

CITY OF OAKLAND

AGENDA REPORT

2009 JUL 23 PM 6:57

TO: Office of the City Administrator
 ATTN: Dan Lindheim
 FROM: Department of Human Resources Management
 DATE: July 28, 2009

RE: **Resolution Approving the Memorandum of Understanding between the City of Oakland and the International Federation of Professional And Technical Engineers, Local 21, Representing Employees in Representation Units TA1, TF1, TM2, TW1, UH1, UM1 and UM2, Covering the Period from July 1, 2008 to June 30, 2011**

SUMMARY

The City of Oakland has reached a tentative agreement on wages and other terms and conditions of employment with the International Federation of Professional & Technical Engineers (IFPTE) Local 21. Key provisions include represented employees assuming full payment of the employee portion of the retirement contribution (an additional five percent, totaling eight percent) effective July 1, 2009; represented employees being subject to unpaid closure days (12 in each Fiscal Year); and additional language updates and revisions.

FISCAL IMPACT

It is estimated that the proposed three year contract would capture \$9.84 millions in savings for each of Fiscal year 2009-10 and 2010-11 in all funds. This will be actualized by employees assuming the full employee share of their retirement contribution (total 8%) and closure days.

Details are provided below:

| ITEM | % FY 09/10 | \$ FY09/10 (in millions) | % FY09/10 | \$ FY10/11 (in millions) |
|--|--------------|------------------------------------|--------------|------------------------------------|
| 5% additional retirement | 5% | \$4.59 All Funds \$1.92 GPF | 5% | \$4.59 All Funds \$1.92 GPF |
| 4 unpaid December closure days (no accruals) | 1.54% | \$1.75 All Funds \$.74 GPF | 1.54% | \$1.75 All Funds \$.74 GPF |
| Additional unpaid days (no accruals) | 3.1% (8days) | \$3.5 All Funds \$1.47 GPF | 3.1% (8days) | \$3.5 All Funds \$1.47 GPF |
| TOTAL SAVINGS | 9.6% | \$9.84 Funds \$4.13 GPF | 9.6% | \$9.84 Funds \$4.13 GPF |

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BACKGROUND

The current Memorandum of Understanding between the City of Oakland and IFPTE expired June 30, 2008. This labor agreement represents the culmination of negotiations that began in the spring of 2008 with representatives of IFPTE, Local 21, who represent approximately 933 employees in the City of Oakland. Items of significance include represented employees assuming an additional five percent (5%) of the employee retirement contribution, totaling the full eight percent (8%); an agreed number of closure days for the remaining two fiscal years, including a four day December shut-down period; the establishment of a Joint-Labor Management Committee to address Miscellaneous Employee and Retiree medical coverage and costs; and management leave.

KEY ISSUES AND IMPACTS

Discussed below are core economic issues, other economic matters, the labor management committee and other significant tentative agreements.

CORE ECONONMIC ISSUES

This tentative agreement represents an average of nearly ten percent (9.8%) concessions (reduction in total compensation) for the two remaining years of the three-year contract, with 9.8% in FY 2009-10 and 9.8% in FY 2010-11. This is accomplished by represented employees assuming their full employee share of retirement costs and implementing an agreed-upon number of City closure days in 2009 through 2011.

Represented employees assuming full employee-share of retirement costs

The total retirement contribution rate for a IFPTE represented employee is approximately 27%. The Employee Paid Member Contribution (EPMC) is 8% and the remaining 19% is the employer share. Prior to this proposed agreement, the City paid 24% of the total retirement contribution and employees paid 3%. Through this proposed agreement, employees will assume the full amount of their EPMC, totaling 8%. This additional contribution represents approximately \$4.59M in annual savings for the remaining two years of this contract.

Closure days

The proposed agreement has a total of 12 closure days in each fiscal year, totally a 4.64% concession for each year. During the closure days, represented employees will not be able to use accrued leave nor will they accrue leave during those days. Four of the closure days will occur during the December holiday period as listed below:

- December 2009: 28, 29, 30 and 31
- December 2010: 27, 28, 29 and 30

The remaining closure days will be determined by the City. Additionally, the City will exercise its discretion to determine which represented employees are required to work on closure days,

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generally limited to emergency and revenue-generating functions; such employees shall be required to take alternative unpaid days. If it is not practicable for the City to grant unpaid days without backfill, in accordance with the schedule set forth in 'Further Procedures' (below), the parties will mutually agree upon alternative means of achieving requirements of "Mandatory Leave Without Pay" (MLWOP).

The City will provide two (2) months advance notice to essential employees required to work on December closure days except in cases of unforeseen circumstances. The City will develop a means to 'smooth' the effect of unpaid days during the December Closure. The City expressly reserves its contention that, under existing City rules and precedent, Mandatory Business Shutdown (MBS) days are layoffs, and therefore not within the mandatory scope of bargaining.

OTHER ECONOMIC MATTERS

In addition to the above tentative agreements related to economic proposals, there are tentative agreements on other economic matters, including a "re-opener" provision and a side letter regarding equity among bargaining units.

Re-opener

In the event that the City's financial situation should greatly improve based on objective financial information, the Union will have an option to re-open the contract to discuss reducing the number of MLWOP days, and a wage increase effective July 1, 2010 based on actual revenue receipts for Fiscal Year 2008-2009 with the General Purpose Fund. By October 15, 2010 the City will determine the cumulative amount of revenues collected in the General Purpose Fund through property taxes, real estate transfer tax and sales tax for Fiscal Year 2009-2010.

COMMITTEE

A significant labor management issue was identified through the negotiation process that the parties agreed needed further examination.

Special Committee for Fiscal Year 2009-2010

In order to fully explore alternative strategies to provide cost effective employee and retiree health, dental and vision insurance, while seeking to maintain high quality coverage, the parties shall convene and participate in an advisory committee with no more than two representatives from each affected union representing miscellaneous employees within 120 days of the City Council adoption of this agreement. The number of City representatives shall not exceed the number of union representatives on the committee. The committee shall report its findings to the City Administrator and the Council no later than July 1, 2010.

OTHER SIGNIFICANT TENTATIVE AGREEMENTS

Miscellaneous Licensing and Certification Premium Pay

This tentative agreement sustains the employees' ability to request two point five percent (2.5%)

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or five percent (5.0%) of premium pay for possession of licenses and certifications. In addition to allowing for the request, the request will now be submitted to the Director of Human Resources and forwarded to the City Administrator for final approval. The City is required to respond to such requests within 60 calendar days of submission by the employee.

Alternate Work Scheduling

The tentative agreement allows daily overtime provisions to be suspended to accommodate alternative, adjusted or staggered work schedules. Except as provided in Sections 5.5.1.2 and 5.5.1.3, overtime provisions shall apply to hours worked in excess of regularly scheduled hours under such a modified schedule.

Exempt Limited Duration Employee

The tentative agreement defines Exempt Limited Duration Employee positions as: (1) a position with a limited funding cycle of less than one year; (2) special projects that are longer than six months in duration, yet still short term; or (3) where the classification has not yet been created.

Holidays on Regular Day Off

The change in this provision is related to vacation being accrued as Extra Vacation Days (EVD); and shall not be included when determining if a represented employee has reached the maximum accrual as provided in Section 10.4 and may be earned even if the represented employee has reached the maximum vacation accrual as provided in Section 10.4.

Consequences of Failure to Complete Annual Performance Appraisal

The tentative agreement for the purposes of City programs for which an overall "Fully Effective" performance appraisal is a pre-requisite (including but not limited to order of layoff tiebreakers and pilot programs such as telecommuting and compressed work schedules), in the event a represented employee has not received his/her most recently due performance appraisal within forty-five (45) calendar days of the date the appraisal was due, he/she shall be treated as if the overall performance appraisal rating was "Fully Effective".

Discipline/Just Cause

No represented employee in Units TA1, TF1, TM2, TW1, UH1, and UM2 will be subject to disciplinary action except for just cause. Situations in violation of Section 218 of the City Charter shall not be considered just cause. Reassignment or position downgrades as a consequence of a Reduction in Force shall not be considered disciplinary action.

Side Letter Agreements

Civil Service Status of UM1 Bargaining Unit

The parties have agreed to address the allocation of classes in the UM1 unit in accordance with outlined procedures below:

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(1) First Level – Primary Review – The parties shall exercise their best efforts to reach agreement on which classifications and positions currently in the UM1 bargaining unit should be reallocated to the UM2 bargaining unit.

(2) Second Level – Mediation – The Union and the City agree that for classes, whose allocation remains in dispute, further discussion shall be facilitated by the State Mediation and Conciliation Service with a specific mediator agreed upon by both parties.

(3) Third Level – Remaining Disputes – Where parties agree that some positions in a classification may be appropriately exempted from the Competitive Civil Service while others may be appropriately included in the Competitive Civil Service; the City agrees to conduct appropriate classifications studies. For those classes for which no agreement is reached as a result of the processes described in this agreement shall remain in the UM1 unit. The City may seek civil service exemption of such classes as the Union reserves the right to object before the Civil Service Board.

Unpaid Days Off

The City will provide two (2) months advance notice to essential employees required to work on December closure days except in cases of unforeseen circumstances.

COBRA Supplement Fund

For the duration of this MOU, the Union and the City agreed to temporarily suspend the provisions of Section 6.3 regarding Professional Development Allowances (except for represented employees in the classification of Paralegal and Paralegal PPT, who shall have the right to professional development allowances to reimburse cost of satisfying MCLE requirements) in order to implement the COBRA Supplement Fund. The City shall deposit \$200,000 into the Fund at the beginning of the 2009-2010 and 2010-2011 fiscal years in return for the temporary suspension of professional development allowance. The fund shall be used solely to reimburse represented employees laid off on or after July 1, 2009 for the costs of purchasing continuation health insurance under the provisions of the Comprehensive Omnibus Budget Reconciliation Act of 1986.

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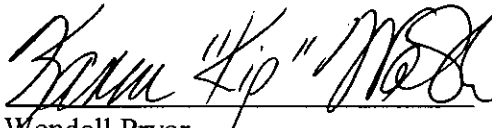
RECOMMENDATION AND RATIONALE

Staff recommends that Council approve the tentative agreement negotiated with the Professional & Technical Engineers (IFPTE), Local 21. The tentative agreement meets the interests of both parties and represents a fair and reasonable settlement.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,


for Wendell Pryor
Director, Human Resources Department

Prepared by:
Trinette Gist Skinner
Principal Human Resource Analyst
Office of Personnel Resource Management

APPROVED AND FORWARDED TO THE
CITY COUNCIL


Office of the City Administrator

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**Agreement Between
City of Oakland
And
Local 21, Units TA1, TF1, TM2, TW1, UH1,
UM1, and UM2**

July 1, 2008, To June 30, 2011

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APPENDIX H: PREMIUM PAY REPORTED TO CALPERS 102

PREAMBLE

We, the undersigned, duly appointed representatives of the City of Oakland ("City") and of Professional and Technical Engineers, Local 21, AFL-CIO, ("Union") a recognized employee organization, having met and negotiated in good faith, jointly prepare and execute on the 23rd day of ~~January~~July, 20009, the following written Agreement. Except as specifically stated in this Agreement (including but limited to the exclusions stated in Sections 15, 16, 17, and 18), the provisions set forth in this Agreement apply to City of Oakland employees assigned to the following Representation Units represented by Union: Unit TA1 – Confidential Employees; Unit TF1 – Professional Employees; Unit TM2 – Supervising Engineers; Unit TW1 – Administrative, Professional and Technical Employees; Unit UH1 – Supervisory Employees; Unit UM1 – Exempt Management Employees; and Unit UM2 – Management Employees. Classifications in each unit are listed in Appendix A, List Of Classifications In Unit, attached and incorporated into this Agreement.

The parties recognize their mutual commitment to the delivery of effective, courteous, and responsive services to the citizens of Oakland.

ARTICLE 1: RECOGNITION

The City agrees to recognize the Union as the exclusive recognized bargaining representative, within the scope of representation as described in the Meyers-Milias-Brown Act, as amended, and the Employee Relations Rules adopted by the City Council, for full-time and permanent part-time City employees in classifications assigned to Units TA1, TF1, TM2, TW1, UH1, UM1, and UM2 as set forth in the preamble to this Agreement. Except as specifically stated in Articles 15, 16, 17, and 18, the terms of this Agreement shall automatically apply to any classification for which the Union has become recognized during the term of this Agreement.

ARTICLE 2: NONDISCRIMINATION

2.1 Discrimination Prohibited

The City and Union agree that they shall not discriminate against any represented employee in any way on account of race, color, creed, religion, sex (pregnancy or gender), sexual orientation, gender identity, national origin, ancestry, political affiliation, disability (mental and physical, including HIV and AIDS), medical condition (cancer/genetic characteristics), age (40 and above), military or veteran status or Acquired Immune Deficiency Syndrome ("AIDS"), AIDS Related Complex ("ARC"), or marital status as provided by applicable federal, state or local law. The City agrees that no employee shall be discriminated against because of Union membership, or protected union activity.

2.2 Reasonable Accommodation

The City will make reasonable accommodation for a represented employee's known physical or mental disability unless the City demonstrates that the proposed accommodation will produce undue hardship to the City's operation or that the City is otherwise not obligated to accommodate the represented employee. Reasonable accommodations will be consistent with provisions of this Agreement and of Civil Service Rules that affect the represented employee being accommodated to the extent the law at the time the accommodation is implemented permits. At the request of the Union, the City agrees to discuss a proposed represented employee accommodation with the Union.

ARTICLE 3: CITY RIGHTS

City rights are described in Section 4 of Employee Relations Rules, Resolution No. 55881.

ARTICLE 4: UNION RIGHTS

4.1 Union Access To Work Locations

Union officers and representatives shall be granted reasonable access to employee work locations, upon the consent of the department head or the designated representative, for the purpose of contacting members concerning business within the scope of representation. Access shall be granted only if it does not interfere with work operations or with established safety and security requirements.

4.2 Union Representatives

The Union may select a reasonable number of stewards from within each geographic work location, subject to the City's approval, and shall provide the City with an accurate list of the same on or about each January 1 and July 1.

A steward or Union Officer may represent a represented employee at the appropriate step of the grievance procedure concerning a dispute of the represented employee's rights under the terms of this Agreement. A steward or Union Officer shall have the right, upon the request of the represented employee involved, to represent such employee in a review of the represented employee's performance evaluation. Such right of representation does not include the initial discussion between the represented employee and the supervisor who prepared the evaluation, but it is clearly understood that each represented employee has the right thereafter to request a performance evaluation review with Union representation. A steward or Union Officer shall also have the right, upon the request of the represented employee involved, to represent such employee at a disciplinary "Skelly" meeting. The City shall include in the Notice of Intent letter that the represented employee has a right to request union representation or other representation of his/her choice at the Skelly hearing.

A steward or a Union officer shall be ~~offered~~ granted reasonable time off without loss of pay or benefits for the purpose specified in this Section with the approval of the department head or designated representative. Time off shall include travel time, time to confer with and time to represent an aggrieved employee. The parties recognize that performance of the steward's or officer's job duties comes first.

4.3 City-Provided Information To Unions

Upon the Union's specific written request, the City shall provide, in a timely manner, all information that is necessary and relevant for the Union to discharge its representation duties. Relevant and necessary information shall be determined by applying PERB regulations. Relevant and necessary information includes but is not limited to a list of all represented employees, their names, home addresses, work addresses, classifications, organization code (as listed in the City's database), rates of pay, and salary schedule information.

4.4 Bulletin Board Space

The City shall provide reasonable space on bulletin boards for official Union notices at each central work area.

4.5 Meeting Space

The City shall reasonably make suitable conference rooms and other meeting areas for the purpose of holding Union meetings during off-duty time periods. The Union shall provide timely advance notice of such meetings. The Union agrees to pay any additional costs of security, supervision, damage, and cleanup, and shall comply with City regulations for assignment and use of such facilities.

4.6 Interoffice Mail Service

The Union shall be allowed reasonable use of City interoffice mail service for the distribution of non-controversial written materials for the information of representatives and officers.

4.7 Negotiating Committee

The Union's Negotiating Committee shall be limited to a reasonable number of represented employees. The City and the Union may have consultants or representatives. On occasion, either party may have additional persons assist during negotiations. For example, knowledgeable City employees or subject matter specialists may be invited to negotiation sessions, as long as the other party is notified in advance of the individual and the purpose of the individual's attendance. The Union negotiators shall be paid for up to seven and one-half (7-1/2) or eight (8) hours per scheduled negotiation session for all time spent in negotiation.

4.8 State Of California Workers' Compensation Information

The City shall distribute literature to each new employee clearly describing the rights and benefits of all represented employees under State of California Workers' Compensation laws.

4.9 Union Information

The City will, within a reasonable period of time, distribute to each new represented employee appropriate literature furnished by the Union.

4.10 Printing Contract

The City and the Union agree to share the cost of printing copies of this Agreement and distributing it to all represented employees.

4.11 Employee Notification Of Representation

The City agrees to notify within a reasonable time each new employee that the Union is his/her recognized bargaining representative. The City agrees to promptly notify the Union of each new employee hired or reassigned in classifications assigned to bargaining units represented by the Union.

4.12 Union Security

4.12.1 Maintenance Of Membership

Represented employees in Units UM1, UM2, UH1, TA1, TW1, and TM2 may not revoke their authorization for regular monthly Union dues deductions during the term of this Agreement of Understanding; provided, however, that during the thirty (30) day period preceding the specified expiration date of this Agreement, represented employees may revoke their payroll deduction authorization and withdraw from membership in the Union.

4.12.2 Deductions

The City shall deduct, biweekly, the amount of Union regular and periodic dues and fair share service fees, insurance premiums, COPE deductions, and any special membership assessments as may be specified by the Union under the authority of an authorization card furnished by the Union and signed by the represented employee.

The deductions, together with a written statement of the names and amounts deducted, shall be forwarded promptly to the Union office. Dues shall be deducted only for members of the Union within the represented units.

4.12.3 Fair Share Fee

4.12.3.1 Application

~~This language was modified by agreement dated June 17, 2004.~~

“Fair share fee requirement” has the same meaning as “agency shop” as that term is used in Government Code Section 3502.5. Except as provided otherwise in this Section, the provisions of this Fair Share Fee Section shall only apply to ~~non-managerial~~ management, ~~non-supervisory~~ and ~~non-confidential~~ represented employees in bargaining Unit TF1, and Units UH1, UM1, UM2 TA1 and TW1, except represented employees assigned to the Office of the Mayor, professional classifications in the City Council’s office, Administrative Assistant II in the City Council’s office who held the position prior to June 30, 2002, Council PSE 14, and Council PSE 51. The Fair Share Fee provisions only apply for these represented employees when on paid status. The ~~Employee City Relations Officer~~ shall give the Union no less than ten (10) working days prior notice ~~when~~ of proposed ~~additions are to be made to management, supervisory, or~~ ~~confidential~~ designations of unit positions as management employees.

Each pay period, the City shall provide the Union with a list of new ~~non-managerial, non-supervisory, and non-confidential~~ represented employees in the unit.

4.12.3.2 Implementation

A fair share fee requirement shall be implemented in a unit when:

(1) Election

The Union has requested, in writing, an election on the issue, to be conducted by the State Mediation and Conciliation Service, and fifty percent (50%) plus one (1) of represented employees in the unit favor the fair share fee requirement; or

(2) 2/3 Membership

The Union makes a showing that two-thirds (2/3) of the employees within the unit are dues paying

members of the Union.

4.12.4 Condition Of Employment

In the units for which the fair share fee requirement has been implemented, represented employees shall, as a condition of continued employment in the City, become and remain a member of the Union, or in lieu of becoming a member, shall pay a fair share fee to the Union. Represented employees may authorize payroll deduction for the amount of the fair share fee as described in Section 4.10.2 of this Agreement. If a represented employee has not authorized a payroll deduction within ten (10) working days from the date of commencement of assigned duties within the bargaining unit, the City shall immediately begin automatic payroll deduction as provided for in Government Code Section 3502.5 and Cal. Code Regs., title 8, sections 32990-32997.

