

# **Memorandum of Understanding**

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***BETWEEN***

***CITY OF HAYWARD***

***AND***

***INTERNATIONAL ASSOCIATION OF  
FIREFIGHTERS - LOCAL 1909***

**January 1, 2010 through December 31, 2023**



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## **1.00 RECOGNITION, DISCRIMINATION AND UNION ACTIVITIES**

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### **1.01 Recognition**

The City recognizes Local 1909 of the International Association of Firefighters, AFL-CIO, as the exclusive representative of a bargaining unit consisting of all public safety classifications in the Fire Department, excluding management and confidential employees. Public safety classifications are those in which the employees are safety members of the Public Employees Retirement System.

### **1.02 No Discrimination**

There shall be no discrimination because of race, creed, color, national origin, sex, age, protected union activities, or any other protected category recognized under state or federal law against any employee or applicant for employment by the Union or by the City or by anyone employed by the City. Protected union activities for the purposes of this section are defined as those activities permitted in accordance with applicable state laws and local ordinances and rules and the Memorandum of Understanding.

### **1.03 Union Meetings**

City buildings and other facilities, including the recreational areas of fire stations, shall be made available to the Union upon request for Union meetings, and Union members shall be permitted to attend such meetings while on duty if they are assigned to the fire station where a meeting is being held. Requests for the use of City buildings or other facilities for a Union meeting shall be submitted to the Fire Chief or his/her designated representative at least 48 hours in advance of the meeting and shall not interfere with the conduct of Fire Department business. Union members on duty shall remain available to perform their duties as necessary.

Members of the Union's Board of Directors who are on duty at the time a Union meeting is scheduled may be allowed to switch assignments with employees at the station where the union meeting is being held. A request must be submitted in writing to the Fire Chief no later than 48 hours prior to the meeting. An exception to this requirement will be made for members of the Union Board who are on duty in an overtime status on the date of a regularly scheduled Union Board meeting and for a regular general membership meeting. Approval of the request shall be contingent upon no use of City vehicles or payment of mileage, no reduction in level of service, and no creation of overtime expense as a result of such switching of assignments. As an exception to the foregoing, the on-duty Battalion Chief may approve the use of a City vehicle if circumstances warrant. No more than one (1) such arrangement shall be approved for a given Union Board member within a thirty (30) day period, except that the Fire Chief may allow a greater frequency when meet and confer sessions are in progress.

## **1.04 Dues Deductions and Service Fees Payments**

The City agrees to deduct one (1) month's current and periodic Union dues and special assessments from the pay of each employee who, has on file with the City a currently effective payroll deduction authorization for this purpose or who shall thereafter voluntarily execute and deliver to the City the payroll deduction authorization provided by the Union and approved by the City for this purpose.

The parties hereto recognize that membership in the Union is not compulsory, that employees have the right to join, not join, maintain, or drop their membership in the Union, and that neither party shall exert any pressure on or discriminate against an employee regarding such matters. The Union agrees it is obligated to represent all of the employees in the Unit fairly and equally without regard to whether or not an employee is a member of the Union.

All employees covered by this memorandum of Understanding shall become and remain a member of the Union in good standing within thirty (30) days following the beginning of employment or execute a payroll deduction authorization form and thereby pay to the Union an initial fee not to exceed the standard initiation fee required as a condition of acquiring membership in the Union and, thereafter, a month's service fee not to exceed the monthly dues uniformly required as a condition of retaining membership in the Union and special assessments adopted by the Union's membership for the costs of negotiations, contract administration and grievance handling.

As an exception to the foregoing, an employee who certifies he/she is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employees' organizations, shall execute a payroll deduction authorization for and thereby pay sums equal to the standard initiation fee required as a condition of acquiring membership in the Union, and the monthly service fee and special assessments provided above to one (1) of the following;

- Emergency Shelter Program
- City of Hayward Animal Control Program
- Visiting Nurses Association (Hayward Branch)

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues or service fees check off authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made from future earnings to cover the pay period. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Union dues and service fees.

The Treasurer of IAFF Local 1909 shall notify the Director of Finance in writing as to the amount of such initiation fees and monthly dues and special assessments uniformly required of all members of the Union.

Monies withheld by the City shall be transmitted to the Officer designated in writing by the Treasurer of Local 1909 as a person authorized to receive such funds at the address specified.

Upon seven (7) days' notice to the City from the Union that an employee described above has failed to maintain membership in good standing or has failed to maintain current service fee payment or has failed to maintain current charitable contribution to one (1) of the three (3) charities designated above, then the City shall:

1. Counsel the employee of their obligation under the provision.
2. Inform the employee that further failure to maintain the appropriate payments shall subject employee to discharge.

The Union shall indemnify, defend and save harmless the City of Hayward, its officers, employees and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section.

### **1.05 Union Orientation - New Employee**

A period of up to four (4) hours will be reserved during each recruit training schedule for a Union representative to orient new employees concerning Union business.

### **1.06 Union - Management Relations**

The City and the Union are desirous of effecting significant improvements in labor relations between management and employees represented by Local 1909. In the event the services of a third party facilitator are used in a effort to achieve this end it is agreed and understood that the third party facilitator will not serve as a witness for or resource person to either the City or the Union in any labor relations dispute, arbitration proceeding, or litigation involving the City of Hayward and Local 1909.

## **2.00 PROBATIONARY PERIOD**

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### **2.01 Appointments Subject to Probationary Period**

- A. All appointments to positions covered by Section 1.01 shall be subject to a probationary period. The period of probation shall be one (1) year for all covered classifications. Credit for *acting time* not to exceed six (6) months in the classification to which an employee is promoted shall be applied to the probationary period, provided said acting time is immediately contiguous to appointment in probationary status. Extension of probationary periods up to a maximum of six (6) months may be approved by the City Manager in individual cases.
- B. Firefighter Trainees promoted to the position of Firefighter in the City of Hayward Fire Department shall not be credited with the time held in the

classification of Firefighter Trainee toward expirtation of their probationary period in the rank of Firefighter or toward eligibility for salary step increases based upon length of service in that rank.

## **2.02 Release of Probationer**

The Department Head shall recommend retention or rejection of the probationer prior to the expiration of the probationary period. During the probationary period an employee may be released at any time without right of appeal. Written notice of release designating the effective date of such action shall be furnished to the probationer.

## **2.03 Release Following Promotion**

Any employee released during the probationary period following promotion shall be reinstated at the former salary step of his/her former position or a position in the class from which promoted unless the reason for his/her release is cause for dismissal. If no vacancy exists in this class, the employee with the least amount of time in this class shall be demoted to the most recent class in which he/she has satisfactorily served. If any employee is caused to be released by such action he/she shall be placed on a re-employment register for the classification from which released. Any employee who is released during a probationary period following promotion shall retain appeal rights to dismissal from the City but not the right to appeal his/her release from the position from which demoted.

## **2.04 Effective Date of Regular Status**

Upon attaining regular status, the effective date shall revert to the date of initial probationary appointment.

## **2.05 Examinations for Probationary Firefighters**

In order to qualify for regular status, employees in the rank of Firefighter shall be required to take and pass a series of three (3) probationary examinations developed and administered by the department.

Employees who do not obtain a passing score on any such examination must retake the examination within fourteen (14) calendar days. An employee may be discharged for failure to pass a probationary examination after two (2) attempts.

All probationary examinations shall be developed, prepared and administered by the Training Officer of the Hayward Fire Department or a management employee appointed by the Fire Chief to be in charge of the training of Probationary employees.

Probationary employees shall be given notice at the time they are assigned to a shift, of the date when their first probationary examination is to be administered and the material to be covered on the examination, and thereafter shall be give notice immediately after each examination of the date of the next probationary examination and the material to be covered on that examination. An employee who is required to take a probationary examination while off duty shall receive a minimum of four (4) hours' pay or time off with pay at the overtime hourly rate for the employee's classification.

### **3.00 LAYOFFS & RESIGNATIONS**

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#### **3.01 Layoffs**

Whenever there is a lack of work or lack of funds requiring reduction in the department, the required reduction shall be made in such job class or classes as the Fire Chief or his/her designated representative may designate, provided that employees shall be laid off in the inverse order of their relative length of service. Within each affected job class, all provisional employees shall be laid off before probationary employees, and all probationary employees shall be laid off before any regular employees.

Layoff to the next lower class is authorized provided that the employee to be laid off has previously served in said lower class and whose original date of appointment to that class predates at least one (1) employee presently serving therein.

#### *Re-employment Registers*

Re-employment registers for classifications in the unit above the rank of Firefighter created in accordance with *Section 8.00(c)* of the City of Hayward Personnel Rules shall remain in effect until all persons thereon have been recalled or have declined an opportunity for recall.

#### **3.02 Resignations**

Any employee wishing to leave the employ of the City 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 City Manager through the Human Resources Director with a statement by the Department Head as to the resigned employee's service performance. Failure of the employee to submit his/her written resignation as provided herein shall be entered on the service record of the employee and may be cause for denying future employment by the City.

### **4.00 WORK SCHEDULES - OVERTIME**

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#### **4.01 Work Schedules**

Employees assigned to the 56-hour per week schedule shall alternately be on duty for five (5) 24-hour shifts, with a 24-hour duty period off between each on-duty shift. All such shifts shall commence at 0800 hours and end at 0800 hours the following morning. Employees shall be in appropriate uniform and present for duty at their normally assigned stations at 0800 hours. Following the fifth duty shift scheduled, employees shall then be off for six (6) consecutive calendar days. During all periods while off duty, employees are still subject to call if needed.

For the purpose of this section, the normally assigned station for route personnel shall be Station #1 unless the employee was directed to report to another station prior to going off duty on employees last shift.

Employees whose regular position of employment entails a 40-hour workweek, shall be scheduled to work four (4) consecutive ten (10)hour days with three (3) consecutive days off. The hours of work for employees scheduled on a 40-hour work week are 0700 hours to 1730 hours, including a one-half hour unpaid lunch period, on Monday through Thursday or Tuesday through Friday each week. With the consent of the individual employee involved, the City may schedule different work hours for the purpose of special duty assignments such as arson investigation stakeouts. Employees within the classifications of Fire Prevention Inspector, and Staff Captains assigned to the Fire Prevention Bureau shall be allowed to select their permanent day off on the basis of seniority in the classifications held provided, however, that no more than fifty percent (50%) of the employees in each classification may select the same day off schedule.

All employees in the classification of Staff Captain shall be scheduled to work four (4) consecutive ten (10) hour days with three (3) consecutive days off, and shall be subject to the provisions herein governing selection of days and hours of work.

Employees temporarily assigned to a 40-hour per week work schedule may be assigned to work five (5) consecutive eight (8) hour days per week.

The normal activities of fire suppression personnel shall be conducted from 0800 hours to 1700 hours on a daily basis, excluding Sundays and holidays. Employees shall be provided one (1) hour each shift for a lunch meal, and one (1) hour each shift for a dinner meal. The lunch period shall normally occur between 1000 hours and 1400 hours. The dinner period shall normally occur between 1700 hours and 2000 hours. In the event scheduled training activities preclude employees from returning to their regularly assigned station for their noon meal, the City shall furnish a meal to said employees at the training site. Unusual special training assignments may occur after the normal activity period or on Sundays and holidays.

Work to be performed outside normal activities shall be:

- a. Emergency responses.
- b. Restoration of emergency equipment to full service.
- c. Strategic movement of apparatus to assure the best response patterns.
- d. Monitoring of unusual fire or life safety hazards.

Television, special events, sports and card games (no money involved) will be permitted only during the lunch hour and following completion of the normal activities and/or unusual special training assignments scheduled for the day. Outsiders, other than city employees, will not be permitted to participate in card games.

Beds may be occupied by members of the department between the hours of 2100 and 0730, except that the company officer may permit employees to retire earlier when, in his/her judgment, circumstances such as illness or excessive fatigue so warrant. No employee shall be permitted to smoke in bed at any time.

## **4.02 Overtime**

The present ordinances, resolutions, Administrative Rules, and Personnel Rules pertaining to overtime compensation and compensatory time off shall be continued without change during the fiscal years covered by this Memorandum of Understanding, except as hereafter provided. An employee shall be compensated by pay or time off with pay at an overtime hourly rate for the employee's classification for work required to be performed in excess of the employee's regular work shift. An employee who has completed his/her regular work shift and who has been released for the day, and who is then called back to work, shall be compensated by pay or time off with pay at an overtime rate of one-and-one-half times the regular straight-time hourly rate for the employee's classification.

## **4.03 Compensation for Call-Back Availability**

Employees who make themselves generally available for possible service calls during their off-shift hours shall receive additional compensation as follows:

- a. One (1) hour's pay at the employee's regular hourly rate or compensatory time as provided in the Fair Labor Standards Amendments of 1985 for each weekday night.
- b. Two (2) hours' pay at the employee's regular hourly rate or compensatory time as provided in the Fair Labor Standards Amendments of 1985 for each Saturday, Sunday or holiday.
- c. In order to receive this additional compensation, employees shall either keep the Communications Center informed as to how they may be reached during off-duty hours, or be available for contact via cellular device.

Provisions of this section shall apply only to the position of Fire Prevention Inspector in the Fire Prevention Bureau. No more than two (2) employees shall be entitled to receive the compensation provided herein on any given day.

In the event provisions of the Fair Labor Standards Act (FLSA) are found not to apply to the City of Hayward, or regulations issued by the U.S. Department of Labor implementing FLSA so permit, this Section 4.03 shall automatically be rescinded and replaced with Section 4.03 from the Memorandum of Understanding executed by the Parties on November 28, 1984.

## **4.04 Attendance Records**

Employees shall be in attendance at work in accordance with the rules regarding hours of work, holidays, and leaves. The department shall keep daily attendance records of employees.

Employees who are unable to report for work for any reason shall notify the department no later than one (1) hour prior to their scheduled starting time. The Fire Chief may waive this requirement upon presentation of a reasonable excuse by the employee.

## 4.05 Minimum Staffing

Contingent upon continuation of contractual services with Fairview Fire Protection District, the organization and staffing of the Department shall consist of nine (9) engine companies and two (2) truck companies. Each apparatus shall be staffed with a minimum complement of three (3): a Captain, an Apparatus Operator and a Firefighter

Notwithstanding any other provision of this Memorandum of Understanding, the Fire Chief or his/her designated representative may temporarily decrease for any reason the number of engine companies in active service for a portion of any given day provided that no more than two (2) engine companies are out of service at any one time for a period not to exceed eight (8) hours.

The following procedures will be observed on those occasions when Captains' meetings or training session for Captains are scheduled by the Department. During the course of such meetings or training sessions two (2) engines may be temporarily taken out of service as provided in paragraph two (2) of this section above. Acting Captains and acting Apparatus Operators shall be designated from the on-duty platoon and moved to fill vacancies and associated temporary re-assignments caused by attendance at the meeting or training session. Acting Captains and acting Apparatus Operators shall be compensated in accordance with Section 7.10 of this Memorandum of Understanding and shall be designated by the Battalion Chief from the respective eligible lists. Off duty personnel will not be recalled to duty on an overtime basis during Captains' meetings and training sessions for Captains except at the discretion of the Fire Chief.

If the contract with the Fairview Fire Protection District is discontinued, minimum staffing shall revert to eight (8) engine companies and two (2) truck companies and from thirty-three (33) to thirty (30) staff members. There shall be no demotion as a result of any such reduction in staff except by attrition.

## 4.06 Call-in Procedure for Non-Emergency Overtime

The following Procedure shall be used to determine the availability of employees for overtime work required on a day-to-day non-emergency basis.

### *I. Determination of Availability of Employees*

- A. Two Day Advanced Sign-up
  1. Members shall make themselves available for overtime prior to 2000 hours two (2) days prior to the scheduled work day for: 24, 12/12/24, 1st 12, 2nd 12, Short Time AM, Short Time PM or Any.
  2. Members shall make themselves available via: station server, phone or web server.
  3. Line-up shall be completed after 2000 hours two days prior to the scheduled work day.
- B. Overtime Sign-up Less Than Two Days (<36 hours out)



1. Members shall make themselves available for overtime before 2000 hours prior to the scheduled work day for: 24, 12/12/24, 1st 12, 2nd 12, Short Time AM, Short Time PM or Any.
2. Members shall make themselves available via: station server, phone or web server.
3. Line-up shall be completed after 2000 hours prior to the scheduled work day.
4. Line-up is not set until after 0700 and "finalized."

## ***II. Signing Up and Cancelling Time Off***

1. Members will sign up for time off via Telestaff (Vacation, Comp time, or COD's Trades).
2. Members may take time off up to 2000 hrs the night before, as long as there is a vacancy.
3. Members may cancel time off up to 2000 hrs the night before, as long as no members are locked into that vacancy from the advanced overtime list.
4. To guarantee cancellation of your vacation or comp time, members must do it before 2000hrs two days prior to the scheduled vacation or comp day. First (1<sup>st</sup>) or second (2<sup>nd</sup>) pick vacation must still be done with ten (10) days notice.
5. No one can cancel time off (Vacation, Comp time, or COD's ) without calling the sick line. Leave a message and the B/C will cancel it. It is the responsibility of each member to make sure the change has been implemented on Telestaff.

## ***III. Fire Captain Vacancies***

### **A. Procedure to be Followed if a Platoon is Below Minimum Staffing.**

If the department learns of a Captain vacancy(s) which must be filled for that day's shift of operations, the following steps will be taken, in the order listed, until all vacancies are filled:

1. Two (2) days in advance of a vacancy; Captain(s) whose name(s) appear on the advanced overtime sign-up (pick list) prior to 2000, shall be assigned to fill the vacancy(s) pursuant to Section 4.06VI of the Memorandum of Understanding.
2. Captain(s) from the off-going shift whose name(s) appears on the overtime sign-up sheet shall be assigned to fill the vacancy(s) pursuant to Section 4.06VI of the Memorandum of Understanding.
3. Any employee from the off-going shift whose name appears on the overtime sign-up sheet and who is on the current eligibility list for Fire Captain shall be assigned to fill the vacancy(s) pursuant to Section 4.06v of the Memorandum of Understanding.

