

This Memorandum of Understanding constitutes the result of meeting and conferring in good faith in accordance with provisions of Chapter 10, Division 4, Title I, of the Government Code of the State of California.

Modifications to existing wages, hours and conditions of employment set forth below have been agreed to by the signatories to this Memorandum for implementation, for all employees represented by the Management Association hereafter called "Association." This Memorandum of Understanding shall remain in full force and effect upon the ratification of the members of the Association and approval of the City Council of the City of San Mateo. The Agreement of the parties is outlined in the Memorandum of Understanding which follows.

**APPROVING AND ADOPTING COMPENSATION PLAN FOR  
MANAGEMENT ASSOCIATION AND CERTAIN UNREPRESENTED  
MERIT SYSTEM EMPLOYEES**

August 13, 2006 – April 18, 2009

RESOLVED, by the Council of the City of San Mateo, California, that:

WHEREAS, some benefits for Management Association and certain unrepresented Merit System employees are to be fixed by resolution pursuant to Sec. 2.54.020 (Ordinance No. 1972-35) of the San Mateo Municipal Code, 1971 Edition; and

WHEREAS, the City representatives have met and conferred upon the benefits for the Management Association with the duly appointed representatives of the San Mateo City Management Association; and

WHEREAS, it appears that certain adjustments should be made on such benefits; and

WHEREAS, the City of San Mateo and the San Mateo City Management Association have agreed to a Memorandum of Understanding covering salaries and certain monetary benefits effective August 13, 2006 - April 18, 2009, and

WHEREAS, as the members of the Management Association are largely responsible for carrying out the will of the City Council and the Citizens of San Mateo, it is advisable to grant them authority and discretion to discharge these responsibilities;

NOW, THEREFORE, IT IS HEREBY DETERMINED and ORDERED, that:

Additional benefits and policies applying to the Management Association for the period effective August 13, 2006 - April 18, 2009, shall be as follows:

## **1.0 RECOGNITION**

The City recognizes the Management Association as the recognized employee organization representing those merit system classifications listed in Exhibit A; as added to, or subtracted from, by formal action of the City Council creating or abolishing merit system classifications.

Those classifications which consist of non-confidential employees who meet the following criteria for merit system management employees shall be assigned to the Management Association:

- A. Any merit system employee having significant responsibilities for formulating and administering City policies and programs and
- B. Any merit system employee having authority to exercise independent judgment and effectively recommend the hiring, transferring, suspending, promoting, discharging, assigning, rewarding, or disciplining of other employees, or having the responsibility to direct them or adjust their grievances.

Those confidential employees who meet the following criteria for merit system management employees shall be assigned to the Management Association:

### 1.1 Confidential Employee Defined

A Confidential Employee is any merit system employee who is privy to decisions of City management affecting employer/employee relations. Confidential employees are listed in Appendix A of the MOU. Confidential employees are not precluded from participating in employee association activities except that Confidential Employees employed in the City's Labor Relations and /or Human Resources are precluded from representing the Association in labor negotiations.

### 1.2 Management Association Position Assignment

Before any position is assigned to the Management Association a salary survey and proposed specification will be submitted to the Management Association for review.

### 1.3 Management Association Rights

The Management Association shall have all of the rights and privileges established by applicable State or Federal law for such employees, including those rights and privileges provided under Government Code Sections 3500-3510. For purposes of identification, this Association shall be titled the Management Association.

## **2.0 PROBATIONARY PERIOD**

The probationary period is the length of time required for an employee to become proficient in their position and for the Department Head to adequately judge the proficiency. Recognizing

that individuals and positions vary, the standard probationary period for all positions shall be twelve (12) months but may be shortened or lengthened by up to six (6) months depending on the proven proficiency of the probationer and with the concurrence of the Department Head.

### **3.0 LIMITED DURATION POSITIONS**

The City may hire employees in limited duration positions (non-permanent positions) that will not exceed three (3) years for any of the following reasons: (1) where the position is created for a project(s) or work that is expected to be completed within three (3) years; (2) where the position is funded by grant funds of three (3) or less years in duration; or (3) where the position is funded by moneys from capital or enterprise funds that may be unavailable after three (3) years. Employees shall be informed of the duration of the position at the time of employment. At the end of the position's duration, employment shall terminate and the employee shall not have layoff rights, bumping rights, severance payments or reemployment rights. This provision shall supersede Personnel Rule Sections 1 (13) and (24). Should an employee who was originally hired to fill a limited duration position be later appointed to a permanent merit position, his/her hire date will be that date that service began in the limited duration position.

### **4.0 SALARY**

Compensation is intended to be consistent with City-wide objectives and commensurate with actual job performance. Job performance will be the sole criteria for determining an employee's placement within a salary range.

#### **4.1 Salary on Initial Appointment**

Salary at initial appointment should be the bottom of the established range for the classification. However, appointment may be made at a higher level on the recommendation of the Department Head.

#### **4.2 Salary Advancement Within Range**

Salary advancement within a range shall be based on merit and performance as determined by the Department Head. Written objectives will be a component in the annual review of job performance. The supervisor's evaluation and recommendations will be used by the Department Head to determine employee's advancement within the range.

Salary advancement within an established range is typically considered at one-year intervals and/or at the time of a range adjustment resulting from negotiations. The date of salary review and increase may be advanced or delayed as determined by the Department Head. Salary advancement typically occurs in increments of four and one-half percent (4 ½%). At no time shall an employee advance beyond the top of the established range.

Other than the review process outlined in Section 4.3, no appeal shall occur from the decision of the supervisor and/or Department Head whether by discipline procedures, grievance, or

otherwise.

#### 4.3 Salary Advancement Review

This subsection shall not apply to and does not include the Salary Adjustment in Section 7.0.

An employee who receives a salary advancement totaling less than four percent (4%) during a twelve (12) month period may request a review by the Department Head if the employee is not directly supervised by the Department Head or if so, by the City Manager/designee. Reviews in the City Manager's and Attorney's office shall be final with the City Manager and City Attorney, respectively. The review shall be completed within thirty (30) days. A request for review cannot be made more than once during a twelve (12) month period.

The City Manager/designee shall provide their decision to the Department Head and employee. The decision shall be final without right to appeal, whether by disciplinary procedures, grievance, or otherwise. Salary adjustments, if any, shall be effective in accordance with the decision of the Department Head/City Manager/City Attorney.

#### 4.4 Salary on Promotion

Upon promotion, salary shall be increased a minimum of five percent (5%).

#### 4.5 Salary on Demotion

"Demotion" means the change from one classification to a different classification where the maximum rate is lower than the maximum rate of the former classification. A demotion will be considered voluntary unless it results from the layoff or discipline process.

The salary rate for demoted employees shall be as follows:

<u>Reason</u>	<u>Rate</u>
Discipline	As set by discipline
Voluntary demotion, or layoff	Top of range
Failure to complete probation after promotion	Return to same relative percentage as held before promotion

#### 4.6 Salary on Transfer

"Transfer" means a change of positions within the same classification or comparable classification with a salary differential of five percent (5%) or less between tops of ranges.

#### 4.7 Salary on Classification Change

If appointed to a classification having a maximum salary equal to that of the immediate former classification, an employee shall be entitled to receive the same rate they would have received if they had remained in the former classification.

No appeals of salary decisions within the discretion of the Department Head or City Manager shall be subject to grievance or any other appeal.

#### 4.8 Salary on Military Leave

All employees who have been granted a military leave may upon their return to City service be entitled to normal salary advancements within their pay-range occurring during their authorized absence.

### **5.0 CLASSIFICATION AND COMPENSATION REVIEW**

The purpose of the classification and compensation review will be to determine appropriate classification allocations and compensation for the Management positions in the City of San Mateo.

#### 5.1 Implementation

In the event that a study of an individual classification is completed by the Human Resources Department upon the request of a Department Head, it may be implemented at a time other than the date for that Management Association annual increase. The following provisions shall apply:

- A. If the individual study is implemented less than six (6) months before the next annual increase: a) the City shall again survey the compensation for the position in conjunction with the annual benchmark survey for the Management Association increase; and b) the position shall receive only the portion of the annual increase necessary to bring the position to market;
- B. If the individual study is implemented six (6) months or more before the next annual increase, the position shall receive the full annual increase.

### **6.0 SPECIAL PAY**

#### 6.1 Bilingual Pay

Based on the City and community need and the language proficiency of the employee, the Human Resources Director may approve bilingual pay for the Management Association classifications upon the recommendation of the Department Head. Approval will only be given where the employee's bilingual skill is regularly used in the course of City business.

Bilingual premium pay shall be \$90 biweekly and shall become payable the first day of the pay period following proficiency certification. If a bilingual qualified employee works less than full-time, the biweekly differential will be prorated.

In order to ensure that employees retain bilingual proficiency, an annual requalification may be required and will be administered by the Human Resources Department.