4.12.4.1 Religious Exemption

Upon presentation of membership, any represented employees who are members of a bona fide religion, body, or sect whose traditional tenets or teachings include objections to joining or financially supporting employee organizations, shall not be required to join or financially support the Union as a condition of employment. In lieu of dues or the fair share fee, such represented employees shall contribute an amount equal to the dues or fair share fee to one of the following specific non-religious, non-labor charities exempt from taxation under IRS Section 501(c)(3): (1) Friends of the Oakland Public Library; (2) Friends of the Asian Branch Library; (3) Friends of Oakland Parks and Recreation; (4) the Oakland Museum Foundation; or, (5) Friends of Oakland Seniors. The Union shall be informed in writing of any such requests.

4.12.4.2 City's Obligations

The City is obligated under the fair share fee provisions to deduct from represented employees' pay appropriate amounts pursuant to Sections 4.12.2 and 4.12.3. If the Union notifies the City that the represented employee has not executed a payroll deduction authorization form, the City shall immediately begin automatic payroll deduction as provided in Government Code Section 3502.5 and Cal. Code Regs., title 8, sections 32990-32997.

4.12.4.3 Union's Obligations

As a condition precedent to the City's deduction of fair share fees, the Union shall annually certify to the City in writing that the Union is complying with all applicable laws governing the fair share fee.

4.12.4.4 Indemnification

The Union shall indemnify and save harmless the City, its officers and employees, from and against any and all loss, damages, costs, expenses, claims, attorneys' fees, demands, actions, suits, judgments, and other proceedings arising out of any action relating to this provision.

4.13 Exempt Limited Duration And Temporary Contract Service Employees

~~{See Special Agreement attached as Appendix I}~~

4.13.1 Definitions

For the purposes of this Agreement, an "Exempt Limited Duration Employee" position is a position (1) with limited funding cycles of one year or less; (2) for special projects that are longer than 6 months in duration, yet still short-term; or (3) where the classification has not yet been created. ~~included in the classified service that is created because of a special project, a temporary increase in the workload, or to cover the work of a permanent employee who is off duty without pay.~~ Exempt Limited Duration Employee appointments may not exceed one year.

For the purpose of this Agreement, a "Temporary Contract Service Employee" is a temporary part-time classification not eligible for any compensation other than the hourly wage and not eligible for any benefits except those required by law.

4.13.2 Information

~~During the months of February and August of each fiscal year,~~ Quarterly during the months of January, April, July, and October, the City shall provide the Union with the names, hire dates, departments, and work locations of all Exempt Limited Duration Appointments and Temporary Contract Service Employees. Upon request the City shall also provide the Union with the "Temporary Contract Service Employees Review" document or the "exempt Limited Duration Employee Review" document approving the hiring of the Exempt

Limited Duration Employees and Temporary Contract Service employees.

4.13.3 Bargaining Unit

The Union and the City agree that the Union is not the exclusive recognized bargaining representative for Exempt Limited Duration Appointments Employees and/or Temporary Contract Service Employees.

4.13.4 Acknowledgment Of City Policy

The Union and the City acknowledge that a Temporary Contract Service Employee may work for a maximum of nine hundred and sixty (960) hours per fiscal year. Similarly, the Union and the City acknowledge that an Exempt Limited Duration Employee may work for no more than one (1) year.

4.14 Joint Labor-Management Committee

The City and the Union agree to maintain a joint labor management committee composed of equal numbers of representatives. The committee may also include representatives from other Oakland City employee labor organizations.

The committee and its subcommittees shall meet regularly, establish agendas, and keep records of discussions and recommendations on action items. The City and the Union shall select their own representatives, respectively, provided that the parties agree to select representatives authorized to enter into agreements after reviewing proposals with their principals, where necessary.

The committee may establish departmental or issue-specific subcommittees. The joint labor management committee and its subcommittees are in no way intended to ~~supereede~~ supersede or negate the parties' mutual obligation to bargain in good faith or to supersede any portion of this Agreement, including but not limited to the grievance procedure. However, by mutual agreement, the parties may discuss and attempt to resolve matters subject to the grievance procedure. Appropriate subjects for discussion at the committee include but are not limited to labor-management relations, health and safety issues, improvements to implementation of this Agreement, development of promotional opportunities, employee development, career ladders and lattices, succession planning, longevity increases,

~~promotions~~, alternative work schedules, telecommuting opportunities, physical plant issues, and technologies.

4.14.1 Engineer Labor Relations Subcommittee

The City and the Union agree to form a subcommittee to discuss engineer matters within the scope of representation. The subcommittee shall discuss engineer recruitment, terms and conditions of employment in comparable agencies, professional development, professional standards, trends, and developments. The City and the Union shall each appoint three (3) representatives to this subcommittee.

As needed, the City and the Union shall jointly provide training on conducting effective meetings and cooperative efforts.

4.14.2 Special Committee for Fiscal Year 2009-2010

4.14.2.1 Participation In Committee To Address Miscellaneous Employee and Retiree Medical Coverage and Costs

In order to fully explore alternative strategies to provide cost effective employee and retiree health, dental and vision insurance, while seeking to maintain high quality coverage, the parties shall convene and participate in an advisory committee with no more than two representatives from each affected union representing miscellaneous employees within 120 days of the City Council adoption of this agreement. The number of City representatives shall not exceed the number of union representatives on the committee. The committee shall report its findings to the City Administrator and the Council no later than July 1, 2010.

4.15 Joint Labor/Management Training

The City and Union agree to co-sponsor eight (8) hours of joint training on the terms of this Agreement, or on related issues, in for each year of this Agreement for designated officers, stewards and management personnel.

ARTICLE 5: COMPENSATION

5.1 Salary Schedule

Wages for represented employees covered by this Agreement shall be ~~increased by six percent (6.0%), effective July 6, 2002, three percent (3.0%), effective June 21, 2003; one percent (1.0%), effective July 3, 2004, four percent (4.0%), effective July 2, 2005; four percent (4.0%), effective July 1, 2006, and four percent (4.0%), effective June 30, 2007~~ frozen effective July 1, 2008 and there shall be no general salary increase or equity adjustments during the life of this contract, except as provided in Section 5.4 (Salary Steps). These wages ~~increases~~ are reflected in the salary schedules attached and incorporated into this Agreement as Appendix B, Salary Ordinance/Schedule.

5.2 Special Equity Adjustments

Effective January 18, 2003, the City shall increase the pay of specific classifications by the specific listed amounts attached and incorporated into this Agreement as Appendix C, Special Equity Adjustments.

5.3 Salary Adjustments/Deductions

5.3.1 Adjustments For Underpayment

Upon verification that a represented employee was underpaid by the City, regardless of fault, the City will within thirty (30) calendar days of discovery adjust the employee's wages in an amount equal to the underpayment.

5.3.2 Adjustments For Overpayments

In the event the City erroneously overpays a represented employee, regardless of fault, the City shall recover overpayment as described in Section 5.3.2.1 or 5.3.2.2.

5.3.2.1 If the City notifies the represented employee of the overpayment before the end of the pay period following the overpayment and gives the represented employee a correct paycheck, the represented employee shall, within five (5) calendar days of receiving the notice of overpayment and the correct paycheck, return to the City the full amount of the overpayment.

5.3.2.2 If the City notifies the represented employee of the overpayment after the end of the pay period following the

overpayment, the City shall recover the overpayment by deducting from that represented employee's regular pay check either the full amount of the overpayment or ten percent (10%) of the represented employee's gross salary, whichever is less, and continue said deductions for as many consecutive pay periods as is necessary until full overpayment is recovered. The City shall not begin recovering overpayment by payroll deductions until written notification, including all the details of the overpayment, the amount of overpayment, and the schedule of repayment, has been given to the represented employee at least 10 working days in advance.

5.3.3 Court Ordered Salary Deductions

If a court of competent jurisdiction orders the City to garnish the wages of any represented employee or if a court of competent jurisdiction orders the City to make payroll deductions from the wages of the represented employee in favor of the City or a third party, the City shall assess and collect against the employee's regular salary one dollar (\$1) per deduction per pay period to compensate the City for the costs of making such court-mandated payroll adjustments.

5.4 Salary Steps

5.4.1 Initial Salary

A represented employee's initial salary shall be the salary attached to the lowest rate of the salary schedule established for the classification to which the represented employee is appointed; provided, however, that the appointing authority may appoint a new employee at any step in the applicable salary schedule for the classification involved if there has been unusual difficulty in recruiting competent employees at the lowest rate of said salary schedule and the higher rate is commensurate with the appointee's education and experience.

5.4.2 Minimum Salary Increase When Promoted

Whenever a represented employee is promoted to a position of higher salary schedule within the same classification series, the employee shall receive compensation at the salary schedule for the new position that represents: (1) for a represented employee assigned to the salary step plan, a minimum of one rate increment over the amount the employee received in the former position; or (2) for a represented employee assigned to the salary range plan, a minimum of five percent

(5%) over the amount the employee received in the former position; provided, however, that the City Manager Administrator, with discretion and for good cause, may provide for compensation at any higher point in the applicable salary schedule for the classification if the represented employee has demonstrated outstanding achievement in the public service.

5.4.3 Salary Step Advancement

Advancement within the salary schedules specified for a represented employee's classification assigned to the salary step plan shall be on the basis of one (1) year's satisfactory service, as evidenced by a Performance Appraisal. A salary step increase for a represented employee who is entitled to such an increase shall be effective at the beginning of the pay period in which the anniversary date of appointment in the classification falls. Represented employees may receive no more than one (1) step increase per year under this section.

5.4.4 Salary Range Advancement Up To The Mid-Point

Advancement within the salary schedules specified for a represented employee's classification assigned to the salary range plan shall be on the basis on one (1) year's satisfactory service as evidenced by a Performance Appraisal. Advancement of five percent (5.0%) per year of satisfactory performance shall be made up to the mid-point of the salary range, effective at the beginning of the pay period in which the anniversary date of appointment in the classification falls.

5.4.5 Salary Range Advancement Above The Mid-Point

Represented employees may progress above the mid-point of the salary range at the rate of two and one-half percent (2.5%) to five percent (5.0%) per year, based on performance as demonstrated by the represented employee's Performance Appraisal, if recommended by the Agency Head and approved by the City Manager. Represented employees may receive no more than one (1) salary adjustment during any twelve (12) month period.

5.4.6 Definitions

For purposes of the salary advancement provisions of Section 5.4, a represented employee shall be deemed to have performed satisfactory service if the Performance Appraisal for the period includes an overall rating of "fully effective" or "exceeds expectations."

5.4.7 Consequences Of Failure To Evaluate

In the event that a represented employee has not received a Performance Appraisal within forty-five (45) calendar days of the date the appraisal was due, the represented employee shall be entitled to receive a salary step or salary range advancement under Sections 5.4.3, 5.4.4 and 5.4.5 without Performance Appraisal evidence of satisfactory service. Salary advancements granted under this subsection shall be effective as described in Sections 5.4.3, 5.4.4 and 5.4.5.

5.4.8 Mid-Point Calculation

The mid-point is calculated using the following method:

1. Subtract the bottom of the salary range from the top of the salary range;
2. Divide the difference by five (5);
3. Multiply the quotient by three (3); and
4. Add the product to the bottom of the salary range.

5.5 Premium Pay

5.5.1 Overtime

Whenever in the judgment of an authorized City official, represented employees are required to work in excess of their regular work day or work week, they shall be compensated for such overtime worked at the rate of one and one-half times the regular hourly rate of pay for their classifications, or, in accordance with departmental policy, receive compensatory leave at the time and one-half rate, subject to the limits as stated in paragraph 5.5.2. Represented employees in Units TM2, UM1, and UM2 shall not receive overtime compensation.

The following exceptions to the overtime provisions stated above will apply:

5.5.1.1 Alternate Work Scheduling

The daily overtime provisions may be suspended to accommodate alternative, adjusted, or staggered work schedules permitted by this Agreement, but, except as provided in Sections 5.5.1.2 and 5.5.1.3, overtime provisions

shall apply to hours worked in excess of regularly scheduled hours under such a modified schedule.

5.5.1.2 Adjusted Work Schedule – CEDA

The overtime provisions may be suspended for represented employees in CEDA in the classifications listed below whose work schedules are regularly adjusted to accommodate evening and/or weekend meetings. Adjustments to a represented employee's schedule shall be made with as much notice as is practical to the represented employee in situations that are known in advance. Represented employees who are required to work outside their regularly scheduled work hours shall be allowed to adjust their schedule. If it is not possible to make the adjustment within one (1) week's time, the represented employee will be paid at the appropriate overtime rate.

This section shall apply to represented employees in the following classifications: Community Development District Coordinator, Urban Economic Analyst, Housing Development Coordinator, Mortgage Advisor and Rehabilitation Advisor. Represented employees in the Urban Economic Analyst, Housing Development Coordinator, Mortgage Advisor and Rehabilitation Advisor, classifications may be required to adjust their schedules no more than one time per month except on occasions where there is mutual agreement between the represented employee and supervisor.

The City agrees to meet and confer with the Union before adding additional classifications to this provision during the term of this Agreement.

5.5.1.3 OIT Represented Employees

Represented employees in the following job classes are subject to the scheduling conditions detailed in 5.5.1.3.1 through 5.5.1.3.5:

Systems Analyst I, II, or III
Systems Analyst, PPT I, II, III
Microcomputer Specialist I, II, or III
Systems Programmer I, II, or III

5.5.1.3.1 The schedules of these classes are subject to adjustments to meet work/project priorities.

5.5.1.3.2 If, after having completed the normal daily work shift and having left the work site, a represented employee is called to return to the work site in order to respond to an unanticipated computer hardware or software issue, then that represented employee will be allowed to either adjust his/her schedule for the time worked, or receive pay as prescribed by the overtime provisions of this Agreement. The decision to either adjust schedules or receive pay shall be subject to consultation between the represented employee and his/her supervisor, subject to the supervisor's approval.

5.5.1.3.3 Represented employees called back to the work site in as described in Section 5.5.1.3.2 above shall be entitled to minimum call-back pay equal to two and one-half (2 ½) hours.

5.5.1.3.4 Adjustments to a represented employee's schedule shall be made with as much notice as is practical to the represented employee in situations that are known in advance, such as upgrades, installations, repairs, and design/development projects. In such instances, the supervisor and the represented employee shall meet to attempt to adjust the employee's schedule to accommodate the City's needs.

5.5.1.3.5 Represented employees required to continue working to resolve a computer hardware or software problem that occurred during regularly scheduled work hours shall be allowed to adjust their schedules. If it is not possible for a represented employee to make the adjustment within one (1) calendar week's time, the represented employee will be paid at the appropriate overtime rate.

5.5.2 Compensatory Leave

Represented employees (except those in Units TM2, UM1, and UM2) may elect to receive overtime compensation in the form of

compensatory leave. Represented employees may not accrue in excess of fifty-six (56) hours of compensatory leave, for those represented employees working a thirty-seven and one-half (37-1/2) hour workweek; or sixty (60) hours of compensatory leave, for represented employees working a forty (40) hour work week. These limits may be exceeded with mutual agreement between the represented employee and the department, but represented employees in Unit UH1 may not exceed a balance of 240 hours. The City reserves the option to "buy back" any compensatory leave accrued by represented employees in excess of the above stated amounts, with thirty (30) days advance notice.

~~Section 5.5.2 does not apply to represented employees in Unit TM2.~~

5.5.3 Overtime On Holidays (Units TF1 And UH1)

For represented employees in Unit TF1 and UH1, any shift that includes five (5) or more hours on a holiday shall be considered a holiday shift and paid for that shift at the overtime rate prescribed in Section 5.5.1 of this Agreement.

5.5.4 Acting Pay (Units TA1, TF1, TM2, And TW1)

Section 5.5.4 applies only to represented employees in Units TA1, TF1, TM2, and TW1.

Any represented employee who has been assigned by the department head or designee to assume and perform all of the ordinary day-to-day duties and responsibilities of a temporarily vacant or permanently vacant budgeted position of higher classification for one (1) or more working days shall be paid an additional six percent (6.0%) of the regular pay of the represented employee's own classification for such time worked in a higher classification. Such assignment shall be in writing.

A represented employee who acts in a position of higher classification under this provision, for a consecutive period of thirty (30) calendar days or less, shall not receive acting pay during any period(s) of paid leave occurring during the acting assignment. However, a represented employee who acts in a position of higher classification, under this provision, for a consecutive period in excess of thirty (30) calendar days shall receive acting pay during period(s) of paid leave occurring during the acting assignment, commencing with the thirty-first (31st) day of

acting assignment and continuing until said acting assignment is terminated.

No represented employee shall be in an acting assignment for more than six (6) months in a fifteen (15) month period, unless no other qualified represented employee is available or willing to take the assignment. For the purposes of this provision the six (6) months need not be consecutive.

Absent extenuating circumstances, and without restricting management's discretion as to which represented employee is appointed to such position, the City shall endeavor to avoid repeatedly appointing the same represented employee.

5.5.5 Acting Pay (Unit UH1)

Section 5.5.5 applies only to represented employees in Units UH1.

Any represented employee who has been assigned in writing by the department head or designated representative to assume and perform all the ordinary day-to-day duties and responsibilities of a temporarily vacant or permanently vacant budgeted position of higher classification for one (1) or more working days shall be paid an additional six percent (6.0%) of the regular pay of the represented employee's own classification for such time worked in a higher classification. An Agency Head, at his/her sole discretion, may grant additional acting pay up to a maximum of ten percent (10%).

It is expressly understood that any represented employee who acts in a position of higher classification under this provision, for a consecutive period of thirty (30) calendar days or less, shall not receive acting pay during any period(s) of paid leave occurring during the acting assignment. However, a represented employee who acts in a position of higher classification, under this provision, for a consecutive period in excess of thirty (30) calendar days shall receive acting pay during period(s) of paid leave occurring during the acting assignment, commencing with the thirty-first (31st) day of the acting assignment and continuing until the acting assignment is terminated.

5.5.6 Acting Pay (Units UM1 And UM2)

Any represented employee who has been assigned in writing by the Department Director or designated representative to assume and perform all the ordinary day-to-day duties and responsibilities of a temporarily vacant or permanently vacant budgeted position of higher classification for six (6) or more consecutive calendar days shall be paid

an additional six percent (6.0%) of the regular pay of the represented employee's own classification, beginning day six (6) of the acting assignment. A represented employee who acts in a position of higher classification, under this provision, shall be entitled to receive acting pay during period(s) of paid leave occurring once acting pay is in effect, starting the thirty-first (31st) day of said assignment and continuing until said acting assignment is terminated

If the acting pay assignment extends beyond a consecutive fifty-six (56) calendar day period, the represented employee shall be paid an additional ten percent (10%) of the regular pay of the employee's own classification, beginning the fifty-seventh (57th) day of the acting assignment.

5.5.7 Bilingual Pay

~~This section effective until July 1, 2003:~~

~~Subject to approval of the appointing authority and the Director of Personnel Resource Management, payments of an additional twenty-nine (\$.29) cents per hour may be made to bilingual represented employees in Units TA1, TF1, or TW1. For represented employees in Unit UH1, the bilingual pay amount shall be thirty-seven (\$.37) cents per hour. Bilingual skill payments may be made subject to the following criteria:~~

~~(a) Public contact requires continual eliciting and explaining information in a language other than English; or~~

~~(b) Where translation of written material in another language is a continuous assignment; or~~

~~(c) The position is in a work location where there is a demonstrated need for language translation in providing services to the public.~~

To overcome language barriers and to provide citizens equal access to City services, the City and the Union encourage represented employees to use City designated languages during contact with the public. For the purpose of bilingual premium pay, each department, subject to City approval, shall designate the non-English languages that may be used. To be eligible for bilingual premium pay, a represented employee must be certified under either subsection 5.5.5.1 or 5.5.5.2; and must provide bilingual service on a regular basis when requested by the

City; and must be in a work location where there is a demonstrated need for bilingual services.

5.5.7.1 Level 1 Certification

To be eligible for Level 1 Certification, a represented employee must have the ability to effectively communicate with the public in a Department designated and City approved non-English language. Represented employees certified with Level 1 skills shall be paid ~~thirty five (\$35) dollars per pay period. Effective January 1, 2005, represented employees certified with Level I skills shall be paid~~ forty-five (\$45) dollars per pay period. A represented employee shall be paid for either Level 1 or Level 2 bilingual skills, and the bilingual pay described in this section and Section 5.5.5.2 shall not be pyramided.