4. Any employee from the on-coming shift who is on the current eligibility list for Fire Captain shall be assigned to fill the vacancy(s).
  5. A Captain from the off-going shift whose name does not appear on the overtime sign-up list shall be held over while Captains from the shift not scheduled for duty whose names appear on the overtime sign-up list are contacted. A Captain so held over shall be released at such time as a replacement reports to duty,
  6. In the event no employee in the rank of Captain is available from the overtime sign up list the procedure in (4) above shall be followed while contact is made with employees from the shift not scheduled for duty whose names appear on the overtime sign-up list and who are on the eligibility list for Fire Captain.
  7. In the event steps (1) through (5) are insufficient to fill Captain vacancies, mandatory overtime will be assigned to a Captain(s) from the off-going shift in the inverse order of seniority on a rotating basis.
- B. Procedure to be Followed if a Platoon is Above Minimum Staffing
1. Employees whose names appear on the current eligibility list for Fire Captain shall be appointed on an acting basis and will be required to serve. If the platoon falls below minimum staffing at any point prior to finalizing the line-up, the actor shall return to his/her bid ride and the vacancy shall be filled according to section 4.06 III A.

The procedures described in paragraphs A and B above shall not apply to the filling of long-term vacancies cause by such conditions as extended illness, injury, or leaves of absence. Such vacancies will continue to be filled pursuant to the provisions of Section 7.10 of the Memorandum of Understanding.

#### ***IV. Apparatus Operator Vacancies***

- A. Procedure to be Followed if a Platoon is Below Minimum Staffing.

If the department learns of an Apparatus Operator vacancy(s) which must be filled for that day's shift of operations, the following steps will be taken, in the order listed, until all vacancies are filled:

1. Two days in advance of a vacancy; Apparatus Operator(s) whose name(s) appear on the advanced overtime sign-up (pick list) prior to 2000, shall be assigned to fill the vacancy(s) pursuant to Section 4.06VI of the Memorandum of Understanding.
2. Apparatus Operator(s) from the off-going shift whose name(s) appears on the overtime sign-up sheet shall be assigned to fill the vacancy(s) pursuant to Section 4.06VI of the Memorandum of Understanding.
3. Any employee from the off-going shift whose name appears on the overtime sign-up sheet and who is on the current eligibility list for Apparatus Operator shall be assigned to fill the vacancy(s) pursuant to Section 4.06VI of the Memorandum of Understanding.
4. Any employee from the on-coming shift who is on the current eligibility list for Apparatus Operator shall be assigned to fill the vacancy(s).

5. An Apparatus Operator from the off-going shift whose name does not appear on the overtime sign-up list shall be held over while Apparatus Operators from the Shift not scheduled for duty whose names appear on the overtime sign-up list are contacted. An Apparatus Operator so held over shall be released at such time as his/her replacement reports to duty.
  6. In the event no employee in the rank of Apparatus Operator is available from the overtime sign-up list the procedure in (4) above shall be followed while contact is made with employees from the shift not scheduled for duty whose names appear on the overtime sign up list and who are on the eligibility list for Apparatus Operator.
  7. In the event Steps (1) through (5) are insufficient to fill Apparatus Operator vacancies, mandatory overtime will be assigned to an Apparatus Operator(s) from the off-going shift in the inverse order of seniority on a rotating basis.
- B. Procedure to be Followed if a Platoon is Above Minimum Staffing.
1. Employees whose names appear on the current eligibility list for Apparatus Operator shall be appointed on an acting basis and will be required to serve.
  2. Acting appointments shall be made from a list of persons holding the rank of Firefighter who have volunteered for such acting appointment. Said employees must be in regular status as Firefighters and appointments shall be made on a rotating basis starting with the most senior employee in the classification in the following order of priority
    - a. Firefighters who have previously taken the examination for Apparatus Operator and passed the most recent such examination taken. A Firefighter must possess the appropriate driver's license as provided in the class specification for Apparatus Operator and must be certified to operate the piece of equipment to which assigned.
    - b. Firefighters who have not previously taken the examination for Apparatus Operator, but who meet the following criteria:
      - i. Employee must meet the minimum qualifications for the rank of Apparatus Operator as provided in the class specification.
      - ii. Employee must have successfully completed college level courses in fire ground hydraulics and fire department apparatus and equipment.
      - iii. Employee must possess the appropriate drivers license as provided in the class specification for Apparatus Operator.
      - iv. Employee must be certified by a Battalion Chief or above to operate the piece of equipment to which assigned. In order to obtain said certification he must demonstrate his ability to drive and operate that piece of equipment on the Hayward Fire Department driving course.

3. Apparatus Operator(s) from the off-going shift whose name(s) appears on the overtime sign up sheet shall be assigned to fill the vacancy(s) pursuant to Section 4.06v of the Memorandum of Understanding.
4. Any employee from the off-going shift whose name appears on the overtime sign-up sheet and who is on the current eligibility list for Apparatus Operator shall be assigned to fill the vacancy(s) pursuant to Section 4.06v of the Memorandum of Understanding.
5. An Apparatus Operator from the off-going shift whose name does not appear on the overtime sign up list shall be held over while Apparatus Operators from the shift not scheduled for duty whose names appear on the overtime sign up list are contacted. An Apparatus Operator so held over shall be released at such time as a replacement reports to duty.
6. In the event no employee in the rank of Apparatus Operator is available from the overtime sign up list the procedure in (3) above shall be followed while contact is made with employees from the shift not scheduled for duty whose names appear on the overtime sign up list and who are on the eligibility list for Apparatus Operator.

C. Qualification of Firefighters on Eligibility List

The City agrees to establish a program for qualifying all Firefighters who are on the eligibility list for Apparatus Operator to operate all pieces of equipment as soon as possible after certification of the eligibility list.

D. Firefighters Acting With Less Than 3 years

A Firefighter who has not previously taken the examination for Apparatus Operator and who has less than three (3) years' experience in the Hayward Fire Department shall receive a one (1) step increase in his/her salary range of Firefighter at such time as first given an acting appointment as an Apparatus Operator pursuant to paragraph B2b(i) above.

The procedures described in paragraph A and B above shall not apply to the filling of Long-term vacancies caused by such conditions as extended illness, injury, or leaves of absence. Such vacancies will continue to be filled pursuant to the provisions of Section 7.10 of this Memorandum of Understanding.

## ***V. Equalization of Overtime***

Overtime tracking will be based upon total hours worked during a 12 month period (January 1st to December 31st). Overtime of 4 hours or less will not be counted towards overtime worked record.

## ***VI. Removing your name after being locked into vacancy***

If a member is granted advanced overtime and then wishes to remove their name after locking into a vacancy they may do so up until 2000 hours the night before said shift. If, however this creates a mandatory at the time of the cancelation, then that member will have the hours that they were locked into added to their overtime hours worked record.

## **VII. Insufficient Names on Overtime List**

In the event that there are insufficient names on the sign up (pick list) to fill vacancies, the Union President or designated representative, shall determine whether any further attempts shall be made to contact personnel for the purpose of filling vacant positions.

## **VIII. Mandatory Overtime**

Employees will have the right to refuse one (1) mandatory overtime request every six (6) months per calendar year (January 1st to June 30th & July 1st to December 31st). It shall be understood that any individual using their one (1) refusal of mandatory in a six (6) month period will not be relieved of their mandatory obligation, will not earn a mark, and will remain in current position on mandatory list. In the event an employee is unable to fulfill further mandatory overtime obligations within the same six (6) month period, the employee will be unable to sign up for overtime for a three (3) month period from the date of refusal. An additional three (3) months will be added for each refusal within the same six (6) month period.

Modifications to the provisions of this Section 4.06 may be accomplished at any time during the term of this Memorandum of Understanding upon agreement between the Fire Chief or a designated representative and an authorized representative of the Union.

### **4.07 Call Back - Four (4) Hours Minimum**

If an employee is called back to perform work outside the regular duty shift he shall, upon reporting, receive a minimum of four (4) hours' work at the overtime rate or if four (4) hours' work is not furnished, a minimum of four (4) hours pay at the overtime rate.

### **4.08 Station Assignments and Transfers**

#### **I. Biannual Bid Procedure**

Station assignments will be established every two (2) years according to the outcome of the biannual bid procedure. Beginning October 5, 1994 and on the first Wednesday of every second October thereafter, bidding will take place at Fire Station #1 starting at 0900 hours.

Personnel will bid their assignment by seniority in rank order starting with Captains first, Apparatus Operators second and Firefighters third and during their bid will have five (5) minutes to make their choice. On duty personnel (not present at Fire Station #1) will be contacted at their duty assignment for that day. Personnel unable to be present at the bid must submit their assignment choices via a signed proxy to the Union President.

Personnel unable to be present at the bid and who fail to submit a signed proxy shall forfeit their right to bid, and will pick after the bid from the remaining assignments by seniority in rank order starting with Captains first, Apparatus Operators second and Firefighters third.

With the exception of assigning probationary firefighters, there shall be no transfers outside the biannual bid.

## **II. Filling Vacancies Occurring Outside the Bid Cycle**

### **A. Filling Permanent Assignment Vacancies**

1. Assignments to permanent vacancies which become available as a result of retirement, promotion, termination or death shall be made on an intraplatoon seniority bid in the following manner:
2. The department shall make every effort to notify the Union President of upcoming vacancies in a timely manner.
3. Eligible personnel on the affected platoon shall be contacted by the Union President or a designee.
4. Bidding for transfer to the vacancy shall proceed by seniority.
5. During the period of the bidding process, the vacancy will be filled by a newly promoted employee within the classification where the vacancy exists.

### **B. Filling Temporary Assignment Vacancies**

Temporary vacancies which occur shall be filled on an acting basis as determined by the selection process for Acting Assignments outlined in Sections 15.03 and 15.04. The department shall make every effort to notify the Union President of upcoming vacancies in a timely manner

Employees who are transferred to another station shall be given two (2) days advance notice except in those instances where said transfer is to cover for the temporary absence of another employee.

## **III. Transfer Advisory Board**

An Advisory Board consisting of three (3) union and three (3) management representatives shall:

1. Resolve discrepancies which may arise through interpretation of the foregoing sections on assignments and transfers
2. Equalize the number of acting personnel (from current eligible lists) on each platoon.

Union representatives shall be appointed by the Union President and Management representatives shall be appointed by the Fire Chief. Decisions of the Transfer Advisory Board require a majority vote and all such decisions shall be final.

### **4.09 Duty Assignments for Probationary Firefighters**

An employee in the rank of firefighter shall normally be assigned to a specific station for the first four (4) months of the probationary period, and then to a different station for an additional four (4) months. The Captains under whom the employee has served shall provide written recommendations to the regular Platoon Commander as to the employee's overall competence and fitness for

assuming "route" assignments, i.e., relief assignments at various stations on a day-to-day basis. The Platoon Commander shall then decide if the employee may be assigned to route duty, or if assignment to a specific station should be continued for the purpose of additional training and evaluation.

In the event an employee in the rank of firefighter is displaced from assignment to a specific station by a probationary Firefighter, the employee so displaced shall, in turn, displace the least senior firefighter on the platoon who is regularly assigned to a station, and that Firefighter shall be assigned to route duties. A Firefighter so displaced shall normally be returned to his original station of assignment at such time as the probationary Firefighter involved is transferred to another station or assigned to route duties.

Nothing herein is intended to nor shall it abridge the right of the Fire Chief to transfer or reassign probationary personnel among the various stations and/or platoons for the good of the service.

#### **4.10 Trading of Work Hours**

Employees wishing to trade work hours with other members of the department may do so subject to the following conditions.

- A. No trades shall be permitted for the purpose of off duty employment.
- B. Firefighters in probationary status shall not be permitted a trade of duty during the first six (6) months of employment.
- C. Trade of duty hours shall only be permitted between individuals of like rank and like work schedule (i.e., no trades permitted between 56-hour and 40-hour personnel); provided, however, an exception to the foregoing trades will be permitted between employees on a promotional eligible list and employees currently holding that rank.
- D. For trades in excess of one (1) hour, applications must be made in writing and submitted no more than ninety (90) days in advance of the start of the work period for which trade of work is requested. such request must be approved by a Battalion Chief or Officer of higher rank.
- E. For trades of one (1) hour or less, approval may be granted by the Company Officer. The employee filling in under such circumstances shall be informed of the duties of the person he/her is replacing and shall report for duty in appropriate uniform.
- F. In the event an employee has agreed to work for another employee and is then unable to work all or part of the shift, a deduction shall be made from the vacation leave or compensatory time balance of the employee who agree but failed to work. In the event the employee who has agreed to work is unable to work for all or part of the shift because of injury or illness, a deduction may be made from his/her sick leave only upon certification by a physician of the employee's inability to work. This latter requirement may be waived by the employee's Battalion Chief. Said deductions shall be equivalent to the number of hours scheduled but not worked by the employee with whom the trade of duty was made.

- G. There shall not be a limit on the number of trades permitted; provided, however, in the case of abuse of this provision on the part of an employee the Fire Chief may restrict this privilege as to that employee.
- H. Pay back of shift trades shall be the responsibility of the employee directly involved in the exchange; provided, however, that such pay back shall not cause an employee to work in a position below his/her rank, nor shall it require the payment of overtime and/or acting pay.
- I. Employees in the rank of Fire Prevention Inspector may trade "stand-by" assignments.

The Fire Chief may grant exceptions to this policy for unusual and compelling circumstances, e.g. long-term illness or injury, and inability of employees to pay back trades of duty pursuant to the requirements of this section because of promotions.

#### **4.11 Out-of-City Training Assignments**

In the event sending an engine company to training conducted outside the city limits causes the on duty staffing level to fall below thirty-three (33) employees, additional personnel will be recalled to maintain this minimum staffing level. As an exception to the foregoing, the following conditions shall apply only in those instances where two (2) engines companies or one (1) engine company and one (1) truck company leave the city for training details, and minimum staffing falls below thirty-three (33) employees as a result, and no additional personnel are recalled to restore the thirty-three (33) employee minimum:

- 1. There shall be a minimum of eight (8) in-service companies remaining in Hayward.
- 2. Training assignments shall be limited to jurisdictions within Alameda County.
- 3. No more than three (3) calendar days of training will be scheduled in any given month, and no such training will be scheduled on a Sunday or a holiday.
- 4. Companies will leave quarters no earlier than 1300 hours and shall be released from the training site no later than 1630 hours. In the event all affected companies are not returned to their assigned stations by 1730 hours, personnel shall be given the evening meal allowance provided in Section 4.11 of this Memorandum of Understanding.
- A. Employees who attend approved "out-of-city" training sessions or classes where staying on site overnight is authorized by the Fire Chief shall be compensated in accordance with their regular straight-time earnings schedule while so participating. No additional compensation shall be provided for such training which occurs during an employee's off duty time. Employees shall be reimbursed for travel expense, lodging and shall receive a per diem allowance equal to 1.5% of the current top step monthly salary for the classification of Fire Prevention Inspector. In the event lodging expense or other charges for training include the cost of meals, said cost shall be deducted from the per diem allowance.



- B. Employees who are assigned to attend “out-of-city” training sessions or classes which do not necessitate staying on-site overnight shall be compensated as follows:
1. Employees attending training on their scheduled day off shall receive time-and-one-half their straight time hourly rate for all hours spent in training as well as for travel time to and from their duty station to the training site.
  2. Employees attending training on their scheduled work day shall not receive any additional compensation, but they shall be reimbursed for a noon meal at City expense not to exceed \$7.00 upon presentation of receipt for same. In the event training time (including the noon meal period) and travel time to and from the duty station to the training site exceed twelve (12) hours, employees shall not be required to return to duty that day.
  3. Employees who complete training for the day and who are returning to work, but are unable to be at their station in time for the scheduled evening meal shall be reimbursed for such meal expense up to \$10.00 upon presentation of a receipt for same. Time spent by employees in obtaining an evening meal shall not be counted as part of the twelve (12) hour period referred to in paragraph B2 of this section.
- C. Employees may request time off to attend “out-of-town” training for the purpose of self improvement. Such requests, if approved by the Fire Chief, shall entail no expense to the City; provided, however, that the Fire Chief in his sole discretion may authorize leave with pay and/or reimbursement for all or a portion of expenses in those instances where such self-improvement training is of benefit to the department. The department shall provide any necessary information which may be required for enrollment in the training.

## **5.00 UNION BUSINESS**

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### **5.01 Representatives Empowered to Act**

The Union shall advise the City of those persons empowered to act as its representatives with authority to bind the Union in matters pertaining to the administration of this Memorandum of Understanding.

### **5.02 Permission to Leave Assignments**

Employee representatives shall not leave their duty or work station or assignment without specific approval of the department head.

### **5.03 Time Off for Representatives**

The City shall allow a reasonable number of employee representatives of the Union reasonable time off during regular work hours without loss of compensation or other benefits for not more than five (5) employees when formally meeting and conferring with representatives of the City on matters within the scope of representation.

## **5.04 Time Off for Grievances**

If an employee desires the assistance of a representative of the Union in the processing of a grievance, the City agrees to permit not more than two (2) Union representatives reasonable time off during regular work hours without loss of compensation or other benefits for this purpose. The grievant and/or the authorized Union representative(s) shall obtain the approval of his/her immediate supervisor or other authorized departmental supervisor before leaving his duty or work station or assignment for the purpose of processing a grievance.

## **5.05 Union Time Bank**

The City and Union agree to establish and maintain a time bank to provide for backfilling of positions vacated by union members while attending union functions or conducting the business of the Union. All requests for use of the time bank shall be submitted to the Union President or designee. The Union President or designee shall have sole discretion as to the granting of time bank leave.