#### 6.2 Acting Pay

In the event a Department Head determines that it is necessary to assign an employee to perform

all of the duties of a higher paid classification, the employee shall receive the rate of pay of the higher classification. Such rate of pay shall be at least five percent (5%) higher than the employee's current rate of pay except that if circumstances warrant, the City Manager may authorize a different salary in the established salary range.

In the event the City Manager appoints an employee as an acting Department Head, such employee shall be paid a salary which is the average of the established salary for the Department Head and the employee's current salary except that if circumstances warrant, the City Manager may authorize a different salary in the established salary range. No differentials shall be paid in addition during such period as acting Department Head.

Except with the approval of the City Manager, an acting assignment shall not continue for longer than one year.

In the event that the Department Head or the City Manager decides to assign all the duties of a vacant Department Head or Division Head position to a "Management Team," the cost of paying one of the management employees acting pay to fill the vacancy will be split between the members of the "Management Team" and be paid as a differential for the duration of the assignment.

### 6.3 On Call Pay

Two percent (2%) will be included in base pay for the Police Captains, Police Lieutenants, Battalion Chiefs (both 40-hour and 56-hour), Fire Marshal, Construction Manager, Network Administrator, Sr. Systems Analyst and Systems Analyst II in deference to the fact that they are required to wear pagers and respond on a regularly scheduled basis once every four or five weeks. In addition, two percent (2%) will be included in the base pay for the Information Technology Manager if vacancies require this position to be added to the rotation to provide a minimum of four (4) positions in the Department of Information Technology rotation. When scheduled, they are required to be able to respond if necessary in a reasonable time period as defined by the Department.

### 6.4 Educational Incentive Pay - Safety Personnel

#### 6.4.1 Fire Personnel

Possession of a BA Degree shall entitle an employee to one hundred twenty dollars (\$120) per pay period.

To be eligible for educational incentive pay, Fire Safety Management Personnel must complete a minimum of 24 hours of approved Level II or Level III California Fire Service Training and Educational System training or other equivalent formal training each year. Equivalent formal training is defined as training pre-approved by the Fire Chief. Training must be designed to enhance the management skills of the Battalion, Assistant and Deputy Chiefs. The failure of an individual to obtain the required training during a fiscal year shall then terminate educational

incentive payment for that person in the following fiscal year. If the employee is unable to complete the training within the fiscal year due to situations clearly beyond his/her control, the Fire Chief may waive the requirement.

6.4.2 Police Safety Personnel – No separate education pay is provided to Police Captains. Effective August 11, 1996, educational incentive pay was shifted to be included in base pay.

#### 6.5 Water Quality Shift Differential

The Water Quality Plant Shift Supervisor who works five-eighths or more of their regular shift in the period extending from 6 p.m. to 6 a.m. shall be compensated by payment for the entire shift of an additional 4.5 percent (4.5%) of their base pay for that shift. Employees who work less than five-eighths of their regular work shift in the period extending from 6 p.m. to 6 a.m. shall be compensated for those hours worked (to the nearest one-half hour) within this period by payment of an additional 4.5 percent (4.5%) of their base pay for such hours.

### **7.0 SALARY ADJUSTMENT**

#### 7.1 Performance Based Compensation Increases

The term compensation includes base salary, benefits, and Team Recognition Pay (Section 7.3) and Above-Market Median Pay (Section 7.4). Successful employee performance is a key factor in determining compensation. Employees with an overall performance rating of satisfactory or better will receive increases in base salary, as outlined in this section.

If one or more of the following has occurred within the twelve (12) months preceding the scheduled base salary adjustment, the amount of any increase will be determined by the Department Head.

- The employee has received an overall performance rating of less than satisfactory and a meeting has occurred prior to the performance rating that informed the employee of the performance difficulties.
- The employee has been placed on a performance improvement plan.
- The employee has received a letter of reprimand or disciplinary action.

#### 7.2 Market Placement and Compensation Survey

During the term of this agreement, the City seeks to set top-step base salaries equal to the median of comparable cities (populations from 50,000 to 150,000) in San Mateo, Santa Clara and Alameda counties, and provide a competitive benefit package. The market median for the Management Unit is determined by a survey of the benchmark classifications using those cities to set compensation adjustments for the unit.

##### 7.2.1 Survey Methodology

If any of the surveyed benchmarks is greater than twice or less than one-half the average of the

other benchmarks, they will not be used in calculating the average market median. Base salary adjustments are subject to negotiations for a successor Memorandum of Understanding.

### 7.3 Team Recognition Pay

Team Recognition Pay may be afforded the employees in additional compensation when the City has met its market median placement interest. If fifty per cent (50%) of the General Fund balance is not needed to bring employee units to their market medians, up to one-third ( $\frac{1}{3}$ ) of the General Fund balance will be used to fund the Team Recognition Program up to a maximum of five percent (5%) of the annual General Fund salaries for those units that elect to participate in the Program. The maximum value for the program may be changed at the City Council's discretion. The ongoing Team Recognition Program balance is capped at ten percent (10%) of the General Fund salaries for those participating in the program.

### 7.4 Above Market Median Pay

The City Council, during the annual budget adoption process, will determine when additional compensation up to two and one-half percent (2.5%) may be provided to set salaries above the three county market median. In doing so, they will consider, among other factors, the employment market, attraction and retention history, as well as the City's financial health. Additionally, in recognition of a competitive labor market, the City Manager may offer additional compensation or benefits on a case by case basis for challenging recruitment and/or retention circumstances.

### 7.5 Compensation Increases During the Term of this Agreement

Effective August 13, 2006, the Unit will receive a seven point four-two percent (7.42%) across the board increase. Additionally, effective February 11, 2007, the Unit will receive a two and one-half percent (2.5%) across the board increase.

Effective the first full pay periods in August, 2007 and August 2008, the Unit will receive a three percent (3%) across the board increase.

### 7.6 Control Point System for Strategic Managers

#### 7.6.1 Generally

Deputy-level classifications have a different compensation system under this collectively bargained agreement. For an employee holding one of these positions as of August 12, 2006, s/he may opt to participate in this compensation system.

#### 7.6.2 Control Point System

The control point salary system allows a Department Head to set the Deputy's pay between 10% below or up to 10% above the control point, depending on performance and skills in the position. The setting of the control point will be based on the Department Head's control point or market data, depending on position.

### 7.6.3 Limitation of Appeal and Grievance Rights

The employees under this compensation system do not have the ability to grieve or appeal matters contained in this MOU to the Personnel Board, except for personnel actions of demotion, salary reductions in excess of 10% below the control point (i.e., in-grade salary reductions), suspensions, and terminations, or any other rights pursuant to City Personnel ordinance. An employee who disagrees with his/her placement in the range may discuss it with the City Manager.

## **8.0 OVERTIME**

### 8.1 Definition for Exempt Employees

8.1.1 Executive, administrative and professional employees as defined by the Fair Labor Standards Act (FLSA) are exempt from the provisions of this overtime policy. Federal standards concerning exemptions from federal wage and hour laws shall be used as a guide in determining such exemptions.

8.1.2 The regular salary is considered total compensation without any specific work schedule which might be required to carry out assigned responsibilities.

8.1.3 Notwithstanding this exemption, in the event of a work-stoppage, City Council declared emergency, or other concerted action necessitates the devotion of excessive working time by certain management employees in order to maintain essential public services, the City Manager may authorize, on a case-by-case basis, overtime pay at one and one-half (1 ½) times the employee's established rate of pay. Such authorization shall terminate upon cessation of the work stoppage, City Council declared emergency, or other concerted action.

### 8.2 Definitions for Non-Exempt Employees

8.2.1 Regular overtime is authorized time worked, except emergency overtime, by employees in excess of their regular tour of duty.

8.2.2 Emergency overtime is authorized time worked by employees when contacted outside of regular working hours and requested to report to duty because of an emergency, which is defined as an unpredictable occurrence at unscheduled intervals requiring immediate action.

### 8.3 Overtime Rate

Overtime worked shall be paid for at one and one-half (1½) times the employee's established rate of pay.

#### 8.4 Overtime Minimum

Overtime shall be of at least one half (½) hour at any one time in order to be compensable, except an employee called in for emergency overtime of any duration shall be compensated for a minimum of two (2) hours overtime.

#### 8.5 Advance Overtime Authorization

In order to be compensable, a specific advance authorization must be obtained from the Department Head/designee. In case of emergency, the employee may perform the required work pending the earliest opportunity to seek the approval from the Department Head.

#### 8.6 Administrative Leave in Lieu of Overtime/Non-Exempt Employees

Non-exempt employees may waive direct payment of overtime and in lieu thereof may accumulate equivalent time off at the one and one-half time (1 ½) rate to a maximum of forty (40) straight time hours for forty (40) hour per week employees and seventy two (72) straight time hours for fifty six (56) hour per week employees.

