

Memorandum of Understanding

between

CITY OF HAYWARD

and

HAYWARD FIRE CHIEFS ASSOCIATION

July 1, 2007 through December 31, 2012

SUMMARY OF PROVISIONS

Summary of provisions incorporated in the Memorandum of Understanding with the Hayward Fire Chiefs Association covering the period July 1, 2007 through December 31, 2012.

Sections to Reference:

- 1.00
- 4.00
- 5.00
- 6.00
- 13.00
- The name recognition of Hayward Fire Chiefs Association requires that the previous, "Hayward Fire Management Association" be changed to properly reflect the change. This change has been performed throughout the document.

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MEMORANDUM OF UNDERSTANDING

between

CITY OF HAYWARD

and

HAYWARD FIRE CHIEFS ASSOCIATION

On the date hereinafter subscribed, authorized representatives of the City of Hayward, herein called "City" and the Fire Chiefs Association made and entered into this Memorandum of Understanding. It is understood and agreed that this Memorandum of Understanding supersedes and replaces the Memorandum of Understanding for the Hayward Fire Chiefs Association entered into July 1, 2000 by and between the City of Hayward and the Hayward Fire Chiefs Association.

1.00 RECOGNITION AND COMPOSITION

1.01 Recognition

The City recognizes the Hayward Fire Chiefs Association as the majority representative for Fire Management employees.

1.02 Composition

The Fire Chiefs Association shall be comprised of the following classifications of employment and any other classifications of employment which may hereafter be assigned to the Fire Chiefs Association by the City Manager in accordance with the provisions of the City of Hayward Personnel Rules governing unit determination and modification:

Deputy Fire Chief

Fire Marshal

Battalion Chief (40 hours)

Battalion Chief (56 hours)

Fire Chief's Association compensation shall reflect the greater level of responsibility characteristic of managerial positions. In determining compensation, consideration shall be given to all pertinent factors including these:

- (a) Establishing or maintaining appropriate internal relationships among the positions comprising the Fire Chiefs Association. This shall be accomplished with regard for the comparative "levels" of jobs within the unit as determined through an objective process of job evaluation and also with regard to appropriate relationships with the base compensation provided for related or supportive positions;
- (b) Establishing or maintaining a comparative relationship with similar positions in other public agencies of reasonably comparable size in the San Francisco Bay region from which reliable data may be obtained for a representative number of comparable management positions;
- (c) Recognizing special expertise, exceptional hours of work, and other distinctive characteristics of management service;
- (d) Maintaining salary adjustments in reasonable relationship with the cost-of-living (a recognition that the cost-of-living adjustments for other units affect overall salary interrelationships);
- (e) Promoting, recruiting, and retaining qualified Fire Chiefs Association employees.

Levels of compensation shall be reviewed annually by the City Manager in light of the foregoing considerations and, if appropriate, suitable adjustments made upon consideration of the City Manager's recommendation.

2.00 PROBATIONARY PERIOD

2.01 Appointments Subject to Probationary Period

All appointments (other than temporary and provisional appointments) to full time positions in this unit shall be subject to a probationary period. The regular period of probation shall be six months, but longer periods may be specified in individual classification descriptions and shall apply to all positions in the classification. Extension of probationary periods up to a maximum of six months may be approved by the City Manager in individual cases.

2.02 Release of Probationer

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 the probationer.

2.03 Release Following Promotion

Any employee released during the probationary period following promotion shall be reinstated at the former salary step to his or her former position or a position in the class from which promoted unless the reason for the 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 or she has satisfactorily served. If any employee is caused to be released by such action such employee shall be placed on a reemployment 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 or her release from the position from which demoted.

2.04 Effective Date of Regular Status

Upon attaining regular status as a full time employee, the effective date shall revert to the date of initial probationary appointment.

3.00 LAYOFFS & RESIGNATIONS

3.01 Layoffs

Whenever there is a lack of work or a lack of funds requiring reduction in personnel in a department or division of the City government, the required layoffs shall be made in such job classification(s) set forth in the Classification Plan of the City of Hayward as the City Manager may designate in accordance with the following procedures:

- A. Employees shall be laid off in inverse order of their length of service within the affected job classification.
 1. Length of service for the purpose of this Section 3.01 shall mean an employee's continuous uninterrupted service within a classification from the effective date of appointment as a probationary or part-time employee in that classification.
 2. An interruption in length of service within a classification shall occur as a result of any one of the following:
 - a. Discharge for cause.
 - b. Voluntary resignation.
 - c. Retirement for service or disability.
 - d. Absence from work for 36 consecutive months because of layoff.

- e. Failure to return from layoff as provided in Section 3.02.
- f. Failure to return from an approved leave of absence upon the date specified for return at the time said approval was granted.

Provisional and acting appointments to a classification shall not be construed as service in such classification unless such provisional or acting appointment was contiguous with appointment to such classification in a probationary status.

- 3. Whenever the effective date of appointment to a classification is the same for two or more employees, the original date of hire as a probationary employee with the City shall be used to determine which employee has greater length of service within the classification. The employee with the earlier original date of hire with the City shall be considered to have the greater length of service within the classification in this situation.
- B. Within each affected job classification all provisional employees shall be laid off before probationary employees and all probationary employees shall be laid off before any regular employees provided. Thereafter, if additional reductions in personnel are required, those employees with the least length of service within the affected classification shall be laid off.
 - C. As an alternative to layoff, an employee with regular or probationary status who is displaced from his or her classification in accordance with the procedures provided in paragraphs (A) and (B) of this section shall be allowed to bump to a classification at the same salary level or to a classification at the next lower salary level provided the classification to which he or she bumps is one in which employee has previously served in a regular or probationary status and where the original date of appointment to said classification, as defined in Section 2.04 predates that of at least one employee presently serving therein. As an exception to the foregoing, an employee may bump into a classification in which he or she has previously served and where employee's original date of appointment to that classification predates that of at least one employee presently serving therein and where said classification carries a higher salary level only if such higher salary level resulted solely from the application of an equity salary adjustment.
 - 1. Bumping rights afforded an employee pursuant to this section shall include access to those classifications in which employee has previously served but which may since have been re-titled but where, as determined by the City Manager, no substantive changes have been made in the duties or qualifications for the classification(s) in question.

