

**2013 ADDENDUM TO AND EXTENSION OF THE MEMORANDUM OF
UNDERSTANDING BETWEEN THE CITY OF HAYWARD AND THE HAYWARD FIRE
CHIEFS ASSOCIATION**

This is an addendum to and extension of the Memorandum of Understanding, currently in effect for the period from July 1, 2007 through December 31, 2014 between the City of Hayward and The City of Hayward Fire Chiefs Association. This addendum/extension shall become effective upon ratification by the membership of The City of Hayward Fire Chiefs Association and approval by the Hayward City Council. If there is any conflict in language between the addendum/extension and the MOU or any addendum or side letter in effect, the provisions in this addendum/extension shall supersede.

In recognition that the City continues to have a projected imbalance in its overall General Fund budget and must therefore reduce expenditures and increase revenue to the extent necessary to bring the budget into balance, and the City of Hayward Fire Chief's continued commitment to ongoing structural change, including recognition of the importance of employees sharing in the costs of benefits to assist the City in addressing the escalating costs of the pension benefit, the parties hereby agree as follows:

1. Payment of Employees' PERS Contributions

Section 6.12 (Payment of Employees' PERS Contributions) is deleted in its entirety, and replaced by the following:

The members of this bargaining group acknowledge the escalating costs of the employee pension benefit and the importance of the employees' sharing the cost of the benefit. For 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)), in lieu of the City's previous contribution of nine percent (9%) of the employees' required Public Employees' Retirement System (PERS) contribution, the parties mutually agree to shift the cost associated with the employees' PERS rate from the employer to the employee in the following manner:

- FY 2014 - Beginning the pay period which includes July 1, 2013, the City shall contribute to PERS each pay period four and one-half percent (4.5%) of the employee rate of pay as required by PERS.
- FY 2015 - Beginning the pay period which includes July 1, 2014, the City shall contribute to PERS each pay period three and one-half percent (3.5%) of the employee rate of pay as required by PERS.

FY 2016 - Beginning the pay period which includes July 1, 2015, the City shall contribute to PERS each pay period two percent (2%) of the employee rate of pay as required by PERS.

FY 2017 - Beginning the pay period which includes July 1, 2016, the City shall no longer contribute any portion of the employee rate of as required by PERS.

Contributions made pursuant to this section shall be reported to PERS as "employee contributions being made by the contracting agency." Said contributions shall not apply in the case of temporary or provisional employees. The aforesaid contribution shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked, education incentive pay, holiday pay, or the City's contributions to PERS; nor shall such contribution be taken into account in determining the level of any other benefit which is a function of or percentage of salary. The City reserves the right to take said contributions into account when comparing salaries with other employers.

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

2. Optional Benefits, Cost Sharing (Payment of Employers' 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 pay 15% of reportable wages to fund employee pensions. 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 pay 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.

3. Uniform Allowance

Section 12.02 (Uniform Allowance) is deleted in its entirety, and replaced by the following:

Effective July 1, 2013, an annual uniform allowance of \$480.00 shall be paid during the month in which the anniversary date of employment with the City occurs.

Effective December 16, 2013 (First pay date 1/3/14), an annual uniform allowance of \$480.00 shall be paid in equal increments on a per pay period basis (\$18.46 per pay period).

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 year of service shall receive a pro-rated uniform allowance from their date of hire.

In cases where items of uniform are severely or irreparably damaged in the line of duty, provision is made for direct reimbursement on a pro-rated basis for replacement items.

4. Vacation Leave Allowance

Section 8.03 (Vacation Accrual) shall be amended as follows:

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.

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.

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.

5. Salaries

Section 6.13 (Salaries) shall be deleted in its entirety and replaced with the following:

The Positions and Salaries Resolution shall provide for the salary ranges for the classifications of employment listed below:

Fire Officers

- Fire Marshall
- Fire Training Officer
- Battalion Chief (56 hr)
- Battalion Chief (40 hr)

Fire Chiefs

- Deputy Fire Chief (40 hr)

Salary Range

In recognition that the members of the bargaining unit agreed to pay an additional 6% of the employer rate beginning in July 1, 2011 as part of the target savings all employees were requested to achieve, and furthermore, in recognition that the members of this bargaining unit agreed to pay the entire employee contribution amount of nine percent (9%) as identified above, the base rate for the classification of Battalion Chief shall be adjusted from ten percent (10%) to fourteen and one-half percent (14.5%) greater than the highest ranking classification within the MOU between the City of Hayward and Hayward Firefighters IAFF Local 1909, with applicable conversion for 40 hour versus 56 hour rates.

The base rate for the classification of Fire Training Officer and Fire Marshall shall be 10% greater than the base rate for Battalion Chief (40 hr).

The base rate for the classification of Deputy Fire Chief shall be 10% greater than the base rate for Fire Training Officer and Fire Marshal.

Salary Adjustments

Effective with the term of this contract ending December 31, 2019, salaries for all classifications covered by this MOU shall be adjusted to reflect the aforementioned Salary Range.

6. Other Post-Employment Benefits (OPEB)

The City and the City of Hayward Fire Chief Association recognize the need to fund retiree medical. As such, beginning with the pay period that includes July 1, 2018, employees represented by City of Hayward Fire Chief Association shall contribute 1% of base salary (excluding 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 allocation for the expense of retiree healthcare of its members.

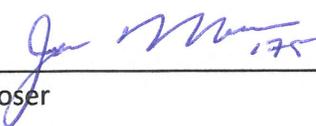
7. Term of Agreement

The term of this MOU, which was originally to expire on December 31, 2012, but was extended to December 31, 2014 in a previous amendment to the MOU, shall be extended by this addendum for the period from July 1, 2007 through December 31, 2018 (FY 2019).

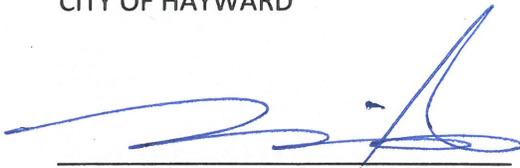
Made and entered into on 04 July, 2013.

CITY OF HAYWARD FIRE CHIEF ASSOCIATION

CITY OF HAYWARD



Jon Moser



Fran David, City Manager