#### 8.7 Administrative Leave/Exempt Personnel

It is the intent of the parties to establish a system for exempt personnel that is in compliance with FLSA. The City and the Association agree to the following:

Exempt employees shall be designated by the City. Exempt employees accrue forty-eight (48) hours per year of administrative leave. Administrative leave accrues on a pay period basis. The administrative leave shall be available for use subject to the following:

8.7.1 Administrative leave shall have a maximum balance of eighty (80) hours. Employees may sell back up to forty (40) hours during a fiscal year. A Department Head may recommend to the City Manager that an additional amount of administrative leave be authorized, up to an additional forty (40) hours. This additional leave may be granted based on excessive hours, the value of the extraordinary effort, and the performance of the employee. The City Manager has full discretion in deciding whether to grant additional leave. In the event that the additional hours take the employee over the eighty (80) hour maximum, they may be allowed to sell back an additional forty (40) hours of leave time.

8.7.2 Neither the City nor the employee will record compensatory time. No deductions from leave balances or salary will be made for absences of less than four hours. 56-hour Battalion Chiefs' deductions will be made in quarter-day increments.

### **9.0 ACCRUAL OF VACATION, SICK LEAVE AND HOLIDAY LEAVE**

Employees shall accrue vacation leave, sick leave and holiday leave on a pro-rata basis in proportion to regular hours (non-overtime) on the payroll. Credit shall not be received for time off without pay.

Vacation leave, sick leave, and holiday credits shall accrue from date of appointment

## **10.0 DAILY HOUR VALUE**

The hour value of a leave day for holidays, vacation leave, sick leave, or other leave shall be determined by dividing the average number or regularly scheduled weekly hours by five, which results in the ratio of hours of all weekly hour schedules to the five-day - 40-hour per week employee.

## **11.0 CONTINUOUS SERVICE**

Continuous service shall mean service in any classification since original appointment with the City, excluding any time prior to a break in service.

### **11.1 Paid Time Off Impact**

As used in this Section, one (1) year of completed continuous service shall include, but not be limited to, all time while the employee is on sick leave and/or vacation leave.

### **11.2 Unpaid Time Off Impact**

Neither military leave nor leave of absence without pay shall constitute an interruption in computing continuous service. However, leaves of absence without pay of over one month shall not be included when computing length of continuous service for vacation purposes.

## **12.0 HOLIDAYS**

12.1 The holidays to be observed are as follows:

- A. New Year's Day, January 1st
- B. Martin Luther King's Birthday, 3rd Monday in January
- C. President's Day, 3rd Monday in February
- D. Memorial Day, last Monday in May
- E. Independence Day, July 4th
- F. Labor Day, 1st Monday in September
- G. Veteran's Day, November 11
- H. Thanksgiving Day, 4th Thursday in November
- I. The day after Thanksgiving
- J. Christmas Day, December 25th
- K. Every day approved by the City Council as a public holiday, public fast, or a day of mourning
- L. Three (3) floating holidays to be taken on working days mutually agreeable to the

employee and the department. Floating holidays will be credited by the granting of one and one-half (1½) days holiday credit during the first full pay period in January and July each year.

#### 12.2 Weekend Holiday Observance

Except as provided in 12.4, if a holiday falls on Sunday, the following Monday shall be observed. If a holiday falls on Saturday, the preceding Friday or the following Monday shall be observed as the holiday or holiday time shall be granted. If a holiday falls on an employee's regularly scheduled day off, holiday time shall be granted.

#### 12.3 Work on Holiday

Employees required to work on a holiday shall be granted holiday leave under the following conditions or be paid at the employee's established rate of pay, provided authorization is obtained from the Department Head in advance of working the holiday:

Time off shall be taken at the discretion of the Department Head, with due regard for the desires of the employee and the workload of the department.

#### 12.4 Holiday Factor and Differential

Police Captains, 56-hour Fire Department employees, and Water Quality Shift Supervisors cannot always take holidays when they fall. The Police Captains, Police Lieutenants, and Water Quality Shift Supervisors shall be compensated for thirteen (13) holidays a year by being placed on a bi-weekly holiday factor. 56-hour Fire Department employees shall no longer be eligible to take paid leave for the City's designated holidays and shall receive Holiday-in-lieu pay at the rate of 6.00% of base pay each pay period.

#### 12.5 Holiday on Vacation

In the event holidays fall while an employee is on vacation leave, such holidays shall not be charged as vacation leave.

#### 12.6 Employee Option to Work on Holiday

Employees may choose to work one scheduled holiday a calendar year and be paid at the employee's established rate of pay.

#### 12.7 Maximum Accumulation

Holiday leave shall never accumulate to more than two hundred eighty-eight (288) hours for Fire Department personnel working 24-hour shifts. The maximum accumulation for Police Captains and Water Quality Control Shift Supervisors is eighty (80) hours. All other employees have a forty (40) hour maximum accumulation. Upon separation the maximum sell back for Fire Department personnel working 24-hour shifts shall be one year's accrual up to the prorated amount accrued for the fiscal year in which the separation occurs.

## 13.0 VACATION

### 13.1 Vacation Policy

Vacations are essential to the employee's welfare and they are granted by the City to allow employees relaxation and rest from their duties. It is the policy of the City not to allow the excess accumulation of vacation leave.

All full-time regular employees shall be entitled to vacation leave with pay as provided below after completion of continuous service with the City.

### 13.2 Vacation Leave

Minimum Continuous Service	40-Hour Week		56-Hour Week	
	Vacation # of working days	Biweekly Accrual	Vacation # of shifts	Biweekly Accrual Rate
From 0 through 12 years of service	20	6.16 hours	10.00 shifts	9.23 hours
From 13 through 23 years of service	22.5	6.92 hours	11.25 shifts	10.38 hours
At beginning of year 24 and beyond	25	7.69 hours	12.50 shifts	11.54 hours

The above allowances shall be pro-rated for employees beginning employment or leaving employment with the City during a biweekly pay period.

### 13.3 Vacation Leave Accrual

Employees may not accrue more than two times (2x) their vacation leave, unless accrual up to three (3x) times is approved by their Department Head.

### 13.4 Vacation Scheduling

The time at which an employee may take vacation shall be determined by the Department Head, with due regard for the wishes of the employee and the needs of the City.

### 13.5 Vacation Leave Maximum

Employees may use only the vacation leave they have accrued. However, the Department Head is authorized to grant use of up to two (2) days vacation in advance of accrual only in instances where vacationing employees are unavoidably detained through no fault of their own and they have no other accrued leave.

### 13.6 Vacation Pay Advance

The City shall approve a vacation salary payment advance if requested by the employee seven (7) days before the date the payment is to be made. The amount shall be seventy five percent (75%) of the previous net regular paycheck.

### 13.7 Vacation Accrual for Part-time Employees

A merit system employee who works part-time shall accrue vacation at a proportionate rate of full-time credit.

### 13.8 Vacation Pay at Separation

Employees who leave employment shall be paid the straight-time salary equivalent in a lump sum for all accrued vacation leave earned.

Such compensation for prorated vacation of separated employees shall be paid by adding or deducting from his or her final paycheck.

### 13.9 Vacation Leave Sell Back

Employees who have taken or are scheduled to take at least eighty (80) hours of vacation during a fiscal year may, at their option, be compensated for up to eighty (80) hours (ninety (90) hours for fifty-six hour Battalion Chiefs) of accrued vacation at the employee's established rate of pay. Fifty-six (56) hour Battalion Chiefs, who reach maximum accrual, will be required to accept cash payment in twenty-four (24) hour increments, forty (40) hour Battalion Chiefs will be required to receive payment for the value of one work day.

Alternatively, out of the eighty (80) eligible hours for sell back (ninety hours for 56-hour Battalion Chiefs), an employee may elect an annual vacation leave donation into their retirement health savings account. Any elections of annual discretionary leave into the retirement health savings account will proportionately decrease the year's eligible hours for sell back.

## **14.0 SICK LEAVE**

### 14.1 Purpose

The purpose of this Section is to continue the compensation of employees who must remain off their jobs because of illness or disability. Such sick leave is a privilege which the employee can exercise in the event of his/her bona fide illness or disability or in the event their presence away from work is essential because of illness, death or disability of their immediate family.

### 14.2 Sick Leave Accrual

For full-time regular and probationary employees on a forty (40) hour workweek schedule, sick leave shall be accrued at the rate of 3.7 hours for each biweekly pay period (12 days per year). Unused sick leave shall be accumulated.

Fifty-six-hour Fire Management personnel will receive 5.54 hours biweekly in sick leave accrual.

Any employee who is on paid leave shall continue to earn sick leave. An employee who is on

leave without pay shall not accrue sick leave. Sick leave shall accrue during an absence due to a work related disability.

### 14.3 Doctor's Certification

A Department Head is responsible for determining that only bona fide personal or family sick leave is taken, consistent with standards established by the City. This may include the submission of a doctor's certificate with prior notice.

### 14.4 Sick Leave Payout

#### 14.4.1 Service or Disability Retirement

Upon service or disability retirement, employees shall be paid fifty (50%) of their accrued sick leave up to a maximum of four hundred eighty (480) hours payment and for Fire Battalion Chiefs, 720 hours on shift. No payments of sick leave shall be due or owed to any employee who is terminated by the City under the discipline process.