2. Prior to employees being laid off the Human Resources Department shall furnish to affected employees upon request status registers for all affected classifications within the representation unit. Said lists shall include the names of all present employees who have held these classifications and their appointment dates thereto.
 3. An employee eligible to bump into another classification pursuant to this paragraph (C) shall have five calendar days after notice of assignment by the City Manager to a position in that classification in which to accept such assignment. If the affected employee fails to accept such assignment within said five calendar day period, employee shall be laid off. An employee so assigned shall be placed at a salary step in the range for the classification to which he or she bumps which is closest to the employee's former rate of pay but which does not exceed the salary step held by the employee in the classification from which displaced.
- D. Employees scheduled for layoff will be given at least two weeks advance notice if possible. The City shall attempt, in so far as is possible, to accomplish any contemplated reduction in personnel by attrition rather than by layoff.
 - E. In the event employees are scheduled to be laid off, other employees with greater length of service within the same classification may elect to be laid off in lieu of those employees scheduled for such layoff.

3.02 Rights of Return

As position vacancies occur, employees on layoff and those occupying positions to which they have bumped shall be afforded return rights in the order of their length of service in the classification(s) in which such vacancies occur.

- A. An employee shall have ten calendar days from the mailing by certified mail of a notice of return to work to his or her address of record on file in the Human Resources Department to indicate acceptance of such return and his or her agreement to report for work as specified in the notice.
- B. Employees in layoff status shall retain all credited sick leave earned but unused at the time of layoff. An employee on layoff shall not earn vacation leave credit while in layoff status. Upon an employee's return from layoff employee shall be credited with proportionate vacation leave for the balance of the calendar year. The amount of such credit shall be based upon continuous uninterrupted service with the City including time spent in layoff

status. Use of vacation leave so credited shall be subject to the provisions of this resolution.

- C. Employees who are displaced from their classifications by virtue of layoff shall be placed on a reemployment register for the classification they held at the time the layoff occurred, hereinafter referred to as the "primary" register. They shall also be placed on reemployment registers for classifications previously served in, hereinafter referred to as "secondary" registers. If an employee fails to respond to such notice of return within the prescribed time period or declines to return from layoff to a secondary register classification, employee's name shall be removed from said secondary register and employee shall no longer be eligible for recall to that classification. If an employee fails to respond to notice of return within the prescribed time period or declines return to the primary register classification, he or she will be considered to have voluntarily resigned from employment with the City.
- D. Full-time employees who have bumped to a part-time position, or who have been recalled from layoff to a part-time position, shall be afforded an opportunity to return to full-time status as position openings become available. Such right of return shall be subject to the "length-of-service" and "service within classification" requirements provided in Sections 3.01 and 3.02 of this resolution.
- E. Employees who request and are granted voluntary demotion to a vacant position in lieu of layoff shall be afforded the same rights of return as employees who have exercised bumping rights.
- F. An employee who, in lieu of layoff, was transferred to another position within the same classification shall be notified of an opening in his or her previous position and shall be afforded an opportunity to apply for reinstatement to that position.

3.03 Resignations

Any employee wishing to leave the employ of the City in good standing shall file with the department head at least two 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 a written resignation as provided herein shall be entered on the service record of the employee and may be cause for denying future employment with the City.

4.00 WORK SCHEDULES

4.01 Work Week

The normal work week for employees who perform administrative assignments during usual business hours shall consist of 40 hours during each seven day work period. Those employees who work a 24 hour shift shall have a normal work week which averages 56 hours.

4.02 Administrative Leave

The Fire Chief is authorized to grant up to 80 hours of Administrative Leave with pay each year as compensation, in part, to an employee who, in the performance of his or her duties, is required to work additional hours substantially in excess of the normal work week. For employees who work a 56-hour week the maximum administrative leave entitlement shall be 112 hours each year. Upon request of an employee, the Fire Chief may authorize additional administrative leave.

4.03 Work Performed During Disaster

Employees who are required to work during a declared civil emergency shall not receive additional compensation for hours worked in excess of their regular work day or work week. All employees shall have the duty and obligation to perform emergency work upon request of proper authority declaring such emergency.

4.04 Short Term Absences

Employees who are absent from work for a portion of the work day or work shift shall under no circumstances suffer any loss of income by reason of such an absence. In the event an employee has exhausted all credited vacation leave, administrative leave, and accrued compensatory time, a short term absence as defined above will be covered by advancing administrative leave the employee would be entitled to use in the following year. If a short term absence is occasioned by illness or non-occupational injury, and the employee has exhausted all credited sick leave, vacation leave, administrative leave, and accrued compensatory time, the absence shall be covered by an advance of administrative leave as herein provided.

The amount of administrative leave used in advance shall be sufficient to prevent any income loss, and amounts so advanced shall be deducted from the employee's administrative leave for the following year. Advances will continue to be made as necessary for the purpose of this section even though they may exceed the amount of administrative leave the employee is entitled to use in the following

year. In such instances deductions of advanced leave amounts shall be made in subsequent years. Any "negative" administrative leave balance which may exist upon termination of employment shall be forgiven. For the purpose of this section, administrative leave shall be provided to those employees who are not otherwise qualified to receive it in order to avoid income loss by reason of short term absences.

5.00 BENEFIT PLANS

5.01 Medical Insurance

The City shall continue to contract with the Public Employees' Retirement System (PERS) for the purpose of providing medical insurance benefits for active employees, eligible retired employees, and eligible survivors of retired employees. Eligibility of retired employees and survivors of retired employees to participate in this program shall be in accordance with regulations promulgated by PERS.

Retirees: Effective January 1, 2008, the City shall contribute up \$300.00 per month for each active employee, each eligible retired employee, or the eligible survivor of a retired employee who subscribes for coverage. The monthly contribution shall remain in place for the term of this MOU.

Employees: Effective with the terms of this MOU, the City shall continue to pay 100% contributions for PERS plans selected by the employee.

