



MEMORANDUM OF UNDERSTANDING

Between

CITY OF BERKELEY

And

**BERKELEY FIRE FIGHTERS
ASSOCIATION LOCAL 1227 I.A.F.F.**

July 01, 2021 to June 30, 2023

RESOLUTION NO. 69,992-N.S.

MEMORANDUM OF UNDERSTANDING: BERKELEY FIRE FIGHTERS ASSOCIATION/I.A.F.F. LOCAL 1227 BERKELEY CHIEF FIRE OFFICERS ASSOCIATION

WHEREAS, the City is obligated under the provisions of California Government Code Section 3500 - 3510, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to wages, hours and other terms and conditions of employment; and

WHEREAS, representatives of the City and the Berkeley Fire Fighters Association Local 1227 I.A.F.F. Berkeley Chief Fire Officers Association have met and conferred in good faith and have reached agreement on a new one-year Memorandum of Understanding that incorporates all changes and modifications in wages, hours and other terms and conditions of employment agreed to by the parties.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum of Understanding for the period July 1, 2021 through June 30, 2023 with the Berkeley Fire Fighters Association Local 1227 I.A.F.F. Berkeley Chief Fire Officers Association, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit A.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute and implement said Memorandum of Understanding including all changes in wages, hours, and other terms and conditions of employment. A fully executed original of said contract is filed in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on July 29, 2021 by the following vote:

Ayes: Bartlett, Hahn, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: Droste and Harrison.



Jesse Arreguin, Mayor

Attest: 

Mark Numairville, City Clerk

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ARTICLE 1 - ADMINISTRATION

SECTION 1: RECITALS

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias Brown Act (Government Code Sections 3500-3511, as amended), and has been jointly prepared by the parties.

The City Manager is the representative of the City of Berkeley (herein - after referred to as "the City") in employer-employee relations as provided in Resolution No. 43,397-N.S. and adopted by the City Council on October 14, 1969 and amended as of 1971, and retains management rights as provided therein unless otherwise specifically provided for in this agreement.

The Berkeley Fire Fighters Association, Local 1227, International Association of Fire Fighters (hereinafter referred to as "the Association"), is the recognized employee organization for Representation Unit B (non-managerial uniformed Fire Department employees), which organization has been certified as such pursuant to said Resolution No. 43,397-N.S. The employee positions in such Representation Unit are set forth in Exhibit "A" attached hereto and made a part hereof. The Berkeley Firefighters Association, Local 1227, is recognized as the sole representative of employees assigned to such positions.

The parties have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment of the employees in said Representation Unit B; have exchanged freely information, opinions and proposals; and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees. This Memorandum of Understanding shall be presented to the City Council as the joint recommendation of the undersigned.

SECTION 2: RECOGNIZED EMPLOYEE ORGANIZATION

2.1 The Association is the majority representative of all employees within Representation Unit B (non-managerial, uniformed Fire Department employees); and shall continue to be recognized as such unless, in accordance with the provisions of Resolution No. 43,397-N.S. or as said Resolution may be amended, the Association is no longer certified as the recognized employee organization for employees in Representation Unit B.

2.2 Union Dues

Deductions: The Union shall identify an Authorized Agent who shall, in accordance with State laws, provide the City with a list of employees who have a completed

dues deduction authorization cards on file and the amount to be withheld from the employee's paycheck for Union dues and other union provided benefits. The City shall deduct Union dues and premiums for approved insurance programs from the employee's pay in conformity with State and City regulations. The City shall promptly pay over to the designated payee all sums so deducted. The Union shall also periodically provide the City with a list of all persons requesting Dues and other benefit deductions. An exception from these deductions shall exist in situations when an employee is in a leave without pay or other unpaid status such that there is no payroll amount from which to make a deduction. The City shall continue to deduct insurance premiums and other such deductions as may be specified by the employee in accordance with past practice.

Membership: All employees who are, or hereafter voluntarily choose to become members of the Union, shall maintain such membership in good standing as a condition of continued employment for the duration of this Agreement; provided, however, that withdrawal shall be allowed during a period of not more than ninety (90) days nor less than thirty (30) days prior to the expiration date of the Agreement by sending written notice of withdrawal to the Union (with a copy to the Director of Human Resources of the City during said period).