### ***I. Scheduling of Time Bank Leave***

In order to receive compensation while on time bank leave, the member shall notify the President or designee in writing 24 hours in advance of the affected day. For 56 hour employees the President or designee shall in turn notify the department, by way of the communication center or other responsible party, prior to 0700 hours on the affected day. For 40 hour employees the President or designee shall in turn notify the member's immediate supervisor. Notification may occur up to the affected time.

Members using vacation or compensatory time off shall receive priority over those using time bank leave in the five (5) slots guaranteed in Section 9.03 paragraph 3. Section 9.03 paragraph 4 shall apply in cases where members using vacation or compensatory time in excess of twelve (12) hours but less than twenty-four (24) hours, conflicts with members opting to use time bank leave.

#### **A. Limits on Use by 56 Hour Employees**

No more than seven (7) members shall be guaranteed the use of time bank leave on any given day. There shall be no restriction on the number of persons in each rank who may simultaneously use time bank leave. Five of these slots are guaranteed as per Section 9.03 paragraph 3. The two (2) additional slots are guaranteed by this section and shall be used only for time bank leave.

#### **B. Limits on Use by 40 Hour Employees**

No more than 50% of the employees in the rank of Fire Inspector may be off on vacation leave, compensatory time off and/or time bank leave on any given day.

#### **C. Rates of Withdrawal from Time Leave Bank**

Time bank leave shall be withdrawn from the account at a rate of one (1) hour out for each hour used in those cases where the member using such

time occupies one (1) of the five (5) guaranteed slots provided in Section 9.03 paragraph 3. In those cases where a member occupies one (1) of the two (2) guaranteed Time Bank Leave slots provided in this section, withdrawal from the account shall be one and one-half hours out for each hour used.

Time bank leave shall be used as prescribed below:

**56 Hour Personnel**

0800-2000 Four (4) hour minimum in one (1) hour increments.

2000-0800 Twelve (12) hour minimum.

**40 Hour Personnel**

No minimum.

## ***II. Time Bank Assessment***

Union members assigned to a 56 hour schedule will be assessed a maximum of 9 hours per year or 2.25 hours per quarter worked. Union members assigned to a 40 hour schedule will be assessed a maximum of 1.85 hour per quarter worked.

Newly hired and retiring members shall be assessed for each quarter that they are employed. For purposes of this section, employment for an entire 24 hour shift (56 hour) or an entire 10 hour shift (40 hour) within the quarter, shall qualify for an assessment for each period. Assessment shall be in accordance with the following terms:

- A. The City shall assess each member on the first pay period of each year. Time for such assessment may be taken from vacation leave or compensatory time balance. Each member shall notify the Department prior to November 30th, as to which balance the assessment shall be attached. If the Department is not notified, the assessment shall be from vacation leave balance.
- B. The assessment rate of time shall be in accordance with the recommendation of the Time Bank Review Committee which shall be established by the Union President. The assessment and withdrawal of time bank leave shall be calculated in work hours and accumulation shall be unlimited.
- C. The parties agree that a quarterly accounting of Union Time Bank use and current balance shall be sent to the President of Hayward FireFighters, IAFF Local 1909.

## **6.00 BENEFIT PLANS**

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### **6.01 Retirement Plan**

The City shall continue that contract with the Public Employees' Retirement System (PERS), and all amendments thereto, which provide retirement benefits to members of the representation unit presently in effect. Effective January 1,

2001, the City amended its contract with the PERS to provide Bargaining Unit employees with the 3% @ 50 retirement formula for PERS Classic members. Effective January 1, 2013, the contract was amended to provide a 2% @ 50 or 2.7% @ 57 retirement formula for PERS PEPRAs members.

**Optional Benefits, Cost Sharing (PERS Contributions)**

(A) Employees Hired Before January 1, 2013

The provisions described in this Section A apply only to CalPERS eligible employees hired before January 1, 2013, or to eligible employees hired after that date who qualify for pension reciprocity pursuant to Government Code Section 7522.02 (c). Referred to as CalPERS "Classic Members."

The City shall continue to provide CalPERS Classic Members with retirement benefits in accordance with the existing contract with PERS, and all amendments to that contract, including:

1. Section 21362.2 – 3% @ 50 Retirement Formula;
2. Section 20042 – Final Compensation 1 year;
3. Section 20965 – Unused Sick Leave Credit;
4. Section 21547.7 – Alternative Death Benefit for Local Fire Members Credited with 20 or More Years of Service;
5. Section 21573 – 1959 Survivor Benefits Level 3;
6. Section 21329 – 2% Annual Cost-of-Living Allowance Increase;
7. Section 20516 – Member Sharing Cost of Optional Benefit;
8. Section 20903 – Additional Service Credit 2 Years;
9. Section 21551 – Pre Retirement Death Benefit to Continue after Remarriage;
10. Section 21027 – Military Service Credit for Retired Persons;
11. Section 21024 – Military Service Credit for as Public Service;
12. Section 21635 – Post-Retirement Survivor Allowance to Continue after Remarriage;
13. Section 21624/21626 – Post-Retirement Survivor Allowance;
14. Section 21620 – Retired Death Benefit; and
15. Section 20055 – Prior Service.

Upon implementation of this agreement, employees shall continue to pay a total of 15% of reportable wages to fund employee pensions until such time that a successor agreement is negotiated. This contribution represents the employee's 50% of normal cost as determined by CalPERS. The balance, if any, of this contribution shall constitute employee payment of a portion of the employer's 50% of normal cost as determined by CalPERS.

The term "normal cost" is defined in section 7522.04(g) of the Government Code as "the portion of the present value of projected benefits under the defined benefit that is attributable to the current year of service, as determined by the public retirement system's actuary according to the most recently completed valuation."

(B) Employees Hired On or After January 1, 2013

This Section B shall apply to CalPERS eligible employees hired on or after January 1, 2013, who do not qualify for pension reciprocity pursuant to Government Code Section 7522.02(c). Referred to as CalPERS “New Members.” The retirement plan for these employees shall be the retirement plan which the City is required to provide for new members pursuant to California Public Employees’ Pension Reform Act of 2013.

- i. As required by Government Code Section 7522.25, the safety Option Plan Two (2% @ 50 – 2.7% @ 57) pension formula shall apply.
- ii. As required by Government Code Section 7522.32, for the purposes of determining a retirement benefit for these employees, final compensation shall mean the highest average annual pensionable compensation earned during 36 consecutive months of service.
- iii. As required by Government Code Section 7522.30, employees shall have an initial contribution rate of 50% of the total normal cost rate as defined in Section 7522.04 (g).
- iv. Other contracted benefits include:
  - 1. Section 20965 – Unused Sick Leave Credit;
  - 2. Section 21547.7 – Alternative Death Benefit for Local Fire Members Credited with 20 or More Years of Service;
  - 3. Section 21573 – 1959 Survivor Benefits Level 3;
  - 4. Section 21329 – 2% Annual Cost-of-Living Allowance Increase;
  - 5. Section 20516 – Member Sharing Cost of Optional Benefit;
  - 6. Section 20903 – Additional Service Credit 2 Years;
  - 7. Section 21551 – Pre Retirement Death Benefit to Continue after Remarriage;
  - 8. Section 21027 – Military Service Credit for Retired Persons;
  - 9. Section 21024 – Military Service Credit for as Public Service;
  - 10. Section 21635 – Post-Retirement Survivor Allowance to Continue after Remarriage;
  - 11. Section 21624/21626 – Post-Retirement Survivor Allowance;
  - 12. Section 21620 – Retired Death Benefit; and
  - 13. Section 20055 – Prior Service.

New members shall continue to pay a total of 15% of reportable wages to fund their pension until such time that a successor agreement is negotiated. The fifteen percent (15%) of reportable wages is comprised of the CalPERS published employee rate, plus the additional contribution to the City’s employer rate that the City would otherwise be required to pay to CalPERS for these employees. Under Section 20516, the additional contributions are as follows:

Effective the pay period including July 1, 2013	3.75%
Effective the pay period including July 1, 2016	5.25%

Under Section 20516, after July 1, 2016, employees shall continue to pay an additional contribution of 5.25%. If CalPERS enacts a change to the employee rate as reflected in the Annual Valuation Report, the parties will amend this side letter to ensure it accurately reflects new members pay a total of 15% of reportable wages to fund their pension. This contribution represents the employee's 50% of normal cost as determined by CalPERS. The balance, if any, of this contribution shall constitute employee payment of a portion of the employer's 50% of normal cost as determined by CalPERS. In no event shall the employee contribution be less than 50% of the total normal cost rate, as required by Government Code Section 7522.30.

## **6.02 Other Benefits**

Effective January 1, 2019, the City shall contribute \$2400 annually to the deferred compensation account of PEPRAs members paid bi-weekly in the amount of \$92.31. This provision shall remain in effect until such time that a successor agreement has been negotiated. Effective January 1, 2019, the City shall contribute \$600 per year to the VEBA account of all participating members paid bi-weekly in the amount of \$23.08. Members not enrolled in VEBA will have the \$600 per year contribution deposited to their deferred compensation account. This provision shall remain in effect until such time that a successor agreement has been negotiated.

## **6.03 Medical Insurance**

The City currently contracts with the Public Employee's Retirement System (CalPERS) for the purpose of providing access to medical insurance benefits to active employees and their eligible dependents, eligible retired employees and eligible survivors of retired employees. Eligibility of an employee or a dependent to participate in this program shall be in accordance with the Public Employees' Medical and Hospital Care Act (PEMHCA). Eligibility of retired employees and survivors of retired employees to participate in this program shall be in accordance with those provisions of the PEMHCA providing for participation by "annuitants."

The City's employer contribution towards medical insurance benefits for each eligible employee shall be the minimum contribution amount required by Government Code Section 22892. Contributions provided under this section are required only to the extent mandated by the PEMHCA.

For calendar year 2018, the City currently provides an employer contribution of \$133.00 per month to CalPERS for each eligible active employee towards the purchase of medical insurance benefits.

In the event CalPERS requires a minimum employer contribution in excess of \$133.00 per month, the City shall pay such additional amounts as approved by the City Council. Because CalPERS may change carriers and plans, the City shall not be required to provide a specific insurance coverage and shall only be required to provide those benefits as described in this Section so long as the City contracts for benefits with PERS for medical insurance benefits.

The City will provide each eligible annuitant, as defined by the PEMHCA, with an employer contribution towards medical insurance benefits that is equal to any contribution provided to an active employee under this Section 6.02.

#### **6.04 Flexible Benefits Plan**

The City shall provide a contribution to the City's Flexible Benefits Plan (125 Plan) for each full-time employee in regular or probationary status who is enrolled in one of the CalPERS medical insurance plans offered by the City. Employees can use this contribution to offset the cost of benefits purchased through the Plan. The value of any flexible benefit allowance provided by the City shall be determined as follows:

Each year, the City will review the premium charged for employee + 2 or more coverage (family coverage) under the Blue Shield HMO and Kaiser health insurance plans to determine the plan to be used for determining the amount of the City's contribution to the 125 Plan. Contributions will be the greater of A or B as defined below:

- A. Eligible employees shall receive an allowance equal to one hundred percent (100%) of the premium cost for health insurance coverage based on the employee's plan selection and participation level eligibility (e.g., Employee only coverage, Employee + 1 coverage, or Employee + 2 coverage), less the amount of any contribution provided under Section 6.02 above. The City's maximum contribution under this Section shall not exceed the cost of one hundred percent (100%) of the premium, excluding United Health Care as determined by the employee's participation level, less the City's contribution towards medical benefits under PEMHCA, except that, in no event shall the sum of the City's contributions pursuant to the provisions of Sections 6.02 and 6.03 of this Memorandum of Understanding exceed one hundred (100%) of the premium cost for the PERS medical insurance plan in which the employee is enrolled.
- B. The City shall continue to provide Flexible Benefit Allowances as provided in this Section unless amended or repealed by the City Council.
- C. Contributions to an employee's Flexible Benefit Account shall be used only for payment of those benefits that are available through the City's Flexible Benefits Plan. The City will not treat any contributions made to the Flexible Benefits Plan as compensation subject to income tax withholding unless the Internal Revenue Service and/or the 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.
- D. Each employee shall file an election in writing during the month of open enrollment for medical insurance each year designating how the contributions in his or her Flexible Benefits Account are to be spent during the ensuing year. Thereafter, no changes to designations so made shall be allowed until the enrollment of the following year, except for changes due to an eligible qualifying event.

- E. Each employee shall be responsible for providing immediate written notice to the Director of Human Resources or designee of any change to the number of his or her dependents which would affect the amount of the City's payment to the Flexible Benefits Account. An employee who, by reason of failing to report the change in dependents, receives a City payment greater than the amount to which he or she is entitled, shall be liable for refunding the excess amounts received via a reduction in the amount paid to employee's Flexible Benefits Account in subsequent months. Changes to flexible benefits contributions associated with changes in an employee's number of dependents shall take effect at the start of the first pay period in the month following the month in which notice of the change is received by the Human Resources Department. No retroactive increases to the Flexible Benefit Allowance provided by the City shall be allowed.

### **6.05 Federal or State Health Plan**

If pursuant to any federal or state law which may become effective subsequent to the effective date of this Memorandum of Understanding the City is required to pay contributions or taxes for hospital-medical, dental care, prescription drug or other health benefits to be provided employees under such federal or state Act, the City's obligation to furnish the same benefits under the Hospital Medical-Surgical, Dental Care and Prescription Drug Plans shall be suspended and the contributions agreed to be paid monthly hereunder by the City under Sections 6.02, 6.03 and 6.05 of this Memorandum of Understanding shall be reduced each month by the amounts which the City is required to expend during any such month in the form of contributions or taxes to support said federal or state health plan.

If, as a result of such a law, the level of benefits provided by such law for any group of employees, or their dependents, is lower in certain categories of services than that provided under Sections 6.02, 6.03 and 6.05 the City shall, to the extent practicable, provide a plan of benefits supplementary to the federal or state benefits so as to make benefits in each category of coverage as nearly comparable as possible to the benefits provided under said Sections 6.02, 6.03 and 6.05. The City need only expend for this purpose the actual amount required to achieve parity between the benefits agreed to be provided under Sections 6.02, 6.03 and 6.05 and the benefits provided under any federal or state plan as supplemented in the manner hereinabove described.

If the benefits provided under the federal or state Act exceed the benefits provided thereunder in each category of coverage, the City shall be under no further obligation to make any contribution in pursuance of this Section. In requiring contributions by employees, such employee contribution shall be reimbursed by the City to the amount by which said employee contribution reduces the City contribution required by the terms of this Memorandum of Understanding.

### **6.06 Dental Plan**

The City shall contribute towards dental insurance premiums for full-time employees, other than temporary and provisional employees, and their eligible



dependents. The City's contribution on behalf of an eligible employee participating in a City-sponsored dental plan shall be equal to one hundred percent (100%) of the monthly premium for dental insurance, as determined by the employee's enrolled participation level in the City sponsored dental plan.

Currently, the City provides insurance through either a Delta Dental plan or United Concordia plan. Details regarding benefits and covered services for each plan may be found in the current Delta Dental or United Concordia benefits summaries for the City of Hayward respectively.

The City reserves the right to provide dental care benefits under a plan or through a carrier of its choice. Alternate coverage may be provided either through a consortium of public agencies or private employers which may be formed for the purpose of providing dental care benefits for employees, or through a program of self-insurance. In the event the City exercises this option, the alternate coverage shall be substantially equivalent to the coverage in effect at such time as a change in carriers takes effect.

## **6.07 Alternate Benefits**

An alternative benefit in the form of a cash payment is available to those full-time employees in regular or probationary status who: (1) elect to opt-out of receiving City contributions under section 6.02 and 6.03; (2) are not enrolled in a City-sponsored health insurance plan as the dependent of another City employee; and (3) provide proof of medical insurance coverage from a plan other than a City-sponsored plan.

Any cash payment provided under this section shall be reported to the Internal Revenue Service (IRS) and the California Franchise Tax Board as compensation subject to income tax withholding. Each employee shall be solely and personally responsible for any tax liability that may arise out of receipt of the alternative benefits provided under this section.

The amount of alternative benefit provided to an employee is based on the level of insurance coverage that employee could have received if he or she had enrolled in a City-sponsored health insurance plan. Effective July 1, 2013, the amount of the alternative benefit provided under this section shall no longer increase with the growing cost of health care, and as such, shall be frozen at the 2013 Bay Area Basic Kaiser health plan premium rates (i.e. \$668.63 for employee only, \$1,337.26 for employee and one (1) dependent, \$1,738.44 for employee and two (2) or more dependents.

Each employee shall be responsible for providing immediate written notification to the Human Resources Director or designee of any change to the number of dependents which affects the amount of the City's payment to the Alternative Benefit Account. An employee who, by reason of failing to report a change in dependents, receives a City payment greater than the amount to which entitled shall be liable for refunding the excess amounts received via a reduction in the amount paid to his/her Alternative Benefit Account. Changes to benefit payments required because of a change in an employee's number of dependents shall take effect at the start of the first pay period in the month next following the month in

which advice from the employee is received by the Human Resources Director. No retroactive increases to the City's payment shall be allowed.

Enrollment in alternative benefits has to be elected each year during open enrollment.

## **6.08 Vision Care**

The City shall contribute toward vision care insurance for full-time employees, other than temporary and provisional employees and their eligible dependents. Currently, the City provides vision coverage through VSP, under a plan that provides for a fifteen dollar (\$15.00) deductible, an eye examination, lenses, and frames once per year. The City's contribution on behalf of an eligible employee participating in a City-sponsored vision plan shall be equal to one hundred percent (100%) of the monthly premium for vision insurance, as determined by the employee's enrolled participation level in the City sponsored vision plan.