5.5.7.2 Level 2 Certification

To be eligible for Level 2 Certification, a represented employee must have the ability to translate conversations and written materials in a Department designated and City approved non-English language. Represented employees certified with Level 2 ~~oral and/or~~ written translation skills shall be paid ~~seventy (\$70) dollars per pay period. Effective January 1, 2005, represented employees certified with Level II skill shall be paid~~ ninety (\$90) dollars per pay period. A represented employee shall be paid for either Level 1 or Level 2 bilingual skills, and the bilingual pay described in this section and Section 5.5.5.1 shall not be pyramided.

5.5.7.3 Certification Standards

The City shall establish examinations and testing procedures for certifying represented employees at Level 1 or Level 2. Upon request, the City will provide an opportunity to consult with the Union regarding procedures for Level II examinations.

5.5.7.4 Arbitrability

The City's substantive evaluation of a represented employee's knowledge of and skills in a designated second language shall not be grievable under Article 15 of this collective bargaining agreement and shall not be appealed to the Civil Service Board.

5.5.8 Notary Public Pay

Upon written designation by the appointing authority, the City shall approve payments of an additional thirty-five (\$.35) cents per hour to qualified represented employees for the performance of notary public duties for City business purposes. These represented employees shall submit proof of notary public certification annually in order to maintain notary public payments. The premium pay will be removed when the designation is revoked in writing by the appointing authority and the represented employees will no longer be required to perform notary public duties. Represented employees paid to perform notary public duties for the City shall not perform private notary public duties during City work hours.

Represented employees in Units TM2, UM1, and UM2 shall not receive Notary Public Pay.

5.5.9 Miscellaneous Licensing and Certification Premium Pay

The City agrees to consider requests by represented employees for either two point five percent (2.5%) or five percent (5.0%) premium pay for possession of licenses and certifications used by the represented employee in the conduct of City business, but not required for his/her classification. This premium pay must be recommended by the Agency head and approved by the City ~~Manager~~ Administrator.

Represented employees must maintain a valid license or certification for continued receipt of this licensing premium pay, and shall be entitled to receive this premium pay only as long as they remain in the classification for which the premium was ~~given~~ awarded. If the represented employee changes classification but he/she continues to use the license or certification in the conduct of City business, he/she may reapply for the premium. This premium pay shall be incorporated into the represented employee's compensation reported to CalPERS.

A request for award of such premium pay shall be submitted to the Director of Personnel, who shall forward the request to the City Administrator for final approval.

The City shall respond to such request within sixty (60) calendar days of submission by the represented employee.

5.5.10 Engineer And Architect Career Ladder Incentive

Represented employees in the professions of Engineering or Architecture, who work in classifications in a career ladder leading to a classification that requires a professional license or registration, but who are not required to have such license or registration, upon receipt of such license or registration, shall receive five percent (5.0%) incentive pay, which shall not be part of the salary schedule. This premium pay shall be incorporated into the represented employee's compensation reported to CalPERS.

5.5.11 Engineer-In-Training Incentive

A represented employee holding the Engineer-in-Training (EIT) designation shall be advanced two and one-half (2.5%) percent starting in the month following receipt of the designation, provided that the increase, when applied, shall not be above the top step of the salary schedule for his/her classification. This premium pay shall be incorporated into the represented employee's compensation reported to CalPERS.

5.5.12 Additional Engineer License Incentives

Represented employees in the positions of Civil Engineer, Supervising Civil Engineer, Principal Engineer, Assistant Engineer, Transportation Engineer, Supervising Transportation Engineer, Assistant Transportation Engineer, Electrical Engineer, Energy Engineer, Architect, Architectural Associate, and Architectural Assistant, shall receive the following incentive pay (subject to the limitations set forth below): (1) 10% for passage of the State of California Structural Engineers examination and maintenance of a California Structural Engineer license; (2) 5.0% for passage of the State of California Land Surveyor examination and maintenance of a California Land Surveyor license; (3) 5.0% for passage of the State of California Geotechnical examination and maintenance of a California Geotechnical license; (4) 5.0% for passage of the Electrical Engineer examination and maintenance of a California Electrical Engineer

license; (5) 5.0% for passage of the Mechanical Engineer examination and maintenance of a California Mechanical Engineer license; (6) 5.0% for passage of the Civil Engineer examination and maintenance of a California Civil Engineer license; and (7) 5.0% for passage of the California Traffic Engineer examination and maintenance of a California Traffic Engineer license.

Represented employees in the position of Environmental Program Specialist shall receive the following incentive pay: (1) 5.0% for possession of valid California Civil Engineer license; (2) 5.0% for passage of Hydrologist Examination and maintenance of a California Hydrologist license; (3) 5.0% for passage of Geotechnical Examination and maintenance of a California Geotechnical license; and (4) 5.0% for passage of the Geologist Examination and maintenance of a California Geologist license.

Incentive payments provided under this section shall be effective in the pay period following verification that the represented employee has passed the pertinent exam, or received the pertinent license; such pay shall not be part of the salary schedule. Continual receipt of the incentive pay is conditional upon a represented employee maintaining registration in the State of California of the license or permit for which the incentive pay is provided. Total incentive pay under this section cannot exceed ten percent (10%) of base pay. The incentive payments provided under this section shall be incorporated into the represented employee's compensation reported to CalPERS.

A represented employee in a position that requires a license or registration shall not receive incentive pay under this section for passing an examination and maintaining a license that is part of the licensing or registration requirement for the represented employee's position.

The City may require represented employees receiving incentive pay under this section to perform duties that require licenses for which the incentive is granted. Represented employees performing these duties shall not be considered to be working out of class. All represented employees receiving incentive pay under Section 5.5.11 and required to perform duties requiring engineering licenses, with the exception of assistant engineers receiving the civil engineering license premium, shall stamp and/or sign the work in compliance with the California Engineers Act.

The operation of this provision shall not affect the operation of existing provisions concerning step increases. This premium pay shall be

incorporated into the represented employee's compensation reported to CalPERS.

5.5.13 Chief Of Party Licensing Premium Pay

Each represented employee in Unit UH1 serving in the position of Chief of Party shall receive five percent (5.0%) added compensation if the represented employee passes the California Land Surveyor examination and maintains a valid California Land Surveyor license. Represented employees shall be entitled to receive this premium pay only as long as they remain in the classification for which the premium was given. If the represented employee changes classification, he/she may reapply for the premium. This premium pay shall be incorporated into the represented employee's compensation reported to CalPERS.

5.5.14 Real Estate/Property Management Premium Pay

Complex Managers, Facilities Managers, Supervising Real Estate Agents, Real Estate Services Managers, and Real Estate Agents who obtain and retain one or more of the following certifications will have an additional five percent (5.0%) added to their base pay:

- State of California General or Residential Appraisal Certificate;
- State of California Real Estate Brokers License;
- Certified Designations for Property Manager as issued by the Institute of Real Estate Management, or Building Owners And Managers Association (BOMA). Represented employees who possess Property Manager certifications shall receive the premium pay only when they are assigned to perform property management functions for the City.

At no time will more than a single additional five percent (5.0%) be added to a represented employee's pay regardless of the number of certificates acquired and retained. Represented employees must maintain current certificates or licenses to receive the premium pay. The represented employee annually must provide to the department head appropriate verification that the certificate or license is current and valid. This premium pay shall be incorporated into the represented employee's compensation reported to CalPERS.

5.5.15 Standby Pay

When a department head or City official assigns a represented employee to remain on standby, the represented employee shall be

paid an amount equivalent to one and seventy-five hundredths (1.75) hours straight time pay for each eight hour period of standby assignment.

In selecting represented employees for standby pay, the department head or City official shall determine which represented employees are qualified for the standby assignment. The department head or City official shall rotate assignments among qualified represented employees.

A represented employee assigned to standby duty shall (a) keep the supervisor informed of a telephone number at which the represented employee can be reached; and (b) be available to report within a reasonable time in the event of a call-out. A represented employee assigned standby duty who fails to comply with these two conditions shall not be paid standby pay during any such period of time.

Represented employees in Units UM1 and UM2 shall not receive standby pay.

5.5.16 Call Back Pay (Unit F)

A represented employee in Unit TF1 who is called back to work on his/her day off, or who is called back to work after he/she has completed his/her regular shift working day and has left his/her place of employment, shall be paid a minimum of two and one-half (2-1/2) hours at the employee's overtime rate of pay.

5.5.17 Additional Unit UH1 Premium Pay

The premium pay provisions listed in this section 5.5.17 apply only to represented employees in Unit UH1.

5.5.17.1 Callback Pay

A represented employee in Unit UH1 who is called back to work on a day off, or who is called back to work after the regular shift working day has been completed and has left the employment site, shall be paid a minimum of two and one-half (2 ½) hours at time and one-half of that represented employee's regular hourly base rate of pay. A represented employee who is required to make a job-related court appearance, in accordance with Police Department General Order E-1, dated September 18, 1979, and/or Administrative Instruction 529, dated August 15, 1980, and any subsequent amendments thereto, on a scheduled day off shall be

compensated for a minimum of four (4) hours at time and one-half of that represented employee's regular hourly base rate of pay. It is expressly understood that a represented employee who works overtime (including court appearances) immediately subsequent to his/her regular work shift, or a represented employee who works immediately prior to his/her regular work shift, shall be compensated for the time actually worked, with no minimum number of hours of overtime guaranteed.

5.5.17.2 Shift Differential

A represented employee in Unit UH1 shall be eligible for shift differential pay, in addition to the hourly rate of pay for the employee's classification, as follows:

5.5.17.2.1 Swing Shift

When five (5) or more hours of a represented employee's work shift, exclusive of the lunch period, are between the hours of 5:00 p.m. and 12:00 midnight, the represented employee shall be paid eighty-seven cents (\$.87) per hour for each hour worked in that work shift.

5.5.17.2.2 Graveyard Shift

When five (5) or more hours of a represented employee's work shift, exclusive of the lunch period, are between the hours of 12:00 midnight and 7:00 a.m., the represented employee shall be paid one dollar and three cents (\$1.03) per hour for each hour worked in such work shift.

5.5.17.2.3 Rotating Shift

When a represented employee is assigned to a regular rotating shift schedule, the represented employee shall be paid ninety-two cents (\$.92) per hour for each hour worked in that work schedule. "Rotating Shift Schedule" is defined, for the purposes of this section, as a work schedule that rotates the assigned work days and work hours more frequently than once every six (6) weeks, with one of the regular schedules being a swing or graveyard shift, as part of an

overall schedule covering related represented employees.

5.5.18 Premium Pay During Paid Leave

Regular premium pay shall continue to be paid during vacation leave, sick leave, and during other paid leave up to a total of thirty (30) calendar days, for a represented employee who is then regularly assigned to a position in which the represented employee is eligible for such premium pay.

5.5.19 No Pyramiding

There shall be no "pyramiding" of premium and/or overtime pay, unless otherwise provided in this Article, except that this provision shall not apply to represented employees receiving overtime in accordance with the provisions of the Fair Labor Standards Act.

5.5.20 Commuter Check

Effective July 1, 2003, the City agrees to pay the five dollar (\$5) monthly administrative fee for represented employees participating in the Commuter Check Program.

5.5.21 Extraordinary Service Pay (Unit F)

The provisions of this Extraordinary Service Pay section apply only to represented employees in Unit TF1.

5.5.21.1 Definition

Extraordinary Service Pay ("ESP") is defined as pay for exceptional performance by a represented employee at his/her classification level as determined by the department head.

5.5.21.2 Eligibility

Eligibility shall be determined by one or more of the following criteria:

The represented employee in Unit TF1 has performed outstanding work on a continuing basis at his/her current job classification level such as, but not limited to:

- (1) Frequent completion of work significantly ahead of schedule.

- (2) Volume and/or quality of work produced greatly exceeds department norms on a continuing basis.

The represented employee in Unit TF1 has completed, or is currently working on an assignment that calls for a substantial degree of greater responsibility and/or professional or technical expertise than his/her current job classification required and is not covered by Acting Pay provisions contained in this Agreement.

The represented employee in Unit TF1 has completed, or is currently planning, developing or implementing a special program initiated or suggested by himself/herself and approved by the department head that will provide substantial overall benefit to the department and/or the City.

5.5.21.3 Implementation

The department head shall, during the months of June and December, meet with his/her supervisory staff to determine if any represented employee in Unit TF1 should receive Extraordinary Service Pay for exceptional performance during the past six (6) month period.

When the department head determines that a represented employee in Unit TF1 should receive ESP, it shall be his/her responsibility to determine the amount and to forward his/her recommendation(s) to the City Manager for approval.

ESP shall be a lump sum payment of one of the following amounts as determined by the department head and approved by the City Manager. \$600; \$800; \$1,000. Payment shall be made within thirty (30) days following the *City Manager's approval*.

5.5.21.4 Annual Program Review

Annual review by the department head(s) or their designated representative(s) and the Union shall be made in the second quarter of each calendar year. The eligibility and implementation procedures shall be reviewed to determine if any revisions, deletions, or additions should be made to the provision (ESP). Changes to this provision (ESP) shall be subject to the mutual approval of the department head(s) and the Union.

5.6 Allowances

5.6.1 Meal Allowance

- 5.6.1.1 Each represented employee who, when directed to do so, works continuously two (2) hours or more immediately before or after a regular scheduled shift working day shall be paid a meal allowance of eleven dollars (\$11). In the event the represented employee continues to work beyond the first two (2) hours, and the work is not a part of the regular shift, the represented employee shall be paid an additional meal allowance of eleven dollars (\$11) for each successive four (4) hour period worked.
- 5.6.1.2 Each represented employee who is directed to return to work overtime within fewer than twenty-four (24) hours after completion of the regular shift and who has left the employment site, and who works four (4) hours or more shall be paid a meal allowance of eleven dollars (\$11). The represented employee shall be paid an additional meal allowance of eleven dollars (\$11) for each successive four (4) hour period continuously worked.
- 5.6.1.3 Each represented employee who is scheduled to work on a scheduled day off with fewer than twenty-four (24) hours advance notice and who works four (4) hours shall be paid one (1) meal allowance of eleven dollars (\$11). In the event the represented employee continues to work on a scheduled day off for a total of more hours than the normal shift working day, the employee shall be paid such additional meal allowance(s) as may be appropriate under the formula described in the provisions of Section 5.6.1 above.
- 5.6.1.4 Meal allowances shall not be paid for assigned work that is scheduled at least twenty-four (24) hours in advance where the work is not an extension of the regular workday, or, in those instances where the City furnishes meals.
- 5.6.1.5 Represented employees in Units TM2, UM1, and UM2 shall not receive meal allowances.

5.6.2 Automobile Allowance

The City agrees to provide transportation to represented employees when required for official City business. Full-time represented employees who prefer to use their private vehicles for City business

may do so, upon approval by the City and subject to City regulations for safety, driver's licenses, and automobile liability insurance. Represented employees shall not be required to name the City as an additional insured nor submit the represented employee's vehicle to an inspection.

The City shall reimburse a represented employee for approved use of a private vehicle according to the following rates:

5.6.2.1 Category II

The City shall reimburse represented employees designated by the City Manager as Category II at the rate of three hundred fifty (\$350) dollars per month.

5.6.2.2 Category III

If the City determines that the nature of the work assigned to a represented employee, requires the use of an automobile on a regular basis for more than one-half of the represented employee's work schedule, the represented employee may utilize a private vehicle and the City shall reimburse the represented employee at the following rate per month:

| Contract Year | Amount Per Month |
|---------------|------------------|
| 2002-2003 | \$125.00 |
| 2003-2004 | \$131.00 |
| 2004-2005 | \$137.55 |

In addition to the per month allowance, the City shall reimburse the represented employee at the rate of and \$.345 per mile. During January of each fiscal year, the per mile rate will be adjusted to the maximum per mile rate established by the U.S. Internal Revenue Service.

5.6.2.3 Category IV

If the City determines that the nature of the work assigned to a represented employee requires the use of an automobile on an intermittent basis or on a regular basis of less than one-half of the represented employee's work schedule, the represented employee may utilize a private vehicle and be reimbursed at the rate of \$.345 per mile. During January of each fiscal year, the per mile rate will be adjusted to the maximum per mile rate established by the U.S. Internal Revenue Service.

5.6.3 Uniform Allowance (Unit UH1)

The City agrees to provide the following initial and annual uniform allowances to represented employees in Unit UH1 in the following classifications, provided that the wearing of a uniform is required incident to employment:

| Classification | Initial Allowance | Annual Replacement |
|--|-------------------|--------------------|
| Animal Control Officer, Senior | \$507.00 | \$246.00 |
| Fire Communications Dispatcher, Senior | \$287.00 | \$178.00 |
| Fire Communications Supervisor | | |
| Correctional Officer Supervisor | \$360.00 | \$202.00 |
| Parking Enforcement Supervisor I | \$497.00 | \$287.00 |
| Parking Meter Collector Supervisor | \$486.00 | \$259.00 |
| Police Communications Dispatch, Supervisor | \$297.00 | \$178.00 |

The initial allowance specified shall be paid to the represented employee in the first fiscal year of employment, after the department head has certified that the represented employee has purchased the minimum complement of required uniforms meeting City standards. After the first fiscal year of employment, represented employees shall be paid the specified uniform replacement allowance.

In the event that a required uniform item is damaged in the line of duty, where the represented employee has exercised reasonable prudence in the performance of duties, the City agrees to pay the cost of repair of such damage, or replacement, in accordance with established procedures.

5.6.4 Shoe Allowance

5.6.4.1 City Vouchers

The City may require represented employees to wear safety shoes while performing duties for the City.

For each represented employee required by the City to wear safety shoes, the City shall provide a voucher from the City designated department for up to one hundred (\$100) dollars annually toward the cost of acquiring one (1) pair of safety shoes and related supplies. Effective January 1, 2005, the City shall provide a voucher from the City designated department for up to one hundred fifteen (\$115) dollars

annually toward the cost of acquiring one (1) pair of safety shoes and related supplies.

The City shall provide the voucher during January of each year.

5.6.4.2 Newly Employed Represented Employees

Represented employees required to wear safety shoes may acquire safety shoes and use their annual safety shoes voucher during the month of January each year. Represented employees newly employed shall be provided an opportunity to acquire safety shoes and use the safety shoe voucher within thirty (30) days of their first day of work and during each following January.

5.6.4.3 Tree Department

Once every three (3) years, the City shall purchase one (1) pair of climbing boots for each represented employee required to wear climbing boots.

ARTICLE 6: PROFESSIONAL DEVELOPMENT PROVISIONS

6.1 Dues And Memberships

6.1.1 Units TA And TW1

For represented employees in Units TA1 and TW1, the City shall pay up to one hundred percent (100%) of the cost of membership in one job-related professional organization per year for each represented employee, but in no case shall the cost of the membership exceed five hundred dollars (\$500). The City may consider covering the cost of more than one (1) professional membership, provided that the membership is directly related to the represented employee's job duties and is approved in advance by the department head.

6.1.2 Units UM1, UM2, And UH1

For represented employees in Units UM1, UM2, and UH1, the City shall pay up to one hundred percent (100%) of the cost of membership in a professional organization, subject to department head approval. The City may consider covering the cost of more than one (1) professional membership, provided that the membership is directly related to the represented employee's job duties and is approved in advance by the department head.

6.1.3 Unit TF1 And TM2

The City shall encourage represented employees in Units TF1 and TM2 to participate in professional societies or associations, excluding any organization, that has as one of its principal purposes the representation of individuals in matters concerning wages, hours, and other terms and conditions of employment, by reimbursing the represented employee in cash for one hundred percent (100%) of the cost of the annual dues for one organization per represented employee. The organization shall be selected by the represented employee, subject to the approval of the department head or his/her designated representative.

6.2 Conferences, Seminars, And Meetings

~~For represented employees in Units TA1, TW1, UM1, UM2, and UH1,~~
the The City and the Union agree that it may be desirable for a represented employee to attend conferences, seminars, or meetings that have as their primary purpose professional development, or acquiring concepts and knowledge that are directly beneficial to the

represented employee in the performance of his/her job; and/or where such attendance is in the City's best interests. Subject to the approval of the department head, the represented employee may be ~~granted leave-permitted~~ with pay, with or without expenses depending on availability, to attend such conferences, seminars, or meetings.