All employees with one (1) year of continuous merit system service, whose employment is terminated because of layoff or death, may be granted one (1) working day termination allowance at their basic pay rate, in addition to other compensation due them and one additional day for each complete year worked thereafter.

#### 14.4.2 Severance Pay

All employees whose employment is terminated because of layoff or death shall be granted their option of one of the two (2) types of separation pay described above.

Employees separating from the City shall not be allowed to remain on the payroll after their last day at work. Severance payment shall be provided in a lump-sum for all leave accrual eligible for payout. The intent of this paragraph is to prevent employees from running out vacation and thereafter not returning to work or returning for only a very short time period.

### 14.5 Family Sick Leave

Family sick leave may be taken and if taken, shall be charged to sick leave or, with the concurrence of the department head, to vacation, holiday, or Earned Time Off (ETO) leave where the presence of the worker elsewhere is essential because of illness, or disability of immediate members of his/her family. Not more than six (6) days of such family sick leave shall be granted in any one-year (three (3) shifts for 56-hour employees). Immediate family means parent, spouse, domestic partner, son, daughter, domestic partner's child, sibling, stepchildren, mother-in-law, father-in-law, grandparents and grandchildren.

Not more than six (6) days of such family sick leave shall be granted in any one year (three (3) shifts for 56-hour employees). However, if extenuating circumstances exist in at the opinion discretion of the department head, a reasonable extension of the six (6) day limit may be granted. Any additional leave so granted shall be charged against the worker's accumulated sick leave.

The City will adhere to state and federal guidelines regarding family, maternity, adoption and bonding leaves. Employees may refer to City-wide policies in the Human Resources Department.

#### 14.6 Bereavement Leave

In the event of a death in the immediate family, workers may take accrued sick leave of up to three (3) days (two (2) shifts for 56-hour employees), or up to five (5) days at the discretion of the employee's Department Head. Bereavement Leave shall be tracked separately from Family Sick Leave.

In this context only, immediate family shall be defined as: spouse, domestic partner, child, foster child who resided with the employee at the time of his/her death, stepchild, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, stepbrother, sister, stepsister, brother-in-law, sister-in-law, grandmother, grandfather, spouse's grandmother, spouse's grandfather, son-in-law, daughter-in-law or grandchildren.

#### 14.7 Extended Sick Leave

After one year of continuous merit system service, employees who have exhausted their accrued sick leave may be granted extended sick leave pay at the rate of seventy five (75%) of regular salary upon the recommendation of their Department Head and approval of the Personnel Officer. After each thirty (30) days of such sick leave, each case requiring additional sick leave shall be reviewed by the Department Head and approved by the Personnel Officer. Such extended sick leave shall not be charged to the employee's future sick leave accumulation during this period of extended sick leave.

### **15.0 DISABILITY LEAVE**

#### 15.1 Purpose

The purpose of this Section is to continue the compensation of employees who must remain off their jobs as a result of disability occasioned or injury received as a result of the discharge of their duties as employees of the City.

#### 15.2 Disability Leave Authorization

The Department Head is responsible for determining that only bona fide disability leave is taken.

#### 15.3 Non-safety Disability Leave Time

For each disability, employees other than police and fire personnel covered under Section 4850 of the Labor Code shall be allowed disability leave up to and including sixty (60) working days. Such disability leave shall be at full pay, less the amount paid by Workers' Compensation.

#### 15.4 Non-safety Supplemental Sick Leave Time

If the sixty (60) working days provided for under Section 15.3 become exhausted, additional time off may be charged to sick leave with the following exceptions: Employees shall not be

charged sick leave for that portion of their salary for which temporary disability payments are received under the State Worker's Compensation Law.

#### 15.5 Additional Disability Compensation

Additional compensation may be awarded by Resolution of the City Council to employees disabled or injured in line of duty, if recommended by the City Manager.

#### 15.6 Workers' Compensation Coverage

Disability in excess of that provided in this Section shall be compensated for only under the provisions of the Workers' Compensation Act of the State of California.

#### 15.7 Americans With Disabilities Act

The City shall comply with the Americans With Disabilities Act (ADA) and shall, consistent with ADA, provide reasonable accommodation to employees with disabilities.

### **16.0 FAMILY CARE LEAVE**

In accordance with the Federal Family and Medical Leave Act and the California Family Rights Act, the City will grant job protected unpaid family and medical leave to eligible workers for up to 12 weeks per rolling 12-month period.

The City-wide policy will adhere to applicable Federal and State laws regarding Family and Medical Leave.

### **17.0 JURY LEAVE**

Employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided the employee notifies their Department Head immediately of the notice of jury duty.

### **18.0 MILITARY LEAVE**

Military leave shall be granted by the City in accordance with the provisions of State and Federal laws.

### **19.0 LEAVE OF ABSENCE WITHOUT PAY**

Leaves of absence without pay may be granted for a period not to exceed one year in cases of illness not covered by sick leave; in cases of personal emergencies, including childbirth; for education and training; or when such absences would not be contrary to the best interests of the

City. Any request for leave of absence without pay shall be made in writing and approved by the Department Head.

Employees may elect to use accrued sick leave (provided eligible for sick leave) and vacation leave prior to commencement of the leave of absence or retain the earned sick leave and vacation leave for use upon return to employment.

Employees who do not return to their employment on or before the date of expiration of their leave shall be deemed separated from the City as of such date of expiration, subject to due process.

## **20.0 DISCIPLINARY PROCEDURES**

Association members who are safety personnel covered by the Police Officers' Bill of Rights continue to have those rights afforded under this Section. Nothing in this Section should be interpreted as limiting those rights.

### **20.1 Disciplinary Action Definition**

The term "disciplinary action" shall include the following actions which may be taken by a Department Head (or designee, not below a Division Manager, where the department head's absence is extensive and action is required):

- A. Suspension without pay up to thirty (30) calendar days;
- B. In-grade salary reduction;
- C. Demotion; or
- D. Dismissal.

A reduction in hours or a change in schedule, scheduling for work load reasons, or a change in work assignment shall not be considered as discipline. No action to lay off a member shall be considered as discipline. Letters of reprimand and performance evaluations shall not be considered as discipline. In this section, as throughout this contract, "working days" is defined as days on which City Hall is open for business.

### **20.2 Weingarten Rights (Right to have Association Representation in an Investigatory Meeting)**

A member shall be entitled to a representative of his/her choice, so long as that representative is available within a reasonable time, at an investigative interview or meeting that the member reasonably believes may result in discipline.

### 20.3 Notice of Disciplinary Action

Whenever a disciplinary action is taken against a member, the member shall be notified in writing of the disciplinary action taken within at least five (5) working days in advance of the disciplinary hearing.

Such written notification shall include:

- A. A statement of the disciplinary action taken against the member;
- B. A statement of the facts upon which the disciplinary action is based which shall set forth clearly and with such particularity the charges against the member so that the member can understand said charges;
- C. A statement must indicate the cause for the disciplinary action pursuant to the Personnel Rules;
- D. A statement should describe any actions taken against the member in the past; and
- E. A statement advising the member that the written notice is to be placed in his/her official personnel file and that said member has a right to appeal to the Personnel Board and a right to Association representation.

The written notice of disciplinary action shall be considered to be sufficient notice to the member if the above information is contained. The written notice of disciplinary action must be presented to the employee, either by personal service or sent via regular and certified mail (return receipt requested) to the last address that member has furnished to the appointing authority.

### 20.4 Appeals

#### 20.4.1 Time for appeal

Any member against whom disciplinary action is taken shall have the right to appeal the disciplinary action; provided, however, that the member must deliver a written notice of appeal to the Human Resources Department within ten (10) working days of the date the written notice of disciplinary action was served upon the member. In the event member fails to deliver a notice of appeal to the Human Resources Department within said ten (10) working day period, the disciplinary action shall become final, and the member shall have no further right to appeal.

#### 20.4.2 Notice of Appeal, Contents

The written notice of appeal filed with the Human Resources Department shall not be required to be in any particular format; however, it shall contain at least the following information:

1. The name and address of the member;
2. The date of the disciplinary action and a statement of the effect that the member appeals from the disciplinary action; and

3. The notice of appeal shall be dated and signed by the member or by his representative.

#### 20.4.3 Setting Hearing Date

When the Human Resources Department receives a notice of appeal which complies with the requirements set forth herein, the Human Resources Director shall schedule the matter for hearing at the next available regular meeting of the Personnel Board at least fifteen (15) working days after receipt of the notice of appeal.

#### 20.4.4 Findings and Conclusions

The Personnel Board shall render written findings and recommendations and final decisions concerning the appeal within ten (10) working days after the matter is submitted. The decision of the Personnel Board shall be final and conclusive unless determined otherwise by a court of competent jurisdiction.