The City reserves the right to provide vision care benefits under a self-funded plan or through a carrier of its choice. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing vision care benefits for employees, or through a program of self insurance. In the event the City exercises its option to move to a self-funded plan or to change insurance carriers, any new benefit plan shall provide coverage that is substantially equivalent to the coverage available at the time this option is exercised.

## **6.09 Supplemental Retirement Benefit**

Employees who retire from the City with at least ten (10) years of continuous City service are eligible to receive a supplemental retirement benefit. This benefit shall be equal to \$508.30, less the amount provided for under Section 6.02 above in an amount not to exceed the Bay Area/Sacramento Region Basic premium for the 2009 CalPERS Kaiser health plan, Premium Rate 1-Party that is effective January 1, 2009. This supplemental benefit is provided in the form of cash to the retiree on a monthly basis. In order to receive this benefit, the employee must begin receiving pension benefits within one hundred twenty (120) days of leaving City employment, and be enrolled in a CalPERS sponsored healthcare plan as a retiree of the City of Hayward. Retirees are solely responsible for any tax consequences associated with the receipt of benefits under this Section.

## **6.10 Other Post-Employment Benefits (OPEB)**

The City and Local 1909 recognize the need to fund retiree medical. As such, beginning with the pay period that includes July 1, 2018, employees represented by Local 1909 shall contribute one percent (1%) of base salary (excluding all special pays, allowances and overtime), to an irrevocable trust to fund the unfunded retiree medical obligations. The contribution made by employees to the trust fund shall be exclusively allocated for the expense of retiree healthcare of its members. This provision shall remain in effect until such time that a successor agreement has been negotiated.

**7.00 SALARY ADMINISTRATION**

**7.01 Salary Administration Policy**

The policy governing preparation of a compensation plan shall be that of salary standardization, or like pay for like work.

**7.02 Salary at Time of Employment**

The plan may provide a flat salary rate or a salary range for each classification with a minimum, maximum, and one (1) or more intermediate steps. The beginning or normal hiring rate shall usually be at the first step of the range. Every new employee shall be paid the first step on employment, except that the City Manager or other appointing authority may authorize employment at a higher step if the labor supply is restricted or the person to be hired is unusually well qualified.

**7.03 Eligibility for Advancement in Pay**

Employees may be advanced to higher steps as merited by progressive improvement in job skills and work performance. The following time-in step requirements shall apply before an employee gains eligibility for advancement in pay:

<b>Step</b>	<b>Time in Step</b>
A	6 months
B	6 months
C	1 year
D	1 1/2 years
E	-----

Credit for acting time not to exceed a total of six (6) months in the classification to which an employee is promoted shall be applied to eligibility for advancement in pay provided said acting time is immediately contiguous to appointment.

If warranted for the good of the service, or when an employee demonstrates outstanding capacity in performing job duties, employee may be advanced prior to completion of the above time-in-step requirements. When a pay range consists of less than five (5) steps, the range shall be established at the higher steps within the above time schedule. In determining time-in-step, it shall begin on the first day of the period, otherwise time shall begin on the first day of the next payroll period. If an employee is on leave without pay for more than one (1) month, the period shall be deducted from accumulated time-in-step.

**7.04 Attaining Advancement**

An employee must demonstrate that advancement is merited on the basis of job performance. Advancement shall not be made solely because employees are eligible according to time-in-step requirements. Good attitude and personal conduct, work accomplished, conscientious attendance, safety alertness, efforts at self-improvement, and other factors of individual achievement must be evident

as appropriate to the position. The department head shall be notified by the Human Resources Director of an employee's approaching eligibility for step advancement.

### **7.05 Use of Performance Ratings in Determining Whether Step Advancement is Merited**

Performance ratings shall guide supervisors and department heads in determining whether step advancements have been earned and should be recommended to the City Manager.

### **7.06 Withholding Step Advancements**

The department head has the authority and responsibility to recommend withholding step advancements by the City Manager if they are not merited. The department head shall keep employees informed about their job performance, giving good work its proper recognition and any deficient work all possible guidance and assistance toward improvement. The department head shall notify the employee as to the reasons for withholding step advancements.

Should an employee's step advancement be withheld in accordance with this section, such employee's time-in-step for the purpose of review shall be modified in order that the next review and all subsequent reviews of performance occur at the time they would have occurred had such step advancement not been withheld. Nothing in this section shall be construed to guarantee an employee a step advancement at the time of such review.

### **7.07 Change in Pay Upon Promotion**

When employees are promoted, they shall normally receive the first step in the salary range for their new position. However, if such step is equal to or less than their present salary, or they would be eligible for step advancement shortly in their previous position, they may receive the next step in the salary range of the new position which is immediately above their present salary. When no advancement in salary is granted on promotion, employees may be allowed to carry forward time-in-step accumulation. Employees who are promoted from the rank of Fire Captain to Staff Captain shall retain the salary step designation held as Fire Captain, e.g., from step C to step C or step D to step D, etc.

### **7.08 Change in Pay Upon Demotion**

When employees are demoted, they shall be placed in a salary step in their new class which is the same as or above the step held prior to demotion, providing said demotion is not the result of disciplinary action or voluntary on the part of the employee.

### **7.09 Change in Pay Upon Reclassification**

When a position is reallocated to a classification with a higher pay range and when the incumbent employee retains the position, employee shall normally be placed at the first step in the new range. If no increase in pay results, advancement may be made to the next step immediately above the present

salary. When recommended by the department head and approved by the City Manager, additional advancement may be granted. If no change in salary is granted, the employee may be allowed to carry forward time-in-step accumulation.

When a position is reallocated to a classification with a lower salary range, the incumbent employee shall not be reduced in pay while continuing to occupy the position. If the employee's current rate is below the maximum step of the new range, employee shall continue at the present salary and carry forward time-in-step accumulation. If the employee's current rate exceeds the maximum step of the new range, the salary shall be frozen at its current level. When the incumbent leaves the position, a replacement shall normally be hired at the beginning rate.

### **7.10 Pay for Employees in an Acting Capacity**

Any employee who is assigned to and performs the duties of a higher level position on an acting basis shall receive the salary step of the assigned position for each hour or fraction thereof when so assigned. If the employee is already receiving that or more, employee shall be paid one (1) step above his or her current salary, but in no case in excess of the maximum salary rate for the position. In the event a position vacancy requires an acting assignment for thirty (30) days or longer, the department shall attempt, insofar as is practicable, to appoint only one (1) employee for the duration of the assignment.

Employees who are appointed to and are serving in "long term" acting assignments as defined in Section 15.04 of this Memorandum of Understanding shall be compensated at their acting pay salary rate during periods of approved leave with pay which occur while they would otherwise be performing the duties of the higher classification in which they are acting but for being on such approved leave with pay.

### **7.11 Special Assignments Positions**

Special assignment positions within a classification may be established where duties and responsibilities are of a specialized nature by comparison to other positions in the class. Said positions may be established by the City Council following a report and recommendation thereon by the City Manager. Selection of employees to said positions and removal therefrom shall be made by the City Manager. Selection of employees to said Positions and removal therefrom shall be made by the City Manager upon recommendation of the Department Head. An employee so assigned shall receive a salary increment of either five (5) or ten (10) percent of the employee's present salary.

### **7.12 Salaries**

In the pay period that includes July 1 of each year, while the Memorandum of Understanding remains in effect, the City shall provide a salary adjustment for the members of the bargaining unit in the amount that results from application of the salary formula below, except for the caps and exceptions that are referenced within this section:

FY 2018 – No wage adjustment shall occur during FY 2018.

FY 2019 – The base wage shall be increased the pay period that includes July 1, 2018, based on the established salary survey. The wage increase for FY 2018 based upon this formula shall not exceed 5%.

FY 2020 – No wage adjustment shall occur during FY 2020.

FY 2021 - The base wage shall be increased the pay period that includes July 1, 2020, based on the established salary survey. The wage increase for FY 2021 based upon this formula shall not exceed 2%.

FY 2022 - The base wage shall be increased the pay period that includes July 1, 2021, based on the established salary survey. The wage increase for FY 2022 based upon this formula shall not exceed 2%.

FY 2023 - The base wage shall be increased the pay period that includes July 1, 2022, based on the established salary survey. The wage increase for FY 2023 based upon this formula shall not exceed 2%.

FY 2024 - The base wage shall be increased the pay period that includes July 1, 2023, based on the established salary survey. The wage increase for FY 2024 based upon this formula shall not exceed 3%.

Base salary for all classifications covered by this MOU shall be increased by the difference between the total compensation of a Hayward Firefighter and the average of the total compensation for firefighter of the top four (4) agencies based on a survey of salary and benefits. Hayward may be included in the top four (4) agencies should its total compensation for firefighter so indicate. The percentage increase shall be determined by  $(\text{Total Compensation average of top four (4) agencies} - \text{Total Compensation of Hayward Firefighter}) / \text{Base pay of Hayward Firefighter}$ , rounded to the nearest .01%.

“Total Compensation” shall mean the sum of the following: top step base monthly salary; employer-paid member PERS contributions; education incentive pay applicable to all firefighters; uniform allowance; maximum annual vacation credit; paramedic pay; EMT pay; and holiday pay. For the purpose of this survey, the value of vacation shall be determined as follows: maximum vacation hours divided by 12 multiplied by maximum base hourly rate. For the City of Berkeley only, the longevity pay scale shall be used for the purpose of calculating Total Compensation.

For each year in which a salary adjustment is to be made on the basis of the Survey Formula, the survey shall be completed by June 15 and shall include all salaries and benefits effective on July 1 of the year of the adjustment, and approved by the agency’s board or council. If on September 1 of the year of the adjustment, any of the above agencies reaches a settlement retroactive to July 1, thereby changing the average of the top four (4) agencies, a one-time adjustment will be made to salaries to reflect that change.

For the term of this agreement, salary adjustments will be based on the following cities: Alameda, Berkeley, Daly City, Fremont, Hayward, Palo Alto, Richmond, San Leandro (Alameda County Fire Department), San Mateo, Santa Clara, and Vallejo.

## **7.13 Pay Periods**

The City shall continue bi-weekly pay periods. The basic payday shall be every other Friday. Pay checks shall normally be available by 0830 hours on payday.

## **8.00 HOLIDAYS AND HOLIDAY PAY**

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### **8.01 Holidays**

The City's holiday policy shall provide the following holidays to be observed on the days indicated:

**New Year's Day**

January 1

**Martin Luther King Day**

3rd Monday in January

**Lincoln's Birthday**

February 12

**President's Day**

3rd Monday in February

**Memorial Day**

Last Monday in May

**Independence Day**

July 4

**Labor Day**

1st Monday in September

**Admission Day**

September 9

**Indigenous Peoples' Day**

2nd Monday in October

**Veteran's Day**

November 11

**Thanksgiving Day**

4th Thursday in November

**Friday after Thanksgiving Day**

Friday following 4th Thursday in November

**1/2 Day Christmas Eve**

December 24

**Christmas Day**

December 25

**1/2 Day New Year's Eve**

December 31

## **8.02 Payment for Holidays Worked**

All work performed on a holiday shall be compensated as provided below. Such holiday pay shall be calculated at the employee's straight time hourly rate in effect when the holiday was worked. The employee's customary income tax withholding rate shall not be changed by reason of payments for holidays or payment of final compensation owing on termination of employment.

### ***A. Compensation for Employees on 56 Hour Schedule***

Compensation for employees assigned to a 24-hour duty shift shall receive an allowance of 5.77% of their regular hourly rate in lieu of fourteen (14) paid holidays.

### ***B. Compensation for Employees on 40 Hour Schedule***

Compensation for employees assigned to a 40-hour, 4/10 work shift shall be provided at the rate of ten (10) hours for each holiday worked, and for each holiday which falls on a regularly scheduled day off. If, however, an employee is absent from work in a paid leave status on a scheduled work day on which a holiday occurs, employee shall receive up to ten (10) hours holiday pay on this day in lieu of the paid leave which would otherwise apply. Employees not otherwise scheduled to work on holiday(s) shall nonetheless be allowed to work said holidays.

## **8.03 Time Off for Holidays**

A record of holidays worked and holidays falling on an employee's regularly scheduled day off shall be maintained in the Fire Department.

## **8.04 National Days of Mourning**

When a day of mourning is proclaimed by the President of the United States and the Governor of the State of California, and said day of mourning is observed by the City, the following procedures shall apply:

- a. Those employees who are released from work on a day of mourning will be compensated in full for this day.
- b. Those employees required to work on a day of mourning, and those whose day off falls on such a day, will receive an equivalent credit to vacation leave for those hours worked during their normal shift. (Employees on a 24-hour work shift shall receive a maximum credit to vacation leave of twelve (12) hours.) Hours worked in excess of an employee's normal shift shall be compensated as overtime hours in the normal fashion.
- c. The department head shall be responsible for determining which employees may be released on a day of mourning. Every effort shall be made to release as many employees as possible consistent with operating requirements so as to minimize the crediting of vacation hours.

The provisions of this Section shall apply only to those full-time and part-time employees who are otherwise entitled to receive vacation and holiday benefits.



## 9.00 VACATIONS

### 9.01 Use of Vacation Leave

Vacation leave is a right; however, the use of same shall be scheduled by the City, taking into account the desires and seniority of employees and the workload requirements of the department. Employees shall take vacation leave regularly each year and shall be encouraged to take vacation at least a full week at a time. In order to give effect to this policy and to realize the greatest benefit from vacation leave for both employees and the City, limitations shall be placed upon the amount of unused vacation leave an employee is allowed to accumulate.

### 9.02 Vacation Leave Allowance

All full-time employees, other than temporary and provisional, shall accrue vacation leave benefits each payroll period based upon their years of service and the shift they are assigned, as follows:

<b>40 Hour Employee</b>		<b>56 Hour Employee</b>	
<b>Years of Service</b>	<b>Per Pay Period Accrual</b>	<b>Years of Service</b>	<b>Per Pay Period Accrual</b>
Up to 5 yrs.	3.85 hours	Up to 5 yrs.	6.50 hours
From 5 to 14 yrs.	6.04 hours	From 5 to 14 yrs.	9.24 hours
From 15 yrs.	7.70 hours	From 15 yrs.	11.54 hours

An employee will accrue at the next highest benefit level on his or her corresponding anniversary date. Vacation leave can be accrued but shall not be granted during the first six (6) months of service.

Effective July 1, 2013, the maximum vacation accrual cap shall be twice the annual allowance plus five (5) "regular" shifts (i.e. 40 hours for "40 hour employee" and 120 hours for a "56 hour employee"). The vacation accrual cap shall be maintained on a continuous per pay period basis. For any pay period in which an employee's vacation leave balance exceeds the maximum accrual allowance, no additional vacation leave will be earned until the employee's leave balance falls below his or her maximum accrual.

As an exception to the caps listed above, employees may one (1) time in his/her tenure request in writing to the Human Resources Director, or designee, to have the caps established above suspended for twenty-six (26) pay periods. For that time period, the employee may maintain a maximum of three (3) times his/her annual accrual as provided for in the table above, never to exceed 900 hours. If they do not separate employment within this time frame, their caps will be reinstated at the beginning of the twenty-seventh (27th) pay period and they will not be allowed to request another cap suspension during the course of his/her employment with the City. Additionally, no further accruals will occur until such time that the employees' vacation leave bank falls below the established vacation caps identified in Table 1 and 2.

The parties acknowledge that certain employees will have a balance of unused vacation leave in excess of their established cap as of July 1, 2013. Those employees shall be granted an additional two (2) years to exhaust their excess leave balance. On the pay period that includes July 1, 2015, any cap extensions will expire.

### **9.03 Scheduling of Vacation Leave for 56 Hour Employees**

Vacation leave shall start on any scheduled work shift throughout each calendar year, subject to the needs of the service and the approval of the Fire Chief. Consideration shall be given to seniority in actual scheduling of vacation leaves. In the event an employee is transferred between platoons for the convenience of the department, vacation periods previously approved by the Fire Chief shall not be canceled for this reason. Compensatory time off credits may be used in conjunction with vacation leave if found feasible by the Fire Chief. However, total off-duty time for any one (1) period shall not exceed 51 calendar days except upon specific approval of the Fire Chief. Five (5) employees of any given rank on the same shift may use vacation leave simultaneously.

#### ***Requesting Compensatory/Vacation Time Off***

The Fire Chief or designated representative must approve any revisions in scheduled vacation and compensatory time off. In the event an employee's remaining vacation leave balance or compensatory time balance is less than twelve (12) hours, the Fire Chief may authorize the employee using a combination of the two (2) to total a twelve (12) hour increment. Requests for the use of vacation or compensatory time off shall normally be made through a Battalion Chief.

#### ***Number of Employees Allowed Off***

No more than five (5) employees shall be guaranteed the use of vacation leave on any given day. If less than five (5) employees are scheduled off on vacation, employees using compensatory time may also be scheduled off up to a combined total of five (5) persons. There shall be no restriction on the number of persons in each rank who may simultaneously use compensatory time off. The scheduling of compensatory time off will be on a *first come first served* basis, but such time off may not be scheduled less than twenty-four (24) hours in advance, nor more than ninety (90) days in advance. More than five (5) employees may be allowed off simultaneously for the use of vacation or compensatory time in the event staffing levels so permit. The number of employees allowed off on leave at one (1) time shall not be affected by employees who are absent because of non-occupational illness or injury and who are using compensatory time or vacation because of having exhausted sick leave benefits; nor shall absences of management employees requiring bargaining unit members to act in their stead be considered.

#### ***Vacation/Compensatory Leave Increments***

Vacation and/or compensatory time off must be used in increments of twelve (12) hours, either 0800 to 2000 or 2000 to 0800 the following day. As an exception to the foregoing, a Battalion Chief may grant the use of leave in

excess of twelve (12) hours but less than twenty-four (24) hours if such approval does not prevent other employees from using a twelve (12) hour leave period. In case of such conflicts, the first requesting employee shall be given the choice of extending the leave to a full twenty-four (24) hour period, or having the approved period of leave modified to twelve hours only.