6.3 Professional Development

The City will reimburse represented employees for professional development in the amounts listed below. Professional development may include such items as books, subscriptions to professional journals or magazines, dues to professional organizations that are related to current employment, job-related tools and equipment, registration, application or examination fees for registration or certification within his/her profession, and expenses related to professional development including research and training. Requests for reimbursement must be submitted with receipts in aggregate amounts of at least twenty-five (\$25) dollars. All receipts for reimbursement must be submitted before the end of each fiscal year, and by June 1, if feasible.

6.3.1 Units TA1, TW1, And UH1

Effective July 1, 2003, each represented employee shall receive reimbursement up to a maximum of two hundred fifty dollars (\$250) each fiscal year for professional development.

6.3.2 Units UM1 And UM2

Represented employees in Units UM1 and UM2 shall receive reimbursement of up to three hundred fifty (\$350) dollars maximum per fiscal year for these purposes.

6.3.3 Unit TM2 And TF1

Represented employees in Units TM2 or TF1 shall receive a maximum of four hundred twenty-five (\$425) dollars per fiscal year for these purposes.

6.4 Professional Licenses And Registration Fees

If the City requires that a represented employee possess a professional license or registration requisite to the performance of his/her job duties, the City agrees to reimburse the represented employee for the cost of renewing that license or registration, including the cost of any continuing education course work or training required to renew the professional license, certification, or registration. Represented employees in the professions of Engineer or Architect who receive incentive pay under Section 5.5.10 shall be

reimbursed for the renewal cost of licenses and registrations for which they receive incentive pay. This provision covers only such professional licenses as may be required for engineers, nurses, and other professional classes, and does not cover such requirements as drivers' licenses.

6.5 Tuition Reimbursement

The City shall reimburse a represented employee in Unit UM1, UM2, UH1, TF1, TA1, TW1, or TM2 for the cost of university or college classes and training courses, approved in advance by the department head or the designated representative, which: (1) improve the skills used by the represented employee in his/her current position; and/or (2) prepare the represented employee for advancement on the logical, reasonable career path within the City organization. Upon successful completion of the approved classes or courses, a represented employee shall be reimbursed in accordance with the following table:

| <u>Grade</u> | <u>Reimbursement</u> |
|--------------|--|
| A or B | 100% of the tuition fee and books, or \$400 whichever is less. |
| C | 50% of the tuition fee and books, or \$200 whichever is less. |

In the event that the course is graded on a pass/fail basis, reimbursement shall be seventy-five percent (75%) of the tuition fee, or three hundred dollars (\$300), whichever is less.

6.6 Professional Liability (Unit TF1)

The City's obligation to defend and indemnify represented members is prescribed by law, including California Government Code Section 825, et seq. and 995, et seq. The City shall indemnify and defend represented employees in Representation Unit TF1 in accordance with the applicable provisions of law when and if represented members are sued for errors and/or omissions (malpractice) that occur within the course and scope of their employment, except where the applicable law excuses City's obligation to defend (e.g., fraud, malice, etc.). This Section and the terms and provisions in this section shall be enforceable in accordance with applicable law.

6.7 Incompatible, Inconsistent, Or Conflicting Activities

6.7.1 No represented employee may engage in any employment, activity, or enterprise that has been determined to be inconsistent, incompatible, or in conflict with his or her duties or with the duties, functions, and responsibilities of the City. For purposes of this Agreement,

incompatible employment or activity means any employment, activity, or enterprise that: (a) involves the use for private gain or advantage of City time, facilities, equipment, and supplies or the prestige or influence of the represented employee's City employment; or (b) involves receipt by the represented employee of any money or other consideration for the performance of any act required by him or her as a City employee; or (c) involves the performance of an act, in other than his or her capacity as a City employee, that may later be subject directly or indirectly to control, inspection, review, audit, or enforcement by him or her in his or her capacity as a City employee.

- 6.7.2 Represented employees may not solicit political contributions from other officers or employees of the City, unless such solicitation is part of a solicitation made to a significant segment of the public that may include City employees or officers.
- 6.7.3 Represented employees shall notify the City in advance of any outside employment or activity if it is reasonably foreseeable that such employment or activity may violate these rules.
- 6.7.4 Notwithstanding the above, the City acknowledges that no restriction may be placed on the political activities of employees outside of working hours and off City premises.
- 6.7.5 *The City will continue to maintain regulations that are consistent with Government Code Section 1125, et seq., and Government Code Section 3201, et seq., and Oakland City Charter Section 1201.*

ARTICLE 7: RETIREMENT

7.1 Retirement Contributions

~~{See Special Agreement attached as Appendix ___ for modifications to 7.1.1 and 7.1.2.}~~

~~7.1.1 2% At 55~~

~~The City's contract with PERS provides the 2% at 55 plan for all represented employees except the Correctional Officer Supervisor. The City shall make the employer contribution to PERS for each represented employee. In addition the City shall pay 4.0% of the "employee" contribution for each represented employee. With state and federal income tax on the "employees" contribution deferred to the extent permitted by law, each represented employee shall pay through payroll deductions 3.0% of the "employee" contribution. Except as specifically stated in this Section, the City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and for contribution credits (rebates) from PERS.~~

~~7.1.21 2.7% At 55~~

~~Effective July 1, 2004, the City's contract with PERS shall be amended to provide the 2.7% at 55 plan for all represented employees except the Correctional Officer~~

~~Supervisors. The City agrees to continue to contract with the Public Employees' Retirement System (PERS) to provide the 2.7% at 55 retirement plan for each active unit member. The City shall make the employer contribution to PERS for each represented employee. In addition, through June 30, 2009, the City shall pay 5.0% of the "employee" contribution for each represented employee. With state and federal income tax on the "employee" contribution deferred to the extent permitted by law, each represented employee shall pay through payroll deductions 3.0% of the "employee" contribution. Except as specifically stated in this Section, the City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and for contribution credits (rebates) from PERS.~~

~~7.1.1 2.7% At 55~~

~~Effective July 1, 2004, the City's contract with PERS shall be amended to provide the 2.7% at 55 plan for all represented employees except the Correctional Officer~~

Supervisors. The City agrees to continue to contract with the Public Employees' Retirement System (PERS) to provide the 2.7% at 55 retirement plan for each active unit member. The City shall make the employer contribution to PERS for each represented employee. In addition the City shall pay 5.0% of the "employee" contribution for each represented employee. With state and federal income tax on the "employee" contribution deferred to the extent permitted by law, each represented employee shall pay through payroll deductions 3.0% of the "employee" contribution. Except as specifically stated in this Section, the City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and for contribution credits (rebates) from PERS.

Effective July 1, 2009, each unit member shall pay the full member contribution to PERS equal to eight percent (8%) of the compensation paid the member for service rendered, with state and federal income tax on the PERS members contribution deferred to the extent permitted by Internal Revenue Code, 26 USC Section 414(h)(2).

7.1.1 Correctional Officer Supervisor

~~During the period from July 1, 2002, through June 30, 2003, the City agrees to provide the PERS 2% at 50 public safety retirement plan for represented employees in the classification of Correctional Officer Supervisor. Effective July 1, 2003, the City agrees to amend its contract with PERS to provide the 3% at 50 public safety retirement plan for represented employees in the classification of Correctional Officer Supervisor. Effective July 1, 2002, the City shall make the employer contribution to PERS for each represented employee. In addition the City shall pay a portion of the "employee" contribution for each represented employee. With state and federal income tax on the "employee" contribution deferred to the extent permitted by law, each represented employee shall pay through payroll deductions 3.0% of the "employee" contribution. Except as specifically stated in this Section, the City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and for contribution credits (rebates) from PERS.~~

7.1.2 Special Compensation

Through June 30, 2009, the City paid portion of the member contribution described in Section 7.1.1 shall be reported to PERS as

“special compensation” as provided under Government Code Section 20636(c)(4) pursuant to Section 20691.

7.1.3 Premium Pay Reported To CalPERS

The premium pay listed in Appendix H, Premium Pay Reported To CalPERS, shall be reported to CalPERS as compensation. Appendix H, Premium Pay Reported To CalPERS, is attached to and incorporated into this Agreement.

7.1.4 Tax Liability

Each represented employee is solely and personally responsible for any federal, state, or local tax liability that may arise out of receipt of the City’s pick up or any penalty that may arise out of receipt of the City’s pick up or any penalty that may be imposed for the City’s pick up.

7.2 Optional Benefits

Under the Public Employees’ Retirement System, the City shall provide the following optional benefits:

7.2.1 Military Service Credited As Public Service

Up to four (4) years of military service can be granted for time during which a represented employee served continuously with the active armed forces or the Merchant Marines including any period of rehabilitation, plus six (6) months thereafter. The represented employee is required to contribute employee and employer contributions except that service rendered prior to September 1, 1970, may be granted at no cost to the represented employee.

7.2.2 Americorps/VISTA/Peace Corps Service Credited As Public Service

Represented employees may elect to purchase up to three (3) years of service credit for any volunteer service in the Peace Corps, AmeriCorps VISTA (Volunteers In Service To America), or AmeriCorps. The represented employee is required to contribute employee and employer contributions. Represented employees may obtain cost information by

contacting CalPERS Member Services Division. Final determination of benefit eligibility shall be made by CalPERS.

7.2.3 One Year Final Compensation

A represented employee's retirement allowance is based on the twelve (12) highest paid consecutive months under the plan.

7.2.4 Automatic One-Half Continuance

The represented employee's beneficiary receives one-half the amount of the retired represented employee's allowance after the death of the retired represented employee with no reduction in retirement allowance during the life of the retired represented employee.

7.2.5 Post-Retirement Survivor Allowance To Continue After Remarriage

If a surviving spouse remarries on or after January 1, 1985, the one-half survivor continuance allowance will not cease.

7.2.6 1959 Survivor Benefits To Surviving Spouse At Age 60

The eligibility age of a surviving spouse is reduced to sixty (60) years of age for the 1959 survivor allowance, otherwise payable to a surviving spouse at sixty-two (62) years of age. (Government Code Section 21580.)

ARTICLE 8: INSURANCE PROGRAMS

8.1 Medical Insurance Under PEMHCA

The City agrees to maintain its contract with the Public Employees' Retirement System ("PERS") providing medical insurance coverage through the Public Employees' Medical and Hospital Care Act (PEMHCA) plans. Eligibility of active represented employees and retired employees to participate in this program shall be in accordance with state law and regulations promulgated by PERS.

8.2 City Contribution To PERS

The City shall pay directly to PERS ~~twenty dollars (\$20)~~ ninety-seven (\$97) per month as a contribution toward the PEMHCA plan medical insurance premium for each active represented employee and retiree who elects to enroll in a PEMHCA medical plan.

As required by Government Code Section ~~22825~~ 22892, commencing January 1, 2009, the City's contribution shall ~~increase as follows:~~

- ~~\$32.20 per month for calendar year 2004;~~
- ~~\$48.40 per month for calendar year 2005;~~
- ~~\$64.60 per month for calendar year 2006;~~
- ~~\$80.80 per month for calendar year 2007; and~~
- ~~\$97.00 per month for calendar year 2008.~~

be adjusted annually by PERS to reflect any change in the medical care component of the Consumer Price Index and shall be rounded to the nearest dollar.

These increased City contribution rates shall remain in effect only as long as required by law.

8.3 Change In PERS Regulations

In the event PERS requires additional employer payment in excess of the dollar amounts listed in Section 8.2, the City shall not be bound by any obligation under 8.2 and 8.4, but rather the parties shall meet and confer regarding restructuring the provisions of 8.2 and 8.4 provided that, for a reasonable time period to allow for meeting and conferring, the City shall continue the benefits under 8.1, 8.2, and 8.4.

8.4 Full Medical Insurance Comparable To Rate Charged Under PEMHCA Kaiser North Plan

For active represented employees enrolled in a PEMHCA medical insurance plan, the City shall pay to PERS an amount of money on behalf of the employee which, when combined with the amount stated in Section 8.2, shall be the equivalent to one hundred percent (100%) of the premium cost of the Bay Area/Sacramento California–Kaiser Permanente family plan. If a represented employee chooses to participate in a PEMHCA plan, which is more expensive than the Bay Area/Sacramento California Permanente family plan, the represented employee shall pay the additional cost.

8.5 Medical And Dependent Care Reimbursement Plan

The City shall maintain a salary reduction plan as provided by Section 125 of the Internal Revenue Service Code permitting permanent represented employees to designate a portion of their annual salary to be withheld and subsequently used to provide pre-tax reimbursements for verified medical (“MCAP”) and dependent care (“DCAP”) expenses, subject to the rules of the IRS and governing regulations.

If a represented employee receives medical insurance coverage through their spouse or partner, signs the City form electing not to receive City paid medical coverage, and provides the City with satisfactory proof of insurance coverage, the represented employee shall receive one of either:

- \$125 per month in cash; or
- \$125 per month City contribution into the represented member’s DCAP or MCAP account.

Effective January 1, 2004, the monthly in lieu amount shall be increased to \$135. Effective January 1, 2005, the monthly in lieu amount shall be increased to \$145. Effective January 1, 2006, the monthly in lieu amount shall be increased to \$150. Effective January 1, 2007, the monthly in lieu amount shall be increased to \$160.

8.5.1 Maximum Deductions

The maximum annual amount that may be deducted from a represented employee’s annual salary for reimbursement of nonmedical dependent care expenses is \$5,000. The maximum amount that may be deducted from the represented employee’s annual salary for reimbursement of personal and dependent medical expenses is \$5,000. All medical and dependent care expenses for which

reimbursement is requested must comply with the requirements of the IRS code.

8.5.2 Administrative Fees

If the City, in its sole discretion, determines that administration of the program will require the services of an outside entity or contractor that charges a fee for administering DCAP and MCAP deductions and reimbursements, participating represented employees shall be responsible for paying that fee.

8.5.3 Tax Liability For Flexible Spending Benefit

Notwithstanding the City's intent to comport with I.R.C. Section 125, each represented employee shall be solely and personally responsible for a federal, state, or local tax that may arise out of the implementation of this subsection.

8.6 Dental Insurance

The City agrees to contribute an amount equal to one hundred percent (100%) of the cost of employee and dependent coverage in the City dental plans, which include orthodontia and a preferred provider option. For the purpose of this provision, dependents shall include domestic partners of represented employees who have filed a Declaration of Domestic Partnership in accordance with established City policy. The City shall meet and confer regarding any reduction in benefits to the extent it is within the mandatory scope of bargaining required by state law.

8.7 Vision Care

The City agrees to maintain current employee and dependent coverage in the established City vision care plan. For the purpose of this provision, dependents shall include domestic partners of represented employees who have filed a Declaration of Domestic Partnership in accordance with established City policy. The City shall meet and confer regarding any reduction in benefits to the extent it is within the mandatory scope of bargaining required by state law.

8.8 Blood Bank

The City agrees to enroll represented employees in the City of Oakland Blood Bank Program as described below.

8.8.1 Sponsor

City of Oakland, in cooperation with the Blood Bank of the Alameda-Contra Costa County Medical Association, since 1980.

8.8.2 Eligibility

All City of Oakland employees and family dependents.

8.8.3 Program Operation

The City normally conducts two blood donation drives per year, one in January and one in July. Donations are credited to the City of Oakland Club and are good for one year. Withdrawals are made from the account by submitting requests to the City Manager's Administrator's Office. City credits remaining at the end of one year are switched into the general Blood Bank Fund. However, by participation in the program, all blood needs of the City are covered, even if there are insufficient credits in the City Club account, without monetary charge or replacement requirement to the represented employee during the term of this Agreement. The City and the Union agree to actively encourage represented employees and dependents to participate in the blood donation drives.

8.9 Life Insurance

The City agrees to provide a term life insurance policy for each full-time represented employee in the amount of one times the employee's annual salary, rounded up to the nearest one-thousand dollars (\$1,000), including an accidental death and dismemberment benefit of equivalent amount. The City also agrees to provide represented employees the option of purchasing supplemental term life insurance. This supplemental term insurance is contingent upon the City meeting the plan requirements stipulated by the insurance carrier.

8.10 Disability Insurance

The City agrees to pay the premium cost of represented employee participation in the established disability insurance program. The City shall meet and confer regarding any reduction in benefits to the extent it is within the mandatory scope of bargaining required by state law.

8.11 Chemical Dependency Treatment Program

The City agrees to provide a chemical dependency treatment program for represented employees and their eligible dependents up to a maximum of thirty thousand dollars (\$30,000) in total lifetime program benefits.

8.12 Continuation Of Coverage While On Paid Leave

The City agrees to continue City contribution to premium payments for represented employees while on authorized paid leaves of absence.

8.13 Deferred Compensation Plan

Represented employees may participate in the established City deferred compensation plan. The Union shall have one (1) member on the City's Deferred Compensation Committee

8.14 Retiree Benefit

Any represented employee who retires from the City on or after January 1, 1987, who has ten (10) years or more of service with the City in either a permanent full-time or permanent part-time position, and who enrolls in a PERS PEMHCA plan shall receive for such time as he/she maintains his/her enrollment in a PEMHCA health plan for represented employee and one dependant the following benefit: effective January 1, 2003, the lesser of a monthly payment of four hundred twenty-five and forty-two cents (\$425.42) or one hundred percent (100%) of the represented employee's PEMHCA plan premium computed by combining the provisions of Section 8.2 above with this benefit. These payments shall be made on a quarterly basis. The City shall provide the option of direct deposit if it becomes available for this benefit. The obligations set forth in this subsection shall be subject to the following conditions:

8.14.1 Each person receiving the benefit shall be responsible for payment of federal state and local taxes, if required. The City shall not withhold taxes when awarding this benefit unless otherwise required to do so by a governmental taxing agency and shall not be obligated by this Agreement to issue a 1099 to persons receiving the benefit.

8.14.2 Each person receiving the benefit shall be obligated to notify the City within thirty (30) days of the retiree's and/or eligible family member's eligibility for Medicare.

8.14.3 An eligible family member for PEMHCA coverage who survives the death of a retiree shall continue to receive this benefit as long as it

is allowed by PERS, as long as the survivor remains enrolled in a PERS plan, and as long as the survivor has been designated to receive the survivor's benefit under PERS and is receiving the survivor's benefit under PERS.

ARTICLE 9: LEAVES OF ABSENCE

9.1 Sick Leave

9.1.1 Annual Earned Sick Leave

Represented employees shall accrue sick leave on a biweekly basis at the rate of one (1) full working day per month of service to the City, except that sick leave shall not be credited until the completion of the first three (3) months of service.

9.1.2 Accumulated Earned Sick Leave

Sick leave with pay that is not used shall be cumulative. Sick leave credits may be accumulated not to exceed one hundred and fifty (150) working days. Sick leave credits accrued under this provision shall be expressed in hours.

9.1.3 Use Of Sick Leave

9.1.3.1 Minimum Usage

Sick leave may be used in minimum increments of one (1) hour.

9.1.3.2 Family Illness

Each represented employee who is otherwise eligible to take sick leave may, in the event of illness in the immediate family, take a maximum of twelve (12) working days family sick leave in any calendar year. Such family sick leave shall be charged against the represented employee's accumulated sick leave credits and is subject to acceptable medical verification.

For the purposes of this provision, immediate family shall be defined as mother, father, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, grandchildren in the custody of grandparents who are represented employees, and domestic partners of represented employees who have filed a Declaration of Domestic Partnership, ~~in accordance with established City policy.~~ This provision shall also apply to persons for whom the represented employee has durable power of attorney for health care.

In ~~special~~ circumstances involving the illness of a person who has raised the represented employee in lieu of a natural parent or has been raised by a represented employee in lieu of the natural parent, the department head or designated representative ~~may~~ will consider granting family illness leave under this provision to the affected represented employee. In such cases, the represented employee must receive a written approval from the department head or designated representative prior to departure on such leave.

A represented employee may be permitted to take family sick leave in excess of twelve (12) days in any calendar year in the case of the critical or serious illness of the immediate family member, as defined above, who resides in the represented employee's household and where other arrangements for the care of the family member are not feasible.