Effective 1-1-09, the City shall pay 100% of the cost of the PERS plan selected by the employee, provided that it does not exceed the cost of the second most costly plan offered under the PERS program (currently Blue Shield Health Care). An employee may opt for the most costly plan, provided that the employee pays the differential. The City's maximum contribution for any employee shall not exceed the cost of the second most costly plan, currently Blue Shield Health Care. Additionally, beginning 1-1-09, PORAC will be made available as an option, with all costs being borne by the City.

In the event PERS requires a minimum employer payment in excess of the amounts recited above, the City shall pay such additional amounts during the term of this resolution only.

5.02 Flexible Benefits Plan

The City shall continue in effect a Flexible Benefits Account for each full-time employee in regular or probationary status who is enrolled in one of the PERS medical insurance plans offered by the City. The City shall make monthly payments to each employee's Flexible Benefit

Account in an amount which, when combined with contribution amounts specified in Section 5.01 of this resolution is sufficient to pay up to 100 percent of the premium required of the employee by reason of enrollment and the enrollment of eligible dependents, if any, in a PERS medical insurance plan. Such supplemental payments shall be paid for the remaining term of the resolution only.

In no event shall the sum of the City's contributions pursuant to the provisions of Sections 5.01 and 5.02 of this resolution exceed the premium rate for the PERS medical insurance plan in which the employee is enrolled.

For the purpose of this section, a dependent is defined as a person who satisfies the definition of dependent in the PERS medical insurance plan in which the employee is enrolled. Such dependents must also be enrolled in and covered by the plan.

The monies in an employee's Flexible Benefits Account shall be used only for payment of premium charges for the PERS medical insurance program in which the employee is enrolled.

Under the Flexible Benefits plan the City will not treat the employee's share of premium payments for the PERS medical insurance program as compensation subject to income tax withholding unless the Internal Revenue Service 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 therefor.

Each employee shall file an election in writing during the month of open enrollment for medical insurance each year as to how the monies in his or her Flexible Benefits Account are to be expended during the ensuing year. Thereafter, no changes to designations so made shall be allowed until the enrollment of the following year, except for bona fide hardship conditions which shall be reviewed and determined by a committee consisting of the Director of Finance and the Human Resources Director (or their designees), and two persons designated by the employee unit who are members of the representation unit. A simple majority vote of the committee shall be required in order for a change in flexible benefit designation to occur. Decisions of the committee shall be implemented only if they do not contradict applicable provisions of Internal Revenue service regulations.

Each employee shall be responsible for providing immediate written notification to the Human Resources Director of any change to the number of his or her dependents which affects the amount of the City's payment to the Flexible Benefits Account. An employee who, by

reason of failing to report a 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. Changes to flexible 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 payments shall be allowed.

5.03 Federal or State Health Plan

If, pursuant to any federal or state law which may become effective subsequent to the effective date of this resolution, 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 5.01, 5.02, and 5.05 of this resolution 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 5.01, 5.02, and 5.05, 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 5.01, 5.02, and 5.05. The City need only expend for this purpose the actual amount required to achieve parity between the benefits agreed to be provided under Sections 5.01, 5.02, and 5.05 and the benefits provided under any federal or state plan as supplemented in the manner herein above described.

If the benefits provided under the federal or state act exceed the benefits provided hereunder in each category of coverage, the City shall be under no further obligation to make any contribution in pursuance of this section. In the event that the federal or state government enacts a health care program 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 resolution.

5.04 Alternate Benefits

Employees shall be allowed an opportunity to select certain options as alternatives to those benefits listed in Sections 5.01 and 5.02 of this resolution. These options shall be available only to those employees for whom no City contribution is made towards premiums for such insurance because the employee is covered under group medical insurance from a source other than the City of Hayward. The employee may direct that the City's contribution be applied to payment of premiums for group insurance policies held by the employee by reason of professional affiliation, training and/or nature of the position of employment with the City, purchase of past service credits with the Public Employees Retirement System, contribution to the deferred compensation program, or be paid in cash. Cash payments, if any, shall be reported to the Internal Revenue Service as compensation subject to income tax withholding. Each employee shall be solely and personally responsible for any tax liability that may arise out of the implementation of the alternate benefits. The monthly alternate benefit amounts to be provided employees are:

| | |
|-----------------------------|--------|
| Employee | 150.00 |
| Employee & One Dependent | 270.00 |
| Employee & Two + Dependents | 350.00 |

For the purpose of this section, the term "dependent" shall mean a dependent eligible for coverage under a PERS medical insurance plan if such coverage had otherwise been elected by the employee.

The provisions of this section shall be administered in accordance with regulations issued by the City Manager which shall include, but not be limited to, the method and frequency of reimbursement to employees for the alternate benefits program(s) selected; the frequency with which employees may exercise the option to change alternate benefits programs; and appropriate procedures for the verification of payments made in pursuance of this section.

5.05 Dental Insurance

The City shall purchase dental insurance coverage for full-time employees, other than temporary and provisional employees, and their eligible dependents. The City's contribution towards the purchase of Insurance offered by Delta Dental or a successor plan shall not exceed \$88.16 per employee per month, and the City contribution towards purchase of insurance offered by MIDA or a successor plan shall not exceed \$33.28 per month except as provided below.

Benefits under the Delta Dental plan shall include the following: 100 percent payment of diagnostic and preventative services; 80 percent

payment for other basic services, and crowns and cast restorations; 70 percent payment for prosthodontics; 50 percent payment for orthodontics (adults and children). Deductibles each calendar year shall be \$25 per person with a maximum of \$75 per family. Maximum benefit payments shall be \$2000 per year for each patient except for orthodontics which shall carry a \$2,000 lifetime maximum benefit per patient.

In the event the premium rate charged by the dental insurance carriers is increased such that it exceeds the maximum contribution amounts listed above, the City shall pay the additional amounts on behalf of employees during the term of this Memorandum of Understanding only.

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 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.

5.06 Life Insurance

The City shall pay the cost of providing each employee with a group term life insurance policy in the amount of 1 x the annual gross salary of the employee. The policy shall include accidental death and dismemberment coverage and the right to conversion at the time of termination of employment to a form of permanent coverage without medical restrictions nor the requirement to demonstrate evidence of insurability.