#### 20.4.5 Discipline Prior to Hearing

A Department Head may impose discipline immediately. The discipline is subject to the administrative appeal process.

### **21.0 GRIEVANCE PROCEDURES**

#### 21.1 Purpose

- A. This grievance procedure shall be used to process and resolve grievances arising under this Memorandum of Understanding except to the extent that the City Charter or City ordinance vests or affords jurisdiction elsewhere.
- B. The purposes of this procedure are:
  - (1) To resolve grievances informally at the lowest possible level;
  - (2) To provide an orderly procedure for reviewing and resolving grievances promptly.

#### 21.2 Grievance Definitions

- A. Grievance  
A grievance is a good faith complaint of one (1) or a group of unit members or a dispute between the City and the Association involving the interpretation, application, or enforcement of the express terms of this Memorandum of Understanding.
- B. Supervisor

As used in this procedure, the term “supervisor” means the individual who assigns, reviews, and directs the work of a unit member.

C. Party

As used in this procedure, the term “party” means a unit member, the Association, the City, or his/her authorized representatives.

D. Working Day

A working day or workday is defined as a day on which City Hall is open for business.

The unit member retains all rights conferred by Sections 3500 et. seq., of the Government Code or Civil Service Rules and Regulations of the City unless waived by such unit member.

### 21.3 Informal Discussion

Not later than fifteen (15) working days after the unit member should reasonably have learned of the event giving rise to the grievance, whichever is later, the unit member must discuss the grievance with his immediate management supervisor. The supervisor shall respond, either orally or in writing, to the unit member not later than ten (10) working days thereafter.

### 21.4 Formal Grievance – Step One

If after discussion with the immediate supervisor, the grievant does not feel the grievance has been properly adjusted, the grievance may be reduced to writing on the prescribed form. The form must be presented to the unit member’s Department Head (or Department Head designee) and the Director of Human Resources within fifteen (15) working days. The grievance statement shall include the following:

- A. A statement of the grievance clearly indicating the question raised by the grievance and the article(s) and section(s) of this Memorandum of Understanding.
- B. The remedy or correction requested of the City.
- C. The grievance form shall be signed by the grieving unit member, the date and time of presentation affixed thereto, and signed as received by the unit member's division head.
- D. The grieving unit member's Department Head or his/her designee shall give his/her answer to the grievance in writing within fifteen (15) working days from the time he/she receives the grievance in writing. This first step answer shall include the following:
  - 1. A complete statement of the City's position and the facts upon which it is based.
  - 2. The remedy or correction that has been offered, if any.

### 21.5 Formal Grievance - Step Two

If the grievance is not resolved at Step Two, the aggrieved unit member may appeal to an Adjustment Board. Appeals to the Adjustment Board shall be made in writing and directed to the Human Resources Director within ten (10) working days of receipt of the Department Head's response. The Human Resources Director shall convene an Adjustment Board within ten (10) working days of receipt of the appeal. The Adjustment Board shall consist of two (2) persons appointed by the Association and two (2) persons appointed by the City Manager.

The Adjustment Board is empowered to call City unit members as witnesses.

A majority decision of the Adjustment Board shall be final and binding. The Adjustment Board shall render its findings and decision (if any) to the parties within ten (10) working days of its meeting.

### 21.6 Personnel Board - Step Three

If the grievance is not settled by Step 3, the aggrieved unit member or City, not later than ten (10) working days after the decision is personally served or mailed by first class to the unit member's residence as shown on his records in the Human Resources Department, may submit a written appeal to the Personnel Board by delivery to the Human Resources Department. The appeal shall state the reasons for the appeal and the remedy requested.

The Personnel Board shall schedule a meeting within forty-five (45) calendar days of the date of appeal at which both sides can present their evidence and arguments. The Personnel Board shall render its decision within ten (10) working days of completion of the hearing and shall adopt its findings not later than at its next regularly scheduled meeting.

The Personnel Board is limited to interpreting the MOU and shall have no authority to modify the MOU or to provide any salary or benefit not expressly authorized by the MOU.

### 21.7 Time

The time limitations set forth in the Article are of the essence. The term "working day(s)" shall mean days on which City Hall is open for business. No grievance shall be accepted unless it is timely filed and no appeal may be considered unless it is timely taken.

For purposes of this Article, the time limitations applicable to the unit member shall be the same time limitations regulating the Association and the information attributable to the individual unit member shall be attributable to the Association. If the grievance is not timely filed, it shall be deemed waived. If an appeal is not timely taken, the grievance shall be deemed to be settled in accordance with the City's decision at the step prior to the untimely appeal. If the City fails to answer the grievance within the prescribed time limits, the grievance shall automatically proceed to the next step; provided, however, that in no event shall the grievance be deemed to be upheld by the City's failure to act timely.

## 21.8 General

- A. Either party to this Memorandum shall, upon receipt of a written grievance, have the right to refuse to handle such grievance if the aggrieved party has not followed the steps outlined in this Article for processing a grievance.
- B. Unless where otherwise specifically provided in the Memorandum of Understanding, no matter shall be considered as a grievance under this Article unless it is presented in writing within fifteen (15) working days after occurrence of the events on which the grievance was based.
- C. A Bargaining Unit Representative or an Association representative shall have the authority to settle grievances for the Association or unit members at the respective steps of the grievances procedure.
- D. Time limits set forth within this Article may be extended upon mutual agreement of the affected parties where the agreement is made before the expiration of the timeline.
- E. Unit members may be represented by a Association Bargaining Unit Representative at all levels of the grievance process. Copies of all written grievance documentation will be provided to the Association and the representing Bargaining Unit Representative.

## 21.9 Exclusions

The following matters are specifically excluded from consideration under the grievance procedure:

- A. Determination and application of the procedures, qualifications, and standards of employment;
- B. Budget and capital expenditures;
- C. Items subject to meet and confer;
- D. Performance evaluations;
- E. Disciplinary actions;
- F. Letters of Reprimand; and
- G. Items that are expressly designated in this MOU as not subject to grievance.

## **22.0 LAYOFF**

### 22.1 Layoff Procedure

Whenever, in the judgment of the City Council, it becomes necessary to abolish a position(s), including the reduction of work hours over twenty percent (20%) per year, the employee(s) displaced shall be deemed to be laid off (employees may accept an hour's reduction in excess of

twenty percent (20%) without exercising their layoff rights). The rights of employees affected by the abolishment of positions by the City Council shall be hereafter set forth in this Section.

#### 22.2 Seniority for Service Crediting

Seniority for purposes of layoff need not be continuous and shall include total accumulated length of service under the following types of appointment:

- A. Emergency appointment under SMMC 2.57.60(h) or previous SMMC Section 2.57.020 (11).
- B. Regular appointment under SMMC 2.57.080.
- C. Provisional appointment under SMMC 2.57.070(d).
- D. Appointment as City Manager's assistants under SMMC 2.57.060(a) from a position in the classified service.
- E. Appointment as a Department Head under SMMC 2.57.060(d) from a position in the classified service.

In the case of ties, seniority shall be determined on the basis of greater hire date seniority, then by random number if necessary.

#### 22.3 Seniority for Layoff Purposes

- A. The least senior employee in the classification from which the position is abolished is to be first laid off. Prior to layoff of regular employees, temporary and/or provisional employees in the same classification will be laid off first. For purposes of initial layoff, seniority means time in the classification in question. Flexibly staffed positions will be considered a single classification for layoff purposes.
- B. For the purposes of Section 22.4 (Bumping Rights) seniority is defined as seniority within the classification and seniority in a directly related higher classification; i.e., a classification that is within the promotional line and has a higher salary.

#### 22.4 Bumping Rights

Employees laid off may elect to be reassigned to a formerly held classification in any Unit held by an employee with less seniority as defined in 22.2, provided the following conditions are met:

- A. The formerly held classification exists and has positions allocated and budgeted. Formerly held position includes successor classification if determined by the City to exist. A successor classification exists where the Personnel Board has changed the title of a position or included new duties in the same titled classification, provided that a competitive test was not thereafter given for the retitled or re-

dutied classification.

- B. The employee has the ability to perform the essential functions of the formerly held classification. Qualifications may be tested by the City as described in the current job description.
- C. If the employee has more than one formerly held City classification, they shall bump to the classification most recently held; the employee may bump into another formerly held classification if no position is available in the "most recently held" classification.

#### 22.5 Mutually Agreed Upon Transfer

The City and an employee who has been laid off or bumped may agree to an appointment to a classification that has a vacant position without the need for competitive testing. The following conditions shall apply:

- A. The City may test the ability of the employee for the position prior to City's decision on whether it will mutually agree to the transfer;
- B. The appointment shall be subordinate to the bumping rights of other employees and may not be used to prevent another employee from having access to the vacant position if permitted by the bumping provisions.

#### 22.6 Severance Package

In the event there is not a less senior, formerly held position for the employee to access through layoff or bumping, the employee will be provided a severance package equal to two (2) weeks pay for each complete year of service, to a maximum of six (6) months pay.