This section does not extend the maximum period of leave to which a represented employee is entitled under the Family and Medical Leave Act of 1993 (29 U.S.C. Section 2606, et seq.), the California Family Rights Act (Government Code Section 12945.2) and

9.1.3.3 Verification Of Leave

When a represented employee has been absent under personal illness for more than five (5) consecutive working days or has established a pattern of personal illness exceeding twenty (20) working days in one work year, the City is authorized to request that the represented employee have a physical examination by a City selected physician and a certification by that physician of the represented employee's physical fitness to return and continue the duties requisite to employment. The City will pay the cost of this examination and certification.

9.1.4 Sick Leave Buy-Back – Leaving City

City agrees to compensate, in cash, represented employees leaving City service after ten (10) cumulative years of employment, uninterrupted by any single period of absence in excess of one (1) year, for thirty-three and one-third percent (33-1/3%) of accrued sick leave.

9.1.5 Annual Sick Leave Sell-Back/Conversion

Represented employees may sell back a portion of their unused sick leave or convert it to additional days of vacation, provided that the represented employee must have a minimum of sixty (60) days of accumulated sick leave at the beginning of the calendar year (January 1). The represented employee may exercise one of the following options each calendar year:

- (1) Accumulate sick leave credits to the one hundred and fifty day (150) maximum; or,
- (2) ~~Covert~~ Convert sick leave earned in excess of the basic requirement of sixty (60) days to vacation ratio of two (2) sick leave days to one (1) day of vacation up to a maximum of six (6) vacation days.
- (3) Sell back sick leave earned in excess of the basic requirement of sixty (60) days, at the ratio of two sick leave days to one (1) days of pay, up to maximum of six (6) days pay.

9.1.6 Return To Work

If requested by the City management, a represented employee shall not return to work until she/he submits a medical doctor's authorization to return to work. The City will pay for the cost of any portion of the certification requested by the City that is not paid by medical insurance.

9.2 School Activities Leave

The City shall permit a represented employee who is a parent, guardian, or grandparent having custody of a child in kindergarten or grades 1 to 12, inclusive, or attending a licensed child day care facility, to take up to forty (40) hours each year, not exceeding ~~eight (8)~~ twelve (12) hours in any calendar month of the year, to participate in activities of the school or licensed child day care facility of any of the represented employee's children. Represented employees must give their supervisor notice at least four (4) workdays prior to the planned absence.

The represented employee shall use existing vacation, personal leave, compensatory time off, or time off without pay for purposes of the planned absence described in this section.

If requested by the represented employee's supervisor, the represented employee shall provide documentation from the school or licensed child day care facility as proof that the represented employee participated in school or licensed child day care facility activities on a specific date and at a particular time.

9.3 Family Death Leave

9.3.1 Definition Of Immediate Family

For the purposes of this provision, immediate family shall be defined as mother, father, husband, wife, son, daughter, brother, sister, grandfather, grandmother, grandchild, father-in-law, mother-in-law, domestic partners of represented employees who have filed a Declaration of Domestic Partnership in accordance with established City policy, and parents and children of the domestic partner.

9.3.2 Special Circumstances

In special circumstances involving the death of a person who has raised the represented employee in lieu of a natural parent or has been a child who is being raised by the represented employee in lieu of a natural parent, the department head or designated representative may consider granting leave under this provision to the affected represented employee.

9.3.3 Entitlement

Upon approval of the department head or designated representative, a represented employee may be granted family death leave with pay not to exceed five (5) working days. Such leave shall not be charged against vacation or sick leave to which a represented employee may be entitled, but shall be in addition to that leave. The City shall not unreasonably deny such requests.

In order to be eligible for family death leave, a represented employee must have worked full-time for the City for a period of six (6) consecutive months. A represented employee may be asked to furnish satisfactory verification for use of family death leave.

In cases involving exceptional hardship or out of state travel, the City will consider granting up to one (1) additional days of family death

leave with pay. In such cases, the represented employee must receive written approval from the department head or designated representative prior to departure on such leave.

9.4 On-The-Job Injury Leave And Compensation

A represented employee shall be granted on-the-job injury/illness leave when the represented employee is unable to work because of any on-the-job injury/illness as defined in the California Labor Code (Worker's Compensation Act).

9.4.1 City Paid Leave Entitlement

9.4.1.1 Probationary Employee

Effective January 28, 2003, an entry probationary represented employee (as defined in Section 14.2.1) shall not be entitled to City paid leave entitlement under Section 9.4. Section 9.4.1.1 also applies to represented employees in Unit UM1 or UM2 who have worked in the classifications for less than one (1) year.

9.4.1.2 Permanent Employee

For any on-the-job injury/illness with a date of injury/illness on or after January 28, 2003, permanent represented employees shall be entitled to a maximum of sixty (60) working days of City paid on-the-job injury/illness leave per injury or illness. Reoccurrences of an injury/illness shall not be considered a new injury/illness and shall not entitle the represented employee to a new sixty (60) working day free period. The sixty (60) working days per injury or illness does not have to be used consecutively. The sixty (60) working day on-the-job injury/illness leave entitlement, commonly referred to as the "free period," shall not be deducted from the represented employee's accrued sick leave or any other accrued paid leave. Section 9.4.1.2 also applies to represented employees in Unit UM1 or UM2 who have worked in the classifications for more than one (1) year.

9.4.1.3 Long Term Permanent

Permanent represented employees with ten (10) consecutive years of service to the City as of January 1, 2003, shall be entitled to a maximum of ninety (90) working days of paid

on-the-job injury/illness leave per injury or illness with the same standards as stated in Section 9.4.1.2. Section 9.4.1.3 also applies to represented employees in Unit UM1 with ten (10) consecutive years of service to the City in the classification as of January 1, 2003.

9.4.1.4 Workers' Compensation Claim

An on the job injury/illness must qualify as a workers' compensation claim under standards applied by the Workers' Compensation Appeals Board. The Workers' Compensation Appeals Board's rejection of a represented employee's claim shall result in disqualification of the represented employee's injury/illness for leave under this provision. On-the-job injury leave previously granted for a disqualified injury/illness will be deducted from the represented employee's other accrued paid leave balances, or the represented employee may reimburse the City in cash.

9.4.1.5 Physical Examination

As permitted by state law, City policies, and Civil Service Personnel Rules, the City may require a represented employee to submit to an examination.

9.4.1.6 Workers' Compensation Benefits

Payment under this provision shall not be cumulative with any benefit that the represented employee may receive under the California Labor Code as the result of the same injury/illness. If, after the sixty (60) working day period of City paid leave, the represented employee is still unable to work, the represented employee may supplement any benefits paid under the Labor Code with accumulated sick leave and vacation to the extent necessary to make up the difference between the amount of the award and the normal weekly base pay for each week of continuing disability.

9.5 Military Leave

The City shall provide military leave to represented employees in accordance with City Council Resolution 79044, attached to and incorporated into this Agreement as Appendix G, Military Leave.

9.6 Jury Leave

Leave of absence with pay shall be granted to a represented employee who has been selected for jury duty that is mandatory, provided, however, that in circumstances where it is deemed necessary by the City, the represented employee shall cooperate by requesting a deferral of such jury duty to a later date. A represented employee who serves on jury duty shall be paid regular salary for the period of such duty.

The represented employee shall keep any fees he/she receives for jury duty.

9.7 FMLA/CFRA And Pregnancy Disability Leave

Represented employees are eligible for leave under the California Family Rights Act ("CFRA"), the Federal Family and Medical Leave Act ("FMLA"), and the California Pregnancy Disability Leave Act ("PDLA"). The provisions of this Agreement and City policies shall be applied consistent with applicable state and federal law and in accordance with Administrative Instruction 567 as may be amended from time to time.

The previous paragraph is not subject to the grievance procedure. This language shall not be construed as a waiver of any right to meet and confer over the changes in Administrative Instruction 567, if such changes are within the mandatory scope of bargaining.

9.8 Leave Of Absence Without Pay

In its discretion, the City may grant a permanent full-time or permanent part-time represented employee a leave of absence without pay of up to one (1) year.

9.9 Disability Insurance

To be eligible for the disability insurance coverage described in Section 8.10, a represented employee shall be required to use all but ten (10) days of accrued and/or accumulated sick leave.

9.10 Integration Of Disability Insurance Coverage And Paid Leaves

A represented employee may supplement any disability insurance benefits paid under a disability insurance program provided in Section 8.10 with accumulated sick leave and vacation to the extent necessary to make up the difference between the amount of insurance benefits paid and the normal weekly base pay for each week of disability.

9.11 Limited/Modified Duty

Upon either party's request, the City and the Union shall meet to discuss the development of a limited duty policy for represented employees unable to perform their normal work duties because of injury or illness on a department-by-department basis. The priority of any such agreement reached shall be industrially injured represented employees, but the policy may include coverage of non-industrially injured represented employees, if considered feasible by the City. In the absence of any such policy, the City shall maintain the right and sole discretion to grant or continue any light duty assignment.

9.12 Management Leave (Units TM2, UM1 And UM2)

Effective July 1, 2009, represented employees in Units TM2, UM1 and UM2 shall be awarded five (5) days of Management Leave on July 1st of each year.

Additionally, represented employees in Units TM2, UM1 and UM2 who work irregular work hours or who demonstrate superior performance during the eligibility period of July 1 through June 30 of each fiscal year may also be awarded an additional zero (0) to five (5) days of management leave at the recommendation of the department/agency head and with final approval of. ~~The awarding of such additional leave will be at the sole discretion of the City Manager Administrator.~~

~~A total of ten (10) days maximum Awarded Management Leave may be cashed out each fiscal year at the discretion of the represented employee. If such leave is taken as paid time off, it must be taken by the last pay period including June 30th of each year. Such leave is not cumulative from year to year, i.e. an eligible represented employee must use the leave, or forfeit it. With their supervisors' approval, individual represented employees are responsible for arranging to use the Management Leave during the one (1) year period.~~

In fiscal years 2009-10 and 2010-11, represented employees with a carry forward balance of 150-200 hours as of June 30, 2009 shall be entitled to cash out accrued management leave in an amount not to exceed fifteen (15) work days (112.5 hours) in each fiscal year.

In fiscal years 2009-10 and 2010-11, represented employees with a carry forward balance greater than 200 hours as of June 30, 2009 shall be entitled to cash out accrued management leave in an amount not to exceed twenty-five (25) work days (187.50 hours) in each fiscal year.

Effective June 30, 2011, the maximum amount of management leave that may be carried forward is ten (10) work days.

Represented employees who terminate employment after having been awarded Management Leave shall be paid for such awarded, but unused leave, upon termination.

~~{See Special Agreement attached as Exhibit ___ for VTN Unpaid Leave.}~~

These provisions shall also apply to "special leave" for represented employees in the Offices of the Mayor and the City Council, as provided for in Article 17.

ARTICLE 10: VACATION LEAVE

10.1 Entitlement

A represented employee shall accrue vacation leave, from the date of the represented employee's regular appointment by the City, on a biweekly basis at the rates enumerated below. For the purpose of determining the amount of vacation entitlement, an employment year is defined as the period of one (1) year from the anniversary date of such appointment by the City. Vacation rate increases will become effective at the beginning of the pay period that includes the represented employee's anniversary date. Vacation entitlement rates are as follows:

- 10.1.1 Ten (10) days per year through the first four (4) full employment years.
- 10.1.2 Fifteen (15) days per year beginning the fifth (5th) employment year up to and including the twelfth (12th) full employment; provided, however, that during the fifth (5th) and tenth (10th) full employment years a represented employee, on his/her anniversary date, shall receive one (1) additional day of vacation for those years only.
- 10.1.3 Eighteen (18) days per year beginning the thirteenth (13th) employment year up to and including the fifteenth (15th) full employment year; provided, however, that during the fifteenth (15th) full employment year a represented employee, on his/her anniversary date, shall receive one (1) additional day of vacation for that year only.
- 10.1.4 Nineteen (19) days per year beginning the sixteenth (16th) employment year up to and including the nineteenth (19th) full employment year.
- 10.1.5 Twenty (20) days per year beginning the twentieth (20th) full employment year up to and including the twenty-fifth (25th) full employment year; provided, however, that during the twentieth (20th) and twenty-fifth (25th) full employment years a represented employee, on his/her anniversary date, shall receive one (1) additional day of vacation for those years only.
- 10.1.6 Twenty-five (25) days per year beginning the twenty-sixth (26th) full employment year up to and including the twenty-ninth (29th) full employment year.

10.1.7 Thirty (30) days per year beginning the thirtieth (30th) full employment year; provided, however, that during the thirtieth (30th) full employment year and at subsequent five (5) year intervals a represented employee, on his/her anniversary date, shall receive one (1) additional day of vacation for those years only.

10.2 Right To Take Accrued Leave

A represented employee may take accrued vacation, with the prior scheduling approval of the department head.

10.3 Limitation On Unused Vacation Leave Balances

Represented employees may accrue vacation leave balances up to a maximum of two (2) times the represented employee's annual vacation accrual rate as of the pay period containing January 1 of each year. Should the represented employee's vacation leave balance exceed the allowable amount, the represented employee will cease to accrue vacation leave until such time as the vacation balance is reduced below the maximum allowable balance.

10.4 Minimum Usage

Normally, a represented employee may take vacation leave in increments of not less than one (1) day with the prior scheduling approval of the department head. In special circumstances, with the department head's approval, represented employees may also take a fraction of a day, but in no event less than one (1) hour.

10.5 Interruption Of Leave

In the event that a holiday occurs during a period of authorized vacation leave, the workday, which is the holiday, shall be charged as a holiday and not as a day of vacation. In the event that a represented employee is seriously ill during scheduled vacation, the full workdays on which such illness occurs shall not be charged to vacation leave, provided that a doctor's certificate or report of treatment is submitted to and approved by the department head. It is expressly understood that the use of sick leave during vacation is reserved for serious illnesses, such as those which confine a represented employee to bed, and that the vacation period is not automatically lengthened by its use. Vacation leave not used due to the use of sick leave in an authorized vacation period shall be rescheduled for use at a later date, in accordance with established procedure.

10.6 Paychecks During Vacation

If a pay period falls within a represented employee's scheduled vacation period, that represented employee shall be entitled to receive, prior to the start of such vacation period, upon request in accordance with established City procedures, any regular paycheck(s) which would normally be received during said period. This provision shall apply only to represented employees whose scheduled vacation leave is five (5) consecutive working days or longer. It is understood that this option shall not be available to those represented employees who choose to participate in the City's Direct Payroll Deposit Program.

10.7 Vacation Sell-Back

10.7.1 Represented employees in Units TA1, TF1, TM2, and TW1 may sell back to the City up to fifteen (15) days of accrued vacation each calendar year as long as the represented employee has taken at least ten (10) days of vacation leave during a the preceding calendar year.

10.7.2 Represented employees in Units UM1, UM2, and UH1 may sell back to the City up to fifteen (15) days of accrued vacation each calendar year.

10.8 Personal Business Leave

A represented employee shall be allowed to take up to two and one-half (2-1/2) days per year of accrued vacation leave for personal business purposes, with the prior scheduling approval of the department head. Normally, the leave shall be taken in one-half day increments; however, smaller increments may be granted in justified cases by the department head.

ARTICLE 11: HOLIDAYS

11.1 Designated Holidays

The following days of each year are designated holidays:

- 11.1.1 January 1st.
- 11.1.2 The third Monday in January, known as "Martin Luther King Day."
- 11.1.3 February 12th, known as "Lincoln Day."
- 11.1.4 The third Monday in February, known as "Presidents' Day."
- 11.1.5 The last Monday in May known as "Memorial Day."
- 11.1.6 July 4th.
- 11.1.7 The first Monday in September, known as "Labor Day."
- 11.1.8 September 9th, known as "Admission Day."
- 11.1.9 November 11th, known as "Veterans' Day."
- 11.1.10 The Thursday in November appointed as "Thanksgiving Day."
- 11.1.11 The Friday after "Thanksgiving Day."
- 11.1.12 December 25th.
- 11.1.13 Floating holiday, subject to prior approval of the department head.
- 11.1.14 Holiday must be taken during the fiscal year in which it is earned. The floating holiday shall be credited at the beginning of the pay period that includes July 1.

In order to qualify for receipt of compensation for a designated holiday, an employee must be in paid status the work day before and the workday after the designated holiday.

11.1.15 Christmas Or New Year's Eve

11.1.15.1 Represented employees assigned to work schedules that require them to work on both December 24th and December 31st shall be entitled to one of the following:

- 11.1.15.1.1 one-half of the work shift as paid time off on both the above days; or

11.1.15.1.2 one full work shift as paid time off on either of the above days.

11.1.15.2 Represented employees whose regular workweek is Monday through Friday, when December 24th and December 31st occur on Saturdays or Sundays, shall be entitled to one of the following:

11.1.15.2.1 one-half of the work shift as paid time off on both the Friday preceding Christmas Eve and the Friday preceding New Year's Eve; or

11.1.15.2.2 one full work shift as paid time off on either the Friday preceding Christmas Eve or the Friday preceding New Year's Eve.

Such time off shall be granted by the department head, subject to the need to provide public services.

11.1.16 Holidays On Regular Day Off

In the event that a designated holiday falls upon a normal day off that is either a Saturday, as to a represented employee who works a Monday through Friday workweek, or the first day off of a normal scheduled two (2) days off, as to a represented employee whose workweek is one other than Monday through Friday, then in either such event such employee, as the case may be, shall receive one (1) additional day of vacation. Such vacation shall be accrued as Extra Vacation Days (EVD); shall not be included when determining if a represented employee has reached the maximum accrual as provided in Section 10.4; and may be earned even if the represented employee has reached the maximum vacation accrual as provided in Section 10.4.

In the event that a designated holiday falls upon a normal day off which is either a Sunday as to a represented employee who works a Monday through Friday workweek, or the second day off of normally scheduled two (2) days off, as to a represented employee whose workweek is one other than Monday

through Friday, then in either such event such employee, as the case may be, shall receive the next following day off.

[See additional holidays in Special Agreement attached as Appendix __.]

ARTICLE 12: PERMANENT PART-TIME BENEFITS

A permanent part-time represented employee, who works fifty percent (50%) or more of the normal workweek for the full-time equivalent to the represented employee's own class, shall be entitled to the following benefits:

12.1 Paid Leave

A permanent part-time represented employee shall accrue vacation and sick leave on a pro-rata basis according to the time worked in relation to the normal workweek for the full-time class.

12.2 Holidays

A permanent part-time represented employee who works throughout the fiscal year fifty percent (50%) or more of the normal work week for the full-time equivalent of the PPT represented employee's classification shall earn holiday pay on a pro-rata basis according to the time worked in relation to the normal workweek for the full-time class.

12.3 Insurance Programs

The City agrees to provide a term life insurance policy for permanent part-time represented employees in the amount of one-half the full-time equivalent annual salary rounded up to the nearest one thousand dollars (\$1,000), including an accidental death and dismemberment benefit of an equivalent amount, and to contribute toward the cost of health and dental insurance coverage under the established City plans for permanent part-time represented employees at the rate of sixty-five percent (65%) of the City contribution rates provided for in Sections 8.1, 8.2, 8.3, 8.4, 8.5, and 8.6. A permanent part-time represented employee shall also be covered by the City's disability income protection plan based on the full-time employee benefit provided for in Section 8.10, pro-rated to the average number of hours worked per month over the previous twelve (12) months.

ARTICLE 13: WORKING CONDITIONS

13.1 Hours Of Work (Units TA1, TW1, And TF1)

For represented employees in Units TA1, TW1, and TF1 the regular daily work schedule shall be seven and one-half (7½) hours (excluding meals periods); the regular weekly work schedule shall be thirty-seven and one-half hours (37½) (excluding meal periods), except for represented employees in the classification of Fire Protection Engineer and Unit TF1 employees in classifications designated as "Field," whose regular daily work schedule shall be eight (8) hours and whose regular weekly work schedule shall be forty (40) hours (excluding meal periods). The purpose of this Section is to fix the standard number of hours normally worked by a full-time represented employee. Section 13.1 shall not apply to represented employees in Units TM2, UM1, and UM2.

13.1.1 Rest Period

One fifteen (15) minute rest period shall be scheduled during each work period of three (3) or more hours; scheduling of this rest period shall be at the discretion of the department head or authorized supervisor, with no loss of pay or time off charged.

13.1.2 Lunch Period

Full-time represented employees shall be entitled to an uninterrupted unpaid lunch period of no longer than one (1) hour nor less than one-half (1/2) hour scheduled at or about the midpoint of each work shift.

