leave without Pay on Sick Leave Accrual

Sick leave will not accrue during any period of absence without pay. Sick leave credits are accrued on the basis of actual straight time hours worked or paid, based on a forty-hour workweek.

4.11 Accrued Sick Leave Canceled Upon Termination

Except as otherwise provided under the CalPERS conversion of sick leave retirement credit benefit (California Government Code Section 20965) and the other exceptions set forth below, all accrued sick leave shall be canceled upon termination of an employee. Such leave shall be credited back to the employee if the employee returns to City employment within two (2) years of termination except as otherwise provided by the City Council, or within three (3) years of termination if re-employed under the City's Layoff Policy provided in this Manual.

- 4.11.1 **CalPERS Miscellaneous Members, Chief of Police Hired on or before June 30, 2013 Sick Leave Payout:** For CalPERS

Miscellaneous members and Chief of Police hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty (20) years of benefitted City of Berkeley service or to employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City shall be entitled to liquidate a portion of their accrued but unused sick leave as follows: Upon termination, employees with between twenty (20) years and twenty-eight (28) years of benefitted City of Berkeley service shall be entitled to receive payment in an amount equal to 38% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days.

All employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

Employees hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty-eight (28) years of benefitted City of Berkeley service or employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City, with at least twenty-eight years of benefitted City of Berkeley service, shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days. Employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

- 4.11.2 **Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout:** For employees hired on or before June 30, 2014 in the classification of Fire Chief and Deputy Fire Chief who retire or voluntarily terminate with twenty (20) years of service or who retire on permanent disability arising out of and incurred in the course and scope of their employment with the City, shall be entitled to receive payment at retirement or termination of unused sick leave days, based on the following schedule:

Number of Days	% of Payment
0-75 Days	38%
75-99 Days	41%
100-124 Days	44%
125-149 Days	47%
150 Days and over	50%

Employees in classifications identified in this Section 4.11.2 (Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout) hired on or after July 1, 2014 shall not be eligible for payment of any unused sick leave days.

4.12 City of Berkeley Supplemental Retirement Plan [Termination 401(a)]

Employees who retire on a vested pension shall be eligible to participate in the City of Berkeley Supplemental Retirement Plan. The Supplemental Retirement Plan provides for negotiated required roll-forwards of accrued but unused leave, and also permits the City to do a "tax pick-up" of employee contributions under Section 414(h)(2) of the Internal Revenue Code. A tax pick-up works through an irrevocable payroll deduction authorization, on an individual by individual elective basis, to contribute accrued but unused sick leave, vacation leave, compensatory time, floating holiday and bonus sick leave into an Internal Revenue Code 401(a) defined contribution plan. The Supplemental Retirement Plan Document shall govern administration of the Plan.

4.13 Accrued Sick Leave Applied to CalPERS Retirement Credit

The conversion of unused sick leave to retirement credit benefit under Government Code Section 20965 offered by CalPERS as an optional benefit to contracting agencies shall be made available to employees who retire with a vested pension.

4.14 Sick Leave Benefits and State Disability Insurance

Employees may use their accrued sick leave benefits during the normal seven day period before the eligible employees are paid benefits from State Disability Insurance. Following the seven day period, an employee will continue to receive accrued sick pay until exhausted and then, upon approval by the department head, accrued vacation or compensatory pay, less the disability benefits actually received.

4.15 Workers' Compensation and Salary Continuation

Workers' compensation payments shall commence in accordance with State law, on the fourth day following an industrial injury, unless the employee is hospitalized in which case payment commences on the first day of injury. For the purpose of this Section (Workers' Compensation and Salary Continuation), "hospitalized" means confinement.

For all career and regular at-will employees who are receiving or shall receive workers' compensation benefits for an industrial injury, the City will pay retroactive compensation benefits to the eligible employee for the normal three day waiting period before the employee is paid workers' compensation benefits for temporary disability pursuant to California law governing the industrial injury or illness.

Payments under the workers' compensation law for temporary disability or a recurrence thereof arising out of and in the course of employment shall be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability pay, but shall not exclude any salary adjustments to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under State law and the City shall cease to pay the difference.

4.15.1 Salary Continuation Benefit

1. New Accepted Claim with Overlapping Previously Accepted Injury - Where an Employee sustains a subsequent industrial injury as part of a new accepted workers' compensation claim that includes a previously accepted body part in the same five (5) year period, Employee shall be entitled to a period of time not to exceed 183 days of Salary Continuation Benefits.
2. New Accepted Claim with No Overlapping Previously Accepted Injury - Where an Employee sustains another industrial injury resulting in a new accepted workers' compensation claim within the same five (5) year period that does not include a previously accepted body part, the Employee's new accepted claim shall be entitled to a period of time not to exceed 365 days of the Salary Continuation Benefit.
3. New Accepted Claim for Same Previously Accepted Injury after Five (5) Years - Where an Employee sustains an industrial injury to a previously claimed body part after five (5) years from the initial Date of Injury, the Employee shall be entitled to a new period of time not to exceed 365 days of the Salary Continuation Benefit. In effect, after five (5) years from the initial Date of Injury, the benefit resets with respect to a previously claimed body part.
4. Workers' Compensation Medical Appointments and Salary Continuation - For the purposes of the Salary Continuation Benefit, effective January 1, 2019, the City shall calculate absences from work to attend medical appointments for the treatment of an accepted industrial injury in one (1) hour increments for the purposes of running against the maximum 365 days of Salary Continuation.

4.16 Sick Leave Accrual for Department Heads and Deputy City Managers

At the time of appointment of new hires in regular at-will department head classifications and Deputy City Managers, the City Manager may authorize credit for accrual of sick leave based on sick leave accrual with a prior employer in an amount that does not exceed four weeks of sick leave credit.

ARTICLE 5 - HOLIDAYS

5.1 Holidays

The City observes the following holidays and provides all full time regular, at-will and career employees. Contingent upon agreement by all Employee Bargaining Units, the parties agree that the Lincoln Holiday shall be eliminated and that Cesar Chavez Day – observed on March 31, or on the Monday or Friday closest to March 31 if it falls on a Saturday or Sunday would be added instead.

Holiday	Day Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	Third Monday in February
Malcolm X's Birthday	Monday or Friday nearest May 19
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	First Monday in September
Indigenous People's Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	Fourth Friday in November
Christmas	December 25

5.2 Floating Holidays

Full time, regular at-will, and career employees who have worked for the City six (6) months or more shall be granted three (3) floating holidays each calendar year. Employees may take floating holidays in one (1) hour increments. Employees who terminate employment within the first six (6) months of initial employment shall not be eligible for payout of any accrued but unused floating holiday.

In the first calendar year of employment, employees shall be granted prorated floating holidays as follows:

Date of Hire	Number of Floating Holidays
Hired January 1 - April 30	3 days
Hired May 1 - August 31	2 days
Hired September 1- December 31	1 day

All use of floating holidays must be approved, in advance, by the employee's department head, on forms approved by the City. The days on which the employee shall take his or her floating holiday(s) shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head

cannot permit the employee to take the floating holiday(s) within a particular calendar year, the employee shall add the unused floating holiday(s) to the employee's accrued vacation according to Section 3.5 (Maximum Vacation Accumulation).

5.3 Eligibility

In order to be eligible for holiday pay, an employee must be on paid leave status on his or her regularly scheduled workdays before the holiday.

5.4 Part-Time Employee Eligibility

Benefitted part time employees are eligible for holiday benefits on a pro rata basis.

5.5 No Work on the Holiday

Employees in the career service who are not scheduled to work on the day observed as a holiday will be granted an alternative scheduled holiday. The alternative holiday must be scheduled, by the department head, during the same workweek.

5.6 Work on the Holiday

FLSA non-exempt benefitted employees who work on a scheduled holiday shall be paid at one and one-half times their normal base rate for all hours worked or shall be granted the equivalent amount of compensatory time off. In either event, the holiday pay shall be in addition to the employees' regular salary.

ARTICLE 6 - OTHER PAID LEAVES OF ABSENCE

6.1 Family Bereavement Leave

Any benefitted employee who experiences a death in the immediate family is granted death leave of up to three (3) working days for the purpose of attending the funeral or memorial service in the State of California, or up to five (5) working days for the purpose of attending the funeral or memorial service outside the State of California. Employees in the classification of Fire Chief and Deputy Fire Chief shall be granted one week (five (5) consecutive calendar days) for a death in the immediate family whether in state or out of state for the purpose of attending the funeral or memorial service.

For all employees except those employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren, dependent or domestic partner. For employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, domestic partner mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren or dependent residing within the household.

Bereavement leave will be paid at the employee's normal base rate of pay for the actual time lost and is allowed solely for the purpose of attending funeral or memorial services. The department head may, within his or her discretion, grant the employee additional time off provided that all accrued vacation and/or sick leave shall be used prior to taking a leave of absence without pay for this purpose.

In special cases, with the approval of the department head, the City Manager may grant death leave within his or her discretion to allow an employee to attend a funeral or memorial services because of the death of persons not included within the definition of immediate family.

6.2 Jury Duty Leave

Any benefitted employee who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his or her department head, shall be entitled to be absent with pay from his or her duties with the City during the period of such service and while necessarily being present in court as a result of such call. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any requirements (on-call status) made by the court that may affect the employee's ability to simultaneously fulfill his or her jury duty service and employment obligations. The employee will keep any payment received for jury service including mileage reimbursement.

6.3 Continuing Education Leave

The City will grant a continuing education leave of absence with pay up to forty hours per year to benefitted employees who are required by their employment or continuing employment with the City of Berkeley to pursue course work in order to:

- (a) renew a license issued by the State of California; or
- (b) obtain a license issued by the State of California provided that employees verify to the City that the course work for the initial license was not offered as a part of their basic curriculum.

Upon prior approval of the department head, FLSA non-exempt employees who take required course work during non-scheduled work hours in order to obtain or renew a job-required license shall be allowed time off from work on an hour-for-hour basis without loss of compensation or other benefits.

6.4 Administrative Leave Program

The City Manager provides for paid administrative leave to eligible employees as set forth in the Appendix to this Manual. Administrative leave is not charged against other accrued leave balances.

6.5 Temporary Employees – Earned Leave

A temporary employee who works one thousand forty (1040) hours or more in a calendar year and is in active employment during December of such year, shall be credited with forty (40) hours of paid time off to be used by such employee in the subsequent calendar year for either paid vacation or paid sick leave. The following conditions shall apply to the use of this earned leave as paid time off:

- a. To qualify for earned leave as vacation, the employee must apply, in writing, to the employee's supervisor at least thirty calendar days in advance of the desired time off. The granting or denial of the requested time off shall be in writing and shall be controlled by program considerations as established by the City.
- b. To qualify for earned as sick leave, the employee must notify the employee's supervisor of an inability to report to work by reason of illness or injury in advance of the scheduled work.
- c. An employee who has any unused earned leave credit shall receive payment for such time upon termination of temporary employment. All credited earned leave not utilized by employees at the end of the calendar year in which the employees are eligible to take such leave will be paid at the end of such year as wages and this earned leave shall not be accumulated from year to year.

6.6 Abolishment of Temporary Employees – Earned Leave

Effective July 1, 2015, Section 6.5 (Temporary Employees – Earned Leave) is abolished in its entirety and replaced with the following Section 6.7 (Temporary Employees Sick Leave).

6.7 Temporary Employees Sick Leave

Effective January 1, 2015, Temporary Employees who have been employed for at least 90 days on July 1, 2015 are eligible to accrue and use sick leave based on hours worked after July 1, 2015 as provided in Section 6.8 (Sick Leave Accrual) below.

6.8 Sick Leave Accrual

Effective July 1, 2015, once a temporary employee works for 30 days within a calendar year, the employee shall be eligible to accrue one (1) hour of sick leave for every 30 hours worked thereafter, to a maximum accumulation of 48 hours. Once an employee accrues 48 hours sick leave, the employee shall not accrue any additional sick leave hours until his or her sick leave balance is below the maximum of 48 hours. Under no circumstances will an employee be allowed to accrue more than 48 hours sick leave.

6.9 Sick Leave Use

Temporary Employees shall be eligible to use sick leave beginning on the 90th day of work. Sick leave shall be used in a minimum of two (2) hours increments, and limited to a maximum of 24 hours use each calendar year. Unused accrued sick leave hours shall carry over to the following calendar year. The following conditions shall apply to the use of this sick leave as paid time off:

- a. Sick Leave may be used for the following purposes: Diagnosis, care, or treatment, of an existing health condition or, preventive care for, an employee or an employee's family member; for an employee who is a victim of domestic violence, sexual assault, or stalking. To qualify for earned as sick leave and if the need for sick leave is foreseeable, the employee must notify the employee's supervisor of an inability to report to work in advance of the scheduled work. If the need for sick leave is unforeseeable, the employee shall provide notice to the immediate supervisor of the need for the leave as soon as practicable.
- b. All accrued and unused sick leave shall be cancelled upon separation/termination of employment. Such previously accrued and unused sick leave shall be credited back to the employee if the employee returns to City employment within one (1) year from the date of separation.

ARTICLE 7 - LEAVES OF ABSENCE WITHOUT PAY

7.1 Power to Grant Leave

The City Manager shall have the power within his or her sole discretion to grant leaves of absence, with and without pay.

7.2 Authorized Leave Without Pay

Upon request of the employee, a department head may grant or deny a leave of absence to an employee within his or her department without pay for a period not to exceed thirty working days. No leave without pay shall be granted for more than thirty working days except upon written request of the employee and written approval of the City Manager.

7.2.1 **Required Exhaustion of Accrued Leave:** In the event of an authorized absence due to illness, the employee must use all accrued sick, compensatory and vacation leave prior to receiving authorization for leave without pay. In the event of personal leaves not related to sickness, the employee must use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay. However, employees in the classifications of Legislative Assistant and Assistant to the Mayor are not required to use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay for the employee's respective appointing Councilmember or the Mayor. This subsection does not apply to parental leave or to the exhaustion of sick leave by employees in the classification of Deputy Fire Chief as referenced in Section 7.2.2 (Fire Chief and Deputy Fire Chief Use of Sick Leave), below.

7.2.2 **Fire Chief and Deputy Fire Chief Use of Sick Leave:** In the event of illness or injury of an employee in the classification of Fire Chief and Deputy Fire Chief requiring the use of sick leave, the employee has the option to notify the City in writing that he/she wishes to freeze the use of sick leave after thirty (30) days, prior to receiving authorization for leave without pay, in order to utilize the International Association of Fire Fighters sponsored Long Term Disability benefit.

7.2.3 **Grounds for Discharge:** Failure on the part of an employee to report to work promptly at the expiration of the authorized leave without pay will result in discipline up to and including termination.

7.3 Unauthorized Leave of Absence

All paid and unpaid leaves of absence must be approved in accordance with the applicable sections of this Manual. Any absence on the part of the employee who has failed to obtain such approval or failure of an employee to report for duty without appropriate authorization as required by each department will result in the employee being placed on unauthorized leave of absence without pay.

7.3.1 **Grounds for Discharge:** Unauthorized leave of absence without pay shall be cause for disciplinary action up to and including termination.

7.4 Parental Leave

Any employee with one or more years of benefitted employment with the City of Berkeley shall be entitled to up to one year of parental leave upon the birth of a child or the adoption of a child who is five years or younger as provided in Administrative Regulation 2.4 (Family Care Leave).