This severance package shall be in addition to any other buyouts and/or severance payments to which the employee is entitled under their MOU.

In addition to providing severance as described in this Section, the City shall make arrangements to provide employees laid off with job search assistance for forty five (45) days following the effective date of layoff. Job search assistance shall include job and career counseling, resume preparation, and job search assistance at City expense.

#### 22.7 Salary in Event of Change Due to Layoff

An employee's rate of compensation in the event of position change resulting from layoff shall be the salary step in the classification to which the employee is laid off which is closest to the base salary received immediately prior to layoff.

#### 22.8 Notice of Layoff

The City will notice the employee to be laid off and the employees who will be impacted by

bumping by registered mail or hand delivery. Affected employee organizations shall be noticed concurrently by registered mail. The notice shall be sent to the mailing address as shown on the employee's last paycheck unless a more recent address has been provided to the Human Resources Department by the employee. After notice to the employee and employee organizations, the names of employees to whom layoff notices have been sent will be posted at the Human Resources Department in City Hall. The notice shall state the layoff action to be taken, the options available to the employee, reemployment rights, and layoff procedures. Employees shall have ten (10) calendar days to inform the Human Resources Department in writing of the decisions on options stated in the notice. In the event that the employee fails to state their decision, the City shall select an option and City's decision shall not be subject to appeal. City shall select an option that retains employment with the City if such option exists. The failure to receive notice shall not be grounds to set aside actions taken.

#### 22.9 Effective Date of Layoff

(30) calendar days after notice is mailed to the employee, unless a later effective date is stated in the notice. An appeal shall not modify the effective date, provided, however, that where an appeal is successful and the layoff is nullified the employee shall be provided salary and benefits as if there was not a layoff.

#### 22.10 Appeal

An employee may not appeal the decision to layoff their position except as stated in Section 22.9 above, but may appeal the order of layoff, the bumping provisions (except the test or results of a test of qualifications), and the seniority computation by filing a written appeal with the Human Resources Department stating the basis of the appeal. An appeal must be filed within fourteen (14) calendar days of mailing of notice. The appeal shall be heard by the City Manager/designee within ten (10) calendar days of filing the appeal. A decision will be rendered within ten (10) calendar days of the hearing. Notice will be given by first class mail to the employee and the Association. A further appeal to the Personnel Board may be filed within five (5) calendar days of mailing by filing a written appeal with the Human Resources Office stating the basis for the appeal. The hearing will be held within ten (10) calendar days of the filing of the appeal or as soon thereafter as a quorum of the Board may be gathered and a decision rendered within five (5) calendar days of the hearing.

#### 22.11 Recall and Reinstatement

Employees shall be entitled to recall rights to the position from which they were laid off or bumped for a period of two (2) consecutive years from the effective date of layoff or bumping. The effective date of layoff or bumping shall be the employee's last day of work in the classification from which they were laid off or bumped.

When a vacancy occurs in a job classification, laid off or bumped employees eligible to return to that job classification shall be recalled in the inverse order of bump or layoff. Permanent employees who were laid off or bumped are eligible to return to the job classification in which permanent status was held. Employees reinstated under this Section shall not be subject to a new probationary period. Probationary employees who did not have permanent status at the time of

layoff shall be required to serve the remainder of any probationary period upon recall.

When a vacancy exists and employees are to be recalled, notice of the opening(s) shall be sent to the mailing address as shown on the employee's last paycheck unless a more recent address has been furnished by the laid off/bumped employee. To expedite recall, more than one employee may be notified of an opening.

The employee shall have fourteen (14) calendar days to reply to City from the date of mailing of the recall notice. If employees fail to respond within fourteen (14) calendar days of notice to the City, they shall lose all recall rights.

Employees reinstated under this Section shall receive credit for former employment in computing salary, vacation, and other benefits.

Employees reinstated after layoff shall be treated as though they have been on leave of absence without pay in computing salary, vacation, sick leave and other benefits.

The right to reinstatement is contingent upon the ability of the employee to perform the essential functions of the position to which the employee is being returned.

It is the responsibility of the employee who has been laid off to keep the City informed of their address and telephone number. The City has no responsibility to attempt to trace an employee if notice of reinstatement is not delivered by the Post Office.

#### 22.12 Meet and Confer

Upon request, the City shall meet and confer with affected employee organizations on the impact of any layoffs occurring pursuant to this policy. Furthermore, the City will notify employee organizations of possible layoffs as soon as reasonably possible, and afford the organization the opportunity to provide options/alternatives to layoffs for consideration by the City Council prior to the Council reaching a final decision.

### **23.0 CERTIFICATION/OPEN RECRUITMENT POLICE AND FIRE**

When a reinstatement list is used to fill a vacancy or vacancies, the Human Resources Director shall certify from the top of the list the number of names equal to the number of vacancies to be filled. The appointing authority shall then appoint such person(s) to fill the vacancies.

Except as provided for reinstatement lists above, the whole eligible list will be certified and forwarded to the department. The department will have the rule of the list. If there are less than ten (10) available eligibles on the appropriate promotional and open competitive lists, Department Heads at their discretion may select from such lesser number of eligibles or may request that another examination be held, in which case the Human Resources Director shall arrange for such examination as soon as practicable.

## **24.0 REEMPLOYMENT**

Any past, present or future permanent employee, separated from a position through resignation and without fault of delinquency on their part upon recommendation of the reemploying Department Head may be reemployed to the former position, or to another position in the same class, within two (2) years, provided there is an authorized vacancy and the employee meets the requirements for employment.

Employees reemployed under this Section shall be subject to a probationary period and upon the recommendation of the reemploying Department Head may receive credit for former employment in the determination of the amount of vacation allowance, sick leave, other benefits and their salary step.

Any classified employee who is laid off or demoted in lieu of layoff and who is still interested in reinstatement on the expiration of the reinstatement list, shall be entitled to be reinstated to their former classification for a period of one year provided there is a vacancy, all reinstatement lists have been exhausted, and they have the highest layoff seniority. Employees reinstated under this section shall not be subject to a new probationary period and shall receive credit for former employment in computing salary, vacation, sick leave and other benefits.

## **25.0 HEALTH AND WELFARE BENEFITS**

### **25.1 Health Insurance**

The City shall make contributions on behalf of those workers eligible for Group Medical Coverage under the various plans available to the City in the amounts necessary to a maximum contribution of \$160.00 per worker per month. The City's health contribution for part-time merit workers shall be made on a prorata basis in accordance to hours on the payroll.

The City shall make available to eligible current and retired workers benefits equal to the Meyers-Geddes State Employees' Medical and Hospital Care Act.

### **25.2 Life Insurance**

Employees in the Management Association will be provided Fifty Thousand Dollars (\$50,000) of life insurance without regard to membership in any health plan.

### **25.3 AD&D Insurance**

Employees in the Management Association will be provided Ten Thousand Dollars (\$10,000) accidental death and dismemberment (24 hour coverage) insurance without regard to membership in any health plan.

### **25.4 Dental Insurance**

The City shall provide dental care benefits for employees and their dependents including domestic partners. Effective August 6, 2000, the dental benefits 100/80/80 will include a

maximum calendar year payment of \$3,000 and 50% orthodontic coverage with a \$2,000 lifetime maximum.

## 25.5 Pool Money

It is understood that during the term of this contract, the City may seek expert opinion as to the parameters of this program and all contributions to pool money and to the Retirement Health Savings Account outlined below are contingent upon compliance with state and federal rules and regulations. The Parties agree to meet and confer regarding a replacement provision if any part of this structure is found to be noncompliant.

### 25.5.A Optional Pool Money for Current Merit Employees

As to all merit employees who began employment before October 1, 2006, on January 1, 2007, the pool amount will be increased to cover the increase in cost of the least costly single, two party, or family HMO available, according to the employee's insurance election. Effective January 1, 2007, if the employee has not elected insurance coverage, the employee's pool money will continue to be paid as the 2006 rates. If the employee elects family coverage, the employee's pool money will be increased to provide for the family plan for the least costly HMO available under the City's contracted health insurance. On January 1, 2008, the employee's monthly pool money distribution will increase in accordance with the insurance election, indexed according to the increase in the corresponding increase to the least costly HMO.

Pool money for part-time merit workers working less than 40 hours per week shall be prorated. Any workers exceeding 40 hours per week will not be given any additional pool money.

### 25.5.B Optional Pool Money for Merit Employees hired on or after October 1, 2006

As to all merit employees who begin employment on or after October 1, 2006, employees will receive additional pool money equal to the difference between the \$160 and the employee's insurance election. The amount of the pool money, combined with the \$160 employer contribution, shall not exceed the amount necessary to provide for the family plan for the least costly HMO available under the City's contracted health insurance. For employees waiving health insurance entirely, the employee will be eligible to receive \$100 per month as part of their salary.

Pool money for part-time merit workers working less than 40 hours per week shall be prorated. Any workers exceeding 40 hours per week will not be given any additional pool money.