13.2 Shifts And Schedules (Unit TF1)

13.2.1 The City shall exercise good faith in establishing work schedules. The functional needs of the City shall prevail in scheduling.

13.2.2 Changes in work schedules for full-time represented employees in Unit TF1 shall be posted at least one (1) week in advance, except in cases of emergency or unusual circumstances. The Union shall also be advised of Unit TF1 full-time employee schedule changes at least one (1) week in advance.

13.3 Alternative Work Scheduling

Departments may design a departmental alternative work scheduling program, which shall be in compliance with the guidelines below that address public service needs and departmental needs, and that takes into account represented employee preferences.

Alternative work schedules may only be used in those circumstances where in the judgment of the department head all requirements for the provision of public service, public access, and economical staffing are met; no increase in overtime costs are incurred; and internal and external contact needs are fulfilled.

Staggered work schedules may be established by each department head. One or more of such schedules must include the normal schedule of the department or division so that the department or division is open for business as expected by others.

Represented employees may initiate requests to work alternate work schedules, including staggered work schedules, subject to the approval of the department head. Such requests will be responded to in a timely manner, normally within thirty (30) calendar days.

Alternative work scheduling, including staggered work schedules, may be canceled at any time for any or all affected departmental represented employees by the department head.

13.4 Health And Safety

Health and safety are mutual concerns of the City and of the Union. The City recognizes its responsibility to maintain health and safety standards in accordance with applicable state and federal laws the California Occupational Safety and Health Act. The Union recognizes its responsibility to encourage represented employees to work safely and efficiently.

In those instances where a represented employee has a complaint arising out of a health and safety condition under the City's responsibility, and where the complaint is not resolved expeditiously at the department level, the Union, department representative and the Employee Relations Officer and the City's Risk Management staff, and a departmental representative shall promptly meet to discuss the matter.

13.5 Community And Customer Service Commitment

The parties recognize that the City must strive to provide the citizens in Oakland with the best possible services within the limits of available resources. In addition, the City and the Union recognize their mutual responsibility to perform productively in order to provide citizens with specified services at specified levels.

The Union agrees to actively encourage all represented employees to work cooperatively within the work groups to which they are assigned and to

participate in City training, education, and development offerings established to foster improved interpersonal relationship among City staff.

The Union also encourages its represented employees to support the City's civic goals, ~~of reducing crime, improving public schools, revitalizing the downtown area and supporting cultural arts. To support these goals all represented employees are encouraged to volunteer for activities such as mentoring a school age child or participating in literacy programs.~~

13.6 Floor Wardens

Represented employees who are formally designated to serve as floor wardens will have the option to voluntarily rotate out of the assignment after serving two (2) years, ~~effective July 1, 2003.~~

13.7 Special Provisions

When food is provided for City Council Members at closed session on Tuesday Council Meeting days, the City will provide food for City Council staff *members.*

ARTICLE 14: PERSONNEL PROVISIONS

14.1 Personnel File

Represented employees will be given a copy of entries of a derogatory nature when they are placed in their official personnel file.

Derogatory entries in a represented employee's official personnel file are evaluated in terms of the seriousness of the action(s) or incident(s) described and the recent and repetitiveness of such action(s) or incident(s) for use in disciplinary proceedings. Entries describing action(s) or incident(s) that are of minor significance and/or that have not been repetitive will receive more limited consideration in disciplinary proceedings.

Disciplinary letters in a represented employee's file shall not be used as the basis for disciplinary action imposed more than four (4) years after the date of the disciplinary letter. But disciplinary letters of any date may be used to rebut factual assertions made by or on behalf of the represented employee in disciplinary proceedings. Disciplinary letters of any date may also be used as evidence that the City has complied with progressive discipline requirements (if any apply), the represented employee is aware of rules or standards of conduct, and/or the represented employee has been instructed to take specified actions or improve conduct.

Information of a derogatory nature shall not be entered into a represented employee's personnel file until the represented employee is given notice and an opportunity to review and comment on the information. A represented employee shall have the right to attach to any such derogatory statement, the represented employee's own comments on the information.

Represented employees may review their official personnel files in the Personnel Department twice per year and may make copies, at their own expense, of the documents contained in the file, except that copies of all *original entries to the files shall be provided at no expense to represented employees at the time of entry.* The City may establish reasonable rules for the control of the files in the implementation of this provision.

A represented employee may also authorize, in writing, the Union Representative to inspect a personnel file related to a dispute concerning that represented employee.

Material in personnel files shall be regarded as confidential and disclosed only in accordance with provisions of law.

To the extent that any aspect of this section creates an expectation of progressive discipline, it shall not apply to Unit UM1.

14.2 Probationary Period

Section 14.2 shall not apply to represented employees in UM1.

14.2.1 Entry Probationary Period

The probationary period of a represented employee filling a position from an entrance examination shall be for a period of twelve (12) consecutive months of active service. At its option, the City may extend the probationary period by a three-month period. An additional three (3) months may be added to the probationary period by mutual agreement between the City and the Union.

14.2.2 Promotional Probationary Period

The probationary period of a represented employee filling a position from a promotional examination shall be for a period of six (6) months active service performing the full duties of the promoted position. At its option, the City may extend the promotional probationary period by a three (3) month period. An additional three (3) months may be added to the promotional probationary period by mutual agreement between the City and the Union.

14.2.3 Assistant Engineer I Probation

Represented employees in the classification of Assistant Engineer I shall automatically be promoted to the classification of Assistant Engineer II provided that they successfully complete the eighteen (18) month probationary period in the Assistant Engineer I class and possess an Engineer In-Training (EIT) certificate. Upon department head recommendation, an Assistant Engineer I may be promoted to the classification of Assistant Engineer II at the end of twelve (12) months. In such an event, the remaining probationary period shall be waived and the probationary period shall be deemed completed.

14.2.4 Injury Or Illness During Probationary Period

If a represented employee has been unable to perform the full duties of the position for period of thirty (30) days or more because of injury or illness, the City may extend the entry and promotional probationary periods by the period of time lost as a result of such illness or injury. In addition, the City shall not be required to complete performance appraisals during periods when the represented employee is unable to perform the full duties of the position for a period of thirty (30) days or more because of injury or illness.

14.2.5 Permanent Status

In the event a probationary represented employee is not satisfactorily meeting City standards and is not satisfactorily completing probation, the City shall notify the represented employee on or before the end of the twelve (12) month entry probationary period or the six (6) month promotional period. If the City does not give the represented employee notice of release or removal during probationary period, the represented employee shall be classified as a permanent City employee.

14.3 Performance Appraisals

Section 14.3 shall not apply to represented employees in UM1.

The City agrees that represented permanent employees are entitled to Annual Performance Appraisals outlining progress and performance. Performance Appraisals serve the following purposes: (1) ensuring the supervisor's regular review of each represented employee's performance; (2) encouraging improvement in a represented employee's performance; (3) determining whether a represented employee's performance has improved; (4) providing represented employees with effective supervision; (5) complimenting a represented employee's performance and achievement. Each represented employee's Performance Appraisal shall include one of the following Overall Ratings:

- Exceeds expectations;
- Fully effective;
- Improvement needed;
- Unacceptable.

14.3.1 Twelve Month Probation Appraisal

During a represented employee's twelve (12) month entry level probationary period, the City shall complete a performance appraisal on or about the end of the third, fifth, eighth and eleventh months of service. If the represented employee becomes permanent, the City shall complete a performance appraisal annually thereafter

14.3.2 Six Month Probation Appraisal

During a represented employee's six (6) month promotional probationary period, the City shall complete a performance appraisal on or about the end of the third and fifth months of service. If a represented employee becomes permanent, the City shall complete a performance appraisal annually thereafter.

Section: 14.3.3 Consequences Of Failure Complete Annual Performance Appraisal

Date Signed: 6/12/09

For the purposes of City programs for which an overall "Fully Effective" performance appraisal is a pre-requisite (including but not limited to order-of-layoff tiebreakers and pilot programs such as telecommuting and compressed work schedules), in the event a represented employee has not received his/her most recently due performance appraisal within forty-five (45) calendar days of the date the appraisal was due, he/she shall be treated as if the overall performance appraisal rating was "Fully Effective."

14.4 Entry Level Examinations

Section 14.4 shall not apply to represented employees in UM1.

14.4.1 Announcements of Examination

City agrees to routinely make information regarding open examinations available each ~~month~~ week, in advance of the deadline for applications, to employees represented by the Union.

14.4.2 Certification Of Eligibles To Fill Vacancies

Whenever a position in the classified Civil Service is to be filled, for which no reinstatement list exists, the appointing authority shall receive a list of four (4) names. In the case of multiple vacancies, the appointing authority shall receive a list of four (4) names, plus two (2) names for each additional vacancy to be filled; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

14.4.3 Transfer List (Unit TF1)

Any permanent classified employee may request a transfer from one department to another in her/his current classification, provided the employee meets the qualifications for the position. When requested by a represented employee in Unit TF1, the City will place the represented employee's name on a transfer list for the represented

employee's classification. The City will consider represented employees on the transfer list prior to filling vacant positions.

14.5 Promotions/Certification of Eligible To Fill Vacancies (TF1)

~~Section 14.5 shall not apply to represented employees in UM1.~~

~~In the case of certification from a promotional list to fill a position in Unit TF1 for which no reinstatement list exists, the Director of Personnel Resource Management shall certify to the appointing authority the first five (5) names necessary to fill such position and, in the case of certification from the list to fill multiple vacancies, the Director of Personnel Resource Management shall certify a number of names equal to the number of vacancies to be filled and four (4) additional names, provided, however, that a lesser number may be certified when there is not the required number on the eligible list.~~

14.6 Promotional Examinations

Section 14.6 shall not apply to represented employees in Units UM1 and UM2.

14.6.1 Announcements of Promotional or Restricted Examinations

In the manner required by the Civil Service Personnel Rules, the City agrees to Announce Promotional or Restricted Examinations.

14.6.2 Seniority Points [Rule 4.13(a)]

A represented employee with ten (10) or more years of active City service who successfully completes a promotional examination shall have five (5) points added to the represented employee's final score. A represented employee with fewer than ten (10) years of active City service who successfully completes a promotional examination shall have up to a maximum of five (5) points, prorated based on the number of years of active City service, added to the represented employee's final score. Seniority points shall be calculated as of the date of the job announcement.

14.6.3 Residency [Rule 4.13(b)]

A City of Oakland resident competing in an examination shall be given an additional five percent (5.0%) added to the score, provided that the represented employee initially scores a passing grade on the

examination and has been a resident for a minimum period of one (1) year as of the date of the job announcement.

14.6.4 Certification of Eligibles To Fill Vacancies

Whenever a promotional or restricted position in the competitive Classified Civil Service is to be filled, for which no reinstatement list exists, the appointing authority shall receive a list of the top four (4) ranks names. In the case of multiple vacancies, the appointing authority shall receive a list of the top four (4) ranks names, plus two (2) ranks names for each additional vacancy to be filled; provided, however, that a lesser number may be certified when there is not the required number on the eligible list.

Individuals on the promotional or restricted eligible list shall be certified and considered for appointment before individuals on the original entrance eligible list(s).

14.6.5 Administrative Analyst Flexible Staffing

Represented employees in the classification of Administrative Analyst I may promote into the classification of Administrative Analyst II without benefit of competitive examination. Such represented employees must meet criteria established by the City regarding minimum qualifications, years of experience, and passing a certification examination in order to be promoted to Administrative Analyst II.

14.7 Residency Zone

Represented employees hired on or after January 1, 1996, in the classifications identified in Appendix D, Residency Zone, shall be required to live in a residency zone as described in Appendix E, Residency Zone Zip Code Index. Further, such represented employees shall be required, as a condition of continued employment, to maintain residency within the zone during their employment with the City of Oakland. The City shall periodically require proof of established residence.

Represented employees hired prior to January 1, 1996, shall not be subject to the residency requirement during the term of their employment with the City. Further, should such represented employees be laid off as a result of City reduction in force they shall not be subject to the residency requirement if reinstated to employment. However, should such represented employees terminate employment and become re-employed or re-appointed to City

employment at a later date, they shall become subject to the residency policy at that time.

14.8 Reduction In Force/Layoff (Units TA1, TF1, TM2, TW1, And UH1)

This section shall apply only to represented employees in Units TA1, TF1, TM2, TW1, and UH1.

The City will keep the Union advised of financial planning that contemplates reduction of personnel represented by the Union and to provide a listing of classifications represented by the Union that may potentially be reduced as soon as such information may feasibly be provided.

In the event that a reduction in force is required, it shall be carried out in accordance with the layoff procedure outlined in Sections 9.01 and 9.02 of the Personnel Manual and the following:

- A reduction in force shall be effected on a City-wide basis for each classification to be reduced. Represented employees in classifications affected by a layoff who are not subject to layoff may, with City approval, volunteer to be laid off.
- A layoff (reinstatement) list shall remain in effect for a period of three (3) years.

The City will also provide the Union, on or about sixty (60) days prior to the anticipated implementation date of reductions, or when the City has knowledge of anticipated reductions, whichever is later, a unit listing by classification which will have the original service date and job class service date of each represented employee as that data existed in the City's payroll/personnel system at the time. It is understood that the information provided does not constitute an official City seniority list.

The City will provide the Union with a copy of its official layoff lists affecting represented employees when they become available.

This section, which incorporates by reference Sections 9.01 and 9.02 of the Personnel Manual, reflects the parties' agreement regarding procedures for layoffs.

14.8.2.3 Preference Points in Examinations

14.8.2.3 Preference Points in Examinations.

14.8.1 Seniority Points [Personnel Manual Section 4.15]

A represented employee with ten (10) or more years of active City service and who successfully completes an open, restricted or promotional examination shall have five (5) points added to the represented employee's final score. A represented employee with fewer than ten (10) years of active City service and who successfully completes an open, restricted or promotional examination shall have up to a maximum of five (5) points prorated based on the number of years of active City service, added to the represented employee's final score. Seniority points shall be calculated as of the date of the job examination.

To receive this credit, a permanent represented employee must have an overall rating that is at least "fully effective" in the most recent performance appraisal and have a record free of discipline (excluding reprimands) from one year prior to the examination. In the event a represented employee has not received his/her most recently due performance appraisal within forty-five (45) calendar days of the date the appraisal was due, he/she shall be treated as if the overall performance appraisal rating was "Fully Effective."

14.8.2 Residency Points [Personnel Manual Section 4.11]

A City of Oakland resident who competes in an examination process for a position in the competitive civil service shall be given an additional five (5) points on her/his final examination score provided that he/she initially scores a passing score on the examination and has been a City resident for a minimum of one (1) year as of the date of the establishment of the eligible list for that examination. The applicants must submit satisfactory written proof of residency as determined by the Personnel Director.

Section: 14.8.2 Residency Points

A City of Oakland resident who competes in an examination process for a position in the competitive civil service shall be given an additional five (5) points on her/his final examination score provided that he/she initially scores a passing score on the examination and has been a City resident for a minimum of one (1) year as of the date of the establishment of the eligible list for that examination. The applicants must submit satisfactory written proof of residency as determined by the Personnel Director.

14.9 Eligibility Lists During A Hiring Freeze

14.9.1 Extension

In the event the City declares a hiring freeze while any Civil Service ~~Eligibility eligible List list~~ is active, the duration of the ~~eligibility-eligible~~ list shall be extended for a period equivalent to the length of the hiring freeze.

14.9.2 Notification

When the City declares a hiring freeze, the City ~~Manager~~ Administrator or designee shall notify the Union in writing of the beginning and ending dates of the City-declared freeze.

14.10 Contracting Out

In accordance with Section 9.02(e) of the City Charter, the City shall not contract out for service if contracting out results in the loss of employment or salary by any person having permanent status in the competitive service.

14.11 Discipline/Just Cause

No represented employee in Units TA1, TF1, TM2, TW1, UH1, and UM2 will be subject to disciplinary action except for just cause. Situations in violation of Section 218 of the City Charter shall not be considered just cause. Reassignment or position downgrades as a consequence of a Reduction in Force shall not be considered disciplinary action. The City will provide a copy of the Skelly Notice of Intent letter to the Union at the same time it is served on the represented employee.

Prior to imposing any serious disciplinary action (fine, suspension, demotion, termination) against a permanent represented employee, the City shall adhere to the following procedures:

- The City will provide the employee prior written notice of the proposed action to be taken that states the reason(s) for which the action will be taken; provide a copy of the charges and materials upon which the action is based; and provide the employee the right to respond orally or in writing or both to a Skelly Officer who has the authority to effectively recommend whether the proposed action should be sustained, modified or revoked. The City will provide a copy of the Skelly Notice of Intent letter to the Union at the same time it is served on the represented employee.

- In order to allow the employee time to seek advice and to prepare any oral or written response he/she may wish to make, the date set for his/her response shall be no less than five (5) work days from the date the letter is sent.
- In the event the employee or his/her representative requests to reschedule the date set and by mutual agreement the parties reschedule, the administrative Skelly meeting shall occur no later than ten (10) working days from the date the notice was sent.
- Any further extension shall be granted only where the parties mutually agree that such extension is required by due process principals.
- The employee will be notified in writing of the decision. The City will send a copy of the decision along with a copy of the Skelly Officer recommendation to the Union.

Represented employees in Unit UM1 may use the Article 16 grievance procedure to grieve disciplinary actions as defined in Section 16.1.

14.12 Sexual Harassment And Violence In The Workplace

Any represented employee found to have engaged in workplace activity in violation of the City's policy on sexual harassment or violence in the workplace shall be subject to discipline.

ARTICLE 15: GRIEVANCE AND DISPUTE RESOLUTION PROCEDURE (UNITS TA1, TF1, TM2, TW1, UH1, AND UM2)

This Article shall not apply to disputes of disciplinary actions of represented employees in Unit UM1 as defined in Article 16.

15.1 Definition

A grievance is defined as any dispute that involves the interpretation or application of this Agreement or the Personnel Rules or disciplinary action (i.e. suspensions, demotions, fines, and terminations) taken against an employee other than those employees assigned to the Offices of the Mayor or City Council. A represented employee may grieve the issuance of an oral warning, written warning, and/or written reprimand, and may appeal an oral warning, written warning, and/or written reprimand up to Step 2 of this grievance procedure. The decision of the Agency Head/Department Head shall be final, however, and no oral warning, written warning, and/or written reprimand shall be subject to review by the Employee Relations Officer, an arbitrator, or the Civil Service Board (or arbitrable under this Article 15 grievance procedure.) It is the express intent of the parties that grievances be resolved expeditiously at the lowest possible administrative level.

It is the express intent of the parties that grievances be resolved expeditiously at the lowest possible administrative level. In cases involving an action directly taken by a department head alleged to violate the MOU, the Union may file the grievance at Step 2. In cases involving alleged violations of the MOU by the City affecting represented employees in more than one department, the Union may file the grievance at Step 3.

Toward that objective, the following steps are prescribed:

15.2 Procedure

15.2.1 Step 1

15.2.1.1 Informal Discussion

The represented employee may present the grievance orally to the immediate supervisor within ten (10) working days from such time as the represented employee should reasonably have been aware of the occurrence.

15.2.1.2 Formal Submission

Should the grievance remain unresolved, the represented employee may submit the grievance in writing to the immediate supervisor within the ten (10) working days cited above. The grievance shall state the specific section(s) of this Agreement or the Personnel Rule(s) alleged to be violated, or the disciplinary action taken, and the proposed solution. The supervisor shall render a decision in writing to the represented employee and/or Union representative within ten (10) working days of the formal submission of the grievance.

15.2.2 Step 2: Appeal to Department Head

Should the grievance remain unresolved, the represented employee may, within ten (10) working days of receipt of the supervisor's decision, submit the grievance in writing to the department head. The department head or director or designated representative shall respond to the grievance in writing within ten (10) working days after receiving the grievance.

15.2.3 Step 3: Employee Relations Officer. Union Staff Representative

Should the grievance remain unresolved, the represented employee or Union representative may, within ten (10) working days after receiving the department head response, submit the grievance in writing to the Employee Relations Officer. The Employee Relations Officer, or a designated representative, shall investigate the case and either respond to the grievance in writing within ten (10) working days of receipt of the grievance or meet with the assigned Union staff representative within ten (10) working days of submission and attempt to resolve the dispute.