### ***Vacation Selection Process***

Vacation time off will be selected in advance, and the selection process shall commence in December prior to the calendar year in which the vacation time will be used. Two (2) rounds of vacation selection activity shall be permitted, and selections so made on each shift shall be on the basis of departmental seniority. In each round, employees may select one (1) to five (5) shifts of vacation leave which must fall entirely within on designated vacation period. One (1) vacation period is defined as the five (5) work shifts between any two (2) six-day-off breaks. An employee's turn in the selection process is defined as either a PASS, or the selection of from one (1) to five (5) shifts of vacation time off. Once the two (2) rounds of vacation selection have been completed, the remaining days will be made available on a *first come first served* basis.

### ***Cancellation of Scheduled Vacation***

Scheduled vacation shall not be canceled with less than ten days' advance notice. Scheduled vacation may be canceled with less than ten days' advance notice only in the event of illness of the employee, or illness of a family member which qualifies the employee for use of family sick leave (Physician's verification required in both instances); use of funeral leave; or if less than four (4) employees are scheduled off on vacation and/or compensatory time on the day(s) to be canceled. As an exception to the foregoing, vacation may be canceled with twenty-four (24) hours advance notice provided the vacation period in question was approved within the preceding ten (10) calendar days.

### ***Notification of Canceled Vacation Days***

All stations shall be notified of canceled vacation days within twenty-four (24) hours via station printer or equivalent means of communication. All employees on the same shift, starting with the employee who is next senior to the employee canceling the vacation and proceeding thereafter on the basis of seniority, shall have 24 hours within which to select the canceled vacation period or a portion thereof after which the remaining time shall be available on a *first come first served* basis.

## **9.04 Scheduling of Vacation Leave for 40 Hour Employees**

Vacation leave shall start on any scheduled work day throughout each calendar year, subject to the needs of the service and the approval of the Fire Chief. Consideration shall be given to seniority in actual scheduling of vacation leaves. Holiday leave or compensatory time off credits may be used in conjunction with vacation leave if found feasible by the Fire Chief.

### ***Requesting Compensatory/Vacation Time Off***

Employees shall request in writing the scheduling of compensatory time off and/or vacation time at least twenty-four (24) hours in advance. The Fire Chief or a designated representative must approve any revisions in scheduled vacation and compensatory time off. An employee who is granted in advance the scheduled use of compensatory time or vacation may not cancel the use of such time with less than twenty-four (24) hours' notice.

### ***Vacation Increments***

Vacation leave or compensatory time may be used in one (1) hour increments. No more than 50% of the employees in the rank of Fire Prevention Inspector may be off on vacation leave and/or use compensatory time off on any given day.

## **10.00 SICK LEAVE**

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### **10.01 Sick Leave Policy**

Sick leave shall be allowed in case of actual sickness of the employee, or a member of the employee's family as provided in Section 10.02 of this Memorandum of Understanding. Sick leave shall be recommended by the employee's supervisor and approved by the City Manager or a designated representative.

### **10.02 Family Sick Leave**

Sick leave may be used in the event of illness on the part of a family member. A family member is a child, parent, spouse, registered domestic partner, the child of a registered domestic partner, grandparent, grandchild, or sibling. A certificate from an attending physician stating the nature and extent of the family member's illness may be required as provided in Section 10.04.

### **10.03 Sick Leave Allowance**

After completing three (3) months of continuous, full-time satisfactory service, full-time employees other than temporary and provisional employees shall be eligible for sick leave according to the following schedule. Employees who work a 40 hour workweek shall accrue 3.96 hours of sick leave credit per payroll period. Employees who work a 56-hour workweek shall accrue 5.54 hours of sick leave credit per payroll period. There shall be no limit on the number of unused hours of sick leave which may be accumulated by an employee. Employees who (1) have a balance of 600 hours or more as of December 31 of each calendar year, and (2) have not used more than two shifts for 56 hour employees and 24 hours for 40 hour employees during the calendar year shall receive an additional 24 hours added to their vacation balance on the first paycheck in February of the following year.

Temporary or part-time employees who do not qualify for sick leave under the provisions of this MOU may be entitled to sick leave in accordance with Administrative Rule 2.46, Paid Sick Leave.

Sick leave records shall be maintained on an hourly basis. Sick leave shall be taken in periods of no less than one (1) hour. No sick leave shall be earned during leaves of absence without pay. An employee unable to return to work after a further period allowed on sick leave without pay may be retired for disability or separated.

#### **10.04 Sick Leave Notice and Certification**

In order to receive compensation while absent on sick leave or because of the use of Family Sick Leave, the employee or someone on employee's behalf, shall notify the department no later than one (1) hour prior to the employee's scheduled starting time. The Fire Chief may waive this requirement upon presentation of a reasonable excuse by the employee. The employee shall file a personal affidavit or physician's certificate with the supervisor stating cause of absence. After five (5) working days' absence, the Fire Chief or a designated representative may require a physician's certificate describing the nature and extent of the illness.

In case of frequent use of personal sick leave, an employee may be directed to file a physician's statement for each period of absence, regardless of duration, and may also be required to take an examination by a physician designated by the City and to authorize consultation with employee's own physician concerning the illness. Additionally, the employee may be required to notify the department of the condition prior to the beginning of each day on which scheduled to work. Failure to comply with these requirements shall be cause for disciplinary action.

Sick leave shall not be granted for absences caused by intoxication or excessive use of alcoholic beverages. As an exception to the foregoing, sick leave may be authorized for the treatment of alcoholism when such condition is diagnosed by competent medical authority.

#### **10.05 Sick Leave Records**

Sick leave records shall be maintained on a calendar year basis by the Finance Department. After an absence is approved as sick leave, it shall be deducted from an employee's leave balance. Upon separation of employees with less than 20 years' continuous service, sick leave balances shall be canceled and shall not be restored if a former employee is reinstated.

#### **10.06 Medical and Dental Appointments**

Employees shall not use sick leave for non-emergency medical or dental appointments without the prior written approval of the Fire Chief or a designated representative, whose decision shall be final. Such approval, however, shall not be withheld arbitrarily or capriciously. If use of sick leave is approved for non-emergency medical or dental appointments or use of sick leave is necessary for emergency medical or dental appointments, sick leave shall be used for a

minimum period of one (1) hour and should not exceed four (4) hours except in unusual circumstances.

### **10.07 Payment for Unused Sick Leave**

Any full-time employee leaving the employment of the City in good standing after having completed 20 years of continuous service, or upon retirement from the City for service or disability, or upon termination of employment by reason of death, shall receive payment for a portion of that sick leave earned but unused at the time of separation. The amount of this payment shall be equivalent to one percent (1%) of sick leave earned but unused at the time of separation times the number of whole years of continuous employment times an employee's hourly rate of pay at the time of separation.

In lieu of payment for unused sick leave, the employee may receive credit for unused sick leave in accordance with Government Code Section 20965. In the event any unused sick leave is not applied to credit with CalPERS, the balance that is not used for these purposes shall be treated in accordance with the provisions set forth herein.

For the purpose of this computation an employee's hourly rate of pay shall be his/her annual salary divided by 2,080 hours. The hourly rate of pay of employees who work a 56-hour workweek shall be the annual salary divided by 2,912 hours.

That portion of an employee's sick leave balance for which payment is not provided shall be canceled and shall not be restored if said employee is reinstated.

## **11.00 MISCELLANEOUS LEAVES**

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### **11.01 Funeral Leave**

All full-time employees except temporary and provisional employees shall be granted funeral leave with pay as necessary, but not to exceed two (2) 24-hour work shifts for firefighting personnel and three (3) work days for other employees upon the occasion of the death of a close relative. When additional time is desired, employees may be allowed to take accumulated vacation leave or compensatory time due off. Close relatives are defined as mother, father, sister, brother, wife, husband, child, grandparent, mother-in-law, father-in-law of the employee. Additional funeral leave for travel purposes not to exceed five (5) calendar days may be granted by the City Manager when circumstances warrant the same.

### **11.02 Jury Leave**

An employee noticed of potential jury duty service shall inform their supervisor upon reporting for duty on their next scheduled work day immediately after notification and, if required to serve, may be absent from duty with full pay. Any jury fees received by an employee shall be remitted to the City.

### **11.03 Leave to Testify**

Employees who are required to appear and testify in court shall suffer no loss of pay for such appearances if such appearance relates to matters arising out of their official duty as employees of the City of Hayward. No compensation shall be provided for non-job related court appearances.

### **11.04 Military Leave**

Military leave shall be granted in accordance with the provisions of the Uniformed Services Employment & Reemployment Rights Act (USERRA) and the State of California's Military & Veteran's Code (MVC). All employees entitled to military leave shall give their department head and the City Manager an opportunity, within the limits of military requirements, to determine when such leave shall be taken.

### **11.05 Disability Leave**

For employee injury or disability falling within the provisions of the State Workers' Compensation Disability Act, disability compensation at the rate allowed under said Act shall be the basic remuneration during the employee's period of disability. In the case of full-time employees, other than temporary and provisional employees, additional compensation allowance shall be granted for a period not to exceed one (1) year for any one (1) period of incapacity. In the event a waiting period is required before an employee's disability compensation allowance is payable, regular pay shall be provided during said waiting period.

If in the opinion of the Fire Chief or a designated representative, an employee who has reported for work is unable to safely perform the duties assigned the employee because of an industrial injury, the Fire Chief or the designated representative may place such employee on disability leave for the remainder of the shift.

Employees who are absent from work on disability leave shall not engage in any outside work or activity that is inconsistent with their disability.

### **11.06 Leave of Absence**

The City Manager, upon written request of a full-time employee other than temporary and provisional employees, may grant for the good of the service a leave of absence without pay for a maximum period of one (1) year. Leaves hereby authorized shall include educational leaves, maternity leaves, and leave for any other purpose promoting the good of the service. Whenever granted, such leave shall be in writing and signed by the City manager. Upon expiration of such a leave, the employee shall be reinstated to the position held at the time the leave was granted. Failure of the employee to report promptly at its expiration or within a reasonable time after notice to return to duty, shall terminate his/her right to be reinstated.

### **11.07 Attendance at Firefighters' Conventions**

A maximum of two (2) members of IAFF Local 1909 will be granted two (2) days without loss of pay or benefits each year for the purpose of attending the California Professional Firefighters' Convention or the International Association of Firefighters' Convention or Regional Seminar.

### **11.08 Time Off for Voting**

Employees who do not have sufficient time outside of working hours to vote at a statewide election may be granted up to two (2) hours of paid leave in accordance with the provisions and conditions of Election Code Section 14350. Employees shall, whenever possible, attempt to exercise their franchise by use of an absentee ballot before requesting time off for voting pursuant to the provisions of this section.

Employees requesting time off for voting shall file a written request with the Fire Chief or a designated representative stating the reason why the employee is unable to exercise his right to use an absentee ballot, and a justification for the amount of time off requested. In the event of unforeseen circumstances, an employee may verbally advise any Captain at Station 1 prior to 2000 hours on the day preceding election day of the need to take voting leave and the amount of time required. In such cases a written request must be filed with the Fire Chief thereafter containing the information specified above.

### **11.09 Miscellaneous Paid Leaves - Principle of Equivalency**

In the event the City grants time off with pay for all employees of the City of Hayward for purposes not otherwise provided for in the Memorandum of Understanding or resolutions or ordinances of the City Council presently in effect, employees who work a 56-hour workweek shall receive equivalent time off with pay, in a manner to be designated by the City, at the rate of 1.4 hours of leave for each hour of leave granted other employees.

### **11.10 Family and Medical Leave**

Family medical leave shall be granted in accordance with the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). These leave entitlements shall be outlined in City Administrative Rule 2.45, Administration of the Provisions of the Family and Medical Leave Act, The California Family Rights Act, and the Pregnancy Disability Leave Act.

### **11.11 Catastrophic Injury/Illness Time Bank**

Upon approval of the Local 1909 Executive Board and the City Manager or his or her designated representative, a time bank may be established for the benefit of an employee who is incapacitated by a catastrophic illness or injury. The intent of this program is to allow sworn Hayward Fire Department members to donate eligible time in order to assist catastrophically ill or injured employees who have exhausted all available paid accruals to maintain a paid status as long as possible. Catastrophic injury or illness is defined as a medically certified, severe and disabling non-industrial condition resulting in an employee's inability to work.



Employees may submit requests to donate earned vacation and/or compensatory time on a voluntary basis subject to the conditions listed below.

- a. Employees initially eligible to receive leave contributions must have exhausted all other leave balances available including earned vacation, earned sick leave and accrued compensatory time.
- b. State and Federal income tax on the value of leave donated shall be deducted from the recipient employee's pay at the time of crediting.
- c. Leave hours that are credited as sick leave to the recipient shall not be reversible.
- d. Hours requested to be donated shall be kept in a pledge status until used, shall be credited on a monthly basis as sick leave, and shall be subject to the provisions of this Memorandum of Understanding regarding the use and payment of the same. Donations shall be credited in the following order:
  1. From donors whose vacation accruals are at or within sixteen (16) hours of the maximum allowed for their classification, then
  2. From other donors in random order to be determined on a draw basis by the Human Resources Department.
  3. Donation requests shall be credited in the order specified above in subsequent month(s).
- e. Donated leave time shall be changed to its cash value and then credited to the recipient in equivalent hours at the recipient's straight time hourly rate of pay. Recipient employees shall not be credited with more than one hundred percent (100%) of their normally scheduled hours for any given pay period.
- f. Donating employees may not reduce their balance of earned vacation below eighty (80) hours by reason of such donations.
- g. Recipient employees shall be credited with up to forty (40) hours of donated time upon return to work, provided that sufficient hours remain in pledge status during the pay period immediately preceding the return to work date. All undonated, pledged hours exceeding forty (40) shall be returned to the respective donor(s).
- h. In the event of the death of the recipient, his or her designated beneficiary shall receive payment for hours credited as donated. Hours remaining in pledge status are not subject to payout to the beneficiary, and shall be returned to the donor(s).
- i. Any leave used for purposes that qualify under a State or Federal leave law, such as the Family Medical Leave Act/California Family Rights or Pregnancy Disability Leave, will count toward any State or Federal leave entitlement. If an employee is unable to return to work and has exhausted all of his or her leave entitlements, the employee may be retired for disability or separated.

Employees can utilize catastrophic leave for up to a one (1) year period. The period starts for the first day of use of catastrophic leave. For example, if catastrophic leave starts on July 1, 2010, it can only be used up until June 30, 2011. Leave can be taken on an intermittent basis if approved by the City Manager or designee but will not exceed catastrophic leave usage past the one (1) year leave period.

Any leave used for purposes that qualify under a State or Federal leave law, such as the Family Medical Leave Act/California Family Rights Act/Pregnancy Disability Leave, will count toward any State or Federal leave entitlements. If an employee is unable to return to work and has exhausted all of his or her leave entitlements, the employee may be retired for disability and/or separated.

This provision shall also allow the use and donation of catastrophic leave to employees who need paid time off to care of a catastrophically injured or ill dependent. The use of this leave is limited to a one (1) year period for establishment of any Catastrophic Injury/Illness Time Bank. Upon approval of the Local 1909 Executive Board and the City Manager or designee, a time bank may be established for the benefit of an employee who has a dependent who is incapacitated by a catastrophic illness or injury. A dependent is defined as a legal spouse, registered domestic partner, legal child under the age of twenty six (26), or legal child of a registered domestic partner under the age of twenty six (26).

An employee must provide a signed medical certification from the treating physician of his or her dependent stating that the employee's dependent has a severe and disabling injury or illness and indicating the amount of time he or she would need to be off to care for his or her dependent.

An employee shall not be credited with more than 100% of his or her normally budgeted hours for any given pay period. In no event shall an employee receive donated paid leave in addition to any paid benefit provided to the employee for time off to care for his or dependent, such as but not limited to Paid Family Leave, that will result in the employee receiving more than 100% of the employee's base salary for the pay period. Records of any paid benefit provided to the employee for time off to care for his or her dependent must be provided by the employee to Payroll for integration with catastrophic leave.

Sworn Hayward Fire Department employees can donate paid leave to an employee who has a dependent with a catastrophic injury/illness under the same terms and conditions as for an employee who has a catastrophic injury/illness.

This Section does not affect an employee's rights, if any, under the Americans With Disabilities Act and/or the California Fair Employment and Housing Act.

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## **12.00 GRIEVANCES**

### **12.01 Definition**

A grievance is any dispute which involves the interpretation or application of any provisions of this Memorandum of Understanding or disciplinary actions.

## 12.02 Grievance Procedure

Grievances shall be processed in the following manner:

1. The grievance shall be presented either by the employee or by an authorized Union representative to the designated supervisor of the employee within seven (7) calendar days after the occurrence of the event causing the grievance.
2. The designated supervisor shall have seven (7) calendar days from date of receipt of grievance in which to respond. If the grievance is not satisfactorily adjusted within this period, the grievance may be presented in writing either by the employee or by an authorized Union representative to the Department Head or to such representative as Department Head may designate.
3. The Department Head or a designated representative shall have seven (7) calendar days from date of receipt of grievance in which to respond. If the grievance is not satisfactorily adjusted within this period, the grievance may be presented in writing either by the employee or by an authorized Union representative to the City Manager or to such representative as City Manager may designate.
4. If the Parties are unable, within seven (7) calendar days, to reach a mutually satisfactory accord on any grievance which arises and is presented during the term of this Memorandum of Understanding, such grievance shall be submitted to an Adjustment Board comprised of two (2) Union representatives, no more than one (1) of whom shall be either an employee of the City, or a member of the staff of any organization employed to represent the City in the meeting and conferring process. No decision of the Adjustment Board shall be final and binding without receiving the affirmative votes of at least three (3) members of the Board.
5. If an Adjustment Board is unable to arrive at a majority decision, either the Union or the City may require within seven (7) calendar days of the Adjustment Board's deadlock that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the Union and the City Manager. If such agreement is not reached within five (5) calendar days from the date of receipt of request to arbitrate, then the State Mediation and Conciliation Service of the State of California shall be requested to supply a list of seven (7) qualified and experienced labor arbitrators. If the Parties cannot agree on one (1) of the seven (7) to act as arbitrator, they shall strike names from the list of nominees alternately until the name of one (1) nominee remains who shall thereupon become the arbitrator. The first Party to strike a name from the list shall be chosen by lot.
6. The fees and expenses of the arbitrator and of a 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.
7. Decisions of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the Parties hereto, to the extent permitted

by the Charter of the City of Hayward. It is the intent of this provision that Adjustment Board and arbitrator awards be implemented.