5.07 Disability Insurance

The City shall continue in effect, at no cost to the employee, the Long Term Disability Insurance policy with Mutual Benefit Life; or any other such successor program which provides essentially comparable benefits. This program shall provide disability benefits based upon two-thirds of an employee's current gross salary.

5.08 Vision Care

The City shall purchase vision care insurance for employees and eligible dependents. The plan shall require a \$15.00 deductible, and shall provide for an eye examination, lenses and frames once per year.

The City's contribution towards the purchase of this insurance shall not exceed \$12.13 per employee per month except as provided below. In the event the premium rate charged by the vision care insurance carrier

is increased such that it exceeds the maximum contribution amount listed above, the City shall pay the additional amount on behalf of employees for the remaining term of this Memorandum of Understanding only.

The City reserves the right to provide vision care benefits under a 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 this option the alternate coverage shall be substantially equivalent to the coverage in effect at the time this option is exercised.

5.09 Medical, Dental, Vision, Flexible and Alternate Benefits for Certain Part-Time Employees

Employees who are hired in part-time status and full time employees who voluntarily assume part-time status shall be entitled to participate in group medical, dental, and vision insurance programs, and to receive a payment from the City to be applied to such plans subject to the following conditions:

1. Only those employees hired into positions budgeted for 20 or more hours per week and who consistently work 20 or more hours per week shall be entitled to coverage under group medical and dental plans.
2. The amount of the City's payment for medical insurance shall be proportionate to that amount provided for full time employees in Sections 5.01 and 5.02 of this Memorandum of Understanding based upon the total number of hours worked each month by the part-time employee. For new employees, the amount of City contribution for medical insurance shall be based upon the employee's estimated work schedule during the first month of coverage. Thereafter, the actual number of hours worked by the employee each month shall be used to determine the amount of City contribution towards medical insurance premiums in the month next following.
3. The City contribution shall be a proportionate amount of the current premium rate for the plan selected, or the amount provided in paragraph 2 above, whichever is the greater.
4. The amount of the City's payment for dental insurance shall be proportionate to the amounts paid on behalf of full-time employees as specified in Section 5.05 of this Memorandum of Understanding. The calculation of proportionate payments shall be in accordance with the provisions of paragraph 2 of this section.

5. The amount of the City's payment for vision insurance shall be proportionate to the amounts paid on behalf of full time employees as specified in Section 5.08 of this Memorandum of Understanding. The calculation of proportionate payments shall be in accordance with the provisions of paragraph 2 of this section.
6. The amount of the City's payment for alternate benefits shall be based upon scheduled hours of work and shall be proportionate to the amounts paid on behalf of full time employees as specified in Section 5.04 of this Memorandum of Understanding. The calculation of proportionate payments shall be based upon the hours budgeted for the position.

As an exception to the foregoing, those employees who assume part-time status as a result of a City imposed reduction in hours will continue to receive City payment of medical, dental, and vision insurance premiums and will continue to participate in the Flexible Benefits Plan on the same basis as for full time employees.

5.10 Retirement Program

The City will continue to contract with the Public Employees' Retirement System (PERS) to provide a retirement program for employees. Effective January 1, 2001, the City shall amend its contract with the PERS to provide bargaining unit employees with the 3% @ 50 retirement formula, continuing the One-Half Survivor Continuance benefit, Third Level 1959 Survivor's Benefits Program, the One Year Highest Compensation Retirement Formula, Repurchase of Military Service Credit, and Continuation of Death Benefit after Remarriage of Survivor.

5.11 Deferral of Certain Payments Due on Retirement

An employee who separates from service and is at the time eligible for early, normal, late, or disability retirement under the Public Employees' Retirement System (PERS) may elect, in accordance with this section, to defer receipt of any payments that would normally be made in lieu of unused leave. An election under this section must be made in accordance with the following rules:

- A. The election must be made when the employee notifies the City or PERS of the date of retirement but not less than two weeks before the employee's actual date of retirement. It may be changed or revoked, but any election in effect one year before retirement will be applied, regardless of any subsequent attempt to change or revoke it.

- B. The election applies to payments that employees would otherwise receive upon separation from service in lieu of unused sick leave, vacation leave, compensatory leave, or other leave.
- C. The employee may elect to defer all or any portion of the payments specified in subsection B above. The amount deferred may be expressed as a percentage of the total payment or as a dollar amount not to exceed the total payment.
- D. The election must specify a date on which the deferred amount is to be paid. The specified date of payment may be no later than one year after the employee's date of retirement. Only a single date of payment may be specified. The date may be expressed as a fixed date (such as "January 1, 1999") or as date determinable by reference to the date of retirement (such as "12 months after retirement" or "January 1 following the calendar year of retirement").
- E. If an employee does not separate from service on or before the date of payment specified in subsection D above or is not eligible for retirement under PERS at the time of separation from service, the deferral election is automatically revoked. A new election may be made only in accordance with subsection A above.
- F. No interest will be paid on amounts deferred under this section.
- G. Upon the death of a retired employee who has made a deferral election under this section but has not yet received payment, the deferred amount will be paid to the beneficiary determined under the provisions of PERS.

6.00 SALARY ADMINISTRATION

6.01 Salary Administration Policy

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

6.02 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 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.

6.03 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 normally apply before an employee gains eligibility for advancement in pay.

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

If warranted for the good of the service or when an employee demonstrates outstanding capacity in performing the duties, advancement may be made prior to completion of the above time-in-step requirements. When a pay range consists of less than five 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 five days of the period; otherwise, time shall begin on the first day of the next payroll period. Advancement in pay, when approved, shall be effective at the beginning of the first pay period immediately following completion of the time-in-step requirements outlined above. If an employee is on leave without pay for more than one month, the period shall be deducted from employee's accumulated time-in-step.

6.04 Attaining Advancement

An employee must demonstrate that advancement is merited on the basis of job performance. Advancement shall not be made solely because an employee is 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. Department Heads or the City Manager shall be notified by the Human Resources Director of an employee's approaching eligibility for step advancements.

6.05 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.

6.06 Withholding Step Advancements

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

6.07 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 at least 5 percent above their present salary. When no advancement in salary is granted on promotion, employees may be allowed to carry forward time-in-step accumulation.

6.08 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.