15.2.4 Step 4: Civil Service Board. Arbitration

Should the grievance remain unresolved, within fifteen (15) working days of such written notice or said meeting, either party may submit such grievance to an impartial arbitrator who shall be selected by mutual agreement or, if such agreement is not reached, by alternately striking names from list of five (5) arbitrators submitted by the State Mediation and Conciliation Service. Alternatively, in the case of a grievance concerning disciplinary action against a represented employee (except represented employees in Unit UM1), the Union may elect to submit such grievance to the Civil Service Board, instead of to an arbitrator. The Civil Service Board may elect to use a Hearing

Officer for such appeals as described in Appendix F, Civil Service Use Of Hearing Officer. In the event that the Union elects to submit the grievance to the Civil Service Board, the filing of the written grievance in accordance with the provisions of Step 1, 15.2.1 above shall satisfy the requirement of the Personnel Ordinance that the represented employee give notice of intent to appeal a disciplinary action.

If arbitration is selected, it is agreed that the arbitrator's decision shall be final and binding on all parties and the arbitrator's fees shall be borne equally by the parties. The arbitrator shall have no power to add to or subtract from the provisions of this Agreement or of the Personnel Rules.

15.3 Time Limits

Although the City may reject a grievance as untimely, timeliness shall not be the sole reason for rejecting a grievance at any step. Time limits prescribed in 15.2 above may be extended by mutual agreement of the parties. Failure of the City to follow the time limits, unless so extended, shall cause the grievance to move to the next level. If the grievance is submitted to binding arbitration, the City may include as an issue the represented employee's or Union's failure to follow the grievance time limits.

15.4 Right Of Representation

The represented employee filing a grievance, as defined above, shall have the right of representation at each step of the grievance procedure.

15.5 Witnesses

Individuals who may have direct knowledge of circumstances relating to the grievance may appear at the mutual request of the parties during any stage of the procedure. In the case of a represented employee appearance, he/she shall be compensated at his/her regular rate of pay for actual time spent appearing.

15.6 Class Action Grievance

A grievance covering more than one represented employee must be identified as a "class action grievance" when first submitted. The scope of the grievance shall then be described; and, to the extent reasonably known by the Union, the grievants shall be identified by name. A "class action grievance" must meet the definition of a grievance, as described in Section 15.1, to be processed as such.

15.7 Consolidation

Concurrent grievances alleging violation of the same provisions shall be consolidated for the purpose of this procedure as a single grievance.

15.8 Expedited Arbitration Procedure

By mutual agreement, the parties may agree to forego the Step 4 process described in 15.2.4 of this Article and submit any grievance to expedited arbitration. If the parties agree to expedited arbitration, the arbitrator will be selected as follows:

15.8.1 By agreement of the parties; or

15.8.2 The parties may request a list of five (5) arbitrators from the State Mediation and Conciliation Service and alternately strike an arbitrator until one arbitrator remains. The decision of which party will strike first shall be determined by a coin toss.

If the parties elect to submit a grievance to expedited arbitration, closing arguments will be presented orally, unless the parties agree to submit written briefs. The parties agree that the arbitrator shall issue a bench decision and subsequently provide a written decision memorializing his/her decision; provided that the parties by mutual agreement may elect to obtain a written decision following the parties' submission of written briefs.

The arbitrator shall have no power to add to or to subtract from the provisions of this Agreement or the Personnel Rules.

ARTICLE 16: UNIT UM1 DISCIPLINARY ACTION GRIEVANCE PROCEDURE

Article 16 applies only to disputes of disciplinary actions of represented employees in Unit UM1.

16.1 Definition

For the purposes of this Article, disciplinary action shall be defined as fines, demotions, and terminations. Disciplinary action shall not include oral or written warnings, letters of reprimand, counseling memos or suspensions. It is the parties' express intent that grievances be resolved expeditiously at the lowest possible administrative level. Toward that objective, the following steps are prescribed:

16.2 Procedure

16.2.1 Informal Discussion – Step 1(a)

The represented employee may present the grievance orally to the immediate supervisor within ten (10) working days from such time as the represented employee should reasonably have been aware of the occurrence.

16.2.2 Formal Submission – Step 1(b)

Should the grievance remain unresolved, the represented employee may submit the grievance in writing to the immediate supervisor within the ten (10) working days cited above. The grievance shall state the disciplinary action taken, and the proposed solution. The supervisor shall render a decision in writing to the represented employee and/or Union representative within ten (10) working days of the formal submission of the grievance.

16.2.3 Appeal To Department Head – Step 2

Should the grievance remain unresolved, the represented employee may, within ten (10) working days of receiving the supervisor's decision, submit the grievance in writing to the department head. The department head or director or designated representative shall respond to the grievance in writing within ten (10) working days after receiving the grievance. Although the department head or designee may include timeliness as one of the reasons for denying the grievance, time limit shall not be the sole reason for denying the grievance.

16.2.4 Employee Relations Officer – Union Staff Representative – Step 3

Should the grievance remain unresolved, the represented employee or Union representative may, within ten (10) working days after receiving the department head response, submit the grievance in writing to the Employee Relations Officer. The Employee Relations Officer, or a designated representative, shall investigate the case and either respond to the grievance in writing within ten (10) working days of receiving the grievance or meet with the assigned Union staff representative within ten (10) working days of submission and attempt to resolve the dispute.

16.2.5 Arbitration – Step 4

Should the grievance remain unresolved, within fifteen (15) working days of such written notice or said meeting, either party may submit the grievance to an impartial arbitrator who shall be selected by mutual agreement or, if such agreement is not reached, by alternately striking names from list of five (5) arbitrators submitted by the State Mediation and Conciliation Service. The arbitrator's decision shall be final and binding on all parties and the arbitrator's fees shall be borne equally by the parties. The arbitrator shall have no power to add to or subtract from the provisions of this Agreement or of the Personnel Rules.

16.2.6 Appeals Of Disciplinary Action – Step 4 – Arbitration Procedures

The principles of progressive discipline shall not apply to disciplinary termination against represented employees in Unit UM1.

At Step 4 of the Grievance Procedure, all appeals of disciplinary action against a represented employee shall be submitted to binding arbitration under this Section. This Section provides the exclusive appeal procedure for disciplinary actions against a UM1 represented employee.

16.2.6.1 Conduct Of Hearings

Hearings will be closed to the public.

A court reporter will record the hearing. At the requesting party's expense, the court reporter's transcript of the proceedings will be available upon request.

At the option of each party, closing arguments may be presented orally or in a written brief.

16.2.6.2 Arbitrator's Responsibilities

Arbitrators shall be responsible for the conduct of the hearing and shall identify the appeal issue, determine relevant facts, assess the credibility of witnesses, evaluate the evidence, and render a final and binding decision.

The arbitrator shall submit a written decision to the parties within a reasonable period after the close of the hearing.

16.2.6.3 Costs

Costs for the arbitrator and a court reporter shall be borne equally by the City and the Union as representative of the appellant.

16.2.7 Time Limits

Although the City may reject a grievance as untimely, timeliness shall not be the sole reason for rejecting a grievance at any step. Time limits prescribed in 16.2 above may be extended by mutual agreement of the parties. Failure of the City to follow the time limits, unless so extended, shall cause the grievance to move to the next level. If the grievance is submitted to binding arbitration, the City may include as an issue the represented employee's or Union's failure to follow the grievance time limits.

16.2.8 Right Of Representation

The represented employee filing a grievance, as defined above, shall have the right of Union representation at each step of the grievance procedure.

16.2.9 Witnesses

Individuals who may have direct knowledge of circumstances relating to the grievance may appear at the mutual request of the parties during any stage of the procedure. In the case of a represented employee appearance, he/she shall be compensated at his/her regular rate of pay for actual time spent appearing.

16.2.10 Expedited Arbitration Procedure

By mutual agreement, the parties may agree to forego the Step 4 process described in Section 16.2 and submit any grievance to

expedited arbitration. If the parties mutually agree to expedited arbitration, the arbitrator will be selected as follows:

16.2.10.1 By agreement of the parties; or

16.2.10.2 The parties may request a list of five (5) arbitrators from the State Mediation and Conciliation Service and alternately strike an arbitrator until one (1) arbitrator remains.

If the parties elect to submit a grievance to expedited arbitration, closing arguments will be presented orally, unless the parties agree to submit written briefs. The parties agree that the arbitrator shall issue a bench decision and subsequently provide a written decision memorializing his/her decision; provided that the parties by mutual agreement may elect to obtain a written decision following the parties' submission of written briefs.

The arbitrator shall have no power to add to or to subtract from the provisions of this Agreement or the Personnel Rules.

16.3 Civil Service And Personnel Rules (Unit UM1)

During the term of this Agreement, represented employees in Unit UM1 shall be entitled to challenge disciplinary actions only through the procedures described in Article 16 and shall not be governed by the Oakland Civil Service Commission or the Civil Service Personnel Rules. During the term of this Agreement, the Union agrees not to challenge the legality of this section or assert the applicability of Civil Service or Personnel Rules to Unit UM1 represented employees in any legal proceedings against the City and/or its officers or employers, and the City agrees not to submit a City Council Resolution requesting the Civil Service Board to exempt from Civil Service any Unit UM1 represented employees.

ARTICLE 17: REPRESENTED EMPLOYEES ASSIGNED TO THE OFFICE OF THE MAYOR OR CITY COUNCIL

17.1 Application

Except as stated in specific sections of this Agreement or as excluded by this Article, all of the provisions of this Agreement apply to represented employees in Units TA1 and TW1 assigned to the Office of the Mayor or the City Council. The provisions of Article 17 only apply to represented employees in Units TA1 and TW1 assigned to the Office of the Mayor or City Council.

17.2 Resolution Of Concerns Procedure For Represented Employees In Mayor's Or City Council Office

A represented employee assigned to the Office of the Mayor or City Council who desires to do so may meet with his or her immediate supervisor to discuss any dispute involving the interpretation or application of those provisions of the Agreement which apply to the employee and are not specifically excluded from applicability as defined above.

Should the matter remain unresolved, the represented employee may present the matter orally or in writing to the Vice-Mayor, or his/her designee. The Vice-Mayor, or his/her designee, may meet with the affected represented employee or respond in writing to the matter presented.

Should the matter remain unresolved, within fourteen (14) calendar days of said written response or meeting, the represented employee may elect to submit the matter to mediation through the State of California Mediation and Conciliation Service. The mediator, if unable to resolve the issue, shall render an advisory recommendation to the Vice-Mayor. The decision of the Vice-Mayor, after considering the recommendation of the mediator, shall be final and binding on the parties.

The represented employee shall be entitled to representation at the meetings by the Union or other representative.

17.3 Special Leave

Professional employees employed in the Office of the Mayor or City Council will be eligible to be awarded, on an individual employee basis, from zero (0) to five (5) days of Special Leave. This leave is awarded in recognition of the irregular work hours performed during the prior year. The eligibility period for Special Leave is July 1 through June 30. The awarding of such leave will be at the discretion of the Mayor or Council member to whom the represented employee reports.

Additionally, represented employees who demonstrate superior performance during the eligibility period of July 1 through June 30 of each year may also be awarded zero (0) to five (5) days of leave. This leave is awarded in recognition of the prior year's service. The awarding of such leave will be at the discretion of the Mayor or Council member to whom the represented employee reports.

The award must be taken as paid leave and is not cumulative from year to year; i.e. an eligible represented employee must use the awarded leave by the last pay period including June 30 of each year, or forfeit it. With their supervisors' concurrence, individual represented employees are responsible for arranging to use the Special Leave during the one (1) year period. Represented employees who terminate employment after having been awarded Special Leave shall be paid for this awarded but unused leave upon termination.

17.4 Office Of The Mayor Excluded Provisions

The following provisions of this Agreement shall *not* apply to employees in Representation Units TA1 and TW1 assigned to the Office of the Mayor:

- Salary steps for classifications having assigned salary ranges without steps
- Overtime
- Meal Allowance
- Hours of Work
- Rest Periods
- Lunch Period
- Shifts and Schedules
- Probationary Period (Section 14.2)
- Employee Service Ratings and Reports
- Examinations
- Reduction in Force/Layoff (Section 14.8)
- Grievance Procedure (Article 15 and Article 16)
- Fair Share Fee
- Discipline/Just Cause

17.5 City Council Professional Excluded Provisions

The following provisions of this Agreement shall not apply to the below listed professional classifications or to any future professional classifications established in the City Council Office:

- Salary steps for those classifications having assigned salary ranges without steps

- Overtime
- Meal Allowance
- Hours of Work
- Rest Periods
- Lunch Period
- Shifts and Schedules
- Probationary Period
- Employee Service Ratings and Reports
- Examinations
- Reduction in Force
- Grievance Procedure (Article 15 and Article 16)
- Fair Share Fee
- Discipline/Just Cause

The City Council Professional Staff includes the following:

- City Council Constituent Liaison
- City Council Constituent Liaison (PPT)
- City Council Senior Policy Analyst
- City Council Policy Analyst
- City Council Policy Analyst (PPT)
- City Council member's Assistant
- City Council member's Assistant (PPT)
- City Council Administrative Assistant
- City Council Intern (PPT)
- Community Liaison

17.6 City Council Office Clerical/Administrative Support Staff
Excluded Provisions

The following provisions of this Agreement *shall not* apply to represented employees in the City Council Office in the classified positions of Administrative Assistant II who held the position prior to June 30, 2002.

- Grievance Procedure (Article 15 and Article 16)
- Fair Share Fee

Clerical/administrative support staff in the City Council Office will be hired into the exempt classes of Council Public Service Employee ("PSE") 14 or Council PSE 51 and are *exempt* from all of the following provisions of this Agreement.

- Salary steps for those classifications having assigned salary ranges without steps
- Overtime

- Meal Allowance
- Hours of Work
- Rest Periods
- Lunch Period
- Shifts and Schedules
- Probationary Period
- Employee Service Ratings and Reports
- Examinations
- Reduction in Force/Layoff
- Grievance Procedure (Article 15 and Article 16)
- Fair Share Fee
- Discipline/Just Cause

ARTICLE 18: CORRECTIONAL OFFICER SUPERVISOR

18.1 PERB Jurisdiction

The City and the Union agree that Correctional Officer Supervisors assigned to Unit UH1 are "peace officers" as defined in California Penal Code Section 831.55, and consequently, under California Government Code Section 3511, they are not excluded from the jurisdiction of the Public Employment Relations Board.

18.2 Applicability Of City Charter Section 910

The City and the Union agree that City Charter Section 910 does not apply to Correctional Officer Supervisors.

18.3 Terms And Conditions Of Employment

The City and the Union agree that all of the provisions of this Agreement apply to Correctional Officer Supervisors except as specifically modified in this Article and Article 7: Retirement.

18.3.1 Disability Leave And Benefits

For injuries occurring after January 28, 2003, the City and the Union agree that under Government Code Section 20431 and Labor Code Section 4850(b)(1), Correctional Officer Supervisors are eligible for the disability benefits described in Labor Code Sections 4850 through 4846.

18.3.2 Relationship Of "4850 Leave" And FMLA Leave

No leave of absence taken by a Correctional Officer Supervisor pursuant to Labor Code Section 4850 shall be deemed to constitute family care and medical leave as defined in state law and Article 9 or to reduce the time authorized for family care and medical leave by state law and Article 8.

ARTICLE 19: RESOLUTION - DURATION

19.1 Completion Of Negotiations

This Agreement or any part of this Agreement is not binding upon the City until and unless the same is adopted by the City Council; and is not binding upon the Union until and unless the same is adopted by a vote of the represented employees, consistent with Union rules and regulations. This Agreement resolves in full, for its duration, all issues between the parties concerning wages, hours, and other terms and conditions of employment addressed in this Agreement. All proposals introduced by either party that have not been resolved in a signed Tentative Agreement are hereby withdrawn.

Except as specifically provided in this Agreement, it is understood and agreed that any benefits and/or working conditions within the scope of representation published in the City's Salary Ordinance, Civil Service Rules, or other Council Resolutions and Ordinances that affect benefits or working conditions presently in effect and not modified by this Agreement shall remain unchanged unless and until the City and Union meet and confer in good faith pursuant to the provisions of Section 3054.5 of the Government Code and the City's Employee Relations Rules concerning any such proposed changes.

19.2 Savings Clause

In the event any portion of this Agreement is declared null and void by superseding federal or state law, the balance of the Agreement shall continue in full force and effect, and the parties shall immediately commence negotiations to ensure that the superseded portion(s) shall be rewritten to conform as nearly as possible to the original intent.

19.3 Duration

Except as stated in specific sections of this Agreement, this Agreement shall become effective ~~January 28, 2003~~ upon ratification by the City Council and employees, and shall remain in effect through June 30, 2011 ~~for a period of six (6) years, terminating on June 30, 2008.~~

CITY OF OAKLAND, a municipal Corporation

PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, AFL-CIO

19.4 Re-opener

Section 19.4 shall sunset and be removed from the contract upon the expiration of this contract.

The Union shall be entitled to re-open this Agreement to discuss reducing the number of MLWOP days, and/or a wage increase effective July 1, 2010 upon the following condition:

A. Based on actual revenue receipts for Fiscal Year 2008-2009 within the General Purpose Fund, the City shall calculate the total cumulative amount of revenues collected through property taxes, real estate transfer tax and sales tax (collectively, "base revenue amount").

B. By October 15, 2010, the City shall determine the cumulative amount of revenues collected in the General Purpose Fund through property taxes, real estate transfer tax and sales tax for Fiscal Year 2009-2010.

C. If the amount calculated in section B above exceeds the amount calculated in section A above by 10% or more, the Union may at its sole option request a re-opener limited to the issues set forth above.

APPENDIX A
LIST OF CLASSIFICATIONS IN UNIT

APPENDIX B
SALARY ORDINANCE/SCHEDULE

APPENDIX C

SPECIAL EQUITY ADJUSTMENTS

| Class | Equity Adjustment |
|-------------------------------------|-------------------|
| Account Clerk III | 5.00% |
| Payroll & Personnel Clerk III | 5.00% |
| Merge AAI with AAI* | 15.73% |
| Administrative Assistant II | 3.00% |
| Architect | 6.00% |
| Architectural Associate (field) | 6.00% |
| Architectural Associate (office) | 6.00% |
| Architectural Assistant (field) | 6.00% |
| Architectural Assistant (office) | 6.00% |
| Contract Compliance Officer | 3.00% |
| Electronics Supervisor | 9.00% |
| Engineer, Asst. I (field & office) | 6.00% |
| Engineer, Asst. II (field & office) | 6.00% |
| Engineer, Civil (field) | 6.00% |
| Engineer, Civil (office) | 6.00% |
| Engineer, Civil Principal | 6.00% |
| Engineer, Civil, Supv. (office) | 6.00% |
| Engineer, Civil, Supv. (field) | 6.00% |
| Engineer, Transportation | 6.00% |
| Engineer, Transportation, Asst. | 6.00% |
| Engineer, Transportation, Supv. | 6.00% |
| Equipment Supervisor | 10.00% |
| Heavy Equipment Supv. | 10.00% |
| Correctional Officer Supv. | 11.00% |
| Legal Secretary II | 10.00% |
| Legal Secretary, Supv. | 10.00% |
| Police Communications Supv. | 9.00% |
| Police Records Supervisor | 3.00% |
| Real Estate Agent | 3.00% |

* If incumbents meet criteria as specified.

APPENDIX D

RESIDENCY ZONE

List of Affected Represented Classifications in other units affected by Residency Zone.