7.5 Family Care Leave

The City will fully comply with the requirements of the state and federal law regarding pregnancy disability leave and medical/family illness/child care leave where their provisions are more generous than those provided elsewhere in this Manual or Administrative Regulation 2.4 (Family Care Leave). Leaves under this Section 7.5 (Family Care Leave) and Section 7.4 (Parental Leave) and as provided in Administrative Regulation 2.4 may not be combined to yield a larger amount of leave than the state or federal maximums and may not be combined to exceed the maximum one year period of parental leave provided by the City of Berkeley.

7.6 Military Leave

Employees will be granted a leave of absence without pay with appropriate seniority, pay, status and vacation as required by law for the purpose of fulfilling any required military obligation.

ARTICLE 8 - EMPLOYEE FRINGE BENEFITS

8.1 Group Medical-Dental Insurance Benefits

Benefitted employees and their dependents may participate in the City's group medical and dental benefits, which are summarized in the Appendix.

8.1.1 **Part Time Employment:** All benefitted employees who work a minimum of twenty hours, but less than forty hours per week, qualify to receive prorated health and dental benefits and shall pay a pro rata portion of the health and dental insurance premiums. Full time career employees who accept part time employment in lieu of layoff shall continue to receive full health and dental benefits paid by the City.

8.1.2 **Medical Plan for Part-Time Employees:** Effective November 1, 2016, the City will pay 75% of the cost of the medical plan which is fully paid for full-time employees for those benefitted part-time employees who work twenty (20) to twenty-nine (29) hours per week. The City will pay 100% of the cost of the medical plan which is fully paid for benefitted full-time employees for those part-time employees who work thirty (30) or more hours per week.

8.1.3 **Medical Contribution Executive Managers:** Effective July 1, 2019, the City Manager, Deputy City Manager, and all department heads shall pay fifty dollars (\$50.00) per month via pre-tax payroll deduction toward their health premium, and the City will pay an amount equal to the balance of the Kaiser monthly premium rate for the employee's applicable single, two-party, or family employee category.

8.2 Life Insurance

The City provides basic group life insurance coverage by a carrier of the City's choice to all benefitted employees and pays the full amount of the life insurance coverage. The City also provides the option to benefitted employees to purchase additional coverage, at their own expense. A summary of the terms of the life insurance coverage is in the Appendix.

8.3 Hourly Rated Employees in Lieu of Benefits

Except for employees in the Aquatics Specialist II and Senior Aquatics Specialist classifications, the Salary Resolution shall provide that hourly-rated employees working in career benefitted classifications will receive an additional seven percent (7.0%) in lieu of benefits.

8.4 Public Employees Retirement System:

8.4.1 **Participation:** The City shall continue to participate in the Miscellaneous Employees Plan, the Safety Fire Plan and the Safety

Police Plan of the California Public Employees Retirement System ("CalPERS"). All benefitted employees shall participate in one of these plans.

8.4.2 **"Classic Employees" Definition:** Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

8.4.3 **CalPERS Retirement Formula for Miscellaneous Employees "New Members" as Defined under PEPRA:** Miscellaneous Employees "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2% at age 62 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.4 **CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees:** Effective January 1, 2003, the City amended its Miscellaneous Employees Plan contract with CalPERS to provide the 2.7% at age 55-retirement formula benefit improvement and the City's contribution to CalPERS on behalf of Miscellaneous employees increased from 7% to 8%. Effective July 3, 1994, contributions made pursuant to this Section shall be reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The contributions in Section 8.4.4 (CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees) shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked or for other differentials; nor shall such contributions be taken into account in determining the level of any other benefit which is a function of or percentage of salary.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this Section or any penalty that may be imposed therefore.

8.4.5 **Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment**

- 8.4.5.1 **June 4, 2017:** Effective June 4, 2017, Miscellaneous employees will contribute one percent (1%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.
- 8.4.5.2 **December 31, 2017:** Effective December 31, 2017, Miscellaneous employees will contribute an additional seven percent (7%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions on a pre-tax basis, for a total of eight percent (8.0%), via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions. The parties recognize that the Employer Paid Member Contributions (EPMC) shall remain in effect as long as the CalPERS amendment stays in effect.
- 8.4.5.3 If legislation is enacted requiring employers under the CalPERS retirement system to pay all of the employee's share of retirement, thus eliminating the Employer Paid Member Contribution, the City may convert the employee's contribution to the employer's share under this Section 20516 CalPERS contract amendment to the employee's share toward retirement and may continue to pay the 5.58% wage increase provided on December 31, 2017 associated with the CalPERS swap for Miscellaneous Classic Employees.

8.4.6 **Miscellaneous New Members' Pension Contribution**

- 8.4.6.1 Miscellaneous New Members as defined in the California Public Employees' Pension Reform Act of 2013 (PEPRA), shall continue to pay 50% of the Normal Cost required under PEPRA.
- 8.4.6.2 **June 4, 2017:** Effective June 4, 2017, in addition to the contribution in Section 8.4.6.1, Miscellaneous New Members shall contribute one percent (1.0%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allow such contributions as pre-tax via automatic payroll deduction. Such employee deductions by the City shall be used toward the City's CalPERS required contributions.
- 8.4.6.3 **December 31, 2017:** Effective December 31, 2017, in addition to the contributions in Sections 8.4.6.1 and 8.4.6.2 above,

Miscellaneous New Members shall contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions as pre-tax, for a total of eight percent (8.0%) via automatic payroll deduction. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

8.4.6.4 Miscellaneous New Member contributions in Sections 8.4.6.2 and 8.4.6.3 to the CalPERS 20516 employee contributions towards the employer rate are in addition to the required 50% of the normal share of cost of "New Members" (required pursuant to PEPRA) benefits and made in consideration of additional salary increases effective June 4, 2017 and December 31, 2017 and set forth in the Salary Resolution (a total of 5.58% in exchange for employees paying an additional eight percent (8.0%) towards CalPERS pension costs).

8.4.6.5 Miscellaneous New Member contributions in Sections 8.4.6.2, 8.4.6.3, and 8.4.6.4 to the CalPERS 20516 employee contributions towards the employer rate will be amended and reduced as follows:

8.4.6.5.a

- FY2021-22: 1% (Effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% effective July 1, 2022
- FY2023-24: 1% effective July 1, 2023
- FY2024-25: 2% effective July 1, 2024
- FY2025-26: 2% effective July 1, 2025
- FY 2026-27: 1% effective July 1, 2026

8.4.6.5.b No change to Classic members' contributions during the contract term.

8.4.7 **Public Safety CalPERS Retirement Formula for "New Members" as Defined Under PEPRA:** Public Safety "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2.7% at age 57 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.8 **Public Safety Classic Employees CalPERS Retirement Formula:** The City agrees to provide the 3% at age 50-retirement formula benefit

improvement (December 22, 2000 for Classic Fire Safety; and July 7, 2002 for Classic Police Safety hired prior to December 28, 2011).

For Classic Police Safety Employees hired on or after December 28, 2011, the City provides the 3% at age 55-retirement formula benefit.

- 8.4.9 **Public Safety Fire Classic Employees' CalPERS Pension Contribution:** On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Fire Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Cost Share: Effective November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Public Safety Fire Classic Employees shall contribute two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

- 8.4.10 **Public Safety Police Classic Employees' CalPERS Pension Contribution:** On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Police Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Effective January 3, 2016, Police Public Safety Classic Employees shall contribute one percent (1%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety Classic employees shall contribute an additional one percent (1%), for a total of two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

- 8.4.11 **Public Safety Fire New Members CalPERS Pension Contribution:** Public Safety Fire New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost as required pursuant to PEPRA.

Cost Share: Effective November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Fire New

Members shall also contribute an additional two percent (2%) of pensionable compensation, in addition to the PEPRA mandated 50% of the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis

- 8.4.12 **Public Safety Police New Members CalPERS Pension Contribution:** Public Safety Police New Members New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost required by PEPRA.

Cost Share: Effective January 3, 2016, Public Safety Police New Members shall also contribute one percent (1%) of pensionable compensation (in addition to contributing 50% of the normal share of cost) towards the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety New Members shall contribute an additional one percent (1%), for a total of two percent (2%), in addition to the PEPRA mandated 50% of the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis.

- 8.4.13 **CalPERS Options Available to Berkeley Employees:** The City's contract with CalPERS includes the following optional benefits:

- a) Classic Employees Only - One-Year Final Compensation as provided in Section 20042 (July 9, 1978 for Miscellaneous; July 22, 1976 for Fire and Police).
- b) Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).
- c) Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).
- d) Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).
- e) 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).
- f) Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

- g) Fourth Level of 1959 Survivor Benefits as provided in Section 21574 for Police Safety only (October 15, 1998).
- h) Military Service Credit as Public Service as provided in Section 21024 (April 9, 1999 for Miscellaneous; July 14, 2000 for Fire; November 6, 1998 for Police).
- i) Public Service Credit for Peace Corps or America Corps: Vista Service as provided in Section 21023.5. (April 14, 2000).
- j) Classic Fire - 3% @ 50 for Local Safety Members as provided in Section 21362.2 for Fire members only, (December 22, 2000); and for Police members only (July 7, 2002.).
- k) Classic Police Hired Prior to December 28, 2012: 3% @ 50 for Local Safety Classic Members as provided in Section 21362.2 for Police members only (July 7, 2002).
- l) Classic Police: 3% @ 55 for Local Safety Classic Members as provided in Section 21363.1 for Police members only (December 28, 2012).
- m) Classic Miscellaneous: 2.7% at age 55 for miscellaneous members as provided in Section 21354.2 on January 5, 2003.
- n) New Members Miscellaneous: 2% at age 62 for Miscellaneous New Members as defined by PEPRA on January 1, 2013.
- o) New Members Police and Fire: 2.7% @ 57 for Local Safety New Members as defined by PEPRA (January 1, 2013).
- p) Indexed Level of 1959 Survivor Benefits as provided in Section 21574.5 for Fire Safety only (June 13, 2003).

8.4.14 **Unused Sick Leave Conversion:** The conversion of unused sick leave to CalPERS Retirement Credit for Unused Sick Leave under Government Section 20965 shall be made available to qualified retiring employees. This allows employees to convert unused accumulated sick leave at time of retirement, for which the employee receives no compensation, to additional service credit at the rate of 0.004 year of service credit for each day. This credit applies to qualified employees

whose effective date of retirement is within four months of separation from employment. The CalPERS sick leave conversion applies to accumulated sick leave, exclusive of the amount of accumulated sick leave paid out to the employee pursuant to Section 4.11 (Accrued Sick Leave Cancellation Upon Termination), of this Manual.

- 8.4.15 **Retirement Benefit Allowance:** CalPERS retirement benefits are calculated on a formula based on the participating employee's years of service, age at retirement, and percentage of highest year compensation. For employees participating in the Local Miscellaneous Employees Plan, the percentage is 2.7% at age 55 effective January 5, 2003. For Classic Employees participating in the Fire Safety Employees Plan, the percentage is three percent (3%) at age 50 effective December 22, 2000. For Classic Employees participating in the Police Safety Employees Plan, the percentage is three percent (3%) at age 50 effective July 7, 2002. For Classic Employees participating in the Police Safety Employee Plan effective December 28, 2012, the percentage is three percent (3%) at age 55.

8.5 Supplementary Retirement and Income Plans

In lieu of participating in the Federal Social Security Program, the City provides a supplemental retirement and income plan to most benefitted employees. There are three supplementary retirement and income plans: Supplementary Retirement and Income Plans I, II and III ("SRIP I, II and III"). The City's contributions to these plans on behalf of participating employees is not subject to income tax until it is paid out to the employees upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

- 8.5.1 **SRIP I:** In SRIP I, the City contributes 5.7% of the participating employee's salary (up to a maximum annual salary of \$32,400) into an investment account and 1% into a long term permanent disability plan. SRIP I was closed to new participants on July 22, 1988.

- 8.5.2 **SRIP II:** In SRIP II, the City contributes 6.7% of the participating employee's salary (up to a maximum annual salary of \$32,400) into an investment account and pays into a disability insurance benefit plan on the employee's behalf; and employees may also borrow up to 50% of the balance in their SRIP II investment accounts, subject to certain limitations. All employees, including the Fire Chief, hired (or who are subsequently enrolled by resolution of the City Council) after July 22, 1988 are automatically enrolled in SRIP II.

The Deputy Fire Chief is enrolled, effective July 1, 1993.

- 8.5.3 **SRIP III:** For eligible Police Safety employees, the City contributes 2% of the employee's salary (up to a maximum annual salary of \$32,400) into the investment account, SRIP III.

8.6 Deferred Compensation

Benefitted City employees are eligible to participate in the City's Deferred Compensation Plan through voluntary payroll deductions from the employee's salary. The Deferred Compensation Plan allows employees to defer part of their salaries, in accordance with Internal Revenue Service limits, to a separate fund, which is not subject to income tax until it is paid out to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.7 PARS

At-will employees who are not eligible to receive fringe benefits under this chapter are automatically enrolled in the Public Agency Retirement System ("PARS"). Each pay period, such employee shall contribute 3.75% of his or her salary into the employee's PARS account on a tax deferred basis and the City shall contribute a matching amount equaling 3.75 % of the employee's salary. The employee's PARS account balance will be distributed to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.8 Public Safety Uniform Allowance

Due to the requirement for sworn fire and police department management personnel to wear standard and dress uniforms in the performance of their duties, the City Manager may provide for the payment of uniform allowance, in keeping with the allowance provided to other fire and police personnel, as shown in the Appendix. The uniform allowance is intended to cover uniform expenses incurred during active service prior to the payment and shall be paid semi-annually, in installments of equal amounts. To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

8.9 Supplemental Retirement Plan and Trust Agreement

Effective July 1, 2001, the City adopted a Supplemental Retirement Plan and Trust Agreement to provide supplemental retirement income and other benefits for eligible unrepresented career benefitted and regular at-will employees through the liquidation of termination pay. Termination pay means pay due to an eligible unrepresented career benefitted and regular at-will employee from the City on account of termination of his or her employment, but only including the commuted value of the following such accumulated pay: vacation, sick leave, sick leave bonus, compensatory time and floating holidays. The Supplemental Retirement Plan includes both mandatory contributions of termination pay and voluntary contributions for employees who provide the City with an irrevocable payroll deduction authorization at least 90 days in advance of the date of termination.

ARTICLE 9 - EMPLOYMENT AT-WILL

9.1 Employment At-Will

An employee who is employed in a position that is excluded from the career service by Berkeley Municipal Code Section 4.04.120 of the Personnel Ordinance is employed by the City in an "at-will" status. This means that both the at-will employee and the City have the right to terminate employment at any time, with or without advance notice, and with or without cause. No employee or officer of the City of Berkeley has the authority to alter the employee's at-will status or to enter into an oral or written agreement for employment for a specified period of time, or to make any promises, assurances or agreements contrary to this the provisions of this Section.

9.2 No Right to Appeal Discharge

An at-will employee who is discharged has no right of appeal or hearing in any manner provided by this Manual.