Indemnification: The Union shall hold the City harmless, and shall fully and promptly reimburse the City for any fees, costs, charges or penalties incurred in responding to or defending against any claims, disputes, challenges, whether formal or informal, which are actually brought, or attempted or threatened to be brought, against the City or any of its agents or employees, in connection with the interpretation, application, administration or enforcement of any provision of this agreement. Such reimbursement shall include, but not be limited to, court costs, litigation expenses, and attorneys' fees incurred by the City. The City shall have the right to be represented by its own attorney in any action in which it is a named party to the action.

2.3 The City and the Association recognize this Memorandum of Understanding (see Glossary) as a binding and legal contract between the two parties.

2.4 The City shall post an electronic copy and fifty (50) copies in print of the new Memorandum of Understanding in booklet form and have it ready for distribution within sixty (60) days of final ratification.

SECTION 3: EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION STATEMENT

The Association certifies that it has no restriction on membership based on race, color, creed, ethnicity, ancestry, religion, marital or domestic partner status, gender, age, sexual orientation, national origin, political affiliation, gender identity or gender expression, parental status, pregnancy, disability or medical condition, Acquired Immune Deficiency (AIDS/HIV) or AIDS related condition, or any other status protected by applicable state or federal law, or protected Union activity. The Association agrees that it will support programs for making members of minority groups and women aware of employment opportunities within the City; and that it will work with the City to increase recruitment efforts of such minorities and women into City service. The Association recognizes and supports the City's commitment to equal employment opportunity.

Neither the City nor the Association shall discriminate against any employee covered by this Memorandum of Understanding in a manner which would violate any applicable laws because of race, creed, religion, marital status, color, religion, political affiliation, sexual orientation, sex, national origin, disability or age.

The City of Berkeley Harassment Prevention Policy, as may be amended from time to time to comply with applicable state or federal law, is available on-line on the City's IntraWeb at <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=10318>, in the Department of Human Resources, or by contacting the City's Equal Employment Opportunity and Diversity Officer.

SECTION 4: ASSOCIATION REPRESENTATIVES

4.1 The City shall allow representatives of the Association, subject to the conditions set forth in Sections 4.2 and 4.3, reasonable time off from work without loss of compensation or other benefits to represent its members in disputes which involve the interpretation or application of those rules, regulations, and resolutions which have been or may hereafter be adopted by the City Council to govern personnel practices and working conditions, including such rules, regulations, and resolutions as may be adopted by the City Council to effect Memoranda of Understanding which may result from the meeting and conferring process, and to represent its members in meeting and conferring in good faith for amendments to this Memorandum of Understanding in the future.

4.2 With respect to the meet-and-confer process, three (3) Association representatives shall be the maximum number who will be allowed concurrent time off, except that for negotiations over language in the Memorandum of Understanding, the City will allow three (3) additional employees (for a total of six [6]) to participate if the Association makes a good faith effort to minimize out-of-service time to the

employees involved. For disputes as defined in Section 4.1, the maximum number allowed concurrent time off shall be two (2).

4.3 The representatives shall advise their chief officers through the chain of command twenty-four (24) hours in advance before leaving their work assignments, except for emergency situations which require the immediate attention of said representative, and, in such situations, the notice shall be given at the earliest possible time. In no case shall an employee leave his/her job without the approval of a chief officer and such approval of chief officer shall not be unreasonably denied.

4.4 Per the requirements of the Fire Fighters' Bill of Rights Act, an employee who requests such may have an Association representative present at any meeting with chief officers and/or the Fire Chief which could result in punitive action of that employee. The Association will make a good faith effort to minimize the response time to an employee's request for representation.

4.5 When it is necessary to conduct an Executive Board meeting on shift, the on duty chief shall give his/her full cooperation for company movement and short assignment of personnel to assure that Executive Board members on duty may attend the meeting. Executive Board meetings should not exceed two (2) per month in most circumstances.

4.6 The President and/or two officers of the Association will meet with the City Manager and Fire Chief every two months to foster communication.

SECTION 5: UNION ACTIVITIES TIME OFF

5.1 The Association will be entitled to up to four hundred ten (410) hours paid leave of absence each year to be granted collectively to employees who are designated representatives of the Berkeley Fire Fighters Association, subject to the approval of the Fire Chief or the Chief's designee, to attend seminars, conferences, or conventions away from the job site, where employees are not available to respond to emergencies. The Chief may in his/her discretion approve additional Association requests. Time spent on such Association business will be recorded with the appropriate code on time sheets.