### **12.03 Authority of Arbitrator & Adjustment Board**

No Adjustment Board and no arbitrator shall entertain, hear, decide, or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union, and unless such dispute falls within the definition of a grievance as set forth in subsection 12.01

### **12.04 No Modifications to Memorandum of Understanding**

Proposals to add to or change this Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend, or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this section. Neither any Adjustment Board nor any arbitrator shall have the power to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.

### **12.05 Grievance Involving Disciplinary Action**

No grievance involving disciplinary action taken against an employee will be entertained unless it is filed in writing with the Human Resources Director within seven (7) calendar days from the time the affected employee was notified of such action.

### **12.06 Grievance Involving Payment of Compensation**

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Human Resources Director. Only complaints which allege that employees are not being compensated in accordance with the provisions of this Memorandum of Understanding 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 of Understanding which results from such meeting and conferring process, shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than 60 days from the date upon which the complaint was filed.

### **12.07 Options**

1. The provisions of this section shall not abridge any rights to which an employee may be entitled under the Charter of the City of Hayward.
2. All grievances of employees in the bargaining unit represented by the Union shall be processed under this section. If the City Charter requires that a different option be available to the employee, no action under paragraph 4 or 5 of subsection 12.02 above shall be taken unless it is determined that the employee is not availing himself or herself of such option.

3. No action under paragraph 4 or 5 of subsection 12.02 above shall be taken if action on the complaint or grievance is pending before the Personnel Board.

## **12.08 No Strike**

In consideration of Section 809 of the Charter of the City of Hayward, the Union and its members agree not to engage in any strike, work stoppage, slowdown, or any other form of concerted activity against the City of Hayward, the effect of which would interrupt or impair the services normally provided by employees covered by this Memorandum of Understanding. This provision shall remain in effect as long as the aforesaid City Charter sections are unchanged and operative.

## **13.00 MISCELLANEOUS ALLOWANCES**

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### **13.01 Fire Education Incentive Program**

#### ***1. Purpose***

This program is intended to encourage members of the department to avail themselves of the wide variety of education and training opportunities offered to individuals in the fire service. The need for such a program is apparent because of the increasing trend towards professionalization in this field, and the high quality of performance demanded of employees. The experienced Firefighter will be better qualified to meet these demands if he/she can improve skills by participating in academic training and participation in specialized training programs. Additional compensation will be provided to those employees who qualify.

#### ***2. Eligibility***

- a. Candidates must have at least five (5) years' full time experience as fire service members of the Hayward Fire Department at the time eligibility is established. Individuals with fire service experience from other agencies may also apply for admission to the program. Said applications will be evaluated by the Program Review Committee (hereinafter defined) whose decision shall be final.
- b. Persons holding the following ranks will be eligible to participate:
  - Firefighter
  - Apparatus Operator
  - Fire Prevention Inspector
  - Fire Captain
  - Staff Captain
- c. Eligibility periods shall be computed as follows:
  1. Employees whose fifth anniversary falls between January 1 and June 30 shall be eligible on July 1 providing they have completed necessary Program requirements during the preceding twelve (12) months.

Thereafter, re-certification as required shall take place during the following twelve (12) month period.

2. Employees whose fifth anniversary falls between July 1 and December 31 shall be eligible on January 1 providing they have completed necessary program requirements during the preceding twelve (12) months. Thereafter, certification as required shall take place during the following twelve (12) month period.

### **3. Qualification Requirements**

- a. Candidates must complete a minimum of 50 hours of approved study and training during each qualification period as defined below.
- b. Approved Study and Training.
  1. Credit will be provided for approved study and training in accredited outside training programs (defined below) provided courses taken do not substantially duplicate the in-service training provided by the Hayward Fire Department.
  2. Candidates may take courses in accredited public or private schools, colleges or universities if the courses are identified as courses that would improve their efficiency, knowledge or competency in the performance of their duties.
  3. Candidates may receive credit for participation in any California Fire Training Courses offered by the State Department of Education Fire Training Program. Credit for participation in these courses shall be on the basis of one (1) hour of credit for each hour of classroom study.

Courses available from other *non-college* sources, and future courses which may be offered under the California State Fire Training Program will be evaluated by the Program Review Committee, and a determination made as to whether or not credit will be given.

4. Enrollment in correspondence courses and educational television courses may be approved providing such courses are acceptable for credit towards a baccalaureate degree by a college or university with maximum accreditation from the Western Association of Schools and Colleges. Such courses must also be consistent with the general aims and requirements of the Program.
5. Four (4) or more units of approved public school, college, or university work shall be equivalent to 50 hours of classroom study. Credit for special classroom study or training obtained by participation in State Fire Training Courses, or other approved sources, may be combined with college enrollment to obtain the required 50 hours only upon approval of the Fire Chief.
6. Candidates who wish to enroll in an outside school, college, or university must submit, in advance of enrollment, a report in duplicate to the Director of Training showing the name of the school, the subject, the number of credits or units, the name of the instructor, and the

class schedule for approval by the Fire Chief. Candidates who wish to appeal the decision of the Fire Chief with respect to the suitability of intended training or course work, may do so by fully stating their position in writing to the Program Review Committee whose decision shall be final.

7. Candidates attending outside schools, colleges or universities will be required to complete the selected course of study with a minimum grade of C or its equivalent. Transcripts or other official notification from the institution shall be furnished to the Fire Chief. For non-graded courses or training programs, a certificate of completion together with evidence of satisfactory attendance shall be required.

c. Teaching

1. Candidates who hold a valid California teaching credential or who have completed the requirements for the teaching credential may secure credit by teaching without compensation in an accredited fire service training program or school.

#### **4. Additional Compensation**

a. Employees completing 48 hours of approved study or training during the appropriate qualification period shall receive additional compensation of 2 - 1/2% above the salary step currently held. Said compensation shall be paid for a twelve (12) month period as defined in Section 3 above. All time spent in qualifying for the program shall be off-duty time and shall entail no cost to the City, nor shall compensation be received from any other source. Benefits allowed an employee under the *GI Bill* shall not be precluded by the provisions of this Section.

b. A candidate who obtains an Associate Degree in Fire Science or an appropriately related field as determined by the Program Review Committee shall be entitled to additional compensation of 2-1/2% above the salary step currently held. This additional compensation shall be considered *permanent* and not subject to re-qualification requirements. Credit under this section will be allowed for approved State Fire Training Courses successfully completed by employees on the basis of 18 hours of classroom study being equivalent to one (1) *quarter* unit of academic work. (Equivalent *quarter* unit)

A maximum substitution of 30 *equivalent quarter units* will be allowed in qualifying for the compensation allowed by this section, Candidates who have completed ninety (90) quarter units or more of academic work with thirty (30) units in Fire Science, but who do not possess an Associate Degree, may apply to the Fire Chief for the additional compensation authorized by this section. The Fire Chief may either approve such request or refer it to the Program Review Committee for determination. The decision of the Program Review Committee shall be final.

c. A candidate who obtains a Bachelor's Degree shall be entitled to additional compensation of 5% above the salary step currently held provided said degree was obtained during the course of employment in the fire service. Compensation shall be provided under this section to candidates who

obtained a Bachelor's Degree prior to employment provided that they hold a Fire Science Certificate, or its equivalent, as determined by the Program Review Committee. For the purpose of this section, the work required for a Fire Science Certificate shall be the program requirements currently in effect at Chabot College, Hayward. Candidates who have completed two hundred (200) quarter units or more of academic work with thirty (30) units in Fire Science, but who do not possess a Bachelor's Degree, may apply to the Fire Chief for the additional compensation authorized by this section. The Fire Chief may either approve such request or refer it to the Program Review Committee for determination. The decision of the Program Review Committee shall be final.

- d. Employees who qualify for additional compensation under Sections 4b and 4c may obtain an additional 2-1/2% salary increase by continuing their work in the program as set forth by paragraph 4a above. Course work which is taken while an employee is on duty and/or the cost of which is paid for by the City, including workshops or mandatory training programs, may be used to qualify for additional compensation under Sections 4b and 4c above.
- e. Employees who qualify for additional compensation under c above and who have been employed for ten (10) consecutive years or more with the Hayward Fire Department shall be entitled to additional *permanent* compensation of 7 ½ % above the salary step currently held without the need to continue work in the program as required in c above.
- f. In no event shall any employee receive an amount in excess of 7 ½ % by reason of his or her participation in this program.

### **5. Program Review Committee**

A Program Review Committee consisting of the City Manager, Fire Chief, Human Resources Director, or their designated alternates; and two (2) representatives of Hayward Firefighters Local 1909 shall assist in the administration of the Program. The Staff Captain in charge of training shall serve as a non-voting, advisory member of the Committee. The Committee shall resolve questions of eligibility, hear appeals from candidates with respect to acceptability of course work or training programs and decide any other question which may arise in the administration of the Program, or the interpretation of this section. A quorum of three (3) voting members shall be required, and decisions of the Committee shall be by majority vote of those in attendance.

### **6. General Instructions**

- a. Each course of study, training or teaching assignment must be approved in advance by the Fire Chief.
- b. No credit will be given for seminars, workshops, or mandatory training programs except as provided in Section 13.01 4d.

## **13.02 Educational Reimbursement**

The City's policy of reimbursing employees who voluntarily engage in educational activities beneficial to both the City and themselves shall be



continued without change for the duration of this Memorandum of Understanding. This policy contemplates the future growth and development of the City and its employees through encouragement and financial aid to those individuals who seek to increase their knowledge and improve their skills. The implementation of this program shall be subject to the availability of funds for educational purposes and the appropriateness of the subject matter as outlined below.

### **1. Eligibility**

- a. Any full-time permanent employee with at least three (3) months' service may apply. Employees in a temporary, provisional, or part-time status are not eligible.
- b. Any employee who qualifies for *GI Benefits* for a proposed course of study will be eligible only for reimbursement of that portion of tuition and fees not covered by *GI Benefits*.

### **2. Required Qualifications**

- a. Application may be made only for attendance at a school of recognized educational standing, including correspondence schools.
- b. Selected subjects must relate directly to the employee's present job, or to a reasonably predictable future job with the City. These include:
  1. Technical or non-technical courses of immediate benefit to the employee and City in the performance of present assignments or in qualifying for promotion within the present field of specialization.
  2. Technical or non-technical courses outside employee's current field of specialization, but related to either fields of specialization within the department, or to a logical program of personal development and progression in a related field.

### **3. Procedure**

- a. Prior to enrolling in a class or correspondence course, approval of the subject matter must be obtained by the employee on the form entitled ***Application for Educational Reimbursement***. Approval is required from the immediate supervisor, Fire Chief, Personnel Department, and the City Manager.
- b. In order to receive financial benefits an employee will be expected to complete an approved subject with a satisfactory degree of proficiency. An employee will be considered as having completed a subject when employee concludes the term for which the educational institution quotes tuition fee and rates proficiency.
- c. While it is normally anticipated that reimbursement for 100% of the tuition, including any enrollment or laboratory fees, will be provided by the City, a lesser percent may be stipulated based upon degree of appropriateness of the subject matter and availability of funds.

- d. When employees are required to engage in study of subjects that are positive job requirements, and are so directed by the City, the entire tuition, and other specifically approved expenses, will be considered training and development rather than covered under this Educational Reimbursement Program.

### **13.03 Uniform Allowance**

Effective December 16, 2013 (First pay date 1/3/14), an annual uniform allowance of \$430.00 shall be paid in equal increments on a per pay period basis (\$16.54/pp).

To transition uniform allowances from an annual to a per pay period payment schedule, employees will receive a pro-rated payment to account for earned, but unpaid uniform allowance, on January 3, 2014. Employees pro-rated uniform allowance will be equal to their bi-weekly uniform allowance rate, times the number of pay periods since they last received their annual uniform allowance. Those employees with less than one (1) year of service shall receive a pro-rated uniform allowance from their date of hire.

All required uniform items will be replaced or repaired by the City when in the judgment of the Fire Chief, or a designated representative, they are unserviceable due to damage incurred in the line of duty. Items replaced by the City shall be like items which meet the then current Department specifications.

### **13.04 Breathing Apparatus Repair**

An employee assigned to repair, calibrate, and otherwise certify to the proper operating condition of breathing apparatus shall receive five percent (5%) in addition to his/her base pay when so assigned. Such work assignments shall be performed only during those times when the employee is not otherwise engaged in his/her normal work assignment. Employees so assigned must possess appropriate certification for the repair and maintenance of breathing apparatus as specified by **CAL-OSHA** regulations. Training and instruction required to obtain said certification shall be provided on City time and at City expense. The Department shall announce the scheduling of such training and instruction at least thirty (30) days in advance.

Employees assigned to repair breathing apparatus shall be selected by the Fire Chief from volunteers within the ranks of Firefighter and Apparatus Operator. In selecting employees for this assignment the Fire Chief shall take into consideration the aptitudes of employees for the performance of this work; and the seniority of those who volunteer. Employees so selected shall continue in this assignment for a minimum period of two (2) years unless excused by the Fire Chief because of special circumstances prior to the expiration of two (2) years of such service.

Employees selected for this assignment shall have no legal liability for work performed unless such liability is the result of a grossly negligent or malicious act. Employees performing this assignment shall not have responsibility or authority for the mounting of such breathing apparatus on department vehicles.

To be selected for a breathing apparatus repair assignment, an employee must be assigned to Station 2. Three (3) employees at Station 2 may be assigned to this duty.

## 13.05 Uniforms and Grooming

### ***Class A – Dress Uniforms***

All employees are required to have a Class A - Dress Uniform in their possession. New employees must acquire the Class A Uniform no later than ninety (90) days after completion of their Probationary period. The Class A - Dress Uniform shall be worn when prescribed for special assignments and occasions. The following items comprise the Class A - Dress Uniform:

1. Navy blue serge pants (14 to 18 oz.).
2. Navy blue serge coat (16 oz.).
  - a. Three (3) silver buttons.
  - b. Double breasted.
  - c. Flaps on side pockets.
  - d. Badge tab over left breast pocket.
  - e. Wrist stripes:

Firefighter:	black
Apparatus Operator:	2 black
Fire Inspector:	3 black
Fire Captain:	2 silver
Staff Captain:	2 silver
  - f. One (1) Maltese cross placed above wrist stripes for every five (5) years of service.
  - g. Collar insignia (City Provided)

Fire Captain:	Round, 1 in. diameter, silver
Staff Captain:	Round, 1 in. diameter, gold
3. White Uniform Shirt (e.g. *Flying Cross #6600* or *Five Star #WP*)
  - a. Shoulder epaulets
  - b. Badge tab over left breast pocket
  - c. Collar insignia (City Provided)

Fire Captain:	Open, 3/4 in. diameter, silver
Staff Captain:	Open, 3/4 in. diameter, gold
  - d. Only a white T-shirt is approved for wearing underneath a Class A white uniform shirt.

4. Black Tie
5. Black Leather Boots (which meet CAL-OSHA standards)
6. Black Oxfords, plain toe. To be worn by personnel performing assignments that will not subject them to fire suppression operations.
7. Black Leather Belt
  - a. Plain or basket weave
  - b. Not less than 1 inch or more than 1 3/4 inches wide.
8. Hat
  - a. Firefighter, Apparatus Operator, Fire Prevention Inspector: blue serge
  - b. Fire Captain, Staff Captain: white
  - c. All personnel to wear city provided hat device
9. Business Attire
  - a. When appropriate, Staff Captains and Fire Prevention Inspectors may wear a business suit or sport jacket with coordinated trousers, shirt, tie and shoes in the performance of their duties.

### ***Class B Uniform***

All employees shall be required to have in their possession a complete Class B Uniform before reporting to their first assignment in fire suppression. The Class B Uniform shall be worn by suppression personnel at all times while on duty except as noted below, or unless granted specific temporary exception by the Battalion Chief.

1. While inside the station, or when engaged in work or training activities on department property adjacent to the station, the approved undergarment may be worn in lieu of the Class B uniform shirt. Employees who prefer not to wear an approved undergarment may wear a white V-neck T-shirt which shall not be visible. The Class B uniform shirt may only be removed if an approved undergarment is being worn. When leaving station grounds while wearing blue serge pants, the undergarment shall be covered by a Class B uniform shirt, Derby jacket, Lion jacket or turnout coat. At no time shall an approved long sleeve undergarment be worn with a short sleeve Class B uniform shirt.
2. After 2100 hours and until 0800 hours, turnout pants, boots and an approved undergarment may be worn. During inclement weather or while engaged in outdoor manipulation training, turnout pants, boots and an approved undergarment may be worn. An approved Derby type jacket, Lion type jacket or sweater may be worn in conjunction with the turnout pants, boots and approved undergarment.
3. While engaged in dirty or greasy duties at the station, department provided shop coats may be worn.
4. When engaged in duties inappropriate for the wearing of the Class B uniform either inside or outside of the station (e.g. painting, apparatus

maintenance, station maintenance, etc.) department provided coveralls may be worn. Coveralls shall not be worn while performing emergency duties or engaged in training unless they are completely covered by turnout clothing.