Unit UH1 Classifications:

- | | |
|---|--------------------------------------|
| 1. Animal Control and Shelter Manager | 23. Police Communications Supervisor |
| 2. Animal Control Supervisor Auto Body Repair Supervisor | 24. Public Works Supervisor I |
| 3. Building Inspection Supervisor | 25. Public Works Supervisor II |
| 4. Childcare Supervisor | 26. Public Works Operations Manager |
| 5. Code Compliance Supervisor | 27. Ranger I, Supervising |
| 6. Computer Operations Supervisor | 28. Ranger II, Supervising |
| 7. Construction and Maintenance Supervisor II | 29. Senior Center Director |
| 8. Construction and Maintenance Superintendent | 30. Stationary Engineer, Chief |
| 9. Construction Inspection Supervisor | 31. Systems Programming Supervisor |
| 10. Electrical Construction and Maintenance Superintendent | 32. Telecommunications Supervisor |
| 11. Electrical Inspection Supervisor | 33. Tree Supervisor I |
| 12. Electronics Supervisor | 34. Tree Supervisor II |
| 13. Equipment Supervisor | |
| 14. Equipment Services Superintendent | |
| 15. Fire Communication Dispatcher Supervisor | |
| 16. Fleet Maintenance Supervisor | |
| 17. Hazardous Materials Program Supervisor | |
| 18. Heavy Equipment Supervisor | |
| 19. Information Systems Supervisor | |
| 20. Park Supervisor I | |
| 21. Park Supervisor II | |
| 22. Plumbing/Mechanical Inspector, Supervisor | |

Unit UM1 and UM2 Classifications:

1. Assistant to the Director
2. Assistant to the Recreation Services Manager
3. Assistant to the City Auditor
4. Assistant to the City Clerk
5. Cable TV Station Manager
6. City Architect, Assistant
7. City Architect
8. City Council Office Administrator
9. Deputy Director/Building Official
10. Deputy Director of Public Works/Administration
11. Deputy Director, Housing
12. Deputy Director, Program Planning and Development
13. Deputy Director/OPW
14. Emergency Service Manager, Asst.
15. Librarian, Administrative
16. Manager, Planning & Building Operations
17. Manager, Neighborhood Development
18. Manager, Building Services
19. Manager, Claims and Risk
20. Manager, Code Compliance
21. Manager, Electrical Services
22. Manager, Housing Rehabilitation
23. Manager, Information Systems
24. Manager, Inspection Services
25. Manager, Park Services
26. Manager, Plan Check/Engineering
27. Manager, Real Estate Services
28. Manager, Recreation Services
29. Manager, Senior Services
30. Manager, Community Assistance Center
31. Principal Civil Engineer
32. Purchasing Manager
33. Safety & Loss Control Coordinator

Other Unit Classifications:

1. Emergency Planning Coordinator
2. Neighborhood Services Coordinator

APPENDIX E

RESIDENCY ZONE ZIP CODE INDEX

Applicants and employees residing within the zip codes below or within the designated city limits of the following jurisdictions would be considered within the acceptable areas of the zone.

| <u>MAP LOCATION</u> | <u>ZIP CODE</u> |
|---------------------|---|
| Alameda | 94501 94502 |
| El Cerrito | 94530 |
| Castro Valley | 94546 |
| Lafayette | 94549 |
| Moraga | 94556 |
| Orinda | 94563 |
| San Leandro | 94577 94578 94579 |
| San Lorenzo | 94580 |
| Emeryville | 94508 |
| Oakland | 94601 94602 94603 94605 94606 94607 94608 94609 94610 94611 94612 94613 94618 94619 94621 |
| Berkeley | 94702 94703 94704 94705 94707 94708 94709 94710 94720 |
| Albany | 94706 |
| Richmond | 94801 94802 94804 94805 94806 94807 |
| Hercules | 94547 |
| Pinole | 94564 |
| San Pablo | 94806 |
| El Sobrante | 94803 |
| Hayward | 94540 94541 94542 94543 94544 94545 94557 |
| Piedmont | 94611 |

APPENDIX F

CIVIL SERVICE USE OF HEARING OFFICER

The Civil Service Board may elect to use a Hearing Officer for appeals of suspensions, fines, demotions or disciplinary discharges filed pursuant to Article 15, Grievance Procedure, of this Agreement.

1. Conduct Of Hearings

Hearings will be closed to the public unless otherwise requested by the appellant.

Hearings will be tape recorded. Copies of the tape(s) will be available to the appellant, if desired, for no charge. Transcripts of the taped proceedings will be available upon request, at the requesting party's expense.

Closing arguments shall be oral; provided, however, that either party may elect to submit a closing brief. Such an election must be made following the presentation of closing arguments. Briefs are to be submitted to the Hearing Officer within twenty (20) calendar days of the close of the hearing. Briefs submitted after the deadline shall not be considered by the Hearing Officer.

2. Hearing Officer Responsibilities

Hearing Officers shall be responsible for the conduct of the hearing and shall identify the appeal issue, determine relevant facts, assess the credibility of witnesses, evaluate the evidence and render an advisory decision to the Civil Service Board.

The Hearing Officer shall render written findings and recommendations to the Civil Service Board within thirty (30) calendar days of the close of the hearing. If briefs are submitted, the recommendation shall be submitted to the Board within fifty (50) calendar days of the close of the hearing.

The Hearing Officer shall provide the Civil Service Board the following documents which shall constitute the official hearing record:

- 2.1. A summation page delineating the case name, issue, brief summary of the case and his/her recommendation.
- 2.2. A complete written report documenting the findings.
- 2.3. Any documentary evidence, written motions and briefs submitted.
- 2.4. The cassette tape(s) of the hearing.

3. Civil Service Board Responsibilities

Upon receipt of a Hearing Officer's recommendation, the Board Secretary shall schedule the case for the next available Civil Service Board meeting. The Board will make every effort to schedule a case within thirty (30) days of receiving the Hearing Officer's recommendation.

In reaching a decision, the Board shall review the hearing record and may review the cassette tape(s) of the hearing. The Board's decision shall be made in accordance with Ordinance No. 8979 C.M.S., as amended, which requires a majority of a quorum to accept, reject or modify an appeal.

Final determinations will be issued in writing, within ten (10) days of the conclusion of the Civil Service Board review of the Hearing Officer's recommendation. Copies of the Board's determination and the recommendation of the Hearing Officer shall be forwarded to the appellant, appellant's representative, City Attorney's Office and the affected City Department.

4. Costs

Costs for the Hearing Officer shall be borne equally by the City and the Union as representative of the appellant.

Costs for transcribing hearing tapes shall be borne by the requesting party.

Costs for a copy(s) of the hearing tape shall be borne by the requesting party.

APPENDIX G
MILITARY LEAVE

APPENDIX H
PREMIUM PAY REPORTED TO CALPERS

APPENDIX I

SIDE LETTER AGREEMENTS

1. The parties will address the allocation of classes in UM1 unit in accordance with the following procedures and dates.

First Level – Primary Review

The parties shall exercise their best efforts to reach agreement on which classifications and positions currently in the UM1 bargaining unit should be reallocated to the UM2 bargaining unit. The parties shall complete their discussions not later than July 28, 2009, unless extended by mutual agreement.

Second Level – Mediation

Union and City agree that for classes whose allocation remains in dispute, further discussion shall be facilitated by the State Mediation and Conciliation Service (SMCS) with the specific mediator to be agreed upon by both parties, subject to availability. This facilitated process shall be completed no later than September 15, 2009.

Upon the completion of each level above: a) the City may proceed to seek civil service exemption of any class or position the parties agree is to remain in the UM1 bargaining unit; b) the City shall move to the UM2 bargaining unit all classifications the parties agree to treat as classified.

As to classifications or positions on which the Union and the City Administrator reach agreement on unit placement, the following shall occur at the earliest date possible:

- All classifications remaining within the UM1 bargaining unit shall be referred to the Civil Service Board for exemption from the Competitive Civil Service, if necessary. The Union agrees not to assert Civil Service status nor challenge the exemption of these classifications from the Competitive Civil Service.
- All permanent employees in classifications within bargaining units TA1, TF1, TW1, TM2, UH1, and UM2, with the exception of currently exempt classifications in the Offices of the Mayor and City Council as specified in Article 17 of the MOU, shall be part of the Competitive Civil Service and governed by the Civil Service Rules. The City agrees not to assert nor seek exemption of these classifications from the Competitive Civil Service.

Pursuant to Civil Service Rule 3.06, the City agrees to request that the Civil Service Board accept into the Competitive Civil Service any classifications within these bargaining units that are currently exempt.

- The parties agree that Civil Service status applies to entire classifications and not to individual positions. In the event the parties determine that some positions within a particular existing classification currently in the UM1 bargaining unit should be exempt while others should be classified, either the incumbents designated to be classified shall be reclassified in accordance with Civil Service Rule Sec 3.05 where appropriate, or the incumbents designated to be exempt shall be assigned to new or existing exempt classifications.
- Represented employees in positions that are reallocated to the UM2 bargaining unit (and thus covered by Civil Service Rules) shall be granted seniority based on their cumulative service in that classification, subject to any other provisions in the Civil Service Rules. (Example: a person hired or promoted into such a classification on January 1, 2005 will be considered to have 4.5 years of service in that classification as of June 30, 2009).
- Where the parties agree that some positions in a classification may be appropriately exempted from the Competitive Civil Service while others may be appropriately included within the Competitive Civil Service, the City agrees to conduct appropriate classification/unit placement studies. Such studies shall be completed by November 15, 2009, and may be heard by the Civil Service Board in December 2009, or as soon thereafter as the Board calendar permits.

Third Level – Remaining Disputes

Those classes for which no agreement is reached as a result of the processes described in this agreement shall remain in the UM1 unit. The City may seek civil service exemption of such classes, and the Union reserves its right to object before the Board. For such classes, if the Board determines the class is not exempt from civil service, the classification shall be placed in the UM2 unit.

The Union agrees not to assert in any legal or administrative proceedings the applicability of Civil Service or Personnel Rules to any classes allocated to the UM1 unit as of July 1, 2009 until November 15, 2009, unless the date for completion of the process is extended by mutual agreement.

Further, except as provided herein, the City agrees not to request the Civil Service Board to exempt from the Competitive Civil Service any class allocated to the UM1

unit until November 15, 2009, unless the date is extended by mutual agreement of the parties.

On November 15, 2009, or, if extended, the date agreed upon pursuant to the above paragraphs, Article 16 of the MOU shall be deleted.

2. A represented employee who is appointed prior to September 15, 2009 from a position in the Competitive Civil Service to an exempt classification in unit UM1 shall be deemed to have taken an approved leave of absence without pay from his/her classified position as provided for in Sections 8.07(b) and 8.07(c) of the Civil Service Rules. Beginning September 15, 2009, the City shall make its best efforts to advise each classified represented employee who is appointed to an exempt classification that he/she is entitled to request a leave of absence without pay from his/her classified position.

For a represented employee who has been appointed to a position in unit UM1 and is on an approved leave from a classified position, upon termination of such leave, the represented employee shall have the right to revert to a position in the same classification as that occupied by him/her at the time of commencement of such leave. If no vacant position exists in that classification, the represented employee may "bump" another represented employee with less seniority, in the manner provided under Section 9.02(d) of the Civil Service Rules. If there is no incumbent in that classification with less seniority, the represented employee shall be placed on a reinstatement list in the manner provided under Section 9.03.

3. Upon the involuntary separation (other than for misconduct) of a long term (ten or more consecutive years of City service) civil service exempt employee who, previous to his/her exempt appointment did not hold a classified position, the City will attempt to place the represented employee in a vacant civil service exempt position for which the employee meets the minimum qualifications. Such appointment may be made with the approval of the City Administrator and the Agency/Department Director.
4. Represented employees in unit UM1 shall be entitled to use the grievance procedures in Article 15 for non-disciplinary grievances involving the interpretation or application of the MOU.
5. Before filling a vacant position in the UM1 bargaining unit, the City shall post the vacant position and provide an opportunity for represented employees to apply.

Nothing in this side letter shall limit the City's rights pursuant to the Employer-Employee Relations Resolution (Resolution No. 55881) to determine appropriate unit designations. This side letter shall not be cited or used as precedent for any future agreement, and shall not be used as evidence in any legal, administrative or arbitration proceeding of any kind except to enforce or defend the specific terms of this side letter or the MOU. This language shall not be construed as a waiver of any right to meet and confer over any change, if such change is within the mandatory scope of bargaining.

Jon Holtzman
Chief Negotiator
City of Oakland

Vickie Carson
Chief Spokesperson
Local 21

Trinette Gist Skinner
Employee Relations
City of Oakland

Jeff Levin
Oakland Vice President
Local 21

Mandatory Leave Without Pay (MLWOP)

All unit members shall be required to take a total of twelve (12) unpaid days during fiscal years 2009-2011. Included in the total unpaid days are the four (4) December closure days detailed below. The City shall designate the dates of the seven (7) unpaid closure days in fiscal year 2009-2010 and eight (8) unpaid closure days in fiscal year 2010-2011 in addition to the four (4) December closure days in each fiscal year. In addition, one (1) unpaid day in fiscal year 2009-2010 shall be designated by the employee with the mutual agreement of his/her supervisor.

December Closure Days

The parties acknowledge that the City shall close for four (4) days during the course of the December holiday periods. Unit members shall not be paid for closure days during these periods.

December 2009: 28, 29, 30 and 31

December 2010: 27, 28, 29 and 30

In lieu of Christmas and New Year's Eve holidays as specified in section 11.1.5, unit members shall receive holiday pay on December 24, 2009 and December 31, 2010.

Effect of MLWOP

No sick or vacation leave shall accrue on MLWOP days nor may employees utilize any form of paid leave on those days.

MLWOP days shall not impact seniority.

Implementation

Notwithstanding any contrary pay provisions in this MOU, to foster equity within the bargaining unit, all unit members shall contribute an equivalent amount to address the City's revenue shortfall. Accordingly, unpaid time shall be proportional to the regular hours worked by employees.

The City shall exercise its discretion to determine which unit members are required to work on closure days. To the extent possible without requiring backfill, such employees shall be required to take alternative unpaid days. If it is not practicable for the City to grant unpaid days without backfill, in accordance with the schedule set forth in "Further Procedures" (below), the parties will mutually agree upon alternative means of achieving the requirements of "Mandatory Leave Without Pay (MLWOP)" (above).

The City will provide two (2) months advance notice to essential employees required to work on December closure days except in cases of unforeseen circumstances. For the remaining MLWOP days, the City will provide two weeks (10 working days) notice except in cases of unforeseen circumstances.

The City will develop a means of "smoothing" the effect of unpaid days during the December closure.

With the exception of the scheduling of the December Closure Days, the City will utilize its best efforts to ensure that smoothing and shutdown days shall not be scheduled more frequently than once every other pay period.

Further Procedures

Implementation procedures shall be developed within thirty (30) days of the City Council's adoption of this MOU. The City will consult with the Union in the development of such procedures.

The parties shall work with the City's payroll personnel to achieve the above goals.

Limitation on Unpaid Days Off

Except as otherwise provided in this sideletter or Section 14.11 (Discipline/Just Cause) of the 2008-2011 Memorandum of Understanding (MOU) by and between the City of Oakland (City) and IFPTE Local 21 (Union), for the duration of the MOU, the City shall not impose MLWOP (Mandatory Leave Without Pay), furloughs, MBS (Mandatory Business Shutdown days) or other unpaid furloughs or unpaid days on any employee covered by this MOU, whether or not such unpaid leave or days off are characterized as layoffs.

Legal Effect of Side Letter

The City expressly reserves its contention that, under existing City rules and precedent, MBS days are layoffs, and therefore not within the mandatory scope of bargaining. This side letter shall not be cited or used as precedent for any future agreement and does not prejudice or constitute a waiver of either party's position regarding the negotiability of MBS days or the characterization of any unpaid leave or days off as layoffs. This side letter shall not be used as evidence in any legal, administrative or arbitration proceeding of any kind except to enforce or defend the specific terms of this side letter or the MOU.

Nothing in this side letter shall limit the City's authority pursuant to Civil Service Rule 9, subject to MOU section 14.8, to lay off seasonal employees or to lay off employees for an indefinite period.

This side letter shall sunset at the expiration of the MOU.

Jon Holtzman
Chief Negotiator
City of Oakland

Vickie Carson
Chief Spokesperson
Local 21

Trinette Gist Skinner
Employee Relations
City of Oakland

Jeff Levin
Oakland Vice President
Local 21

Tentative Agreement
Local 21 – City of Oakland
2009 MOU Negotiations
July 20, 2009

Side Letter Regarding COBRA Supplement Fund

For the duration of this MOU, the Union and City agree to temporarily suspend the provisions of Section 6.3 regarding Professional Development Allowances (except for represented employees in the classifications of Paralegal and Paralegal PPT, who shall have the right to professional development allowances to reimburse costs of satisfying MCLE requirements) in order to implement the following program.

Establishment of COBRA Supplement Fund

During fiscal years 2009-10 and 2010-11, the City shall establish a COBRA Supplement Fund (Fund). The City shall deposit \$200,000 into the Fund at the beginning of each of these two (2) years in return for the temporary suspension of professional development allowances. In addition, the City shall deposit \$100,000 into the Fund at the beginning of fiscal year 2009-10 (representing a portion of the value of the elimination of the third week of management leave). Additional amounts may be added to the Fund by mutual agreement of the Union and the City.

Uses of Fund

The Fund shall be used solely to reimburse represented employees laid off on or after July 1, 2009 for the costs of purchasing continuation of health insurance under the provisions of the Comprehensive Omnibus Budget Reconciliation Act of 1986 (COBRA). Payments from the Fund shall be made in the following amounts:

1. If the laid-off represented employee is eligible for premium reduction assistance for COBRA continuation health coverage under Section 3001 of the American Recovery and Reinvestment Act of 2009 (ARRA), the City shall reimburse the laid off represented employee for the portion of health coverage premiums not covered by COBRA (i.e., 35 percent of the actual premium).
2. If the laid-off represented employee is enrolled in COBRA continuation health coverage but not eligible for or has exhausted premium reduction assistance under Section 3001 of ARRA, the City shall reimburse the employee for the full cost of such coverage, not to exceed one hundred percent (100%) of the premium cost of the Bay Area Kaiser Permanente family plan. If a laid-off represented employee elects COBRA continuation health coverage that is more expensive than the Bay Area Kaiser Permanente family plan, the represented employee shall pay the additional cost.

Reimbursement Process

Laid-off represented employees shall be responsible for payment of premiums directly to the plan provider. Upon receipt of documentation that such payments have been made, City shall reimburse the represented employee within 30 calendar days.

Duration of Benefits

Payments from the Fund shall continue until the laid-off represented employee ceases to be covered by COBRA or the date the Fund is exhausted, whichever occurs first. It is expressly understood that reimbursement shall be made on a first-come first-serve basis based upon time and date stamp of City receipt. The City shall have no liability to make further payments once funds are exhausted in either fiscal year. If funds are exhausted prior to June 30, 2010, payments shall resume July 1, 2010 for costs incurred for benefits on or after that date.

Use of Unspent Funds

Any funds remaining in the Fund upon the expiration of this MOU shall be used solely for the benefit of represented employees in a manner to be mutually agreed upon by the City and the Union.

Reports

The City shall provide the Union with quarterly reports, in a format mutually agreed upon, with sufficient information for the Union to determine that the City is complying with the provisions of this section.

Implementation

The City and Union shall jointly develop any rules or regulations governing the implementation of the Fund. Any claims regarding alleged failure to comply with this agreement shall be brought solely by the union as a grievance.

This side letter shall sunset at the expiration of the MOU.

Jon Holtzman
Chief Negotiator
City of Oakland

Vickie Carson
Chief Spokesperson
Local 21

Trinette Gist Skinner
Employee Relations
City of Oakland

Jeff Levin
Oakland Vice President
Local 21

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

 7/22/09
City Attorney

2009 JUL 23 PM 6:55 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OAKLAND AND THE INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, REPRESENTING EMPLOYEES IN REPRESENTATION UNITS TA1, TF1, TM2, TW1, UH1, UM1 AND UM2, COVERING THE PERIOD FROM JULY 1, 2008, THROUGH JUNE 30, 2011.

WHEREAS, the Memorandum of Understanding to be entered into between the City of Oakland and the International Federation of Professional and Technical Engineers, Local 21 has been presented to the City Council for determination pursuant to Section 3505.1 of the Government Code of the State of California; and

WHEREAS, the key provisions of the Memorandum of Understanding are described in the Report from the City Administrator dated July 28, 2009; and

WHEREAS, the terms and conditions contained in said Memorandum of Understanding are in the best interests of the City; now, therefore, be it

RESOLVED: That said agreement be, and is, hereby approved; and, be it

FURTHER RESOLVED: That the provisions of said Memorandum of Understanding, to the extent they differ from the prior Memorandum of Understanding, are effective as of the date the City Council approves said Memorandum of Understanding, unless otherwise specified in said Memorandum of Understanding and shall not be retroactive.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California