9.3 Benefits

Those offices, positions and employments named in the Berkeley Municipal Code, Sections 4.04.120 (A), (B) and (C) who regularly work twenty or more hours per week are classified as regular at-will employees and shall be entitled to those benefits as specified for benefitted employees by this. A list of regular at-will positions entitled to receive such benefits is in the Appendix.

All other offices, positions and employments named in the Berkeley Municipal Code, Section 4.04.120, are not eligible for any benefits provided under these Rules, except those expressly specified for temporary employees, such as the Earned Leave benefit or those required by State or Federal law such as Family Care Leave and enrollment in the City's PARS retirement plan, as provided in this Manual.

9.4 Standards of Conduct

At-will employees are subject to the same standards of conduct that prevail over employees in the career service. Any evaluations, warnings or disciplinary action provided to at-will employees regarding their conduct or job performance does not create any obligation or duty on the City's part to provide a warning or evaluation or corrective progressive discipline prior to discharge and in no way negates or otherwise abrogates the City's right to discharge at-will employees for any reason without notice at any time during their employment and without right of appeal.

9.5 Transfer or Appointment of Career Employee to an At-Will Position

Any employee in the career service who accepts a transfer or appointment to an at-will position shall be reinstated to the career position from which he or she was transferred or appointed if within six months after such transfer or appointment, action is taken to dismiss the employee, unless charges are filed and the employee

is discharged in accordance with these Rules. After expiration of the six month period, the employee is excluded from the career service and from any retreat rights to former career positions and is subject to termination at any time, with or without advance notice, with or without cause, and without the right of appeal.

ARTICLE 10 - LAYOFF POLICY AND PROCEDURE

10.1 Statement of Intent

This layoff policy is intended to provide the maximum employment protection to employees in the career service and to minimize the impact on the City's affirmative action accomplishments should a layoff become necessary.

10.2 Announcement of Layoff

The City Council, City Manager and department heads shall make every reasonable effort to manage and budget the City's resources effectively, and to plan for the delivery of City services in a manner which will avoid the necessity to lay off career City employees. A reduction in the workforce for more than thirty calendar days is necessitated by, but not limited to, the following a material change in duties and organization, adverse working conditions, return of employee from leave of absence, or shortage of work or fund. In the event of a layoff, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

10.3 Vacancy Freeze

Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the career service in similar and related classes to those likely to be targeted for layoff. The City Manager shall notify the department heads of a freeze of vacancies in their departments and shall require that requisitions continue to be submitted for any budgeted positions which the department head intends to fill and for which funding is available.

10.4 Seniority Service Date

All service in the employ of the City shall be counted toward the establishment of an employee's Seniority Service Date, including permanent, probationary, provisional, temporary, part time (on a prorated basis), seasonal, regular at-will employment, and approved military and parental leaves of absence. All other leaves without pay, including time off as a result of formal disciplinary action will be subtracted from the Seniority Service Date.

10.5 Establishment of Seniority Lists

Layoffs shall be made according to City-wide class Seniority Lists which the Human Resources Department will immediately establish for probationary and permanent employees in each class targeted for layoff. The names of all City employees holding permanent and probationary appointments in a given class will be listed on the appropriate list in descending order by Seniority Service Date.

Probationary or permanent employees temporarily acting out of class and holding a provisional appointment in another class will be listed on the Seniority List of the class in which they hold permanent or probationary status.

10.6 Order of Layoff

Employees within a specific class shall be laid off on the basis of their Seniority Service Date; i.e., employees with the least amount of total service shall be laid off first. All emergency, temporary and provisional employees working in classes similar to those identified for layoff must be terminated prior to the layoff of probationary and permanent employees. Probationary employees will be laid off prior to permanent employees for a specific class.

10.6.1 **Tie:** If two or more employees on a Seniority List have an identical Seniority Service Date, the tie shall be broken in the following order: (1) time in class--the employee having least time in the class shall be laid off first, and (2) by lot.

10.6.2 **Administrative & Fiscal Services Manager Position in the Berkeley Public Library:** This is a specialty designated position within the Administrative & Fiscal Services Manager classification, and will be treated as a separate classification for the purpose of administering the Layoff Policy and Procedure.

10.7 Notification

Permanent and probationary employees should be notified individually, in writing, of pending layoffs as soon as possible, with no less than thirty calendar days notification if targeted for termination or retreat to a lower class.

All other employees to be laid off shall be given, whenever possible, at least a fourteen (14) calendar day prior notice.

10.8 Employee Retreat Rights

A probationary or permanent employee affected by layoff shall have the right to displace an employee in a lower level class in which the affected employee once had permanent status or in a subsequently created intermediate level career class which provides normal progression through the class series. Retreat rights shall also extend to employees who have not previously been promoted through a class but for whom the class is a natural progression or beginning in the class series. Retreat rights into a lower class will be granted in order of the highest seniority date on the Seniority List for employees in that class.

10.8.1 **Qualified to Retreat into More than One Classification:** When an employee is qualified to retreat into more than one class, the options shall be discussed with the employee and due consideration given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee

10.8.2 **Salary Step:** Employees retreating to a lower class or being flexibly placed in a similar class shall be placed at the salary step representing

the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

- 10.8.3 **Reinstatement after Transfer:** An employee whose position is abolished and is transferred in lieu of layoff shall have the right to return to the position if it is restored within one year of the date of the transfer.

10.9 Flexible Placement Program

After all frozen vacant positions have been filled by employees entitled to retreat rights under Section 10.8 (Employee Retreat Rights) of this chapter, the Human Resources Department will review and identify the remaining frozen vacant classes into which career employees targeted for layoff who have not retreated into a lower class may be placed on the basis of total experience and education.

- 10.9.1 **Failure to Meet Minimum Requirements:** Where the targeted employee does not meet the minimum qualifications of a frozen vacant position, the City Manager has the discretion to either waive the minimum qualifications and/or substitute the targeted employee's job-related experience and education for the minimum qualifications, but under no circumstances is the City Manager required to do so. Where the employee does not meet the minimum qualifications, flexible placement can occur only if the City Manager determines that management and supervisory personnel are able to provide adequate supervised on-the-job training to the employee to meet the requirements of the job. The employee must successfully complete the training within six months as determined by the Director of Human Resources or the employee shall be again subject to the layoff procedures.
- 10.9.2 **Salary Range:** Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off.
- 10.9.3 **Order of Assignment:** Offers to positions under the Flexible Placement Program shall be made according to the employee's standing on the Seniority List.

10.10 Failure to Accept Offer under Layoff

Failure on the part of an employee to accept a written bona fide offer to retreat to a lower class or be flexibly placed in an alternative job within ten calendar days after the offer is made shall result in forfeiture of any further right to employment retention. Acceptance of a reassignment to a lower class does not remove the employee's right of appeal under Section 10.12 (Appeal Procedures) nor does acceptance of an alternative job under the Flexible Placement Program jeopardize an employee's standing on the re-employment lists as further provided in this Section 10.10 (Failure to Accept Offer under Layoff).

10.11 Re-Employment List

The names of probationary and permanent employees laid off in accordance with this chapter shall be entered on a re-employment list for both those classes from which they were separated as well as other classes to which they have retreat rights.

- 10.11.1 **Duration of List:** Re-employment lists for laid off employees who are separated from City service shall remain in effect for three years. Re-employment lists for laid off employees who are demoted shall remain in effect indefinitely.
- 10.11.2 **Use of List:** Re-employment lists shall be used by each department when a vacancy arises in the same or lower class of position before certification is made from an eligible list.
- 10.11.3 **Order of Appointment:** Employees on the re-employment list shall be certified and appointed to a vacancy in the appropriate class according to their standing on the Seniority List.
- 10.11.4 **Failure to Appoint from Re-Employment List:** If a vacancy is filled from an eligible list in a class for which a re-employment list exists which is a violation of this Section, the employee on the re-employment list who should have been appointed shall be appointed to the vacancy and paid retroactively from the date the vacancy occurred.
- 10.11.5 **Failure to Accept Bona Fide Offer:** Failure on the part of the employee on the re-employment list to accept a bona fide written offer of re-employment within fifteen calendar days will result in removal of the employee's name from the re-employment list from which the offer was made. Failure to accept an offer of re-employment to the class with the highest salary range for which the employee is eligible for re-employment will result in automatic removal of the employee's name from all re-employment lists. The employee may, however, accept or decline temporary re-employment without jeopardizing his or her standing the re-employment list for the class from which he or she was originally terminated.
- 10.11.6 **Salary Step:** Upon reappointment to the class from which the employee was originally separated or demoted, the employee shall be placed at the salary step that the employee held at the time of the separation or demotion.
- 10.11.7 **Reinstatement List:** Any former employee on a re-employment list shall be included as an eligible on the reinstatement list for a specific class at or below the class from which layoff occurred, upon written request by the employee for reinstatement which is submitted with a current, completed City of Berkeley application and upon meeting the

minimum qualifications of the specific class unless waived by the City Manager as provided under flexible placement.

10.12 Appeal Procedures

The decision of the City Manager to implement a layoff is not appealable. Any unrepresented career employee who believes that the layoff procedure, as defined herein, has been improperly administered as to the employee may appeal the action under the Complaints, Appeals and Hearing Procedure of this Manual. Employees are entitled to review all records pertaining to their class and their rights under the provisions of the layoff policy.

10.13 Audit

In the event of a dispute between an employee and the City over the application of the re-employment list and if either party so requests, the City Manager's Office shall order an audit by an outside auditor of all vacant positions filled in each department to determine whether vacancies were filled in compliance with the procedures for appointments from re-employment lists set forth in Section 10.11 (Re-Employment List) of this Manual. In the event vacancies for which re-employment lists were in existence remain unfilled, the auditor shall offer an opinion as to whether or not the reasons for leaving the positions vacant appear to be legitimate. A report of the audit shall be transmitted to the City Manager and the City Council.

ARTICLE 11 - DISCIPLINARY ACTION

11.1 Policy

Prior to the suspension, disciplinary demotion or discharge of an employee in the career service for disciplinary purposes, the procedure set forth in this Article 11 (Disciplinary Action) shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to the notice, rights and procedures provided under Section 11.3 (Disciplinary Actions).

11.2 Final Decision Maker for Disciplinary Action

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

11.3 Disciplinary Actions

The department head shall initiate disciplinary procedures, as set forth here. The department head may suspend a subordinate employee for not more than three working days at any one time. For suspensions of more than three days, disciplinary demotions and discharge, the department head shall make a recommendation to the final decision-maker. The final decision-maker may suspend an employee from a position at any time for cause. Suspension without pay shall not exceed thirty working days, nor shall any employee be penalized by suspension for more than thirty working days in any continuous twelve month period. However, FLSA exempt employees shall not be suspended in less than regular workweek increments except for safety or security violations. A "regular workweek" is defined elsewhere by this Manual.

11.4 Written Reprimands for Fire Safety Employees

Consistent with the Firefighter Bill of Rights Act, the Deputy Fire Chief receiving a written reprimand shall have the right to a non-evidentiary administrative appeal to the Fire Chief or Fire Chief's designee. The employee must request an administrative appeal in writing to the Fire Chief within ten (10) working days of receipt of the written reprimand. Failure to do so shall be deemed a waiver of the employee's right to appeal. The Fire Chief or Fire Chief's designee shall have discretion regarding how the appeal meeting is conducted, including whether and the extent to which witnesses other than the employee and employee's representative are required and may participate. The Fire Chief or Fire Chief's designee shall notify the employee of his or her decision within ten (10) working days of the appeal meeting. An employee and the Association have no further right to appeal or grieve a written reprimand beyond the administrative appeal described in this paragraph.

11.5 Written Reprimands for Non- Safety Employees

In the event that an employee receives a written reprimand, the employee may write a rebuttal within thirty (30) calendar days of receiving the written reprimand and such rebuttal will be placed in the Personnel File along with the written reprimand. Employees have not right to appeal or grieve a written reprimand.

ARTICLE 12 - COMPLAINTS, APPEALS AND HEARINGS

12.1 Policy

The procedure for filing complaints and appeals by employees set forth under this Article 12 shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to file complaints with the City and appeals to the Personnel Board pursuant to the provisions of this Manual.

12.2 Final Decision Maker for Purposes of this Article

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

12.3 Complaints

Disciplinary action shall be taken in accordance with Article 11 (Disciplinary Action) of this Manual. All other complaints by employees, except complaints about compensation, which allege a violation of the Personnel Ordinance or this Manual shall be filed through proper channels, commencing with the department head, and then to the final decision maker.

12.3.1 **Compensation Complaints:** All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. The Director of Human Resources shall respond in writing within thirty (30) working days. If the complaint has not been resolved within thirty (30) working days of filing with the Director of Human Resources, the complaint may be moved to the final decision maker. Only complaints, which allege that employees are not being compensated in accordance with the policies, rules and resolutions of the City Council, shall be considered as complaints under this Section. No compensation adjustment shall be retroactive for more than thirty calendar days from the date upon which the complaint was filed or thirty calendar days from the date when an employee may reasonably be expected to have learned of the claimed violation.

Appeal: If the grievant is not satisfied with the decision of the Director of Human Resources or his or her designee, the grievant may move the complaint to the final decision maker within ten (10) days of receipt of the decision rendered under Section 12.3.1 above. Failure by the employee to file an appeal within the specified time limits specified constitutes a dropping of the complaint. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.

12.3.2 **Discrimination Complaints:** An employee may file a complaint concerning a violation of the "FAIR EMPLOYMENT" provision specified by the rules of this Manual, and the complaint shall be processed in accordance with the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley EEO/Affirmative Action Program, as established in Resolution No. 54,926-N.S., as amended from time to time.

12.4 Right of Appeal

An aggrieved employee shall have the right to appeal the decision of the final decision-maker regarding the aggrieved employee's disciplinary dismissal, demotion, suspension or complaint to the Personnel Board except in instances where the right to appeal is prohibited by the Personnel Ordinance or the provisions of this Manual.

12.5 Method of Appeal

Appeals to the Personnel Board shall be in writing, signed by the aggrieved employee and filed with the Director of Human Resources within ten calendar days after the action is imposed. The appeal shall be a written statement, addressed to the Chair of the Personnel Board, explaining the matter appealed from and setting forth a statement of the action desired by the aggrieved employee, supported by his or her reasons. The Director of Human Resources shall, within ten calendar days after receipt of the appeal, inform the Chair of the Personnel Board, the City Manager and the affected department head of the filing and contents of the appeal with the Board.

12.6 Investigations and Hearings

Upon receipt of any appeal, the Personnel Board shall make such investigation, as it may deem necessary.

An aggrieved employee who has been demoted for a disciplinary purpose, suspended or discharged is entitled to a hearing upon appeal before the Personnel Board. As to all other appeals, the Personnel Board may grant a hearing or decide the appeal without a hearing as it may deem warranted.

12.7 Hearing Procedures

In cases where the employee is entitled to a hearing as a matter of right and in other cases whenever the Board may deem it advisable to hold a hearing, these procedures shall apply.

12.7.1 **Notice:** The Personnel Board shall schedule a hearing on the appeal within forty-five calendar days from the date of the filing of an appeal. The Director of Human Resources shall notify all interested parties of the date, time and place of the hearing at such places as the Personnel Board shall prescribe.