6.09 Change in Pay Upon Reclassification

When a position is reallocated to a classification with a higher pay range and 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 he or she continues 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, his or her salary shall be frozen at its current level. When the incumbent leaves the position, a replacement shall normally be hired at the beginning rate.

6.10 Acting Pay

Employees may be assigned to perform the duties of a higher classification on an "acting" basis when in the judgment of the Department Head or Division Head a need exists for work to be performed in such higher classification.

"Acting" assignments shall only be made by the Department Head/Division Head and the employee shall be provided with a written notice assigning employee to the higher classification on an "acting" basis.

Employees assigned in accordance with the foregoing to perform the duties of a higher classification on an "acting" basis for a period of 2 weeks or more shall receive "acting" pay retroactive to the first day of such assignment. Employees qualifying for "acting" pay shall receive the salary step of the higher classification which represents an increase over the employee's present salary step, or a 5 percent increase over the employee's present salary step, whichever is the greater, but shall not exceed the top step of the salary range for the higher class.

6.11 Special Assignment 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 upon recommendation of the Department Head. An employee so assigned shall receive a salary increment not to exceed 10% of employee's present salary.

6.12 Payment of Employees' PERS Contributions

The City shall contribute to the Public Employees' Retirement System (PERS) each pay period nine percent (9%) of the employee rate of pay 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, 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 contribution 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 the implementation of this section or any penalty that may be imposed therefore.

6.13 Salaries

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

Deputy Fire Chief
Fire Marshal
Battalion Chief 40 hr. Week
Battalion Chief 40 hr. Week
Special Assignment
Battalion Chief 56 hr. Week

Salary Range

Salary rate for classifications shall be as follows:

The base rate for the classification Battalion Chief shall be 10% greater than the highest ranking classification within the MOU bet. COH and HFF IAFF L1909, with applicable conversion for 40hr vs 56hr rates.

The base rate for the classification of Battalion Chief 40hr Special Assignment and Fire Marshal shall be 10% greater than the rate for Battalion Chief 40hr.

The base rate for the classification of Deputy Fire Chief shall be 10% greater than the base rate for Battalion Chief 40hr Special Assignment and Fire Marshal.

Salary Adjustments

Effective with the term of this contract beginning 7-1-2007 and ending 12-31-2012, salaries for all classifications covered by this MOU shall be adjusted to reflect the aforementioned Salary Range.

6.14 Special Assignment Allowance for Battalion Chiefs

Battalion Chiefs shall be designated Duty. The work schedule for Duty Chief shall be a 56hr/week schedule.

Battalion Chiefs designated as Duty Chiefs shall receive compensation equivalent to: TSFC hourly (MOU bet. COH and HFF IAFF L1909, sec 7.12) x 1.5 x 5.1% for shifts worked in excess of their regularly scheduled shifts.

6.15 Duty Chief Base Pay Definition

The City and the Hayward Fire Chief's Association agree that for purposes of any salary survey comparison, base pay for Duty Chief consists of the monthly equivalent of the 56-hour rate published in the City's Positions and Salaries Resolution.

7.00 HOLIDAYS

7.01 Holidays Observed by the City

The following days shall be holidays for all employees:

- New Year's Day (January 1)
- Martin Luther King Day (third Monday in January)
- Lincoln's Birthday (February 12)
- President's Day (third Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (first Monday in September)
- Admission Day (September 9)
- Columbus Day (second Monday in October)
- Veteran's Day (November 11)
- Thanksgiving Day (fourth Thursday in November)
- Friday after Thanksgiving Day (Friday following fourth Thursday in November)
- 1/2 Day Christmas Eve (December 24)
- Christmas Day (December 25)
- 1/2 Day New Year's Eve (December 31)

If any of said holidays fall on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, it shall be compensated for by equivalent credit to vacation leave. If a holiday falls on an employee's regular day off, or if an employee is scheduled or assigned to work on a holiday, employee shall be entitled to equivalent time off at a later date, and such time shall be credited to the employee's vacation leave. Scheduling or assignment of holiday work must be approved in advance by the City Manager or City Manager's designee. For the purpose of this section, the number of hours comprising a holiday is defined as 12 hours for employees on a 56-hour per week schedule, ten hours for employees on a 40-hour per week schedule who work a 4-10 schedule (four, 10-hour days per week), and eight hours for all other employees.

For employees who work a 56-hour per week schedule, compensation will be paid in cash, for any or all of the holidays either worked by an employee or falling on an employee's regular day off. Employees who work a 56-hour work week and who are expected to work on City holidays will begin receiving pay for all 14 holidays, rather than pay for 5 and equivalent leave in lieu of the remaining 9. Holiday pay will be granted at the time each holiday occurs. Employees who work a 40-hour schedule, shall receive holiday pay as each holiday occurs. Forty hour employees shall receive holiday pay for any or all of the holidays either worked by an employee or falling on an employee's regular day off.

7.02 Holiday-New Year's Eve

Forty (40) hour employees shall be allowed the last half, four hours, off on the work day immediately preceding New Year's Day except in those years when New Year's Day is observed on Monday. In the event New Year's Day is observed on a Monday, the City shall in each such year credit each employee with four hours of vacation leave in lieu of the aforementioned holiday. Fifty-six (56) hour employees shall be credited with an additional 6 hours vacation leave.

7.03 Holiday-Christmas Eve

Forty (40) hour employees shall be allowed the last half, four hours, off on the work day immediately preceding Christmas Day. Fifty-six (56) hour employees shall be credited with an additional 6 hours vacation leave.

In addition to the foregoing, forty (40) hour employees shall be allowed an additional four hours off on either one of the work days specified in Sections 7.02 and 7.03. An equivalent credit to vacation leave will be provided to those employees who are unable to be released on either

one of these days. Fifty-six (56) hour employees shall be credited with an additional six (6) hours vacation credit.

7.04 Holidays for Part-Time Employees

Part-time employees who are regularly scheduled to work 20 or more hours per week shall be entitled to four hours pay for each holiday observed for full-time employees. Eligible part-time employees shall receive one-half hour of holiday leave for each full hour of leave granted full-time employees for the New Year's Eve and Christmas Eve holidays described in Sections 7.02 and 7.03 of this Memorandum of Understanding.