5.2 The City agrees to allow the Berkeley Fire Fighter Association's President or his/her authorized representative no more than four (4) hours off for the purpose of attending funeral services of active and retired Berkeley Fire Fighters and/or their spouses' funeral. Such time off is effective when the President or authorized representative is on duty at the time of the funeral.

5.3 At the request of the Association President or his/her designee, the Fire Chief will allow the use of an apparatus for line of duty funerals in the greater Bay Area (i.e., not to exceed 8 hours outside the City). The Fire Chief may also allow, upon request, the use of an apparatus for a retiree funeral. It is understood that the staffing of the apparatus for the line of duty funerals and/or retiree funeral will be by volunteers who will not be compensated.

SECTION 6: PILOT PROJECTS

During the term of this Understanding, the parties may mutually agree to discuss changes in working conditions and operational practices that may conflict with provisions of the Understanding and/or departmental operating procedures. Such discussions are not intended to conflict with Section 8 (Finality of Recommendations) of this Understanding. It is the intent of the parties to be able to mutually agree to try out these changes through “pilot projects” of up to one year’s duration to determine how these changes work on a day-to-day basis. If such “pilot projects” are mutually agreed to by the parties, they will be implemented during the term of the Understanding. However, both parties to the Understanding reserve their respective rights under the terms and conditions of this Understanding. The parties also recognize that changes in working conditions which conflict with the Understanding and/or departmental operating procedures may trigger a duty to bargain. If such duty to bargain is triggered, the parties reserve their respective rights under Section 8 (Finality of Recommendations).

SECTION 7: SEVERABILITY OF PROVISIONS

This Memorandum of Understanding is subject to all current and future applicable federal and states laws and regulations, and all lawful rules, policies, and regulations of the City of Berkeley in effect at the time this MOU is adopted, except as expressly modified by this MOU. If any provision of this Memorandum of Understanding is determined to be in conflict or inconsistent with any laws, rules, and/or regulations or is otherwise held to be invalid or unenforceable, such provision may be suspended or superseded, and the remainder of this Memorandum of Understanding shall continue in full force and effect. If any provision is invalidated, the parties shall meet and confer in good faith regarding a replacement provision.

Should any City rule, regulation or policy conflict with the MOU, the MOU shall supersede.

SECTION 8: FINALITY OF RECOMMENDATIONS

The recommendations set forth in this Memorandum of Understanding are final. No change or modifications shall be offered, urged, or otherwise presented by the Berkeley Fire Fighters Association or the City Manager prior to the beginning of negotiations for

the contract that will go into effect when this one has expired; provided however, that nothing herein shall prevent the parties to this Memorandum of Understanding from meeting and conferring and making modifications herein by mutual consent. No such amendments to this Memorandum of Understanding shall be effective until adopted by City Council and ratified by the Association.

This Memorandum of Understanding shall supersede all existing memoranda agreement between the City and the Association.

SECTION 9: DURATION

The term of this Memorandum of Understanding shall commence when the terms and conditions set forth herein have been adopted by the City Council but in no event shall this Memorandum of Understanding be effective prior to 0001 hours, July 1, 2021. This Memorandum of Understanding and all its rights, obligations, terms and provisions shall expire and otherwise be fully terminated at 2400 hours June 30, 2023

ARTICLE 2 - SALARIES, HOURS OF WORK AND COMPENSATIONS
ISSUES

SECTION 10: SALARIES

10.1 Salaries are set according to the classifications and salary ranges assigned to those classifications as listed in the attached Exhibit "A" to this MOU.

10.1.1 Effective the first full pay period after Council approval, employees shall receive a two and one-half percent (2.5%) wage increase plus City realignment bringing the Firefighter, Captain, Fire Apparatus Operator, and Fire Inspector classifications to the median.

Captain	10.07%
AO	2.81%
FF	2.48%
Fire Inspector	2.46%

10.1.2 Effective the first full pay period in July 2022, employees shall receive a three and one half percent (3.5%) wage increase

2021-2023 Memorandum of Understanding

City of Berkeley

Berkeley Fire Fighters Association

10.2 Fire Fighter Step Increases: Employees in the rank of Fire Fighter will be placed in the salary schedule reflected in Exhibit "A" according to the chart shown below based on the employee's anniversary date subject to the exception in Section 10.5 for extended unpaid leaves of absence. The time necessary to move from one salary step is expressed in months of service on the chart below:

Classification	Length of Service	Salary Step
Fire Fighter	0 to 6 months	Step A
Fire Fighter	Beginning month 7 through completion of month 12	Step B
	Beginning month 13 through completion of month 18	Step C
Fire Fighter	Beginning month 19 through completion of month 24	Step D
Fire Fighter	Beginning month 25 through completion of month 36	Step E
Fire Fighter	Beginning month 37 through completion of month 48	Step F
Fire Fighter	Beginning month 49 through completion of month 60	Step G
Fire Fighter	Beginning month 61 through completion of month 72	Step H
Fire Fighter	Beginning month 73 and subsequent months	Step I

10.2.1 All Other Step Increases: Employees in the rank of Fire Apparatus Operator, Fire Prevention Inspector, Deputy Fire Marshal, Fire Captain I/II, and Paramedic Supervisor I will be placed in the salary schedule reflected in Exhibit "A" according to the chart shown below based on the employee's anniversary date, subject to the exception in Section 10.5 for extended unpaid leaves of absence. The time necessary to move from one salary step is expressed in months of service on the chart below:

Classifications	Length of Service	Salary Steps
Fire Apparatus Operator, Fire Prevention Inspector, Deputy Fire Marshal, Fire Captain I/II, and Paramedic Supervisor I	0 through completion of month 48	Step B
Fire Apparatus Operator, Fire Prevention Inspector, Deputy Fire Marshal, Fire Captain I/II, and Paramedic Supervisor I	Beginning of month 49 through completion of month 60	Step C
Fire Apparatus Operator, Fire Prevention Inspector, Deputy Fire Marshal, Fire Captain I/II, and Paramedic Supervisor I	Beginning of month 61 through completion of month 72	Step D

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City of Berkeley

Berkeley Fire Fighters Association

Fire Apparatus Operator, Fire Prevention Inspector, Deputy Fire Marshal, Fire Captain I/II, and Paramedic Supervisor I	Beginning of month 73 and subsequent months	Step E
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10.2.2 An employee who promotes to any higher classification covered by this Memorandum of Understanding will be placed at the appropriate salary step based on length of service with the Berkeley Fire Department.

10.3 Salary Placement and Entry – Lateral Incentive

Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class as set forth in Exhibit "A" for the appropriate date of appointment. The minimum rate for the class shall apply to employees upon original appointment of the position, except in cases of lateral entry. For the purpose of this Section a "lateral entry appointment" shall be defined as a person who has completed the initial probationary period as a Fire Fighter or similar equivalent classification in a paid organized Fire Department, transfers from another agency, and completed two (2) years of full time continuous service in a paid organized Fire Department. Lateral entry appointment may be made for the classification of Fire Fighter, including Fire Fighter Paramedic, only. The Fire Chief may recommend to the Director of Human Resources and City Manager that a lateral entry appointment be made at a salary step or pay schedule above the entry level that is commensurate with the appointee's years of service as a sworn firefighter with a paid organized Fire Department.

10.4 No salary advancement shall be made so as to exceed the maximum rate established for the class to which the advanced employee's position is allocated. Advancement shall be in accordance with the compensation plan of the City and shall depend upon increased service value of an employee to the City as exemplified by recommendations of the department head, performance record, special training, length of service, and other pertinent evidence.

10.5 An employee's pay increase shall not be affected by any leave of absence without pay if the employee is off the payroll for less than one hundred sixty consecutive hours for employees assigned to a forty hour work week or two hundred eighty eight hours for employees assigned to a fifty six hour work week. If the employee

is off the payroll for one hundred sixty consecutive hours for employees assigned to a forty hour work week or two hundred eighty eight hours for employees assigned to a fifty six hour work week, the total amount of time off shall be made up before the employee shall be entitled to such pay increase, except that employees on approved parental leave or military leave are exempt from such requirement. Employees must receive an overall evaluation of "meets requirements" in order to advance to the next step in the salary range.

10.6 Any employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary, or any employee occupying a position in a class for which the salary rate or range is reduced, shall continue to receive his/her present salary. Such salary shall be designated as "Y" rate. When an employee on a "Y" rate vacates his/her position, subsequent appointments to that position shall be made in accordance with Section 10.2.

10.7 Payment of salaries herein established shall be bi-weekly. Each pay period shall begin at 8:01 a.m. Sunday, up to and including 8:00 a.m. Sunday, two weeks following. Each payment shall be made not later than the Friday following the ending of each payroll period and shall include payment for all earnings during the previous payroll period.

10.7.1 The City has no plans to change the practice of paying employees their annual salary in equal amounts each pay period but if it should become unfeasible to continue this practice, the City will meet and confer with the Association regarding changes to the present practice.