12.7.2 **Hearing Procedure:** The aggrieved employee shall appear personally unless physically unable to do so before the Personnel Board at the time and place of the hearing. The aggrieved employee may be represented by any person or attorney as may be selected and may at the hearing produce relevant oral or documentary evidence. The party who has the burden of proof shall state the case first after which opposition matter may be presented. Rebuttal matter that is not repetitive may be allowed at the discretion of the Personnel Board. Cross-examination of witnesses shall be permitted. Hearings need not be conducted according to technical rules relating to evidence and witnesses, but shall be conducted according to any rules of applicable procedures. Hearings shall be closed unless otherwise required by the Ralph M. Brown Act, Government Code Section 54950, as amended from time to time, or any other applicable law.

12.8 Findings and Recommendations

The Personnel Board shall, within thirty calendar days after the conclusion of the hearing, or if no hearing was conducted, within thirty calendar days of its decision, certify its findings and recommendation(s) in writing to the aggrieved employee and to the final decision-maker. The final decision maker shall review the findings and recommendation(s) of the Personnel Board and may then affirm, reject or modify the Personnel Board's findings and recommendation(s) as, in his or her judgment, seems warranted, and the final decision maker's decision shall be final. Any member of the Personnel Board may submit a minority or supplemental report which shall be attached to the findings and recommendation(s) of the Board.

APPENDIX

This Appendix contains detailed information regarding benefits and compensation which covers unrepresented benefitted employees. It is appended to the Unrepresented Employee Manual but the contents are not part of the resolution establishing the Unrepresented Employee Manual and may be changed to reflect changes in benefit details, as approved by the City Council by resolution.

13.1 Administrative Leave

Employees who are in career, benefitted, or at-will benefitted classifications which are FLSA Exempt may be approved by the City Manager to receive up to an additional 50 hours of compensated administrative leave beginning on January 1, 2016, and at the beginning of each calendar year thereafter, or prorated during the course of the year when employed less than a full year. This administrative leave is granted to employees whose job responsibilities cause them to work numerous hours in excess of the normal City workweek. The City Manager has the authority to rescind administrative leave in those instances of abuse or misuse of the intent of this provision.

Administrative leave taken must be approved in advance by the department head and posted to the employee's timecard. Unused administrative leave may be carried over to the next calendar year, providing the total of excess vacation and unused administrative leave do not exceed 320 hours. Otherwise, the excess administrative leave must be taken within the calendar year in which it was earned or it may be forfeited. Upon termination or retirement, no monetary award will be authorized for unused accumulated administrative leave.

13.1.1 Prorated Administrative Leave: A benefitted employee who is otherwise eligible for overtime and who is on a temporary or provisional benefitted appointment in an FLSA Exempt classification for a period of one month or longer, and is ineligible to earn overtime, shall be entitled to prorated Administrative leave for the duration of the temporary or provisional appointment. Any unused administrative leave at the end of the temporary or provisional appointment will roll into vacation, provided the total of accrued and unused vacation and accrued administrative leave do not exceed 320 hours.

13.2 Automobile Allowance

The City reimbursement rate for the use of a private automobile on authorized City business will be equal to the amount established by the Internal Revenue Service.

13.3 Bilingual Premium Pay

13.3.1 As Part of Regular Job Assignment: An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, routinely and consistently as part of his or her regular job assignment as determined by the City

will receive a Bilingual Premium Pay Differential of 5%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 5% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

- 13.3.2 **Occasional Assignments:** An employee assigned occasionally to provide non-English language services, including Braille and sign language, when either a) assigned by management, or b) at the request of the employee with the supervisor's agreement, or, c) after a job audit will receive a Bilingual Premium Pay Differential of 2%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 2% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.
- 13.3.3 **Competency and Management Rights:** The bilingual premium will not be applicable under any circumstances except to an employee who possesses second language competency. Management reserves the right to test for second language appropriate competency prior to a Bilingual Premium Pay Differential.
- 13.3.4 **Temporary Designation:** The City may designate an employee to receive either the 5% or 2% Bilingual Premium Pay Differential on a temporary basis for a specified period provided the employee met the requirements contained in the first or second paragraph of this Section.

13.4 Cash-In-Lieu Payments

For those employees who are able to show proof of ongoing alternate medical coverage, the City will compensate employees \$560.00 per month, prorated for less than full-time employees. This benefit shall be frozen at this amount. To comply with FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments instead of once a month.

13.5 Dependent Care

Employees shall be allowed to designate a specific amount of salary, consistent with State and Federal tax laws, to be redirected to pay for dependent care costs through pre-tax salary deductions. The amount of funds designated should be considered carefully, because under the current tax code, any unexpended funds which have not been spent for the specific purpose of paid dependent care and remain in the employee's account at the end of the year, will be forfeited.

13.6 Life Insurance

The City shall provide paid group life insurance, by a carrier of the City's choice, in the amount of \$25,000 which shall include a standard accidental death and dismemberment provision of a like amount. Employees in the classification of Police Chief and Fire Chief shall be provided with life insurance in the amount of \$100,000, which shall include a standard accidental death and dismemberment provision of a like amount. Life insurance shall become effective the first day of the calendar month following appointment, and shall continue until the last day of the calendar month in a pay status.

In addition, all unrepresented benefitted employees may purchase additional coverage, in increments of \$10,000, up to a maximum of \$300,000, at the rate offered by the City's insurance carrier, subject to any rules and restrictions of the carrier, including but not limited to any medical exam that might be required by the insurance carrier.

13.7 Medical/Dental Insurance for Employees/Dependents

Except as provided in Section 8.1 (Group Medical-Dental Insurance Benefits), the City offers fully paid and/ or partially paid health insurance plans and a fully paid dental plan for the employee and eligible dependents, including a domestic partner. The dental plan currently provides orthodontic coverage for the employee's dependent children through age 26 and 90% of the Bay Area Usual, Customary and Reasonable charges. Effective January 1, 2007, the maximum annual coverage will be \$2,000 annual coverage, and \$2,000 lifetime orthodontia limit. Any employee, who is required to partially pay premiums, shall be allowed to make these payments with pre-tax deductions. The medical and dental benefit coverage for dependent children extends to the date of their 26th birthday, providing they meet the Internal Revenue Service definition of "dependent". If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for medical benefits and/or dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

Medical and dental benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status, except in the case of parental and Family and Medical Leave Act, as described in the Administrative Regulation No. 2.4. Maximum annual coverage amounts are found in the Employee Benefits Handbook.

- 13.7.1 **Dental Coverage for Fire Management:** Effective January 15, 2015, employees in the classification of Fire Chief and Deputy Fire Chief, shall be provided with dental insurance with an annual maximum coverage of \$3,000 and lifetime orthodontia limit of \$3,000.

13.8 Retiree Medical Plan

The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

13.9 Amendment of Retiree Health Premium Assistance Plans I and II, effective June 28, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after June 21, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City will also amend the Retiree Premium Assistance Plans I and II to allow eligible retirees who retired prior to June 21, 2015 to enroll in a non-City sponsored health plan.

13.10 Retiree Medical for Unrepresented Benefitted Employees

Effective June 28, 1998, the City will provide the retiree medical coverage set forth below for all unrepresented benefitted employees, except employees in the classifications of Police Chief, Fire Chief, and Deputy Fire Chief (see separate plans below). An employee's entitlement to any and all benefits provided by the City under this retiree medical plan is subject to the funding limitations set forth in the plan document.

- 13.10.1 Eligibility and Percentage of City Contribution:** An employee is eligible for the retiree health insurance coverage as set forth in Sections 13.10.3 (Pre Age 65 Retiree Health Insurance) and 13.10.4 (Retiree

Benefits for Employees Age 65 or Over) below if he or she meets all the following criteria:

- a. retires from career service on or after June 28, 1998;
- b. is vested with CalPERS;
- c. has at least eight (8) years of CalPERS qualifying service with the City; and
- d. is at least age 55.

An “Eligible Retiree” also includes individuals who meet the definition as set forth in Section 2.11.1 of the Retiree Health Premium Assistance Plan I for Confidential and Executive Management Employees (Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials) Restated and Amended effective as of March 22, 2011 (Resolution No. 65,196-N.S.) for “Eligible Retiree.”

Percentage of City Contribution: The actual monthly amount of money the City will contribute on the employee’s behalf will be based on the employee’s total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percentage of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

- 13.10.2 **Annual Increase:** Retirees will pay the difference between the City’s monthly contribution and the actual monthly medical insurance premium charged by the health plan he or she has elected for retiree medical coverage. If the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year’s contribution. No increases in the amount the City contributes shall occur before July 1, 1999. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

- 13.10.3 **Pre Age 65 Retiree Health Insurance:** Beginning June 28, 1998, the City shall make available health insurance coverage to the employee and his or her spouse or domestic partner. The City will pay on the employee's behalf no more than \$166.26 per month for an employee electing single party health coverage and no more than \$332.52 per month for an employee electing two party coverage.
- 13.10.4 **Retiree Benefits for Employees Age 65 and over:** Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his or her eligibility for the retiree medical benefits set forth in Section 13.10.1 (Eligibility) ceases. On reaching age 65, the City will make available health insurance coverage in addition to Medicare. When an employee or retiree reaches age 65, the City will contribute no more than \$16.17 per month on the employee's behalf for single party health insurance coverage and no more than \$32.34 per month for two-party health coverage.
- 13.10.5 **Termination by City of Retiree Medical Benefit:** Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under Section 13.10 (Retiree Medical for Unrepresented Benefitted Employees).
- 13.10.6 **Retiree Medical Benefit for Employees Retiring between the Ages of 50 and 55:** An employee who is at least 50 years of age, but less than 55, has at least eight (8) years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in group health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.
- 13.10.7 **Employees Retiring with a CalPERS Approved Disability Retirement:** If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide

any benefits under this Section to the employee and/or his spouse or domestic partner.

- 13.10.8 **City Funding of Retiree Health Benefit:** City contributions to the retiree medical benefit began on July 1, 1998. Funding of this benefit has been set aside in a trust to be established by the City.

The retiree medical benefit will be funded by a charge of 0.25% of payroll in each year, so that contributions are at 1% of the payroll after four years. The City will fund the benefit at approximately 1% of the payroll for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

Effective July 4, 2004, an additional charge of 0.25% of payroll was charged each year in the subsequent four years so that contributions are at 2% by July 1, 2007. The purpose of this 1% increase in payroll contribution is to fund post age 65 Medicare supplement plans. As a result of this change, the amount the City contributes toward the post-65 Medicare Supplement coverage under the Retiree Health Premium Assistance Plan was \$102 effective July 7, 2002 for all post 65 retirees as well as future retirees.

- 13.10.9 **Retiree Medical Plan for Unrepresented Employees (Rep Units Z-2, Z-3, Z-6):** Eligible retirees who retired from positions in Representation Units Z-2, Z-3 and Z-6 on or after July 1, 2008.

Not Medicare Eligible: Effective July 1, 2008, between the ages of 55 and 65 who retire on or after June 29, 2008 the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by \$50 per month in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2009, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional \$25 per month (i.e., an aggregate \$75 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2011, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional \$25 per month (i.e., an aggregate \$100 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase).

- 13.10.10 **Retiree Medical Plan for Confidential and Executive Management Employees (Rep Unit Z-1; Z-5; Z-7; Z-9; and Elected Officials):** Eligible retirees who retired from positions in Representation Unit Z-1 on or after July 1, 2008.

Medicare and Not Medicare Eligible: Effective June 29, 2008, an additional charge of 0.50% of payroll will be charged so that contributions are at 2.5%. The purpose of this 0.50% increase in payroll contribution is to fund both pre-65 retiree health care premium costs and post age 65 Medicare Supplement plans for eligible retiree who retired from positions in Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials on or after July 1, 2008. As a result of this change, the amount the City contributes toward pre age 65 health insurance premium costs shall increase from \$258.19 per month to \$309.39 per month for single coverage and from \$516.38 per month to \$618.78 per month for 2-party coverage. The City's contribution toward the post-65 Medicare Supplement coverage shall increase from \$132.83 per month to \$184.03 per month for single coverage and from \$265.67 per month to \$368.06 per month for 2-party coverage.

13.11 Reimbursement Plan

After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow for the reimbursement of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both. If there is no spouse or domestic partner at the time of retirement, the City shall only reimburse the single party rate. The reimbursement shall be paid directly to the retiree or surviving spouse or domestic partner. The maximum amount the City will reimburse for the cost of Medical Insurance Premiums is based on the schedule described in Section 13.10.1 (Eligibility and Percentage of City Contribution) above.

13.11.1 Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z-9; and Elected Officials) Who Retire on or After June 28, 1998 through June 30, 2008

13.11.1.1 **Not Medicare Eligible:** For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$166.26 for single party coverage for the retiree or \$332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

- b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total \$338.60 for single party coverage for the retiree or \$677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.1.2 **Medicare Eligible:** For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$16.17 for single party coverage for the retiree or \$32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of July 7, 2002:** Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$102.00 for single party coverage for the retiree or \$204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- c. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$172.98 for single party coverage for the retiree or \$345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.2 **Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z9 and Elected Officials) Who Retire on or After July 1, 2008**

- 13.11.2.1 **Not Medicare Eligible:** For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:
- a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling \$309.39 for single party coverage for the retiree or \$618.78 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
 - b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$405.73 for single party coverage for the retiree or \$811.46 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- 13.11.2.2 **Medicare Eligible:** For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:
- a. **Reimbursement as of July 1, 2008:** Effective July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$184.03 for single party coverage for the retiree or \$368.06 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
 - b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$239.65 for single party coverage for the retiree or \$479.31 for two party

coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3 Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; Z-6) Who Retire on or After June 28, 1998 through June 30, 2008

13.11.3.1 Not Medicare Eligible: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$166.26 for single party coverage for the retiree or \$332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total \$338.60 for single party coverage for the retiree or \$677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3.2 Medicare Eligible: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$16.17 for single party coverage for the retiree or \$32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of July 7, 2002:** Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of

Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total \$102.00 for single party coverage for the retiree or \$204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

- c. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$180.76 for single party coverage for the retiree or \$361.53 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.4 **Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; and Z-6) Who Retire on or After June 29, 2008**

13.11.4.1 **Not Medicare Eligible:** For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling \$297.08 for single party coverage for the retiree or \$544.16 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of July 1, 2009:** As of July 1, 2009, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), total \$335.45 for single party coverage for the retiree or \$593.64 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- c. **Reimbursement as of July 1, 2011:** As of July 1, 2011, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical

Plan for Unrepresented Employees), total \$391.32 for single party coverage for the retiree or \$673.27 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

- d. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$469.92 for single party coverage for the retiree or \$808.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

3.11.4.2 **Medicare Eligible:** For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

- a. **Reimbursement as of July 1, 2008:** As of July 1, 2008, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$138.81 for single party coverage for the retiree or \$277.62 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.
- b. **Reimbursement as of January 1, 2017:** As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total \$172.98 for single party coverage for the retiree or \$345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.5 **Enrollment in City Group Plans**

Retiring employees may receive continuing health coverage in City sponsored group health plans subject to the limitations and co-pay amounts permitted by the health care providers.

13.12 **Fire Chief and Deputy Fire Chief Retiree Medical Plan**

Internal City of Berkeley candidates who promote and are appointed to the Fire Chief or Deputy Fire Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn fire employees in Representation Unit B.