7.05 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 the 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 the normal shift. (Employees on a 24-hour work shift shall receive a maximum credit to vacation leave of 12 hours). Hours worked in excess of an employee's normal shift shall be compensated as overtime hours in the normal fashion.
- c. The Fire Chief 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.

8.00 VACATIONS

8.01 Vacation Leave Policy

Vacation leave is a right; however, the use of same shall be approved by the Department Head or City Manager taking into account the desires and seniority of employees and, more particularly, the work load 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 employee and the City, limitations shall be placed upon the amount of unused vacation leave an employee is allowed to accumulate.

8.02 Vacation Benefits for Certain Part-Time Employees

Only those employees hired into positions budgeted for 20 hours or more per week and who consistently work 20 or more hours per week shall be eligible for vacation leave. Leave shall be accrued at half the rate of full-time employees.

No vacation shall be granted during the first six months of service. When an employee begins the seventh month of continuous, satisfactory service, vacation leave credits earned from the original date of hire pursuant to the above schedule shall be credited for use.

8.03 Vacation Accrual

Employees will accrue vacation benefits each payroll period based upon the number of hours employee is entitled. Full time vacation accrual rates are as follows:

40-Hour Employees

- a. First year of service: 3.85 hours per payroll period.
- b. Five years of service: 6.15 hours per payroll period.
- c. Fifteen years of service: 7.7 hours per payroll period.

56-Hour Employees

- a. First Year of service: 6.50 hours per payroll period.
- b. Five years of service: 9.24 hours per payroll period.
- c. Fifteen years of service: 11.54 hours per payroll period.

No vacation shall be granted during the first six months of service.

Vacation leave shall continue to be earned during other authorized leaves with pay. When a holiday falls during an employee's absence on vacation leave, it shall not be deducted from employee's accrued leave. Leave time earned but unused at date of termination shall be added to final pay.

No employee shall be allowed to maintain a balance of unused vacation leave in excess of twice his or her yearly allowance.

Exceptions may be permitted on approval of the Department Head and the City Manager. In granting such exceptions the City Manager may specify a time within which such excess vacation leave must be used.

Failure to use such excess vacation leave within the time specified by the City Manager shall cause no additional vacation leave to accrue. It shall be the responsibility of each employee to insure the full use of vacation leave credits received by scheduling the necessary time off each year.

9.00 SICK LEAVE

9.01 Sick Leave Policy

Sick leave shall be allowed in case of actual sickness of the employee. Use of sick leave shall be approved by the employee's supervisor.

A maximum of six days of an employee's sick leave allowance may be used each calendar year in the event of illness on the part of a family member regardless of residence. Use of sick leave for this purpose is intended to apply in serious and unforeseen conditions where the presence of the employee in the home is required.

A certificate from an attending physician stating nature and extent of the family member's illness may be required in cases of suspected abuse of this provision. Authorization to use additional sick leave for family illness beyond the five days maximum may be granted by the City Manager when in his or her judgment circumstances warrant the same. Employees may use not more than four hours of sick leave for the purpose of consulting with a physician concerning a serious illness or injury of a member of the employee's immediate family.

9.02 Sick Leave Allowance

All full-time employees other than temporary and provisional employees shall receive an annual sick leave allowance of 103 hours. The annual sick leave allowance for employees who work a 56-hour week shall be 144 hours. Employees shall earn sick leave credits in accordance with the foregoing schedule from their initial date of employment and shall be entitled to the use of sick leave upon completion of three months of continuous, full-time satisfactory employment. There shall be no limit upon the number of hours of unused sick leave which may be accumulated by an employee.

Initial crediting of sick leave shall be based on service computed to the nearest half month. Sick leave records shall be maintained on an hourly basis. Sick leave shall be taken in periods of no less than one 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.

9.03 Sick Leave Notice and Certification

In order to receive compensation while absent on sick leave, employees or someone on their behalf shall notify the immediate supervisor prior to or within two hours after the time set for reporting to work. Department Heads may waive this requirement upon presentation of a reasonable excuse by the employee. Employees shall file a personal affidavit or physician's cause of absence. After five working days' absence, the appointing authority may require a physician's certificate. If employees become ill while on vacation, periods of illness may be charged to sick leave upon presentation of a doctor's certificate stating the nature and extent of the illness. In case of frequent use of sick leave employees may be requested to file physician's statements for each illness, regardless of duration. Employees may also be required to take an examination by a physician designated by the City and to authorize consultation with their own physician concerning their illness. Sick leave shall not be granted for absences caused by intoxication or excessive use of alcoholic beverages.

9.04 Sick Leave Records

Sick leave records shall be maintained on a calendar year basis by the Human Resources Director. During January of each year employees shall have their records credited in advance with the annual allowance. After an absence is approved as sick leave, it shall be deducted from an employee's leave balance. If at time of separation an employee owes the City for unearned sick leave, the actual time shall be deducted from final pay. Upon separation of employee, sick leave allowance for which payment has not been made shall be canceled, and shall not be restored if a former employee is reinstated.

9.05 Medical and Dental Appointments

Employees shall whenever possible make appointments for medical, dental, and similar purposes on Saturday or other non-work day. If this is not possible, sick leave may be used for these purposes for a minimum period of one hour and should not exceed four hours except in unusual circumstances.

9.06 Payment for Unused Sick Leave

Any 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 1 percent 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. The sick leave pay out rate shall include 9% PERS pickup for purpose of calculation.

For the purpose of this computation, the hourly rate of pay for an employee who works a 40 hour week shall be his or her annual salary divided by 2080 hours. For an employee who works a 56 hour week, the hourly rate of pay shall be his or her annual salary divided by 2912 hours. Payment of unused sick leave for part-time employees shall be based upon the hourly rate of pay in effect at the time of separation.

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.

9.07 Sick Leave Benefits for Part-Time Employees

Part-time employees who are regularly scheduled to work 20 or more hours per week shall be entitled to accrue sick leave benefits each payroll period based upon the total number of hours for which the employee was compensated in the payroll period. The amount of sick leave so accrued shall be proportionate to that earned by full-time employees in the same payroll period. The full-time sick leave accrual rate is 3.7 hours per payroll period. The use of sick leave so earned shall be subject to the provisions of Sections 9.01 through 9.05 of this resolution.