10.7.1.1 For employees on a forty (40) hour week, the hourly rate shall be the quotient of the annual salary (12 times the monthly salary) divided by 2,080 hours carried to four (4) decimal places.

10.7.1.2 For employees on a fifty-six (56) hour week, the hourly rate shall be the quotient of the annual salary (12 times the monthly rate) divided by 2,912 hours carried to four (4) decimal places.

10.7.1.3 The FLSA work period is defined as twenty-four (24) days with an FLSA overtime threshold of 192 hours.

10.8 Matrix of Comparable Cities

The City and Association agree to compare and discuss the total compensation of the following agencies as part of the next MOU negotiations: City of Alameda, County of Alameda, County of Contra Costa, City of Daly City, City of Fremont, City of Hayward, Livermore-Pleasanton Fire Department, City of Oakland, City of Palo Alto, City of Richmond, City of Vallejo and City of San Mateo. The City reserves the right to modify these survey agencies, in its discretion, no later than the first MOU negotiations meeting.

10.9 Emergency Medical Technicians

All Unit B classifications are required to maintain current EMT certification as a condition of employment.

Effective the first full pay period after Council Approval, the City will provide EMT pay differential of five percent (5%).

10.10 Hazardous Materials Response Team

10.10.1 The City will provide Hazardous Materials Specialist training as needed to maintain a Hazardous Materials Response Team. Upon successful completion of the required Hazardous Materials Specialist Course, a Hazardous Materials Team member, who is regularly assigned, shall receive an additional differential of five percent (5%) to base pay. This Hazardous Materials Response Team differential will be reported to CalPERS as Hazard Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

10.10.2 This five percent (5%) Hazardous Materials Response Team member differential shall become effective the closest pay period following completion of the course. Employee is required to make a three (3) year commitment to the team. The duration of the assignment may be for up to three years, but the Fire Chief retains discretion to end the assignment at any time based on operational needs. However, the Hazardous Materials Team shall operate with no less than 12 members across three shifts, except the Chief shall have a reasonable time period to fill vacancies to comply with this requirement, and shall provide notice to BFFA when the team may temporarily have fewer than 12 and the estimated duration of time. The five percent (5%) differential will cease when Employee stops participating or is removed from the Team.

10.11 Water Rescue Swimmer Differential

Beginning July 1, 2021, the City will pay a two and one-half percent (2.5%) of base pay differential to those members while on duty and assigned Water Rescue Swimmer status for their assigned shift.

There will be up to eight (8) Water Rescue Swimmers assigned per shift.

10.12 Shift Fire Prevention Inspector

The Fire Chief may establish a list of qualified shift fire prevention inspectors and assign two persons to function as a fire prevention inspectors on each fire suppression shift. The purpose and scope of the shift fire prevention inspector is to provide assistance with fire investigations, overcrowding issues, for clearance and event inspections, public relations, fire inspections, fire prevention presentations and other duties as may be assigned. Employees on duty and assigned as a fire prevention inspector shall receive five percent (5%) pay for the time they are assigned. This Fire Prevention Inspector Premium will be reported

to CalPERS as Fire Prevention Assignment Premium. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

10.13 All changes in pay rate will go into effect at the beginning of a pay period (see Section 10.7) and stay in effect until the last day of a pay period if they are a result of the following:

- 10.13.1 Application of a cost of living adjustment;
- 10.13.2 Step increases;
- 10.13.3 Retroactive adjustments;
- 10.13.4 Implementation of CalPERS options;
- 10.13.5 Change of employee's status from career to hourly or vice versa;
- 10.13.6 Promotion or demotion;

If the pay rate change is triggered by an event which occurs in the first half of the pay period, the change in pay rate will become effective on the first day of the following pay period. Similarly, the changed pay rate should cease to be in effect on the last day of the pay period during which the employee is no longer eligible if the triggering event occurs during the second half of the pay period; or if the triggering event occurs during the first half of the pay period, the changed pay rate would cease to be in effect on the last day of the preceding pay period.

10.14 For pay purposes of calculating annual pay, the City will utilize the IRS definition of "end of the year" which is the close of the last City pay period for which the payday falls within the calendar year. See Glossary for additional explanation.