- 13.12.1 **Retiree Medical Benefits for External Appointments:** External City of Berkeley candidates appointed to the Fire Chief or Deputy Fire Chief classifications shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.13 Retiree Medical for Police Chief Classification

Internal City of Berkeley candidates who promote and are appointed to the Police Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn police employees in Representation Units E and F.

- 13.13.1 **Retiree Medical Benefits for External Appointments:** External City of Berkeley candidates appointed to the Police Chief classification shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.14 Partially Subsidized YMCA Membership

The City currently provides a partially subsidized membership in the Berkeley YMCA for those employees who agree to pay the required monthly fee. Use of a YMCA membership by a City of Berkeley employee, as provided by this provision, is not part of the employee's work related duties, is not required for continued employment and is not considered part of a City sponsored physical fitness program. The City of Berkeley nor its Claims Administrator shall not be liable for any injury that may arise out of a City of Berkeley employee's participation in and use of a YMCA membership. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding.

13.15 Part-Time Employees Eligible for Full Benefits

Those part time employees who have been continuously employed by the City in benefitted part time career positions since prior to July 1, 1977 and who have not accepted a full time career position are eligible to participate in the City's health and dental insurance programs with the City's payment of premiums at the same level as for full time benefitted employees.

13.16 Probationary Periods for Unrepresented Classifications

The competitive appointment to a career classification will include a probationary period during which time the incumbent may be dismissed without right of appeal. The probationary period for unrepresented classifications varies from six (6) months of actual work hours (1040 hours for full time employees and 520 hours for half time) to one year of actual work hours (2080 hours for full time and 1040 hours for half time).

Presently, unrepresented classifications require a six (6) month probationary period except for the following unrepresented classifications which require a one year probationary period:

- (a) All classifications in Unit Z-1 in the career service; and
- (b) All classifications in Unit Z-2 in the career service.

13.17 Public Safety Uniform Allowance

- (a) Fire Uniform Allowance: Effective November 9, 2004, \$1,000 annual allowance. Effective December 1, 2015, \$1,100 annual allowance.
- (b) Police Uniform Allowance: Effective July 7, 2002, \$1,000 annual allowance.
- (c) To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

13.18 Regular “At-Will” Classifications

The following classifications are exempt from the career service and in accordance with the Personnel Ordinance (Berkeley Municipal Code Section 4.04.120), At-Will appointments are eligible to receive benefits:

- All department heads
- Assistant City Manager
- Assistant to the City Manager
- Assistant to the Mayor
- Assistant, Associate and Senior Management Analyst in the City Manager's Department and in the Office of Budget and Fiscal Management
- Budget Manager
- Capital Improvement Programs Manager
- Deputy City Manager
- Economic Development Manager
- Health Officer
- Legislative Assistant
- Police Review Commission Investigator
- Police Review Commission Officer
- Secretary to the Mayor, Administrative Secretary and Secretary in the Mayor's Office
- Supervising Psychiatrist

13.19 City Manager Department Differential

Assistant, Associate and Senior Management Analysts in the City Manager's Department and in the Office of Budget and Fiscal Management shall receive a 5% salary differential.

13.20 Shift Differential

Employees whose regular schedules meet the definition, as specified by Unrepresented Employee Manual Section 1.12 (Shift Differential), for shift differential, for the hours of 5:00 p.m. to 12:00 a.m., shall be paid their regular salary plus seven and one-half percent (7.5%) of their monthly salary per month. Those whose regular schedule meets the definition for shift differential, for the hours of 12:00 a.m. to 7:00 a.m., shall be paid their regular monthly salary plus ten percent (10%) of their monthly salary per month.

13.21 SRIP II Disability Insurance

The City shall pay the premium for the current cost of long term disability insurance for SRIP covered employees who are enrolled in the SRIP II (Supplementary Retirement and Income Plan).

13.22 Vacation Schedules

Unrepresented employees, except those confidential executive, management and professional employees in Section 13.20.1 (Confidential Executive Management and Professional Employees) below, shall be entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workweeks (FTE 80 hours)	During the first 3-years
3-workweeks (FTE 120 hours)	During the 4 th through 11 th year
4-workweeks (FTE 160 hours)	During the 12 th through 17 th year
5-workweeks (FTE 200 hours)	During the 18 th through 24 th year
6 workweeks (FTE 240 hours)	During the 25 th and subsequent years

- 13.22.1 **Confidential Executive, Management and Professional Employees:** Confidential executive, management and professional employees who were eligible under the City's Administrative Leave Policy are entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workweeks (FTE 80 hours)	During the first 2-years
3-workweeks (FTE 120 hours)	During the 3 rd through 5 th year
4-workweeks (FTE 160 hours)	During the 6 th through 17 th year
5-workweeks (FTE 200 hours)	During the 18 th through 24 th year

6 workweeks (FTE 240 hours)	During the 25 th and subsequent years
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13.22.2 **Director of Library Services and Deputy Director of Library Services:** Employees in the classifications of Director of Library Services and Deputy Director of Library Services are entitled to earn annual vacation Leave as follows:

Years of Actual Benefited Service	Authorized Annual Vacation Accrual
Through the first 5 Years of Service	3 weeks (120 Hours)
Beginning the 6th through 17th Years of Service	4 weeks (160 Hours)
Beginning the 18th through 24th Years of Service	5 weeks (200 Hours)
Beginning the 25th and subsequent Years of Service	6 weeks (240 Hours)

13.23 Special Pay for Camps Personnel

When an employee, who has a valid Red Cross Senior Lifesaving Certificate and occupies a camps classification, is specifically assigned in writing by the Camps Manager or an authorized representative, with approval by the City Manager, to temporarily serve as a lifeguard for one day or more, said employee shall be paid a five percent (5%) differential, more than the employee's current salary.

13.24 Hazard Premium Pay for Clerical Mental Health Personnel

Clerical employees who are regularly assigned to work in Mental Health Programs, in direct contact with clinic patients, shall receive a five percent (5%) differential. This Hazard Premium Pay shall be reported to CalPERS as “Hazard Premium” under PERL Section 571 (Definition of Special Compensation), (4) Special Assignment Pay.

13.25 Longevity Pay

Effective the first full pay period after Council adoption, employees in Representation Units Z-2, Z-3 and Z-6 who complete nineteen (19) years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. Longevity pay shall be paid at the beginning of the pay period following completion of the 20 years of service. This Longevity Pay shall be reported to CalPERS as “Longevity Pay” under PERL Section 571.a.(1) Incentive Pay.

13.26 Longevity Pay for Confidential and Executive Management Employees

Effective the first full pay period after Council adoption, and except as noted below in Section 13.24.1 (Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief), employees in Representation Unit Z-1 who have completed nineteen (19) years of service shall receive a three percent (3%) differential beginning with the

anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

- 13.26.1 **Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief:** The longevity pay for the Fire Chief and Deputy Fire Chief classifications is intended to provide the same benefits as the Longevity Pay for represented sworn fire employees under the Berkeley Fire Fighters Association (Unit B) Memorandum of Understanding.

13.27 Automobile Allowance for Police Chief

The City Manager may authorize an automobile allowance of \$400 per month in lieu of a City provided vehicle for an employee appointed after November 1, 2009 to the classification of Police Chief.

13.28 Video Display Terminal Screening/Glasses

The City offers VDT screening and glasses as medically required, every two years, to employees who in the course of their employment operate VDT equipment more than four hours in a work day.

13.29 Emergency Medical Technician

Effective September 13, 2015, Unit Z-1 Fire Chief and Deputy Fire Chief who maintain current Emergency Medical Technician (EMT) certification shall receive an EMT pay differential of four percent (4.0%).

13.30 Shoe Allowance

An annual allowance of two hundred dollars (\$200) shall be paid to benefitted employees in the classification of Janitor, Groundskeeper, Laborer, and Solid Waste Worker.

13.31 Training Differential

- 13.31.1 **Trainer Differential:** Effective July 1, 2016, any employee, excluding those classifications that require training as part of the assignment (e.g. supervisors), designated by the department and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills (identified by the departments in consultation with Human Resources) who is required to provide formalized training to a new employee or an employee who management has identified as needing formalized training, shall receive a five percent (5%) differential in salary for that time served in such capacity. Such assignment shall be in writing by the department and approved by the Director of Human Resources. This Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported

“compensation earnable” in California Government Code Section 20635.

- 13.31.2 **Higher Class Training Differential:** For training purposes, employees not meeting all of the minimum qualifications of a higher classification may be temporarily assigned for a minimum of one (1) week, to perform the duties of the higher classification and will receive a five percent (5%) increase in their current base salary for the duration of the temporary assignment. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.
- 13.31.3 **Trainee Differential:** For training purposes and to enhance an employee skills and abilities, any employee designated in advance by the department director and approved by the Director of Human Resources to perform duties that are outside of the employee's classification, shall receive a three percent (3%) differential in salary for that time served in such capacity. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.

13.32 Summary of May 2017 Changes to the Unrepresented Employee Manual

- Included reference to Unrepresented Unit Z-9 (Deputy Director Rent Stabilization Program).
- Former Section 1.14 (One-Time Allocation) - deleted obsolete provision.
- Section 5.2 (Floating Holidays) - corrected omission of one (1) day.
- Section 8.3 (Hourly Rated Employees in Lieu of Benefits) – codified existing benefit.
- Section 13.11 (Reimbursement Plan) – revise plan as reimbursement.
- Section 13.12 (Fire Chief and Deputy Fire Chief Retiree Medical Plan) – clarified benefit for internal and external appointments.
- Section 13.13 (Retiree medical for Police Chief Classification) – clarified benefit for internal and external appointments.
- Section 13.18 (Regular “At-Will” Classifications) – deleted duplicate classification.
- Section 13.31.3 (Trainee Differential) – included provision authorizing differential for employees assigned duties outside of classification.

13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual

- Section 8.4.5 Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment – added subsection 8.4.5.3

13.34 Summary of July 2018 Changes to the Unrepresented Employee Manual

- Section 1.14 (One-Time Allocation) - \$2,000 paid August 17, 2018.
- Section 8.1.3 (Medical Contribution Executive Managers) – Cost-share of \$50.00 for medical contributions by all department heads, City Manager and Deputy City Manager effective July 1, 2019.
- Section 8.4.6.4 – Correct typographical error.
- Section 11.5 (Written Reprimand for Non-Safety Employees) – Include provision allowing written rebuttal.
- Section 12.3.1 (Compensation Complaints) – Include provision that specifies appeal time lines.
- 13.1 (Administrative Leave) – Clarify leave extended to career and benefitted at-will employees; benefit is prorated based on assignment; and codifies practice that unused administrative leave rolls into vacation.
- 13.24 (Hazard Premium Pay for Clerical Mental Health Personnel) – Clarify pay is reportable to CalPERS.
- 13.25 (Longevity Pay) – Include CalPERS reportable section.
- 13.30 (Shoe Allowance) – Clarify benefit extended to benefitted employees.
- Shoe Allowance
- 13.31 Training Differential
- 13.32 Summary of July 2018 Changes to the Unrepresented Employee Manual
- 13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual

13.35 Summary of July 2020 Changes to the Unrepresented Employee Manual

Section	Change
Term Duration	Parties agree to a one-year term Agreement ending on June 30, 2021
Living Wage –	NEW LANGUAGE: The City agrees to pay each of its direct employees an hourly wage of no less than \$18.33 effective the first full pay period in January 2021. The City agrees to pay each of its direct employees an hourly wage of no less than \$19.33 effective the first

Section	Change
	<p>full pay period in June 2021. If the Living Wage increases beyond \$19.33, as outlined in the Berkeley Municipal Code effective July 2021, the City shall implement the increases the first full pay period in September 2021 and July 1st of each year thereafter.</p>
<p>Additional City Emergency Paid Sick Leave Allocation</p>	<p>NEW LANGUAGE: The City shall provide an additional 80 hours of emergency paid sick leave to be used for COVID-19 related reasons as listed in the Emergency Paid Sick Leave Act. Part-time employees receive a prorated number of hours. In order to use this additional City emergency paid sick leave, the employee must first exhaust all hours that they received under the Emergency Paid Sick Leave Act. The City will use a specific pay code for this additional emergency paid sick leave and these additional hours will be available until June 30, 2021. These additional 80 emergency paid sick leave hours shall have no cash value and may not be used towards any CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.</p>
<p>Additional Floating Holidays</p>	<p>NEW LANGUAGE: For employees who were required to remain in the workplace from March 17, 2020 – June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the Agreement for classifications which, due to the nature of the assignment, require backfill, employees will be paid a stipend in the amount of the earned floating holiday hours up to a maximum of 32 hours the first full pay period in August 2020. The City will use a specific pay code for these additional floating holiday hours will be available until June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not be used towards CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.</p>
<p>Additional language on Layoffs for the Term of the Agreement</p>	<p>NEW LANGUAGE: The City recognizes the important role that the employee workforce plays in delivering public services; therefore, during the period ending June 30, 2021 the City agrees to not layoff any Unrepresented career employees. However, should the City determine that its expenditures exceed its revenues during the period ending June 24, 2021, the City may</p>

Section	Change
	<p>notice the Unrepresented group in writing and the Unrepresented group shall be provided an opportunity to meet and discuss one-time cost savings and alternatives such as furloughs, VTO, etc. Nothing in this section requires the City to retain positions (filled or vacant) where state, federal or grant funding has been reduced or eliminated and would require the City to backfill such positions. All other provisions on Layoffs remain unchanged.</p>
Provisional Employee	<p>No employees shall hold a provisional appointment in the same position for more than 12 months. The City Manager may extend the provisional appointment beyond this 12- month limitation with the mutual agreement of the parties.</p>
Limited Reopener	<p>If during the fiscal year 2020 -2021 the City reaches agreement with SEIU or extends to other unrepresented employees an opportunity to confer on an across the board Cost of Living Adjustment (COLA) increase and/or an additional City contribution towards medical premiums, the City agrees to a limited reopener to meet and discuss with the Unrepresented group on these increases.</p>

RESOLUTION NO. ##,###-N.S.

APPROVING A NEW CLASSIFICATION AND SALARY RESOLUTION FOR UNREPRESENTED EMPLOYEES AND RESCINDING RESOLUTION NO. 68,538-N.S.

WHEREAS, under City Charter Section 32, the City Council is responsible to fix the compensation of all officers and employees of the City on recommendation of the City Manager; and

WHEREAS, in a separate agenda item on July 20, 2021, the City Council City Council will consider a new Memorandum Agreement with Service Employees International Union Local 1021 Maintenance and Clerical Chapters that provides for a three-year contract and wage increases over the three-year period; and

WHEREAS, the City Manager is recommending similar changes in terms and conditions for the unrepresented employees in Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program); and

WHEREAS, it is necessary for the City Council to adopt a new Classification and Salary Resolution to reflect the salary adjustments reflected in the new Memorandum Agreement.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley adopts a new Classification and Salary Resolution for employees in Unrepresented Employees in Units X-1; X-2; Z-1; Z-2; Z-3; Z-6; and Z-9, for the period July 20, 2021 through June 30, 2024 to incorporate changes to the salary schedule as shown in Exhibit A (Effective July 25, 2021); Exhibit B (Effective July 2022) Exhibit C (Effective July 2023) attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that Resolution No. 68,538-N.S. is hereby rescinded.