9.08 Conversion of Leave Balances for 56 Hour Employees

In the event an employee who works a 56-hour week assumes a job which entails working a 40-hour week, his or her unused vacation and sick leave shall be adjusted by dividing the balances by a factor of 1.4. Conversely, a 40-hour per week employee who assumes a 56-hour per week job shall have his or her vacation and sick leave balances multiplied by a factor of 1.4.

9.09 Catastrophic Injury/Illness Time Bank

Existing Fire Department procedure for making vacation leave donations for Catastrophic Leave within the Fire Department shall continue for the term of this Memorandum Of Understanding; vacation leave donations from Hayward Fire Chiefs Association unit members to non-Fire Department employees shall be processed as follows:

Upon approval of 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 assist catastrophically ill or injured employees who have exhausted all available paid accruals to maintain 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 same. Donations shall be credited in the following order:
 - 1. From donors whose vacation accruals are at or within 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 no more than 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 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 40 shall be returned to the respective donors.
- H. In the event of the death of the recipient, his/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).

9.10 Parental Leave

A new parent may use up to 40 hours earned sick leave upon the birth of a child or when a child begins residence with an employee who has commenced adoption proceedings with full intent to adopt.

10.00 MISCELLANEOUS LEAVES

10.01 Funeral Leave

All full-time employees other than temporary and provisional employees shall be granted funeral leave with pay for not more than three work days upon the occasion of the death of a close relative or a domestic partner registered with the City in a manner prescribed by the Human Resources Department. When additional time is desired, employees may be allowed to take accumulated vacation leave or compensatory time due off. For the purpose of this section, a close relative is defined as any relation of the employee, by blood or marriage, where one or more of the following conditions are present:

- a. The employee will be attending the funeral of the deceased
- b. The employee is responsible for or involved with funeral arrangements and/or estate settlement for the deceased
- c. The employee's relationship with the deceased was of a close and personal nature such that time is required by the employee to deal with his or her bereavement or to participate in memorial services, either religious or non-sectarian.

When requesting such leave, employees will be required to certify to the Department Head or a designated representative that the conditions for granting funeral leave has been satisfied. Upon presentation of such a request the Department Head shall determine whether leave shall be granted and in what amount. Additional funeral leave for travel purposes not to exceed five work days may be granted by the Department Head when circumstances warrant the same.

10.02 Jury Leave

An employee summoned to jury duty shall inform his or her supervisor 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.

10.03 Military Leave

Military leave shall be granted in accordance with the provisions of state law. 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.

10.04 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 equal to the difference between said employee's regular pay and the disability compensation allowance shall be granted for not to exceed one year for any one period of incapacity. In the event a waiting period is required before an employee's disability compensation allowance is payable, his or her regular pay shall be provided during said waiting period in the manner described above.

No State or Federal income taxes shall be withheld from temporary disability benefits paid pursuant to this section, but an employee shall be required to file with the City an affidavit listing exemptions claimed for his or her actual number of dependents.

10.05 Leave of Absence

The City Manager or his/her designee, upon written request of a full-time employee other than temporary or provisional employees, may grant for the good of the service, a leave of absence without pay for a maximum period of one year.

Leaves hereby authorized shall include educational leaves, parental leaves, and leave for any other purpose promoting the good of the service. Upon expiration of such a leave, the employee shall be reinstated to the position held at the time leave was granted. Failure of the employee to report promptly at the expiration of or within a reasonable time after notice to return to duty shall terminate employee's right to be reinstated. Part-time employees are eligible for leaves of absence on a pro-rata basis (e.g., half-time employees are eligible for one-half the leave of absence duration of a full-time employee).

10.06 Family and Medical Leave

City Administrative Rule 2.45 which establishes procedures for the requesting and granting of leaves of absence under the Family and Medical Leave Act (FMLA) and the Moore-Roberti Family Rights Act (FRA) is hereby incorporated in, and made a part of, this MOU.

11.00 DISPUTES

11.01 Definition

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

11.02 Dispute Resolution Procedure

Grievances that constitute a violation of this Memorandum of Understanding shall be processed in the following manner:

1. The grievance shall be presented either by the employee or by an authorized 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 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 representative to the Fire Chief or to such representative as the Fire Chief may designate.
3. The Fire Chief or a designated representative shall have seven (7) calendar days from 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 representative to the City Manager or to such representative as the City Manager may designate. The City Manager/designee will provide a written response to the grievant within fourteen (14) days.
4. If the grievant is not satisfied with the response of the City Manager, the grievant may, within ten (10) days, appeal to the Personnel and Affirmative Action Board pursuant to Sec. 18.20 of the Personnel rules by filing a written request of appeal with the Human Resources Director.

As an alternative to filing an appeal with the Personnel and Affirmative Action Board, the grievant may, within ten (10) days of the City Manager's determination, agree to request conciliation through the California State Conciliation Service. Requests for conciliation services must be filed with the Human Resources Director. If conciliation services are invoked, the conciliator shall attempt to find a mutually acceptable resolution of the grievance. The conciliator shall not issue any public statement of fact or opinion on the issue, nor shall conciliation or settlement

positions of either party be made public or introduced into any other grievance level. The conciliator will attempt to submit a written recommendation to the parties within ten (10) days.

5. The City Manager will render a written decision to all parties within 30 calendar days after receiving the recommendation of the Personnel and Affirmative Action Board or conciliator. The decision of the City Manager is final.

11.03 Procedure to Appeal Disciplinary Action

Any Fire Chiefs member who wishes to appeal a disciplinary action may invoke procedures specified in Sec. 11.30 of the City's Personnel Rules.

12.00 MISCELLANEOUS ALLOWANCES

12.01 Fire Education Incentive Program

Employees eligible to participate in this program are those in the classifications covered by this MOU who have been employed by the City of Hayward for a minimum of five consecutive years.

A. Qualification Requirements.

1. Candidates must complete a minimum of 50 hours of approved study and training during each qualification period as defined below.
2. Approved Study and Training.
 - (a) 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.
 - (b) 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.
 - (c) Candidates may receive credit for participation in 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 hour of credit for each hour of classroom study.
 - (d) 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.