5. Exercise attire may be worn only when engaged in physical exercise or recreational activity. Officers shall insure that such attire is appropriate, in good taste and not offensive to the public.
6. During sleeping periods or while showering or exercising, required protective clothing shall be worn for all responses as provided in Section 13.05 D of this Memorandum of Understanding.

### ***Items Comprising Class B Uniform***

1. Navy blue serge pants (14 to 18 oz.)
2. Navy blue uniform shirt (wool serge or synthetic fabric)
  - a. Long or short sleeve.
  - b. Worn by Firefighters, Apparatus Operators and Fire Captains only.
  - c. Collar insignia (City Provided)
    - Fire Captain: round 3/4 in. diameter, open, silver
    - Staff Captain: round, 3/4 in. diameter, open, gold
3. Black Leather boots (which meet CAL-OSHA standards)
4. Black oxfords, plain toe. To be worn by personnel performing assignments that will not subject them to fire suppression operations.
5. Black Leather Belt
  - a. Plain or basket weave
  - b. Not less than 1 in. or more than 1 3/4 in. wide
6. Approved undergarment - navy blue
  - a. T-shirt, long or short sleeve
  - b. Sweat shirt, long or short sleeve
  - c. Must have approved logo
7. The following items are optional for wearing with the Class B Uniform:
  - a. Jackets: Navy blue (e.g. Derby or Lion #1410)
  - b. Sweater: Navy blue wool long sleeve cardigan.
  - c. The sweater or jacket may be worn over the navy blue Class B Uniform shirt on station property, on non-hazardous assignments and under the turnout coat.
8. Decorative Pins: Only those pins or insignias issued by the City may be worn, with the exception of an EMT pin and the IAFF Union pin. All

decorative pins shall be worn directly above name tag (located above right breast pocket)

9. Badge: The employee's badge shall be worn on the outer garment at all times except for an approved undergarment, brush jacket, sweater or turnout coat.
10. Approved Baseball Cap

### ***Class C - Protective Clothing***

On all emergency responses, and during the course of all incidents, protective clothing which meets CAL-OSHA standards must be worn except as follows:

1. Drivers need not wear the helmet or turnout coat while driving.
2. Battalion Chiefs or Incident Commander may authorize removal of turnout coat and helmet at emergency incidents.
3. The brush jacket may be substituted for the turnout coat when responding to and during the course of grass fires.
4. The turnout coat may be substituted by the approved sweater, Derby jacket, Lion jacket or approved undergarment, when worn in conjunction with the turnout pants and boots, while responding to and during the course of resuscitator and first aid calls not involving vehicle accidents.
5. The Class B uniform shirt may be worn in lieu of the turnout coat while responding to and during the course of all EMS calls not involving vehicle accidents.
6. The Class B uniform shirt may also be worn on any such response when, in the judgment of the Company Officer, it is safe and appropriate to do so.

### ***Items Comprising a Class C Uniform***

Protective clothing which shall meet CAL-OSHA requirements and which shall be provided by the City:

1. Turnout Pants.
2. Turnout Boots.
3. Turnout Coat.
4. Helmet.
5. Gloves.
6. Safety Shoes.
7. Trousers.

Fire Inspectors shall wear either the Class C uniform or city provided blue coveralls, hard hat and safety shoes while investigating fire causes.

All articles of uniform are to be maintained in a neat and clean manner.

### ***Hair Grooming Standards***

All employees shall be required to conform to the following hair grooming standards:

1. Hair, sideburns and mustaches shall be neatly trimmed, groomed, and clean. Style of hair is the individual's choice, but hair styles that are in conflict with safety standards or operations are prohibited.
2. Beards and whiskers shall not be allowed. The only exception to this will be for medical purposes when certified by a physician.

### **13.06 Emergency Medical Technician - Certification**

- a. Emergency medical service is a core service of the Fire Department. As such, the training and development of the staff who delivers such services are also a priority. The City shall provide and maintain training that meets all current Alameda County standards.
- b. Sworn employees shall be required to secure an EMT certification, and those enhancements described below as a condition of employment with the Fire Department. All costs associated with such certificate shall be borne by the City. Time allotted for such training shall be provided on duty unless alternative scheduling is agreed to by the employee and the Fire Chief.
- c. Effective July 1, 2018, two percent (2%) will be rolled into the base salary of all eligible employees. No additional special pay for this certification will be provided.

### **13.07 Treatment of FLSA Compensatory Time**

The City will continue to pay members in cash for all FLSA compensatory time in excess of 480 hours. For purposes of segregating FLSA compensatory time from non-FLSA compensatory time, the following assumptions will be made:

1. Compensatory time earned prior to October 12, 1986 will be considered non-FLSA compensatory time.
2. Compensatory time earned between October 12, 1986 and January 1, 1994 will be considered FLSA compensatory time.
3. Compensatory time earned beginning January 1, 1994 will be segregated and tracked as either FLSA compensatory time or non FLSA compensatory time.

### **13.08 Emergency Medical Technician Paramedic Certification (E.M.T.P.)**

- a. Emergency medical service is a core service of the Fire Department. As such, the training and development of the staff who delivers such services are also a priority. The City shall provide and maintain training that meets all current Alameda County E.M.S. District standards.

- b. Participation in the E.M.T.P. program shall be voluntary for all existing, sworn members of Local 1909. Sworn employees in the classification of Firefighter hired after April 1, 1996 shall be required to secure E.M.T.P. certification as a condition of employment with the Fire Department. All costs associated with such certification shall be borne by the City. For certification training which can not be accomplished on duty, the employee shall receive 1 1/2 their straight time hourly rate for all hours spent in training as well as for travel time to and from their duty station. Time allotted for such training shall be provided on duty unless alternative scheduling is agreed to by the employee and the Fire Chief.
- c. If at such time as the City becomes a transport provider, those employees hired after April 1, 1996 working in the classification of Firefighter, may be required to staff said ambulances. Staffing of Department ambulances by those employees can be implemented without the necessity to meet and confer over the addition of this service in regard to salaries and benefits.
- d. Effective July 1, 2018, ten percent (10%) (eight percent (8%) EMTP and two percent (2%) EMT) will be rolled into the base salary for eligible employees. No additional special pay for this certification will be provided.

### **13.09 Continuous Service Pay**

For members of the bargaining unit who complete twenty (20) years of service as an employee of the City of Hayward on or after January 1, 2006, the member shall receive a two percent (2%) Continuous Service Pay on the member's 20<sup>th</sup> anniversary and an additional one percent (1%) Continuous Service Pay on each succeeding anniversary to and including the member's 30<sup>th</sup> anniversary. Members of the bargaining unit with more than 20 years of service as of January 1, 2006 shall receive Continuous Service Pay in the amount they would have been receiving if this schedule had been in effect on the date of their 20<sup>th</sup> anniversary and thereafter.

### **13.10 Bilingual Pay**

The Fire Chief or designee shall identify those employees who are required in the performance of their duties to converse and/or communicate in writing with the public in a language other than English. Employees so designated who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, by a third party vendor, shall receive bilingual pay as provided below

1. Employees who are required in the performance of their duties to converse with the public in a language other than English, and who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, shall receive bi-lingual pay in the amount of thirty dollars (\$30) per pay period.
2. Employees who are required in the performance of their duties to converse with the public and communicate in writing and/or translate



official written documents in a language other than English and who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, shall receive bilingual pay in the amount of one hundred dollars (\$100) per pay period.

In no event shall an employee receive more than one hundred dollars (\$100) per pay period for bilingual pay pursuant to this section. The City may test an employee to confirm their bilingual competency at any time if the City has a reasonable cause to question the employee's skills. The parties mutually agree that the competency testing shall be administered by a third party vendor and that the testing process is not subject to grievance. Employees who do not demonstrate continued competency will cease receiving bilingual pay until such time competency is again demonstrated.

If an employee is deemed ineligible for bilingual pay due to competency testing, he or she can request in writing to the Director of Human Resources Director or a designated representative to retest. An employee may retest after thirty (30) days of the previous competency test.

The Fire Chief shall regularly review the Department's need for bilingual services and retains the discretion to recommend to the City Manager whether it is necessary increase or decrease the number of personnel required to converse and/or write in a language other than English in the performance of their duties.

## **14.00 SAFETY**

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### **14.01 Accident Reports**

Any employee involved in an accident while on the job which results in personal injury or property damage of any kind shall report the same promptly to the supervisor, and shall fill out required forms for reporting same.

### **14.02 Employee Health and Medical Examinations**

When, in the judgment of the department head and the City Manager, an employee's health or physical condition may have an adverse effect on the performance of these duties, or is affecting the safety or health of fellow employees, employee may be required to undergo a medical examination at City expense.

On the basis of authoritative medical advice, the City Manager shall determine whether an employee is physically incapacitated for the duties of the position, and may take whatever action he/she deems appropriate. The determination and resultant action may be the subject of appeal to the Personnel and Affirmative Action Commission for its review and recommendation.

Those employees designated by the City Manager shall also undergo, at City expense, routine medical examinations. The frequency of these examinations and the examining physician shall also be designated by the City Manager.

### **14.03 Driver's License**

- A. All employees shall be required to possess a valid Class C California Driver's License. In the event a higher level of license is required by the State of California for operation of any or all of the department's apparatus, all employees in the classification of Apparatus Operator and all employees on the eligible list for the classification of Apparatus Operator shall be required to possess such higher license. This latter requirement may be waived in individual circumstances upon review and approval of the Fire Chief and Human Resources Director.

In the event said license requires a physical examination, the City shall pay for the cost of the examination, and the examination shall be conducted on City time.

- B. Possession of a valid Class B and/or C driver's licenses shall remain a condition of employment and lack of possession of a valid Class B and/or C driver's license shall result in termination of employment without right of appeal except that in the event an employee's driving privileges are suspended by the Department of Motor Vehicles but are eligible for reinstatement within a period of one (1) year or less from the date of suspension, then during the term of the suspension: (a) the employee shall be temporarily reassigned by the Fire Chief to duties for which a driver's license is not required and (b) the employee's pay shall be reduced by one (1) pay step. The employee shall take all steps necessary to ensure that the driving privileges are reinstated at the earliest possible date. In the event that the suspension resulted from a conviction or plea of no contest for driving a motor vehicle while under the influence of drugs or with an excessive blood alcohol content, the Fire Chief may prescribe a reasonable period of time for the employee to successfully complete and education or treatment program recommended by a person who meets the DOT qualifications set forth in 49 CFR Part 40 to be a substance abuse professional. The employee must bear any cost of the program above and beyond what the employee's health plan pays. The Fire Chief may terminate the temporary reassignment after the end of that period if the employee has not completed the education or treatment program by that time. Suspension of an employee's driving privileges by the DMV for a period that is to exceed one (1) year for reason such as, but not limited to, a second conviction or plea of no contest for driving a motor vehicle while under the influence of drugs or with excessive blood alcohol content, shall result in termination of employment without right of appeal.

### **14.04 Light Duty Work Assignments**

#### ***1. Policy***

It is the goal of the City of Hayward to provide a safe working environment for all employees and to maintain an effective and efficient program for the provision of workers' compensation benefits. To assist in such efforts the utilization of light duty assignments will be encouraged whenever practical.

## **2. Purpose**

To provide for the return to work of both industrially and non-industrially injured or ill employees in a capacity consistent with a disability temporarily precluding the affected employee from the performance of the employee's full and normal duties, but not limiting the employee totally such that productive assignments can be performed by the employee without fear of aggravating the injury.

The foregoing does not alter or modify existing regulations, or provisions of the Memorandum of Understanding pertaining to the use of non-occupational sick leave. Specifically, an employee on sick leave will not be required by the City to return to work in a light duty capacity prior to being released by a physician for the regular performance of duties. Rather, it reiterates the City's existing practice of entertaining **requests** from employees to return to light duty in the event they wish to avoid exhausting all of their sick leave, or in those cases where all remaining sick leave has been used.

## **3. Procedure**

- a. Upon receiving notice of the occurrence of a temporarily disabling injury to a City employee in accordance with Administrative Rule 7.1 (Rev.) a determination will be made by the Human Resources Director on the appropriateness of assigning light duty to the injured employee. Such determination shall take into account the opinion and recommendation of the injured employee's treating physician.
- b. If the above determination results in a finding that the employee is able to return to a light duty assignment, then discussion will be conducted between the Human Resources Director and the employee's supervisor on the availability of light duty within the division.
- c. If light duty is warranted and the work is available within the division of original assignment, the employee will be returned to work to such duty.
- d. If light duty is not available within the division of original assignment, an appropriate substitute shall be sought. If such a substitute is available, the employee shall be returned to work to such a substitute position. Employees shall not be required to accept light duty assignments outside of the Fire Department.
- e. Such light duty assignments as described above will continue until such time as the injured employee is given a full and complete release to resume normal work activities by the employee's treating physician.

## **4. Salary While On Light Duty Assignment**

When performing light duty work assignments in accordance with this section, employees shall receive the normal salary step for their regular classification of employment. Personnel assigned to light duty work assignments shall not be required to perform a substantial portion of duties of a higher paid classification. Personnel assigned to light duty work may be assigned to perform a substantial portion of the duties of a higher classification in a training status, however.

## **14.05 Physical Fitness**

### ***A. Employees on a 56 Hour Work Schedule***

Participation in the Hayward Fire Department physical fitness program shall be voluntary on the part of employees, but admission to the program shall be allowed only after a comprehensive evaluation by a physician or physical fitness consultant, selected and paid for by the City, reveals no health condition which may be aggravated by such participation. Consistent with operating requirements, participants shall be allowed to engage in program activities for a maximum of two (2) hours while on duty. Time so spent in formal program activity and/or informal physical fitness activity shall be prior to 1030 hours, except that the Company Officer may extend the time for physical fitness on those days when emergency responses or battalion details preclude completion of the physical fitness training by 1030 hours.

Employees participating in the department's physical fitness program shall use only the equipment furnished by the City, and its use shall be in accordance with approved operation instructions. Employees who have not enrolled in the program, but wish to use the equipment on their own, may do so only after having been evaluated in the same manner as program participants and receiving formal instruction on the safe and proper use of the equipment.

Employees wishing to use exercise equipment other than that provided by the city may do so upon approval from the Fire Chief for the use and storage of such equipment. Such approval for use shall be contingent upon an examination and approval by the department's physical fitness consultant, and instruction by the consultant in the safe and proper use of the equipment. Only City provided weight lifting equipment shall be used by employees.

Employees wishing to jog or run for physical fitness purposes may do so prior to 1030 hours or after 1700 hours. This activity will be limited to a distance equivalent to one (1) city block from the fire station or such other distance as the Fire Chief deems appropriate, provided, however, that a school track, park, jogging trail, etc., may be used if a piece of apparatus and its entire complement of assigned employees is driven to said location. Under such circumstances all personnel will remain in close proximity to the apparatus. Basketball, volleyball, ping pong and tennis (at Station #6) are allowed as recreational activities, but shall not be recognized as part of the physical fitness program.

### ***B. Employees on a 40 Hour Work Schedule***

Consistent with operating requirements, employees on a 4/10 work schedule shall be allowed to engage in physical fitness activities between the hours of 0700 and 0830. Provisions for the use of City-owned or personal physical fitness equipment by those employees who are not enrolled in the Department's physical fitness program shall be the same as recited above for employees on a 56 hour schedule.

#### **14.06 Medical Treatment for Occupational Injury or Illness**

Employees requiring medical attention because of job-related injury or illness shall obtain such treatment at a medical facility or from a physician designated by the City. Pursuant to the provisions of California Labor Code 4600, an employee may pre-select a personal physician prior to the occurrence of an occupational injury or illness, said selection to be filed on a form provided by the City for this purpose. In the event of an occupational injury or illness to an employee requiring immediate medical attention, the affected employee will be initially referred to the most readily available source qualified to provide the necessary assistance or treatment.

#### **14.07 Safety Equipment**

The City shall provide safety equipment as required by CAL-OSHA and such other safety equipment as the City may deem necessary for the performance of work. All equipment so provided shall meet applicable CAL-OSHA standards.

#### **14.08 Injury Accident Review Committee**

In the event the Injury Accident Review Committee is reactivated, it shall consist of two (2) members designated by the Fire Chief, two (2) members designated by the Union, and a representative from the Personnel Department. The purpose of the Committee will be to review occupational injuries and illnesses occurring in the department, determine their causes, and recommend corrective action.

### **15.00 PROMOTIONAL EXAMINATIONS & ACTING APPOINTMENTS**

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#### **15.01 Promotional Examinations**

The City shall give six (6) months advance notification of the week in which a promotional examination for a classification in the representation unit is to be scheduled, said notification to be posted on all Fire Department bulletin boards. The union president may, at the request of department management, approve a shorter posting requirement if the need arises. Each employee who qualifies to participate in the promotional examination shall be provided personal notice of the date, time and location the examination will be held as soon as the schedule is established. The City shall endeavor, insofar as is possible, to avoid scheduling said promotional examinations during the period from June 15 to September 15 each year.

Class specifications for certain promotional positions within the representation unit permit employees to participate in examination processes based, in part, upon paid experience acquired in other fire departments which is similar to that which is acquired by employees of the Hayward Fire Department. An evaluation of previous experience from other departments for this purpose shall be made by the Fire Chief according to the following criteria:

- a. The previously employing department has response requirements similar to the Hayward Fire Department including first aid and medical emergency responses, and structural fire responses including commercial and industrial occupancies; and
- b. The previously employing department has an in-service training program to maintain the proficiency of its employees. This evaluation of previous experience shall be accomplished for new employees of the Hayward Fire Department during their initial training period and they shall be advised as to the results of said evaluation and the extent, if any, to which their previous experience will be applied towards eligibility to participate in promotional examinations.