Exhibits

- A: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution: Effective July 25, 2021
- B: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution: Effective July 2022
- C: Service Employees International Union Local 1021 Maintenance and Clerical Chapters Classification/Salary Resolution Period: Effective July 2023

EXHIBIT A

Unrepresented Employees
Salary Ranges in Effect from July 20, 2021 through June 30, 2022
(4.0% Salary Increase)

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
42391	ACCT OFF SPEC II UNREP	Z3	803	N	OT	0.0000	0.0000	31.9015	33.4866	35.0262	
42401	ACCT OFF SPEC III UNREP	Z3	302	N	OT	0.0000	0.0000	36.4473	38.1967	39.9823	
42431	ACCT OFF SPEC SUP UNREP	Z3	531	N	OT	36.8664	38.8614	40.9296	43.0527	45.0931	
14631	ADM FIS SVS MGR UNRP	Z2	795	Y	AL	54.0728	56.7807	59.6197	62.6044	65.7347	68.9594
41071	ADMIN ASSISTANT UNREP	Z3	732	N	OT	36.1957	38.1907	40.2589	42.3820	44.4225	
23180	ADMIN HEARING EXAMINER	Z2	148	Y	AL	50.5722	52.9772	55.6194	58.3435	61.1311	
46130	ADMIN SECRETARY	Z3	327	N	OT	36.9518	38.6191	40.4413	42.3454	44.2767	
28130	ADMIN STAFF ASSISTANT	Z2	704	N	OT	37.9994	40.0957	42.2725	44.4417	46.6476	
65192	AQUATICS SPEC I HRLY	X1	785			15.1973	15.9691	16.8381	17.7320	18.6627	
65540	AQUATICS SPEC II	Z2	787	N	OT	0.0000	0.0000	0.0000	25.9282	28.1238	
27030	ASSOC HR ANALYST	Z2	216	Y	AL	48.9594	51.1824	53.7972	56.2841	58.9535	
28101	ASSOC MGMT ANALYST UNRP	Z2	229	N	OT	47.3286	49.3695	51.6010	53.8519	56.1839	
12130	ASST CITY ATTORNEY	Z1	027	Y	AL	74.2213	0.0000	0.0000	0.0000	99.3028	
14610	ASST CITY CLERK	Z2	099	Y	AL	52.3305	54.8265	57.5506	60.3748	63.2538	
11180	ASST CITY MANAGER	Z1	015	Y	AL	83.5738	0.0000	0.0000	0.0000	114.9009	
27040	ASST HR ANALYST	Z2	217	N	OT	39.5000	41.4783	43.5628	45.7534	48.0501	
28091	ASST MGMT ANALYST UNREP	Z2	226	N	OT	38.1636	39.8035	41.4250	43.1471	45.0056	
18010	ASST TO THE CITY MGR	Z1	112	Y	AL	64.3932	0.0000	0.0000	0.0000	84.6207	
28880	ASST TO THE MAYOR	Z2	249	Y	AL	41.9866	0.0000	0.0000	0.0000	78.9782	
13010	AUDIT MANAGER	Z1	583	Y	AL	58.3199	0.0000	0.0000	0.0000	76.3496	
27070	BENEFITS SPECIALIST	Z2	596	N	AL	44.4772	46.6911	49.0413	51.4742	53.6147	
13230	BUDGET MANAGER	Z1	597	Y	AL	67.9130	0.0000	0.0000	0.0000	90.8498	
51052	CAMP MAINTENANCE MECH HRL	X1	889			34.2125	0.0000	0.0000	0.0000	40.7750	
65672	CAMP MEDICAL STAFF MEMBER	X1	748			68.7042	0.0000	0.0000	0.0000	103.0563	
65642	CAMP STAFF LEADER	X1	747			68.7042	0.0000	0.0000	0.0000	103.0563	
65632	CAMP STAFF MEMBER	X1	746			45.8028	0.0000	0.0000	0.0000	68.7042	
65682	CAMP STAFF SUPERVISOR	X1	749			103.0563	0.0000	0.0000	0.0000	148.8591	
13200	CAPITAL IMPRV PROG MGR	Z1	606	Y	AL	74.2213	0.0000	0.0000	0.0000	99.3020	
41042	CASHIER ATTENDANT HOURLY	X1	902			16.2625	17.1197	18.0259	18.9719	21.2998	
81680	CERT INSTRUCTOR	X1	624			33.6031	0.0000	0.0000	0.0000	33.6031	
11070	CITY ATTORNEY	Z1	010	Y	AL	88.1788	0.0000	0.0000	0.0000	118.9097	
11020	CITY AUDITOR	Z1	006	Y	AL	87.7331	0.0000	0.0000	0.0000	87.7331	
11200	CITY CLERK	Z1	016	Y	AL	81.1268	0.0000	0.0000	0.0000	111.5254	
11010	CITY MANAGER	Z1	005	Y	AL	150.7167	0.0000	0.0000	0.0000	150.7167	
23020	DEP CITY ATTORNEY I	Z2	136	Y	AL	51.1735	53.8336	56.6759	59.6824	62.8526	
23030	DEP CITY ATTORNEY II	Z2	138	Y	AL	60.7120	64.6933	68.1005	71.7175	75.5164	
23110	DEP CITY ATTORNEY III	Z2	141	Y	AL	77.1195	81.1648	83.4516	87.8428	92.4981	
13660	DEP CITY AUD PAY MGMT	Z1	067	Y	AL	64.3932	0.0000	0.0000	0.0000	84.6207	
12190	DEP CITY CLERK	Z1	028	Y	AL	64.3932	0.0000	0.0000	0.0000	84.6207	
11030	DEP CITY MANAGER	Z1	007	Y	AL	88.1788	0.0000	0.0000	0.0000	129.6867	
12110	DEP DIR OF LIB SVCS	Z1	026	Y	AL	64.3932	0.0000	0.0000	0.0000	84.6207	
12300	DEP DIR OF PLANNING	Z1	038	Y	AL	69.9633	0.0000	0.0000	0.0000	93.5984	
12310	DEP DIR OF RNT STB PRG	Z9	783	Y	AL	64.3870	0.0000	0.0000	0.0000	84.6175	
12280	DEP DIR PRKS/REC/WTRFR	Z1	688	Y	AL	69.9650	0.0000	0.0000	0.0000	93.6007	
12270	DEP DIRECTOR OF FINANCE	Z1	035	Y	AL	64.3932	0.0000	0.0000	0.0000	84.6207	
12320	DEP DIRECTOR OF HHCS	Z1	801	Y	AL	69.9650	0.0000	0.0000	0.0000	93.6007	

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
12260	DEP DIRECTOR OF HR	Z1	033	Y	AL	64.3932	0.0000	0.0000	0.0000	84.6207	
12090	DEP DIRECTOR PUB WRK REG	Z1	025	Y	AL	69.9650	0.0000	0.0000	0.0000	93.6007	
12050	DEP DIRECTOR PUBLIC WORKS	Z1	023	Y	AL	69.9650	0.0000	0.0000	0.0000	93.6007	
12040	DEPUTY FIRE CHIEF	Z1	022	Y	AL	93.3587	0.0000	0.0000	0.0000	113.2745	
28970	DIGITAL COMNCATNS COORD	Z2	773	Y	AL	50.3936	53.0459	55.8378	58.7753	61.8701	
11130	DIR OF HLTH/HSG/COM SVC	Z1	800	Y	AL	84.5469	0.0000	0.0000	0.0000	116.2598	
11080	DIR OF HUMAN RESOURCES	Z1	011	Y	AL	81.1268	0.0000	0.0000	0.0000	111.5254	
11150	DIR OF LIBRARY SVCS	Z1	014	Y	AL	81.1268	0.0000	0.0000	0.0000	111.5254	
11120	DIR OF PRKS/REC/WTRFR	Z1	586	Y	AL	84.5469	0.0000	0.0000	0.0000	116.2598	
11040	DIRECTOR OF FINANCE	Z1	008	Y	AL	81.1268	0.0000	0.0000	0.0000	111.5254	
11270	DIRECTOR OF INFO TECH	Z1	648	Y	AL	81.1268	0.0000	0.0000	0.0000	111.5254	
11240	DIRECTOR OF PLANNING	Z1	019	Y	AL	81.1268	0.0000	0.0000	0.0000	111.5254	
11110	DIRECTOR OF PUBLIC WRKS	Z1	013	Y	AL	84.5469	0.0000	0.0000	0.0000	116.2598	
42920	DRAFTING AIDE	Z2	311	N	OT	0.0000	0.0000	25.4729	27.0125	29.1717	
13740	ECONOMIC DEV MGR	Z1	629	Y	AL	72.0539	0.0000	0.0000	0.0000	96.3898	
27180	EEO & DIVERSITY OFFCR	Z2	222	Y	AL	52.0386	54.5350	57.2045	60.0104	62.8985	
14020	EMPLOYEE RELATIONS MGR	Z1	221	Y	AL	62.8707	0.0000	0.0000	0.0000	81.6964	
11050	FIRE CHIEF	Z1	009	Y	AL	85.8046	0.0000	0.0000	0.0000	117.9217	
12230	HEALTH OFFICER	Z1	031	Y	AL	97.5372	0.0000	0.0000	0.0000	110.7999	
12240	HEALTH OFFICER (CERT)	Z1	552	Y	AL	102.6761	0.0000	0.0000	0.0000	116.6398	
13800	HUMAN RESOURCES MANAGER	Z1	735	Y	AL	62.8272	0.0000	0.0000	0.0000	81.6446	
47010	HUMAN RESOURCES TECH	Z3	549	N	OT	36.9122	38.9520	41.0678	43.2293	45.3148	
12330	INFO SECURITY MANAGER	Z1	764	Y	AL	71.9740	75.7619	79.7499	83.9439	88.3647	
12210	INFO SYS MANAGER	Z1	029	Y	AL	67.3504	70.6555	74.0334	77.6803	81.4002	
36051	INFO SYS SUP TECH UNREP	Z3	671	N	OT	35.7313	37.0431	38.4275	39.8582	41.3522	
99010	INTERN	X1	551			0.0000	19.6022	20.9743	22.4425	24.0135	
23100	LAW CLERK	X1	139			0.0000	0.0000	30.3825	32.9542	35.4661	
43010	LEGAL OFFICE SUPERVISOR	Z3	643	N	OT	41.5983	43.5112	45.6796	47.6749	49.8887	
46330	LEGAL SECRETARY	Z3	334	N	OT	0.0000	0.0000	36.2502	38.1636	39.1383	
26330	LIBRARY LITERACY INSTRUCT	X1	712			34.8490	36.5886	38.4209	40.3344	42.3522	
24140	OCC HEALTH&SAFETY OFF	Z2	157	Y	AL	50.5449	52.9316	55.5644	58.2796	61.0763	
24150	OCC HEALTH&SAFETY SPEC	Z2	247	N	OT	44.4783	46.6912	49.0425	51.4812	53.6214	
47041	OFFICE SPEC I UNREP	Z3	341	N	OT	0.0000	0.0000	26.6387	28.0329	29.3448	
47031	OFFICE SPEC II UNREP	Z3	680	N	OT	0.0000	0.0000	31.2307	32.8160	34.3556	
47051	OFFICE SPEC III UNREP	Z3	292	N	OT	0.0000	0.0000	35.7767	37.5261	39.3114	
47081	OFFICE SPEC SUP UNREP	Z3	682	N	OT	36.1957	38.1907	40.2589	42.3820	44.4225	
49030	PARALEGAL	Z2	792	N	OT	37.7374	39.4917	41.4426	43.2918	45.2209	
24290	PHYSICIAN	X1	161			98.7111	0.0000	0.0000	0.0000	98.7111	
65122	PLAYGROUND LEADER TRAINEE	X1	405			0.0000	0.0000	0.0000	15.0236	15.6840	
71172	POLICE AIDE	X1	466			17.5212	18.7014	21.0078	24.7622	28.4991	
11100	POLICE CHIEF	Z1	012	Y	AL	89.3527	0.0000	0.0000	0.0000	122.7923	
71140	POLICE OFFICER RECRUIT	Z2	465	N	OT	41.9237	0.0000	0.0000	0.0000	41.9237	
28780	POLICE RVW COMM INVEST	Z2	246	N	OT	48.6773	50.9546	53.4692	55.9559	58.6621	
14730	POLICE RVW COMM OFFICER	Z1	106	Y	AL	62.8707	0.0000	0.0000	0.0000	81.6964	
13550	PUBLIC HEALTH PROG PHYSI	X1	774			69.2457	72.7133	76.3663	80.1468	84.1479	
71082	RESERVE POLICE OFFCR I H	X1	520			15.0236	0.0000	0.0000	0.0000	33.1979	
71092	RESERVE POLICE OFFCR II H	X1	519			15.0236	0.0000	0.0000	0.0000	25.2706	
10000	RETIRED ANNUITANT HOURLY	X2	805			15.0236	0.0000	0.0000	0.0000	142.7045	
71210	SCHOOL CROSSING GUARD	X1	468			25.6427	0.0000	0.0000	0.0000	25.6427	
46010	SECRETARY TO CITY MGR	Z3	323	N	OT	41.4068	43.3566	45.5248	47.6204	49.8431	
65590	SENIOR AQUATICS SPEC	Z2	789	N	OT	0.0000	0.0000	0.0000	30.0737	32.0522	
27160	SENIOR HR ANALYST	Z2	220	Y	AL	54.3343	56.9036	59.7280	62.6529	65.6588	
46050	SENIOR LEGAL SECRETARY	Z3	324	N	OT	37.7446	39.4940	41.4346	43.2839	45.2244	

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
28111	SENIOR MGMT ANLST UNREP	Z2	233	Y	AL	52.3306	54.8266	57.5506	60.3748	63.2538	
23150	STAFF ATTORNEY I	Z2	145	Y	AL	51.1735	53.8336	56.6759	59.6824	62.8526	
23160	STAFF ATTORNEY II	Z2	146	Y	AL	60.7120	64.6934	68.1005	71.7175	75.5165	
23170	STAFF ATTORNEY III	Z2	147	Y	AL	77.1196	81.1738	83.4423	87.8428	92.4981	
24580	SUPERV PSYCHIATRIST	Z1	180	Y	AL	119.0089	0.0000	0.0000	0.0000	144.6601	
65432	SWIM CENTER MANAGER HRLY	X1	522			0.0000	0.0000	0.0000	30.1176	32.0425	
27120	TRAINING OFFICER	Z2	219	Y	AL	57.1225	60.0470	62.9986	66.0504	69.1664	
67200	VEGETATION REDUCTION SUPV	X1	453			38.0081	0.0000	0.0000	0.0000	38.0081	
27050	WORKERS COMP ANALYST	Z2	599	N	OT	48.9595	51.1824	53.7972	56.2842	58.9535	

EXHIBIT B

Unrepresented Employees
Salary Ranges in Effect from July 1, 2022 through June 30, 2023
(3.0% Salary Increase)