- (e) Four 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.
- (f) Candidates who wish to enroll in an outside school, college, or university must submit, in advance of enrollment, a report to the Fire Chief for his or her approval showing the name of the school, the subject, the number of credits or units, the name of the instructor, and the class schedule. 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.
- (g) 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.

3. Teaching.

- (a) 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.

B. Additional Compensation.

- 1. Employees completing 50 hours of approved study or training during the appropriate qualification period shall receive additional compensation of 2-1/2 percent above the salary step currently held. Said compensation shall be paid for a 12-month period as defined in Section A above.
- 2. 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 percent 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 "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 90 quarter units or more of academic work with 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.

3. A candidate who obtains a Bachelor's Degree shall be entitled to additional compensation of 5 percent above the salary step currently held provided said degree was obtained during the course of employment in the Hayward Fire Department. 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 200 quarter units or more of academic work with 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.
4. Employees who qualify for additional compensation under paragraphs B2 and B3 above may obtain an additional 2-1/2 percent salary increase without the need to continue their work in the program as set forth in paragraph B1.
5. Employees who qualify for additional compensation under B3 above and who have been employed for ten (10) consecutive years or more with the Fire Service 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 B3 above.
6. In no event shall any employee receive an amount in excess of 7 ½% by reason of his or her participation in this program.

- C. Program Review Committee. A Program Review Committee consisting of the City Manager, Fire Chief, Human Resources Director, or their designated alternates, and two representatives of Hayward Fire Management Association eligible to participate in the Program shall assist in its administration. 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 questions which may arise in the administration of the program and (or) interpretation of this section. A quorum of three voting members shall be required, and decisions of the committee shall be by majority vote of those in attendance.
- D. General Instructions.
1. Each course of study, training, or teaching assignment must be approved in advance by the Fire Chief.
 2. 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 this section.
 3. No credit will be given for seminars, workshops, or mandatory training programs.

12.02 Uniform Allowance

An annual uniform allowance of \$480.00 shall be paid to employees in the classifications covered by this MOU in the following manner:

- A. For all eligible employees hired prior to January 1, 1970, a claim for the payment of uniform allowance shall be prepared during the month of October of each year and submitted for approval.
- B. For each eligible employee hired after January 1, 1970, a claim for payment shall be submitted during the month in which his or her anniversary date of employment with the City occurs, and annually thereafter.
- C. The foregoing procedure in (2) above shall apply to those employees who separate from employment with the City, and are subsequently reinstated or rehired.
- D. 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.

13.00 MISCELLANEOUS PROVISIONS

13.01 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, no later than ten days after such change of address.

13.02 Restrictions on Outside Work

Gainful employment outside an employee's regular City position shall be considered a privilege subject to regulation and not a right. No employee shall engage in a gainful occupation outside his or her City position which is incompatible with employee's City employment or which is of such a nature as to interfere with satisfactory discharge of his or her regular duties. Any employee who wishes to engage in or accept such employment may do so after having first obtained written approval of the City Manager or a designated representative. Violation of this section shall be cause for disciplinary action.

13.03 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 duties or affect the safety or health of fellow employees, the 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 or she deems appropriate. The determination and resultant action may be the subject of appeal to the Personnel and Affirmative Action Board 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.

13.04 Conversion of Compensatory Time

Promoted employees shall have the option to be fully or partially paid off for accrued compensatory time at the rate of the classification held immediately prior to promotion, or retain compensatory time for future use on an hour for hour basis. The value of time so retained shall be paid at the employee's current hourly rate so there will be no reduction in an employee's earnings for compensatory time used after promotion.

Employees covered by this agreement on July 1, 1995 may elect to be fully or partially paid off at employee's current rate within 30 days of the adoption of this MOU, or leave compensatory time in account frozen at the above rate for future use on an hour for hour basis.

13.05 Americans with Disabilities Act (ADA)

The City and the Hayward Fire Chiefs Association recognize that the City has an obligation under law to meet with individual employees who allege a need for reasonable accommodation in the work place 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 MOU, the Hayward Fire Chiefs Association will be advised of any such proposed accommodation and be afforded an opportunity to discuss same prior to implementation by the City.

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. Participation in the EMT program shall be voluntary for all existing, sworn members of HFCA. Sworn employees hired after December 1, 1991 shall be required to secure an EMT-IFS, EMT-D, 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. Until January 1, 2006, all members of the bargaining unit certified as Emergency Medical Technician shall receive EMT premium pay of two percent (2%) above the salary step currently held.

Effective January 1, 2006, members of the bargaining unit certified as Emergency Medical Technician who have less than 20 years of service shall continue to receive EMT premium pay of two percent (2%) above the salary step currently held. For members of the bargaining unit who complete 20 years of service as an employee of the City of Hayward on or after January 1, 2006, the EMT premium pay of two percent (2%) above the salary step currently held shall be incremented by an additional two percent (2%) on the member's 20th anniversary and an additional one percent (1%) on each

succeeding anniversary to and including the member's 30th year anniversary. Members of the bargaining unit with more than 20 years of service as of January 1, 2006, shall receive EMT premium pay in the amount they would have been receiving if this schedule had been in effect on the date of their 20th year anniversary and thereafter.

- d. If the EMT-IFS program adopts the enhancements of intubation, anti-shock trousers or EMT-D it shall be at the Department's discretion to implement such enhancements without the necessity to meet and confer over the addition of these services in regard to salaries, benefits or working conditions.
- e. Existing employees who participate in the defibrillation program but are not certified as an EMT-IFS shall not be eligible for compensation, but may participate in the program.

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 HFCA. 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. All employees who possess a valid E.M.T.P. certification from Alameda County E.M.S. District shall receive the premium pay provided to employees who are certified as Emergency Medical

Technician and shall also receive additional premium pay of 8% above the salary step currently held.

13.09 Duration

This Memorandum of Understanding is intended to provide authorization for salaries, benefits and other terms and conditions of employment for the period July 1, 2007 through December 31, 2012.

HAYWARD FIRE CHIEFS ASSOCIATION





CITY OF HAYWARD



Made and entered into this 28 day of March, 2008