### **15.02 Examinations - Written, Oral & Performance**

Minimum passing scores for promotional examinations shall be established after consultation by Human Resources Department representatives with management personnel of the Hayward Fire Department who shall evaluate the selection instruments to be used in order to determine an appropriate minimum passing score.

An authorized representative of the Employee Organization who is not an employee of the City may attend, as an observer, oral boards and performance examinations convened for the purpose of promotional examinations; provided the candidate requests in writing the presence of said observer.

### **15.03 Promotional Procedures and Selection Process**

In the event there are no candidates for examinations scheduled to fill promotional positions within the representation unit for which previous service in the Hayward Fire Department is required, or none of the candidates applying for said positions are able to qualify for placement on an eligible list, the City may then recruit for applicants who are not employees of the Hayward Fire Department.

Whenever a promotional position in the representation unit is to be filled, the appointing authority shall select from among the top five (5) candidates on the existing eligible list for the classification involved. Selections for subsequent vacancies shall be made from the top five (5) remaining candidates, and so on until all vacancies are filled and/or the eligible list has expired.

### **15.04 Acting Assignments**

In those instances where it is anticipated that an acting assignment to a promotional position within the representation unit will exceed thirty (30) consecutive calendar days, appointment to acting status shall be made from the current eligible list in accordance with the provisions of Section 15.03 paragraph 2 of this Memorandum of Understanding. Such appointments shall be designated **long term** acting assignments and shall require approval by the City Manager or a designated representative. In the event a current eligible list does not exist for the classification involved, employees shall be advised of the vacancy and be given an opportunity to apply. The Fire Chief shall make a

provisional acting appointment of an employee deemed qualified to fill the position from among those making application. When a new eligible list takes effect, the provisional appointment shall be rescind and a selection made from the list as provided above.

An employee who is currently serving in **long term** acting status, and who has served more than thirty (30) consecutive days in said position, shall be entitled to be appointed in probationary status to the next permanent position vacancy in the classification involved. In the event more than one (1) employee is serving on a **long term** acting basis in the classification, the employee with the earliest appointment date shall be the one (1) selected for appointment in probationary status. **Short Term** acting assignments (not anticipated to exceed thirty (30) consecutive calendar days) shall not be counted for the purposes of this section. An employee who completes a long term acting assignment shall be entitled to bump another employee who is currently acting on a long term basis in the same classification, provided the effective date of appointment in long term acting status is earlier.

Once an employee's long term acting assignment has been completed and employee has served for more than thirty (30) consecutive calendar days in said assignment, employee's name shall be placed on a re-employment list for the classification involved in the order of original date of appointment. Said re-employment list shall be of permanent duration, shall take precedence over any other eligible list for the classification, and shall be used to fill all subsequent probationary and long term acting vacancies which may arise. Selection of employees from this re-employment list to fill such vacancies shall be on the basis of rank order. Placement on said re-employment list shall not entitle an employee to preferential consideration for short term acting assignments.

Employees appointed to long term acting assignments shall not be entitled to rights in excess of those afforded employees in probationary status, and may be released from acting assignment pursuant to the provisions of Section 2.02 of this Memorandum of Understanding. Said reasons for release may include, but are not limited to, inability to serve because of extended absence from work.

## **16.00 MISCELLANEOUS PROVISIONS**

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### **16.01 Notification of Address**

All employees, including those on leave of absence, shall keep the Human Resources Director informed as to their current home address at all times. Failure to do so within ten (10) days after change of address may be cause for disciplinary action.

### **16.02 Mileage Reimbursement**

Employees who are directed by the Fire Chief or a designated representative to use their personal vehicles in the conduct of City business shall be reimbursed at the uniform rate established by the City for all City employees as set forth in Administrative Rule 6.1 as it presently exists or as it may be revised by the City from time to time in its sole discretion.

### **16.03 Vehicle Assignment**

Employees in the classification of Fire Prevention Inspector, and Staff Captains assigned as Assistant Fire Marshall, Training Officer and Plans Officer shall be provided with City-owned vehicles for use in the course of their employment and for travel to and from their place of residence only. Such vehicles may be used for personal business only during those times when an employee is assigned stand-by duty. Employees assigned a City vehicle shall employ good judgment in the use of same, and shall not use it in a manner which would otherwise bring discredit upon the Hayward Fire Department. Fire Prevention Inspectors shall be entitled to select a vehicle for such use from among those made available for use by Inspectors, on the basis of seniority in rank subject only to operating requirements which necessitate the specific assignment of a vehicle. In the event of any recall to duty, employees will be required to report with the City vehicle in their possession.

As an exception to the foregoing, those employees who would otherwise be entitled to use a City provided vehicle pursuant to the provisions of this Section may elect in lieu thereof to use their privately owned vehicles in accordance with the vehicle allowance listed below;

Effective 1-1-98 Vehicle allowance shall be \$390.00 per month.

Effective 1-1-99 Vehicle allowance shall be increased by 3% to \$401.17 per month.

Effective 1-1-00 Vehicle allowance shall be increased by a percentage equal to the percentage of the January 1, 2000 salary increase.

### **16.04 Legibility of Reports**

All reports that employees are required to submit shall be typed or printed legibly. As an exception to the foregoing, all incident reports including, but not limited to, the statistical portions of the California Fire Incident Reporting System (CFIRS) form currently consisting of the front page of a fire report, and any other reports which will be read and stored by electronic data processing devices, shall be typewritten. The City shall provide the Union with a copy of statistics derived from the CFIRS report.

### **16.05 Restrictions on Outside Work**

No employee shall engage in a gainful occupation outside the City position which is incompatible with City employment or which is of such a nature as to interfere with satisfactory discharge of regular duties. Any employee who wishes to engage in or accept such employment shall submit a written request for permission to do so, on a form designated by the City, to the City Manager or a representative. Approval shall not be withheld for reasons inconsistent with the provisions of this section.

### **16.06 Use of Fire Apparatus for Grocery Shopping**

Employees assigned to fire stations may be allowed to use a fire apparatus once during each shift to purchase groceries for those meals eaten at their station.



No more than two (2) employees shall leave the fire apparatus to shop; a minimum of one (1) employee shall remain in the fire apparatus alert and ready to respond to any call received.

### **16.07 Painting Assignments**

Employees shall continue to perform painting assignments, however, they shall not be required to paint the exteriors of fire stations nor the ceiling and walls of the apparatus room at Station #1. Personnel performing painting assignments may wear fire department coveralls or shall be provided other protective apparel as needed for their pants and shoes. When responding to any incident from a painting detail, coveralls shall be removed. Turnout pants and boots shall be readily accessible in the event they are needed.

### **16.08 Landscape Maintenance**

Members of the bargaining unit shall perform landscape maintenance in the nature of customary pruning, mowing, fertilizing, and watering on Saturdays when a reduced level of activity is scheduled.

### **16.09 Station Supplies & Equipment**

The City shall furnish and maintain as necessary the following supplies and equipment for use by personnel in each fire station for the operation of all stations and equipment:

#### ***A. Non-expendable Equipment***

Stove, microwave oven, refrigerator, automatic dishwasher, beds, pillows and mattresses, blankets and bedspreads; chairs, tables and upholstered furniture; and cooking and eating utensils and dish towels. No privately owned furniture, appliances, equipment, etc., shall be placed in a station without prior approval from the Office of the Fire Chief. The City shall not be responsible for the purchase or maintenance of station television sets or private telephones.

#### ***B. Expendable Supplies***

All expendable supplies necessary for the operation and maintenance of each fire station excluding food supplies. First-aid supplies provided by the City for employees' use shall include immunization medication for poison oak, mouthwash, aspirin, antacid, anti-bacterial skin cleanser and non-sterile disposable gloves.

#### ***C. Station Library***

A library in each station of reference materials and manuals, as specified by the Fire Chief, to serve as an adjunct to the performance of assigned duties.

### **16.10 Parking of Employee Vehicles**

Private vehicles of employees may be parked in the rear yard of all stations, but must be removed when hose and ladder drills or other activities requiring use of the parking area are scheduled, and must be parked so as not to interfere with

the movement of apparatus. Employees will be required to keep the parking area free of grease and oil. The washing and repairing of private vehicles is not permitted except that employees going off-duty in the mornings shall be allowed to use the garden hose to hose off their vehicles for the purpose of clearing moisture from windshields and windows. The storage (parking) in Fire Station parking lots of campers, boats, trailers, motor homes, automobiles, or other privately owned equipment for periods in excess of twenty-four (24) hours is prohibited.

### **16.11 Personnel Files**

Employees shall be entitled to inspect contents of their personnel files.

### **16.12 Americans with Disabilities Act (ADA)**

The City and the Union recognize that the City has an obligation under law to meet with individual employees who allege a need for reasonable accommodation in the workplace because of a disability. If by reason of the aforesaid requirement, the City contemplates actions to provide reasonable accommodation to an individual employee in compliance with ADA which are in potential conflict with any provision of this resolution, the Union will be advised of any such proposed accommodation and be afforded an opportunity to discuss same prior to implementation by the City.

### **16.13 Firefighter Trainees**

Applicants who are selected to participate in such Fire Academy classes may be granted and hold appointments to the classification of Firefighter Trainee while in attendance and training at the Fire Academy.

Employees holding appointments to this new employment classification shall not be sworn employees of the City of Hayward Fire Department and shall not be members of Local 1909's bargaining unit or eligible for any benefits provided by Local 1909's memorandum of understanding, provided, however that employees holding appointments to this new classification shall be paid at the rate set forth by the City. Unless otherwise required by law, employees holding appointments to this new employment classification shall be considered as civilian employees rather than as firefighters or public safety employees for the purposes of qualifying for workers' compensation and/or disability retirement benefits,

If required by law or City policy that a bargaining unit represent this employment classification, this agreement will be terminated and Local 1909 will become that bargaining unit.

Any salary savings resulting from this new employment classification shall be placed into an educational fund to be used by Local 1909 members. The educational fund shall be maintained by the City and a quarterly statement shall be sent to Hayward Firefighters Local 1909. Disbursement of this fund shall be according to Section 13.02 of the current memorandum of understanding between the City of Hayward and IAFF Local 1909.

Upon successful graduation from the Fire Academy, Firefighter Trainees shall be promoted to the position of Firefighters in the City of Hayward Fire Department.

The City and Local 1909 further agree that inasmuch as the successful recruitment of qualified applicants to become permanent firefighters in the Hayward Fire Department is a matter of mutual concern, and inasmuch as the successful recruitment of qualified applicants depends in part on the salaries provided by the City to the applicants selected for appointment to the employment classification of Firefighter Trainee, commencing May 13, 2008, the salary of employees in the employment classification of Firefighter Trainee shall be maintained at 10% below the salary of a first step 40-hour firefighter.

## **17.00 SEPARABILITY OF PROVISIONS**

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Should any section, clause or provision of this Memorandum of Understanding be declared illegal by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of the Memorandum of Understanding. Upon such invalidation the Parties agree immediately to meet and confer on substitute provisions for such parts or provisions rendered or declared illegal.

## **18.00 SCOPE OF AGREEMENT**

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Except as otherwise specifically provided herein, this Memorandum of Understanding represents the full and complete incorporation of those proposals which were considered and evaluated pursuant to the meet and confer process. This Memorandum of Understanding constitutes the entire and sole agreement between the Parties on any and all matters which were presented during the meet and confer process. If a proposal was made by either Party and not incorporated within this Agreement, then it was considered and rejected.

## 19.00 DURATION

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The term of this MOU, which was originally to expire on December 31, 2010, but was extended to December 31, 2018 in a previous amendment to the MOU, shall be extended by this addendum for the period from January 1, 2008 through December 31, 2023 (FY 2024). Unless otherwise specified, all terms remain effective until such time that the parties negotiate a successor agreement.

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Executed on this 4<sup>th</sup> day of May, 2018 at Hayward, California.

For the City of Hayward:



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Kelly McAdoo  
City Manager



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Nina S. Collins  
Director of Human Resources



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Andrew Ghali, President  
IAFF, Local 1909, AFL-CIO

## **VEBA SIDE LETTER OF AGREEMENT**

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### **CITY OF HAYWARD and INTERNATIONAL ASSOCIATION OF FIREFIGHTERS-LOCAL 1909**

#### **SIDE LETTER OF AGREEMENT**

#### **Voluntary Employee Beneficiary Association (VEBA) Plan**

The parties agree that the City will make available for members of the International Association of Firefighters-Local 1909 (“Bargaining Unit”), a Voluntary Employee Beneficiary Association (VEBA) Plan (collectively, “Plan”) to enable eligible employees to accumulate funds in a tax-exempt trust from which qualified medical expenses can be paid including certain post-retirement medical expenses and benefit accounts. The City will not make contributions to employee VEBA accounts. The City will make payroll deductions into employee VEBA accounts in accordance with Section 2 of this Side Letter.

Effective June 26, 2013, Plan requirements are as follows:

#### **1. Eligibility Defined**

Effective June 26, 2013, all employees, who are members of the Bargaining Unit, are eligible to participate in the Plan.

Beginning June 26, 2013, all employees will have fifteen (15) days to “opt-in” or “opt-out” of the Plan.

Elections to “opt-in” or “opt-out” are irrevocable for the duration of the employee’s tenure within the bargaining unit.

Participation will be subject to and governed by all IRS requirements applicable to the VEBA Plan. Bargaining unit members who elect to “opt-in” will make uniform bi-weekly and contributions upon separation as outlined in Sections 2 and 3.

#### **2. Employee Contributions**

Participation in the Plan by an employee who elects to “opt-in” requires a payroll deduction each bi-weekly pay period to fund the employee’s account. The Bargaining Unit has determined that contributions to the Plan shall be per pay period as follows:

Years of Service	Amount Deducted
0-10	\$50
11-20	\$75
21-22	\$100
23-24	\$125
25-26	\$150
27-28	\$175
29+	\$200

Contributions made by an eligible employee must be made through payroll deductions. Eligible employees cannot make direct contributions to the Plan. Once separated from the City, the (former) employee can no longer make contributions to the Plan.

Payroll deductions for all eligible employees who “opt-in” to the Plan will commence during the pay period ending July 28, 2013 and will be reflected on the August 2, 2013 payday.

Employees who “opt-out” will not contribute to the Plan. Those who have a VEBA account will continue to be eligible to submit for reimbursement for eligible medical expenses, however, they will not be able to make any further contributions to their accounts.

### 3. Employer Contribution

Effective January 1, 2019, the City shall contribute \$600 per year to the VEBA account of all participating members paid bi-weekly in the amount of \$23.08.

### 4. Leave Payout

Each eligible employee who “opts-in” to the Plan will be required upon service or disability retirement from the City to contribute one-hundred percent (100%) of eligible sick leave, vacation and compensatory leave payouts.

Each eligible employee who “opts-in” to the Plan will not be required to contribute any leave balance payouts to VEBA upon separation (excluding retirement) from employment with the City.

Employees who have “opted-out” of the Plan will not be eligible to contribute leave payouts to the Plan upon retirement or separation. Those who have an existing VEBA account will continue to be eligible to submit for

reimbursement for eligible medical expenses, however, they will not be able to make any further contributions to their accounts.

5. New Employees or Newly Eligible Employees

Employees, whether new to the City or to the Bargaining Unit, who become eligible to participate in the Plan after June 26, 2013 will have fifteen (15) calendar days from the date of eligibility to elect whether they would like to “opt-in” or “opt-out” of the Plan. If a newly eligible employee elects to “opt-in,” the City will make payroll deductions into employee VEBA accounts in accordance with Section 2 of this Side Letter.

If a newly eligible employee fails to make an election within fifteen (15) days from the date of Plan eligibility, it will be deemed that the newly eligible employee has elected to “opt-out.”

6. Participant Account

A separate account is maintained for each contributing eligible employee, which documents the employee’s contributions and disbursements. Contributions to a VEBA account, as well as any disbursements to cover non-reimbursed post-tax medical care expenses, are both tax-free. Eligible benefits subject to reimbursement by the Plan shall be limited to long-term care expenses and non-reimbursed medical premiums, co-pays, prescribed drug expenses and other medical care costs as defined by the Internal Revenue Code Section 213.

7. Administrative Fees

An eligible employee’s Plan account is subject to a monthly administrative fee for expenses related to recordkeeping, claims processing and claims reimbursement. The monthly administrative fee will be deducted from the eligible employee’s individual account.

8. Dispute Resolution

This Side Letter and any disputes arising under or in connection with this Side Letter shall not be subject to the dispute resolution procedure contained in the Bargaining Unit’s Memorandum of Understanding or in the City’s Personnel Rules, nor shall this Side Letter and any such dispute relating thereto be subject to the jurisdiction of the City’s Personnel Commission for any reason whatsoever.

9. IAFF Local 1909 Disclaimer

The Bargaining Unit would like to notify its employees that it has made no determination, and makes no representation by becoming a party to this agreement, as to whether the Plan satisfies the requirements of Internal Revenue Service Code section 501(c)(9) or other provisions of the Internal Revenue Service Code for an exemption from federal income taxes of contributions to and disbursements from the Plan. The City agrees that it shall provide Bargaining Unit employees with a copy of the "IAFF Local 1909 Disclaimer", which was drafted by the Bargaining Unit and is attached hereto, at the time they are notified of their eligibility to "opt-in" or "opt-out" of the Plan.

10. Indemnification

The Bargaining Unit agrees to indemnify and hold the City of Hayward harmless against any claims made of any nature and against any suit initiated against the City arising from this Side Letter, including but not limited to claims arising from the employee's participation in VEBA or from any salary reduction initiated by the City for VEBA contributions. Provided, however, that Local 1909 shall not be required to indemnify and hold the City harmless for any payments to the federal and state governments that the City would have paid as employer payroll taxes but did not do so because it was operating under the assumption that contributions to the plan are tax-free.

11. Superseding Agreement

This Side Letter agreement supersedes all previous VEBA Side Letter agreements.