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
42391	ACCT OFF SPEC II UNREP	Z3	803	N	OT	0.0000	0.0000	32.8585	34.4912	36.0770	
42401	ACCT OFF SPEC III UNREP	Z3	302	N	OT	0.0000	0.0000	37.5407	39.3426	41.1817	
42431	ACCT OFF SPEC SUP UNREP	Z3	531	N	OT	37.9724	40.0272	42.1575	44.3442	46.4459	
14631	ADM FIS SVS MGR UNRP	Z2	795	Y	AL	55.6949	58.4841	61.4083	64.4825	67.7067	71.0282
41071	ADMIN ASSISTANT UNREP	Z3	732	N	OT	37.2816	39.3364	41.4667	43.6535	45.7552	
23180	ADMIN HEARING EXAMINER	Z2	148	Y	AL	52.0894	54.5665	57.2880	60.0938	62.9650	
46130	ADMIN SECRETARY	Z3	327	N	OT	38.0603	39.7777	41.6545	43.6158	45.6050	
28130	ADMIN STAFF ASSISTANT	Z2	704	N	OT	39.1394	41.2986	43.5407	45.7750	48.0470	
65192	AQUATICS SPEC I HRLY	X1	785			15.6532	16.4482	17.3432	18.2639	19.2226	
65540	AQUATICS SPEC II	Z2	787	N	OT	0.0000	0.0000	0.0000	26.7060	28.9675	
27030	ASSOC HR ANALYST	Z2	216	Y	AL	50.4282	52.7179	55.4111	57.9726	60.7221	
28101	ASSOC MGMT ANALYST UNRP	Z2	229	N	OT	48.7485	50.8505	53.1491	55.4675	57.8694	
12130	ASST CITY ATTORNEY	Z1	027	Y	AL	76.4479	0.0000	0.0000	0.0000	102.2819	
14610	ASST CITY CLERK	Z2	099	Y	AL	53.9004	56.4712	59.2771	62.1860	65.1514	
11180	ASST CITY MANAGER	Z1	015	Y	AL	86.0810	0.0000	0.0000	0.0000	118.3479	
27040	ASST HR ANALYST	Z2	217	N	OT	40.6850	42.7227	44.8697	47.1260	49.4916	
28091	ASST MGMT ANALYST UNREP	Z2	226	N	OT	39.3085	40.9976	42.6677	44.4415	46.3558	
18010	ASST TO THE CITY MGR	Z1	112	Y	AL	66.3250	0.0000	0.0000	0.0000	87.1593	
28880	ASST TO THE MAYOR	Z2	249	Y	AL	43.2462	0.0000	0.0000	0.0000	81.3476	
13010	AUDIT MANAGER	Z1	583	Y	AL	60.0695	0.0000	0.0000	0.0000	78.6401	
27070	BENEFITS SPECIALIST	Z2	596	N	AL	45.8115	48.0918	50.5126	53.0184	55.2232	
13230	BUDGET MANAGER	Z1	597	Y	AL	69.9504	0.0000	0.0000	0.0000	93.5753	
51052	CAMP MAINTENANCE MECH HRL	X1	889			35.2388	0.0000	0.0000	0.0000	41.9982	
65672	CAMP MEDICAL STAFF MEMBER	X1	748			70.7653	0.0000	0.0000	0.0000	106.1480	
65642	CAMP STAFF LEADER	X1	747			70.7653	0.0000	0.0000	0.0000	106.1480	
65632	CAMP STAFF MEMBER	X1	746			47.1769	0.0000	0.0000	0.0000	70.7653	
65682	CAMP STAFF SUPERVISOR	X1	749			106.1480	0.0000	0.0000	0.0000	153.3249	
13200	CAPITAL IMPRV PROG MGR	Z1	606	Y	AL	76.4479	0.0000	0.0000	0.0000	102.2811	
41042	CASHIER ATTENDANT HOURLY	X1	902			16.7504	17.6333	18.5667	19.5410	21.9388	
81680	CERT INSTRUCTOR	X1	624			34.6112	0.0000	0.0000	0.0000	34.6112	
11070	CITY ATTORNEY	Z1	010	Y	AL	90.8242	0.0000	0.0000	0.0000	122.4770	
11020	CITY AUDITOR	Z1	006	Y	AL	90.3651	0.0000	0.0000	0.0000	90.3651	
11200	CITY CLERK	Z1	016	Y	AL	83.5606	0.0000	0.0000	0.0000	114.8712	
11010	CITY MANAGER	Z1	005	Y	AL	155.2382	0.0000	0.0000	0.0000	155.2382	
23020	DEP CITY ATTORNEY I	Z2	136	Y	AL	52.7087	55.4486	58.3762	61.4729	64.7382	
23030	DEP CITY ATTORNEY II	Z2	138	Y	AL	62.5333	66.6341	70.1435	73.8691	77.7819	
23110	DEP CITY ATTORNEY III	Z2	141	Y	AL	79.4331	83.5998	85.9551	90.4781	95.2730	
13660	DEP CITY AUD PAY MGMT	Z1	067	Y	AL	66.3250	0.0000	0.0000	0.0000	87.1593	
12190	DEP CITY CLERK	Z1	028	Y	AL	66.3250	0.0000	0.0000	0.0000	87.1593	
11030	DEP CITY MANAGER	Z1	007	Y	AL	90.8242	0.0000	0.0000	0.0000	133.5773	
12110	DEP DIR OF LIB SVCS	Z1	026	Y	AL	66.3250	0.0000	0.0000	0.0000	87.1593	
12300	DEP DIR OF PLANNING	Z1	038	Y	AL	72.0622	0.0000	0.0000	0.0000	96.4064	
12310	DEP DIR OF RNT STB PRG	Z9	783	Y	AL	66.3186	0.0000	0.0000	0.0000	87.1560	
12280	DEP DIR PRKS/REC/WTRFR	Z1	688	Y	AL	72.0639	0.0000	0.0000	0.0000	96.4087	
12270	DEP DIRECTOR OF FINANCE	Z1	035	Y	AL	66.3250	0.0000	0.0000	0.0000	87.1593	
12320	DEP DIRECTOR OF HHCS	Z1	801	Y	AL	72.0639	0.0000	0.0000	0.0000	96.4087	

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
12260	DEP DIRECTOR OF HR	Z1	033	Y	AL	66.3250	0.0000	0.0000	0.0000	87.1593	
12090	DEP DIRECTOR PUB WRK REG	Z1	025	Y	AL	72.0639	0.0000	0.0000	0.0000	96.4087	
12050	DEP DIRECTOR PUBLIC WORKS	Z1	023	Y	AL	72.0639	0.0000	0.0000	0.0000	96.4087	
12040	DEPUTY FIRE CHIEF	Z1	022	Y	AL	96.1595	0.0000	0.0000	0.0000	116.6728	
28970	DIGITAL COMNCATNS COORD	Z2	773	Y	AL	51.9054	54.6372	57.5129	60.5385	63.7262	
11130	DIR OF HLTH/HSG/COM SVC	Z1	800	Y	AL	87.0833	0.0000	0.0000	0.0000	119.7476	
11080	DIR OF HUMAN RESOURCES	Z1	011	Y	AL	83.5606	0.0000	0.0000	0.0000	114.8712	
11150	DIR OF LIBRARY SVCS	Z1	014	Y	AL	83.5606	0.0000	0.0000	0.0000	114.8712	
11120	DIR OF PRKS/REC/WTRFR	Z1	586	Y	AL	87.0833	0.0000	0.0000	0.0000	119.7476	
11040	DIRECTOR OF FINANCE	Z1	008	Y	AL	83.5606	0.0000	0.0000	0.0000	114.8712	
11270	DIRECTOR OF INFO TECH	Z1	648	Y	AL	83.5606	0.0000	0.0000	0.0000	114.8712	
11240	DIRECTOR OF PLANNING	Z1	019	Y	AL	83.5606	0.0000	0.0000	0.0000	114.8712	
11110	DIRECTOR OF PUBLIC WRKS	Z1	013	Y	AL	87.0833	0.0000	0.0000	0.0000	119.7476	
42920	DRAFTING AIDE	Z2	311	N	OT	0.0000	0.0000	26.2371	27.8229	30.0469	
13740	ECONOMIC DEV MGR	Z1	629	Y	AL	74.2155	0.0000	0.0000	0.0000	99.2815	
27180	EEO & DIVERSITY OFFCR	Z2	222	Y	AL	53.5998	56.1711	58.9207	61.8107	64.7855	
14020	EMPLOYEE RELATIONS MGR	Z1	221	Y	AL	64.7568	0.0000	0.0000	0.0000	84.1473	
11050	FIRE CHIEF	Z1	009	Y	AL	88.3788	0.0000	0.0000	0.0000	121.4593	
12230	HEALTH OFFICER	Z1	031	Y	AL	100.4634	0.0000	0.0000	0.0000	114.1239	
12240	HEALTH OFFICER (CERT)	Z1	552	Y	AL	105.7563	0.0000	0.0000	0.0000	120.1390	
13800	HUMAN RESOURCES MANAGER	Z1	735	Y	AL	64.7120	0.0000	0.0000	0.0000	84.0939	
47010	HUMAN RESOURCES TECH	Z3	549	N	OT	38.0196	40.1206	42.2998	44.5262	46.6743	
12330	INFO SECURITY MANAGER	Z1	764	Y	AL	74.1332	78.0347	82.1424	86.4622	91.0156	
12210	INFO SYS MANAGER	Z1	029	Y	AL	69.3709	72.7752	76.2544	80.0107	83.8422	
36051	INFO SYS SUP TECH UNREP	Z3	671	N	OT	36.8033	38.1544	39.5803	41.0539	42.5928	
99010	INTERN	X1	551			0.0000	20.1903	21.6036	23.1158	24.7339	
23100	LAW CLERK	X1	139			0.0000	0.0000	31.2940	33.9428	36.5301	
43010	LEGAL OFFICE SUPERVISOR	Z3	643	N	OT	42.8462	44.8166	47.0499	49.1051	51.3853	
46330	LEGAL SECRETARY	Z3	334	N	OT	0.0000	0.0000	37.3377	39.3085	40.3125	
26330	LIBRARY LITERACY INSTRUCT	X1	712			35.8945	37.6862	39.5735	41.5445	43.6227	
24140	OCC HEALTH&SAFETY OFF	Z2	157	Y	AL	52.0612	54.5196	57.2313	60.0280	62.9085	
24150	OCC HEALTH&SAFETY SPEC	Z2	247	N	OT	45.8127	48.0919	50.5138	53.0256	55.2300	
47041	OFFICE SPEC I UNREP	Z3	341	N	OT	0.0000	0.0000	27.4379	28.8739	30.2252	
47031	OFFICE SPEC II UNREP	Z3	680	N	OT	0.0000	0.0000	32.1676	33.8005	35.3863	
47051	OFFICE SPEC III UNREP	Z3	292	N	OT	0.0000	0.0000	36.8500	38.6518	40.4908	
47081	OFFICE SPEC SUP UNREP	Z3	682	N	OT	37.2816	39.3364	41.4667	43.6535	45.7552	
49030	PARALEGAL	Z2	792	N	OT	38.8695	40.6764	42.6858	44.5906	46.5775	
24290	PHYSICIAN	X1	161			101.6725	0.0000	0.0000	0.0000	101.6725	
65122	PLAYGROUND LEADER TRAINEE	X1	405			0.0000	0.0000	0.0000	15.4743	16.1545	
71172	POLICE AIDE	X1	466			18.0468	19.2624	21.6380	25.5051	29.3541	
11100	POLICE CHIEF	Z1	012	Y	AL	92.0333	0.0000	0.0000	0.0000	126.4760	
71140	POLICE OFFICER RECRUIT	Z2	465	N	OT	43.1814	0.0000	0.0000	0.0000	43.1814	
28780	POLICE RVW COMM INVEST	Z2	246	N	OT	50.1376	52.4833	55.0733	57.6346	60.4220	
14730	POLICE RVW COMM OFFICER	Z1	106	Y	AL	64.7568	0.0000	0.0000	0.0000	84.1473	
13550	PUBLIC HEALTH PROG PHYSI	X1	774			71.3231	74.8947	78.6573	82.5512	86.6723	
71082	RESERVE POLICE OFFCR I H	X1	520			15.4743	0.0000	0.0000	0.0000	34.1939	
71092	RESERVE POLICE OFFCR II H	X1	519			15.4743	0.0000	0.0000	0.0000	26.0288	
10000	RETIRED ANNUITANT HOURLY	X2	805			15.4743	0.0000	0.0000	0.0000	146.9856	
71210	SCHOOL CROSSING GUARD	X1	468			26.4120	0.0000	0.0000	0.0000	26.4120	
46010	SECRETARY TO CITY MGR	Z3	323	N	OT	42.6490	44.6573	46.8906	49.0490	51.3384	
65590	SENIOR AQUATICS SPEC	Z2	789	N	OT	0.0000	0.0000	0.0000	30.9759	33.0138	
27160	SENIOR HR ANALYST	Z2	220	Y	AL	55.9644	58.6107	61.5198	64.5325	67.6286	
46050	SENIOR LEGAL SECRETARY	Z3	324	N	OT	38.8769	40.6788	42.6776	44.5824	46.5811	

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
28111	SENIOR MGMT ANLST UNREP	Z2	233	Y	AL	53.9005	56.4714	59.2771	62.1860	65.1514	
23150	STAFF ATTORNEY I	Z2	145	Y	AL	52.7087	55.4486	58.3762	61.4729	64.7382	
23160	STAFF ATTORNEY II	Z2	146	Y	AL	62.5333	66.6342	70.1435	73.8691	77.7820	
23170	STAFF ATTORNEY III	Z2	147	Y	AL	79.4332	83.6090	85.9455	90.4781	95.2730	
24580	SUPERV PSYCHIATRIST	Z1	180	Y	AL	122.579 2	0.0000	0.0000	0.0000	148.9999	
65432	SWIM CENTER MANAGER HRLY	X1	522			0.0000	0.0000	0.0000	31.0211	33.0038	
27120	TRAINING OFFICER	Z2	219	Y	AL	58.8362	61.8484	64.8886	68.0319	71.2414	
67200	VEGETATION REDUCTION SUPV	X1	453			39.1484	0.0000	0.0000	0.0000	39.1484	
27050	WORKERS COMP ANALYST	Z2	599	N	OT	50.4283	52.7179	55.4111	57.9728	60.7221	

EXHIBIT C

Unrepresented Employees
Salary Ranges in Effect from July 1, 2023 through June 30, 2024
(1.0% Salary Increase)