## 25.6 Long Term Disability Insurance

The City shall provide long-term disability insurance providing for a sixty (60) day elimination period, subject to prior exhaustion of accrued sick leave or other applicable benefits, and payment of a monthly benefit equivalent to sixty-six and two-thirds percent (66  $\frac{2}{3}$ %) of full basic monthly salary less any deductible benefits.

25.7 Vision Insurance

Vision Benefits include an annual exam, lenses, and frames with an annual deductible of twenty-five dollars (\$25).

25.8 Cafeteria Plan

The parties are aware that City's Cafeteria Plan of benefits may be impacted by recent and ongoing changes in tax laws. City agrees to meet and confer regarding proposed changes in the structure of the Plan prior to making changes. The level of benefits and City's contribution shall not be open to re-negotiation. Benefits shall be taxed as required by law.

**26.0 RETIREMENT BENEFITS**

26.1 Retirement benefits shall be compensated for under applicable legislation pertaining to the California Public Employees' Retirement System (CalPERS).

26.2 The City currently provides the following retirement benefits:

**Miscellaneous**

2% @ 55 Formula  
Social Security Coverage

**Safety**

3% @ 50 Formula  
1959 Survivor Benefit Level 4

**Miscellaneous & Safety**

Single Highest Year Compensation  
COLA 2% in retirement  
Death Benefit (DB) Continues (spouse continues to get DB after remarriage)  
Pre-Retirement Option 2 DB (If retirement eligible employee dies prior to retirement, spouse can elect to get ongoing retirement benefits)  
Military Service Buyback  
Retired Death Benefit (DB) \$500  
Prior Service Credit  
Peace Corps: VISTA Buyback  
Pretax purchase of service credit

26.3 In addition to the above benefits, the City shall contribute the employees' share of the retirement contribution under the provision authorizing payment of member contributions by the employer (EPMC). The City will assume the cost of the employee's retirement contribution and report it as reportable income to PERS.

26.4 Deferred Compensation for Safety Managers

In lieu of a "Widows Continuance" program, the City will provide all safety managers with a 401 (A)(H) deferred compensation program with a three and four tenths percent (3.40%) contribution.

The City shall contract with a third party administrator to establish and administer the 401 (H) plan that shall have the 401 (H) component for funding of retirement medical expenses. The City shall pay any administrative fees and the City has the authority to select the administrator, which may change from time to time based on cost and service provided.

#### 26.5 Deferred Compensation for Members of the Bargaining Unit

Employees are eligible to participate in the City-offered deferred compensation plans, including the Retirement Health Savings Account and the 457 plans (excludes the 401(a) trust plans). Effective August 13, 2006, after an employee elects to participate in one of these plans, of the employee's choosing, the City will contribute matching funds into any one plan, up to a maximum of two percent (2%) total City contribution, as follows:

Employees with City service from zero to 12 years of City service, the City will match at a rate of 2:1 (one City dollar for every two employee dollars contributed) for that employee's contribution, up to a maximum of 2% of the employee's annual base salary.

At the beginning of the 13<sup>th</sup> year of service, the City will match at a rate of 1:1 (one City dollar for every employee dollar contributed) for that employee's contribution, up to a maximum of 2% of the employee's annual base salary.

### **27.0 MISCELLANEOUS PROVISIONS**

#### 27.1 Defense of Police Officers

The City agrees to provide for the defense of a criminal action or proceeding brought against a safety employee or former safety employee of the Police Department as permitted under California Government Code Section 995.8.

#### 27.2 Mileage Allowance

Employees who must use their private vehicles for official business shall be compensated at the current IRS rate.

#### 27.3 Uniform Allowance

Fire Safety Management personnel will receive six hundred fifty dollars (\$650) per year uniform allowance. This payment shall be included in the first paycheck received in July each year.

Effective July 1, 2007, Police Safety Management personnel will receive eight hundred dollars (\$800) per year uniform allowance. This payment shall be included in the first paycheck received in July each year.

In the event an employee is laid off, the employee shall receive his/her uniform allowance prorated.

#### 27.4 Damage Reimbursement

Management employees of the Police and Fire Departments shall be reimbursed the reasonable value of any personal equipment or clothing damaged or destroyed in discharging duties under stress or strain where normal caution cannot be exercised.

#### 27.5 Professional Dues

Upon request, the City shall pay a reasonable amount for membership dues for one professional organization for each employee in the Management Association.

#### 27.6 Personnel Files

##### 27.6.1 Release of Information

Unless required by court process, the City will only release information to creditors or other persons outside of City government only upon proper identification of the inquirer and acceptable reasons for the inquiry. Information then given is limited to verification of employment, length of employment, and verification of salary information if the person inquiring first states the correct salary to the City. Release of more specific information may be authorized by the member.

##### 27.6.2 Access and Contents

A member (or his/her representative, on the presentation of written authorization signed by the member) shall have access to the member's personnel file on request for a reasonable amount of time at a reasonable time and place. Release of more specific information may only be authorized by the member in writing, signed by the employee. The member may be required to acknowledge the receipt of any document entered into his/her personnel file without prejudice to subsequent arguments concerning the contents of such documents.

##### 27.6.3 Letters of Reprimand

The City shall furnish the member copies of all letters of reprimand or warning prior to placement of such documents into the member's personnel file, and copies of letters of reprimand or warning shall be sent to the Human Resources Director. Upon receipt of a letter of reprimand or warning which the member feels is factually incorrect, he/she may so advise in writing the department head and the Human Resources Director. The letters of reprimand or warning may not be appealed through the grievance procedure. Letters of reprimand and warning not submitted in accordance with the provisions above may not be introduced as evidence against the member.

Letters of reprimand/warning shall be removed from a member's personnel file after two (2) years upon the written request of the member and approval by the department head provided there has not been subsequent discipline.

##### 27.6.4 Performance Evaluations and Letters of Reprimand

Employee performance goals are set early in the evaluation year. A mid-year review of the employee's progress towards completing the performance goals should occur. A written

evaluation shall be completed by the supervisor and reviewed with the employee at the end of the evaluation year.

If the employee disagrees with a letter of reprimand or a performance evaluation, that employee may discuss it with the Department Head (or the department head's designee, not below division manager). If the issuing supervisor is the employee's Department Head, the employee may discuss it with the Human Resources Director (or the Human Resources Director's designee, not below Human Resources Division Manager). An employee may also write a rebuttal to either a performance evaluation or a written reprimand and that document will be placed in the employee's personnel file.

## **28.0 SEPARABILITY OF PROVISIONS**

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

## **29.0 TERM OF MOU**

This MOU shall terminate as of 11:59 p.m., April 18, 2009. The existing and unmodified rules, regulations, resolutions or ordinances relating to wages, hours and conditions of employment not covered in this agreement for employees in this unit shall remain unchanged for said period unless such changes are the result of meeting and conferring as required by law.

This does not preclude the City from increasing wages and benefits during such period as deemed warranted by the City Council.

SIGNATURES

FOR MANAGEMENT ASSOCIATION

FOR CITY OF SAN MATEO

By: \_\_\_\_\_  
Gary Heap

By: \_\_\_\_\_  
Arne Croce

By: \_\_\_\_\_  
Bud Stone

By: \_\_\_\_\_  
Diana Doughtie

By: \_\_\_\_\_  
Darla Reams

By: \_\_\_\_\_  
Rebecca Burnside

By: \_\_\_\_\_  
Wayne Hoss

By: \_\_\_\_\_  
Bob Beyer

By: \_\_\_\_\_  
John Healy

By: \_\_\_\_\_  
Ellen Kaufmann

DATED: \_\_\_\_\_

## EXHIBIT A

### Non-Exempt positions (as defined by Section 8.2)

Accountant II  
Building Maintenance Supervisor  
Golf Course Maintenance Supervisor  
Human Resources Analyst I  
Laboratory Supervisor  
Management Analyst I  
Public Works Supervisor  
Purchasing and Stores Supervisor  
Water Quality Plant Shift Supervisor

## **EXHIBIT B**

### **Confidential Employees in Unit** (as defined by Section 1.1)

Payroll Officer  
Senior Human Resources Analyst  
Human Resource Analysts I/II  
Assistant City Attorney  
Deputy City Attorney  
Financial Services Manager  
Deputy Treasurer/Budget Finance Manager  
Senior Management Analyst in Manager's Office  
Information Technology Manager  
Senior Systems Analyst

**EXHIBIT C**  
**BENEFIT SUMMARY SHEET**  
**Management Association 2006**

The following list summarizes the various benefit programs in effect for members of the Management Unit as of August, 2006:

DENTAL INSURANCE	City Paid, 100/80/80 \$3,000 annual maximum. Orthodontics - 50% to \$2,000 maximum.
HEALTH INSURANCE	\$160.00 per month City contribution
POOL MONEY	\$716.86 or up to least expensive 3 party plan; Two-tier plan effective 10/01/06: \$100 or up to least expensive 3 party plan
HOLIDAYS	13 per year -- see MOU for specifics.
LIFE INSURANCE	\$50,000 Life coverage; \$10,000 Accidental Death and Dismemberment Coverage contribution.
LONG TERM DISABILITY INSURANCE (LTD)	Full salary insured at 66-2/3% contribution.
MILEAGE ALLOWANCE	IRS Rate per mile paid to employee who uses personal car for business related purposes.
RETIREMENT PROGRAM	SAFETY: 3% @ 50; one year final compensation Misc: 2% at 55; one year final comp. Employees' 7% or 9% contribution will be paid by City (with equal salary reduction) and reported to PERS - EPMC
SHIFT DIFFERENTIAL	For WQCP Shift Supervisors only: 4.5%
SICK LEAVE	12 days per year earned; unlimited accumulation; see MOU for specifics re: use, extended sick leave, and family sick leave.
SOCIAL SECURITY	Mandatory for non-safety employees. Paid equally by City and employee @ 7.65% of first \$94,200 of earnings. Safety employees hired after 4-1-86 pay 1.45% as medicare cost of social security.
UNIFORM ALLOWANCE	For safety personnel only: \$650/year for Battalion Chiefs, \$800/year for Police Captains and Police Lieutenants paid with first paycheck in July each year.
VISION INSURANCE:	Effective August 1, 1995, annual exam, lenses and frames with \$25 annual deductible.
DEFERRED COMP	3.40% for Safety Managers 401 (a)(h) Up to 2% City contribution on a match basis to 457 or RHS

The above listing summarizes various benefit programs provided to members of the Management Unit as of August, 2006. The list is not inclusive and employees should refer to the MOU and/or contact Human Resources at x7260 if they have specific questions about benefits and/or benefit programs.

Management Association MOU 2006-09

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City of San Mateo  
Human Resources Department  
*CONFIDENTIAL*

LETTER OF UNDERSTANDING  
Between the Management Association and the  
City of San Mateo

The City of San Mateo and the Management Association agree effective August 13, 2006, the following classifications will be eliminated as classifications represented by the bargaining unit:

Assistant Director of Human Resources  
Deputy Fire Chief  
Battalion Chief - 40 hour a week  
Battalion Chief - 56 hour a week  
Fire Marshal  
Police Captain  
Police Lieutenant

The City agrees to submit to City Council the economic benefits met and conferred upon in these negotiations, through contemporaneous Administrative Report. The employees will continue to enjoy the statutory legal protections afforded by City statute regarding the terms and conditions of their employment

Dated: \_\_\_\_\_

MANAGEMENT ASSOCIATION

CITY OF SAN MATEO

By: \_\_\_\_\_  
Gary Heap, President, Management Assoc.

By: \_\_\_\_\_  
Linda Spady, H.R. Director

cc: Shawn Mason, City Attorney  
Original to MOU Sideletter file

City of San Mateo  
Human Resources Department  
*CONFIDENTIAL*

**LETTER OF UNDERSTANDING**  
Between the Management Association and the  
City of San Mateo

The City of San Mateo and San Mateo Management Association agree:

The City will amend the RHS account provided by the City to provide for City employees to donate discretionary leave, meaning vacation, administrative, and holiday leave, on a prospective basis for donation into the RHS account that would otherwise be available for sellback (as provided for under the sellback provisions of the MOU).

Dated \_\_\_\_\_

*For the City*

*For the Association*

\_\_\_\_\_

\_\_\_\_\_

City of San Mateo  
Human Resources Department  
*CONFIDENTIAL*

**LETTER OF UNDERSTANDING**  
Between the Management Association and the  
City of San Mateo

**The City of San Mateo and San Mateo Management Association agree:**

**Prior to the expiration of this agreement, the Association and the City will meet and confer to determine the appropriate benchmarks for the purposes of the salary survey.**

Dated \_\_\_\_\_

*For the City*

*For the Association*

\_\_\_\_\_

\_\_\_\_\_

City of San Mateo  
Human Resources Department  
*CONFIDENTIAL*

**LETTER OF UNDERSTANDING**  
Between the Management Association and the  
City of San Mateo

**The City of San Mateo and San Mateo Management Association agree:**

**The Battalion Chiefs (both the 40 hour and the 56 hour) and the Fire Marshal will be granted the additional 40 hours of administrative leave for the year following City Council passing this resolution.**

Dated \_\_\_\_\_

*For the City*

*For the Association*

\_\_\_\_\_

\_\_\_\_\_

City of San Mateo  
Human Resources Department  
*CONFIDENTIAL*

**LETTER OF UNDERSTANDING**  
Between the Management Association and the  
City of San Mateo

**The City of San Mateo and San Mateo Management Association agree:**

**Effective the first full pay period following Council adoption, Battalion Chiefs who work a shift in excess of his/her regular 28 day tour of duty, will receive a flat rate of \$1680 per shift. The shift may be divisible by quarters (paid at \$420 for each 6 hour period). Time worked below six hours and time worked in excess of the 24 hour shift is not compensable.**

**Effective the first pay period in August 2007, the flat shift amount rate will be increased to \$1730. Effective the first pay period in August 2008, the flat shift amount rate will be increased to \$1780.**

Dated \_\_\_\_\_

*For the City*

*For the Association*

\_\_\_\_\_

\_\_\_\_\_

City of San Mateo  
Human Resources Department  
*CONFIDENTIAL*

**LETTER OF UNDERSTANDING**  
Between the Management Association and the  
City of San Mateo

**The City of San Mateo and San Mateo Management Association agree:**

**Effective the first full pay period following Council adoption, Battalion Chiefs who attend training will receive \$70 per hour for training hours provided by an outside agency. The employees will receive the monies as a stipend after reimbursement is received by the City. The training stipends will be paid on June 1 of each year.**

Dated \_\_\_\_\_

*For the City*

*For the Association*

\_\_\_\_\_

\_\_\_\_\_

City of San Mateo  
Human Resources Department  
*CONFIDENTIAL*

**LETTER OF UNDERSTANDING**  
Between the Management Association and the  
City of San Mateo

**The City of San Mateo and San Mateo Management Association agree:**

**Within three (3) months of the settlement of the contract, the City will finalize the implementation of a Resolution that allows employees to buy service time for Peace Corp. service.**

**The City of San Mateo further agrees to finalize the implementation of a Resolution that allows employees to pay pre-tax dollars for the purchase of time added to their public Employees' Retirement System. This time purchased could be previous service, military, peace corp., and/or "air time."**

Dated \_\_\_\_\_

*For the City*

*For the Union*

\_\_\_\_\_

\_\_\_\_\_



# ADMINISTRATIVE REPORT

**COPY**  
AGENDA ITEM # \_\_\_\_\_

MTG. DATE 11-20-06

TO: Honorable Mayor and City Council

APPROVED BY: Linda Spady

DATE: November 14, 2006

Linda Spady, Human Resources Director x7262

SUBMITTED BY: [Signature]

[Signature]

Rebecca M. Burnside  
Assistant Director of Human Resources

Arne Croce, City Manager

SUBJECT: Conditions of Employment for Police Captains and Lieutenants

## RECOMMENDATION

The City Council adopt a resolution authorizing additional conditions of employment to Police Captains and Police Lieutenants. City Management recommends accelerating the 2.5% across the board increase, scheduled in February 2007 retroactive to August 13, 2006 for Police Captains and Police Lieutenants. To keep uniform allowance for Police managerial staff consistent with Police Sergeants it is recommended, the Police Captains and Lieutenants receive a \$50 increase in July, 2007 and another \$50 increase in July of 2009. Additionally, City Management requests the Police Lieutenants receive a 5% educational incentive for completion of the P.O.S.T. Managerial Training curriculum.

## BACKGROUND

Recently, the Human Resources staff analyzed the compaction of compensation earned between the ranks of sworn employees within the Police Department. Compensation compaction is important to ensure employees are compensated in accordance with the level of assigned responsibility and that incentive exists for employees to promote. Over the last few years it has become increasingly difficult to maintain compensation compaction spread consistent with desired classification and compensation standards within the Police Department between the ranks of Sergeant and Lieutenant. Because Sergeants earn an educational incentive, assignment differentials and overtime, these standards have routinely been left unmet.

By increasing the Lieutenants' classification compensation through a 5% educational incentive and accelerating the 2.5% increase, the compaction between Sergeant and Lieutenant increases meets the appropriate standards. By including the Captains in the acceleration of the 2.5%, it ensures that there is not a compaction problem between Lieutenants and Captains. During the recent contract negotiations, Sergeants' compensation was made consistent with Lieutenants and Captains and thus the need for similar equity adjustments in the future is not anticipated.

## BUDGET IMPACT

The acceleration of the 2.5% will cost the City approximately \$12,670. The addition of the education incentive for the Lieutenants will cost approximately \$37,500 annually. Adequate funds exist in the adopted budget for this equity adjustment.

cc: City Clerk's Office  
City Attorney's Office  
Finance Department