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
42391	ACCT OFF SPEC II UNREP	Z3	803	N	OT	0.0000	0.0000	33.1871	34.8361	36.4378	
42401	ACCT OFF SPEC III UNREP	Z3	302	N	OT	0.0000	0.0000	37.9161	39.7360	41.5936	
42431	ACCT OFF SPEC SUP UNREP	Z3	531	N	OT	38.3522	40.4275	42.5790	44.7877	46.9104	
14631	ADM FIS SVS MGR UNRP	Z2	795	Y	AL	56.2519	59.0690	62.0224	65.1274	68.3838	71.7385
41071	ADMIN ASSISTANT UNREP	Z3	732	N	OT	37.6544	39.7298	41.8814	44.0900	46.2127	
23180	ADMIN HEARING EXAMINER	Z2	148	Y	AL	52.6103	55.1122	57.8608	60.6947	63.5947	
46130	ADMIN SECRETARY	Z3	327	N	OT	38.4409	40.1755	42.0711	44.0519	46.0611	
28130	ADMIN STAFF ASSISTANT	Z2	704	N	OT	39.5308	41.7116	43.9761	46.2327	48.5275	
65192	AQUATICS SPEC I HRLY	X1	785			15.8098	16.6127	17.5167	18.4466	19.4148	
65540	AQUATICS SPEC II	Z2	787	N	OT	0.0000	0.0000	0.0000	26.9731	29.2572	
27030	ASSOC HR ANALYST	Z2	216	Y	AL	50.9325	53.2451	55.9652	58.5524	61.3293	
28101	ASSOC MGMT ANALYST UNRP	Z2	229	N	OT	49.2360	51.3590	53.6805	56.0222	58.4481	
12130	ASST CITY ATTORNEY	Z1	027	Y	AL	77.2124	0.0000	0.0000	0.0000	103.3047	
14610	ASST CITY CLERK	Z2	099	Y	AL	54.4394	57.0360	59.8699	62.8079	65.8029	
11180	ASST CITY MANAGER	Z1	015	Y	AL	86.9419	0.0000	0.0000	0.0000	119.5314	
27040	ASST HR ANALYST	Z2	217	N	OT	41.0918	43.1499	45.3184	47.5973	49.9865	
28091	ASST MGMT ANALYST UNREP	Z2	226	N	OT	39.7016	41.4076	43.0944	44.8859	46.8193	
18010	ASST TO THE CITY MGR	Z1	112	Y	AL	66.9883	0.0000	0.0000	0.0000	88.0309	
28880	ASST TO THE MAYOR	Z2	249	Y	AL	43.6786	0.0000	0.0000	0.0000	82.1611	
13010	AUDIT MANAGER	Z1	583	Y	AL	60.6702	0.0000	0.0000	0.0000	79.4265	
27070	BENEFITS SPECIALIST	Z2	596	N	AL	46.2697	48.5728	51.0177	53.5486	55.7754	
13230	BUDGET MANAGER	Z1	597	Y	AL	70.6499	0.0000	0.0000	0.0000	94.5111	
51052	CAMP MAINTENANCE MECH HRL	X1	889			35.5912	0.0000	0.0000	0.0000	42.4182	
65672	CAMP MEDICAL STAFF MEMBER	X1	748			71.4730	0.0000	0.0000	0.0000	107.2095	
65642	CAMP STAFF LEADER	X1	747			71.4730	0.0000	0.0000	0.0000	107.2095	
65632	CAMP STAFF MEMBER	X1	746			47.6487	0.0000	0.0000	0.0000	71.4730	
65682	CAMP STAFF SUPERVISOR	X1	749			107.2095	0.0000	0.0000	0.0000	154.8581	
13200	CAPITAL IMPRV PROG MGR	Z1	606	Y	AL	77.2124	0.0000	0.0000	0.0000	103.3039	
41042	CASHIER ATTENDANT HOURLY	X1	902			16.9179	17.8096	18.7523	19.7365	22.1582	
81680	CERT INSTRUCTOR	X1	624			34.9573	0.0000	0.0000	0.0000	34.9573	
11070	CITY ATTORNEY	Z1	010	Y	AL	91.7324	0.0000	0.0000	0.0000	123.7018	
11020	CITY AUDITOR	Z1	006	Y	AL	91.2688	0.0000	0.0000	0.0000	91.2688	
11200	CITY CLERK	Z1	016	Y	AL	84.3962	0.0000	0.0000	0.0000	116.0199	
11010	CITY MANAGER	Z1	005	Y	AL	156.7905	0.0000	0.0000	0.0000	156.7905	
23020	DEP CITY ATTORNEY I	Z2	136	Y	AL	53.2358	56.0031	58.9600	62.0876	65.3856	
23030	DEP CITY ATTORNEY II	Z2	138	Y	AL	63.1587	67.3004	70.8450	74.6078	78.5597	
23110	DEP CITY ATTORNEY III	Z2	141	Y	AL	80.2274	84.4358	86.8147	91.3829	96.2257	
13660	DEP CITY AUD PAY MGMT	Z1	067	Y	AL	66.9883	0.0000	0.0000	0.0000	88.0309	
12190	DEP CITY CLERK	Z1	028	Y	AL	66.9883	0.0000	0.0000	0.0000	88.0309	
11030	DEP CITY MANAGER	Z1	007	Y	AL	91.7324	0.0000	0.0000	0.0000	134.9131	
12110	DEP DIR OF LIB SVCS	Z1	026	Y	AL	66.9883	0.0000	0.0000	0.0000	88.0309	
12300	DEP DIR OF PLANNING	Z1	038	Y	AL	72.7829	0.0000	0.0000	0.0000	97.3704	
12310	DEP DIR OF RNT STB PRG	Z9	783	Y	AL	66.9818	0.0000	0.0000	0.0000	88.0276	
12280	DEP DIR PRKS/REC/WTRFR	Z1	688	Y	AL	72.7846	0.0000	0.0000	0.0000	97.3728	
12270	DEP DIRECTOR OF FINANCE	Z1	035	Y	AL	66.9883	0.0000	0.0000	0.0000	88.0309	
12320	DEP DIRECTOR OF HHCS	Z1	801	Y	AL	72.7846	0.0000	0.0000	0.0000	97.3728	
12260	DEP DIRECTOR OF HR	Z1	033	Y	AL	66.9883	0.0000	0.0000	0.0000	88.0309	
12090	DEP DIRECTOR PUB WRK REG	Z1	025	Y	AL	72.7846	0.0000	0.0000	0.0000	97.3728	

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
12050	DEP DIRECTOR PUBLIC WORKS	Z1	023	Y	AL	72.7846	0.0000	0.0000	0.0000	97.3728	
12040	DEPUTY FIRE CHIEF	Z1	022	Y	AL	97.1211	0.0000	0.0000	0.0000	117.8395	
28970	DIGITAL COMNCATNS COORD	Z2	773	Y	AL	52.4245	55.1836	58.0880	61.1439	64.3634	
11130	DIR OF HLTH/HSG/COM SVC	Z1	800	Y	AL	87.9542	0.0000	0.0000	0.0000	120.9451	
11080	DIR OF HUMAN RESOURCES	Z1	011	Y	AL	84.3962	0.0000	0.0000	0.0000	116.0199	
11150	DIR OF LIBRARY SVCS	Z1	014	Y	AL	84.3962	0.0000	0.0000	0.0000	116.0199	
11120	DIR OF PRKS/REC/WTRFR	Z1	586	Y	AL	87.9542	0.0000	0.0000	0.0000	120.9451	
11040	DIRECTOR OF FINANCE	Z1	008	Y	AL	84.3962	0.0000	0.0000	0.0000	116.0199	
11270	DIRECTOR OF INFO TECH	Z1	648	Y	AL	84.3962	0.0000	0.0000	0.0000	116.0199	
11240	DIRECTOR OF PLANNING	Z1	019	Y	AL	84.3962	0.0000	0.0000	0.0000	116.0199	
11110	DIRECTOR OF PUBLIC WRKS	Z1	013	Y	AL	87.9542	0.0000	0.0000	0.0000	120.9451	
42920	DRAFTING AIDE	Z2	311	N	OT	0.0000	0.0000	26.4994	28.1011	30.3474	
13740	ECONOMIC DEV MGR	Z1	629	Y	AL	74.9576	0.0000	0.0000	0.0000	100.2743	
27180	EEO & DIVERSITY OFFCR	Z2	222	Y	AL	54.1358	56.7328	59.5099	62.4288	65.4334	
14020	EMPLOYEE RELATIONS MGR	Z1	221	Y	AL	65.4044	0.0000	0.0000	0.0000	84.9887	
11050	FIRE CHIEF	Z1	009	Y	AL	89.2626	0.0000	0.0000	0.0000	122.6739	
12230	HEALTH OFFICER	Z1	031	Y	AL	101.4680	0.0000	0.0000	0.0000	115.2652	
12240	HEALTH OFFICER (CERT)	Z1	552	Y	AL	106.8139	0.0000	0.0000	0.0000	121.3404	
13800	HUMAN RESOURCES MANAGER	Z1	735	Y	AL	65.3591	0.0000	0.0000	0.0000	84.9349	
47010	HUMAN RESOURCES TECH	Z3	549	N	OT	38.3998	40.5218	42.7228	44.9715	47.1410	
12330	INFO SECURITY MANAGER	Z1	764	Y	AL	74.8745	78.8151	82.9638	87.3268	91.9258	
12210	INFO SYS MANAGER	Z1	029	Y	AL	70.0647	73.5029	77.0169	80.8108	84.6806	
36051	INFO SYS SUP TECH UNREP	Z3	671	N	OT	37.1713	38.5360	39.9761	41.4644	43.0187	
99010	INTERN	X1	551			0.0000	20.3922	21.8196	23.3469	24.9812	
23100	LAW CLERK	X1	139			0.0000	0.0000	31.6069	34.2822	36.8954	
43010	LEGAL OFFICE SUPERVISOR	Z3	643	N	OT	43.2747	45.2647	47.5204	49.5962	51.8992	
46330	LEGAL SECRETARY	Z3	334	N	OT	0.0000	0.0000	37.7111	39.7016	40.7156	
26330	LIBRARY LITERACY INSTRUCT	X1	712			36.2534	38.0631	39.9693	41.9599	44.0590	
24140	OCC HEALTH&SAFETY OFF	Z2	157	Y	AL	52.5819	55.0648	57.8037	60.6282	63.5376	
24150	OCC HEALTH&SAFETY SPEC	Z2	247	N	OT	46.2708	48.5729	51.0190	53.5559	55.7823	
47041	OFFICE SPEC I UNREP	Z3	341	N	OT	0.0000	0.0000	27.7123	29.1626	30.5274	
47031	OFFICE SPEC II UNREP	Z3	680	N	OT	0.0000	0.0000	32.4893	34.1385	35.7401	
47051	OFFICE SPEC III UNREP	Z3	292	N	OT	0.0000	0.0000	37.2185	39.0384	40.8957	
47081	OFFICE SPEC SUP UNREP	Z3	682	N	OT	37.6544	39.7298	41.8814	44.0900	46.2127	
49030	PARALEGAL	Z2	792	N	OT	39.2582	41.0832	43.1127	45.0365	47.0433	
24290	PHYSICIAN	X1	161			102.6892	0.0000	0.0000	0.0000	102.6892	
65122	PLAYGROUND LEADER TRAINEE	X1	405			0.0000	0.0000	0.0000	15.6290	16.3160	
71172	POLICE AIDE	X1	466			18.2273	19.4550	21.8544	25.7602	29.6476	
11100	POLICE CHIEF	Z1	012	Y	AL	92.9536	0.0000	0.0000	0.0000	127.7408	
71140	POLICE OFFICER RECRUIT	Z2	465	N	OT	43.6132	0.0000	0.0000	0.0000	43.6132	
28780	POLICE RVW COMM INVEST	Z2	246	N	OT	50.6390	53.0081	55.6240	58.2109	61.0262	
14730	POLICE RVW COMM OFFICER	Z1	106	Y	AL	65.4044	0.0000	0.0000	0.0000	84.9887	
13550	PUBLIC HEALTH PROG PHYSI	X1	774			72.0363	75.6436	79.4439	83.3767	87.5391	
71082	RESERVE POLICE OFFCR I H	X1	520			15.6290	0.0000	0.0000	0.0000	34.5358	
71092	RESERVE POLICE OFFCR II H	X1	519			15.6290	0.0000	0.0000	0.0000	26.2891	
10000	RETIRED ANNUITANT HOURLY	X2	805			15.6290	0.0000	0.0000	0.0000	148.4554	
71210	SCHOOL CROSSING GUARD	X1	468			26.6761	0.0000	0.0000	0.0000	26.6761	
46010	SECRETARY TO CITY MGR	Z3	323	N	OT	43.0755	45.1039	47.3595	49.5395	51.8518	
65590	SENIOR AQUATICS SPEC	Z2	789	N	OT	0.0000	0.0000	0.0000	31.2857	33.3439	
27160	SENIOR HR ANALYST	Z2	220	Y	AL	56.5240	59.1969	62.1350	65.1778	68.3049	
46050	SENIOR LEGAL SECRETARY	Z3	324	N	OT	39.2657	41.0856	43.1044	45.0282	47.0469	
28111	SENIOR MGMT ANLST UNREP	Z2	233	Y	AL	54.4395	57.0361	59.8699	62.8079	65.8029	
23150	STAFF ATTORNEY I	Z2	145	Y	AL	53.2358	56.0031	58.9600	62.0876	65.3856	
23160	STAFF ATTORNEY II	Z2	146	Y	AL	63.1587	67.3005	70.8450	74.6078	78.5598	
23170	STAFF ATTORNEY III	Z2	147	Y	AL	80.2275	84.4451	86.8050	91.3829	96.2257	

Job Code	Classification Title	Unit	Grade	FLSA	AL/OT	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
24580	SUPERV PSYCHIATRIST	Z1	180	Y	AL	123.8050	0.0000	0.0000	0.0000	150.4899	
65432	SWIM CENTER MANAGER HRLY	X1	522			0.0000	0.0000	0.0000	31.3313	33.3338	
27120	TRAINING OFFICER	Z2	219	Y	AL	59.4245	62.4669	65.5375	68.7123	71.9538	
67200	VEGETATION REDUCTION SUPV	X1	453			39.5399	0.0000	0.0000	0.0000	39.5399	
27050	WORKERS COMP ANALYST	Z2	599	N	OT	50.9326	53.2451	55.9652	58.5525	61.3293	

Unrepresented Median Salary Adjustments Chart

Job Code	Classification Title	Rep Unit	FLSA	Pay Method	Grade	1	2	3	4	5	
23020	DEP CITY ATTORNEY I	Z2	E	H	136	49.2053	49.2053	51.7631	54.4961	57.3869	60.4352
23020	DEP CITY ATTORNEY I	Z2	E	H	136	56.4358	56.4358	59.4269	62.5765	65.8931	69.3854
23030	DEP CITY ATTORNEY II	Z2	E	H	138	58.3769	58.3769	62.2051	65.4812	68.9591	72.6119
23031	DEP CITY ATTORNEY II	Z2	E	H	138	64.9012	64.9012	68.3409	71.9630	75.7770	79.7932
23110	DEP CITY ATTORNEY III	Z2	E	H	141	74.1534	74.1534	78.0431	80.2419	84.4643	88.9404
23110	DEP CITY ATTORNEY III	Z2	E	H	141	74.6363	74.6363	78.5920	82.7574	87.1436	91.7622
12240	HEALTH OFFICER (CERT)	Z1	E	H	552	98.7270	112.1537				
12240	HEALTH OFFICER (CERT)	Z1	E	H	552	121.8785	138.4537				
13800	HUMAN RESOURCES MANAGER	Z1	E	H	735	60.4107	78.5044				
13800	HUMAN RESOURCES MANAGER	Z1	E	H	735	62.1868	80.8124				
46010	SECRETARY TO CITY MGR	Z3	N	H	323	39.8143	39.8143	41.6890	43.7739	45.7888	47.9260
46010	SECRETARY TO CITY MGR	Z3	N	H	323	41.3034	41.3034	43.2482	45.4110	47.5013	49.7184
49030	PARALEGAL	Z2	N	H	792	36.2859	36.2859	37.9728	39.8486	41.6268	43.4816
49030	PARALEGAL	Z2	N	H	792	37.4289	37.4289	39.1689	41.1038	42.9380	44.8513