10.15 Longevity Pay

Effective the first full pay period after Council approval,, the City will provide employees completing eleven (11) years of service a differential equal to 3% of base pay. In addition, the City will provide employees completing nineteen (19) years of service in a classification represented by the Association an additional differential of 5% base pay. These differentials shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

10.16 Career Development Incentive Program

Effective the first full pay period in January 2019, the City agrees to pay the following hourly amounts from the first full pay period in January through the last full pay period in December for persons achieving the following levels of combined education, training, and longevity under the Career Development Incentive Program set forth in a Career Development General Order achieved in the prior calendar year:

Level I: \$0.085/hour

Level II: \$0.17/hour

Level III: \$0.26/hour

Level IV: \$0.34/hour

These hourly amounts shall be increased by a factor of 1.4 for any full pay periods working a 40 hour per week assignment during the employee's year of eligibility. The specific criteria and applicable procedures for eligibility and payment are set forth in the Career Development General Order. Future changes to the criteria, timing and/or requirements under the Career Development Incentive Program and/or elimination of the Program are subject to applicable meet and confer.

10.17 Medical Specialist Team

The fire chief may assign two on-duty personnel who meet MST eligibility to function as an MST member. Each member shall be evaluated annually for eligibility criteria as specified in the MST SOG. The fire chief, in consultation with the MST program manager, retains discretion to remove personnel from the MST at any time. The purpose and scope of the MST is to provide assistance and medical support to law enforcement operations as well as other specialty assignment at the discretion of the fire chief. Employees assigned as an MST member while on-duty shall receive an additional differential at five percent (5%) to base pay. The MST premium will be reported to CalPERS in accordance with CalPERS Section 20636. However, any hours worked on overtime are excluded from compensation earnable per CA Government Code Section 20635.

MST training shall be approved by the Fire Departments Division of training and shall be compensated at 1.5 times the regular rate of pay and include travel expenses.

SECTION 11: PAYROLL ERRORS

To ensure that system or other errors which affect an employee's pay are processed in an efficient and effective manner, the City shall notify the affected employee(s) as soon as practicable. Payroll errors detected by an employee shall, as soon as practicable, be communicated to the employee's Duty Chief of Division Manager. The Duty Chief or Division Manager shall notify the department Payroll Clerk. In the case of under payments, the Payroll Clerk shall submit the appropriate adjustments as soon as practicable.

Payroll errors identified by the Auditor will be communicated to the employee either directly by Auditor staff or through the Deputy Chief. Under payments will be processed as soon as practicable.

In the event of an overpayment, the Auditor's Office will determine a reasonable repayment schedule and inform the employee of the schedule directly, or through the Deputy Fire Chief. The affected employee shall be given an opportunity to discuss the schedule of repayment and, if necessary, to request an adjustment to the repayment schedule as a needed and reasonable accommodation. Factors considered in determining a reasonable accommodation for repayment of wages include, but are not limited to, the length of time the overpayment has occurred, the amount of the overpayment, the employee's normal salary, and other financial obligations of the employee. The City and the Association agree that the City is authorized to recover any salary overpayment made to the employee from the employee's wages. In the event that (1) the employee does not respond within 10 working days of being notified of the overpayment, or (2) mutual agreement on the repayment schedule is not achieved within 10 working days of the employee being notified of the overpayment, the Auditor's Office will proceed to implement a reasonable repayment schedule.

SECTION 12: FIRE STAFF PREMIUM DIFFERENTIALS

12.1 The Captain assigned by the Fire Chief to perform the duties in the Emergency Medical Services, Office of Emergency Services or Training Division shall receive

ten percent (10%) premium pay over base salary. The employee appointed to the position of Deputy Fire Marshal classification shall receive a ten percent (10%) salary increase of the Captain II classification.

12.2 An employee assigned in writing by the Fire Chief or his/her designee and approved by the City Manager to a special assignment on a 40-hour week will receive a five percent (5%) Fire Staff Premium Differential above his/her base pay. If the special assignment exceeds one hundred twenty (120) calendar days, then the Fire Staff Premium Differential will be ten percent (10%) above his/her base salary

retroactive to the first day of the special assignment. The Fire Staff Premium Differential is determined by the length of the special assignment and not to any specific employee. Employee shall not receive said differentials if Employee is assigned to a 40-hour week for training and/or for modified duty assignment.

12.2.1 When a recruit academy is held two (2) recruit training officers will be assigned.

SECTION 13: BILINGUAL PREMIUM PAY

The Fire Chief may make a Bilingual Premium Pay Differential of two percent (2%) of an employee assigned occasionally to provide non-English language services, including Braille and sign language, when either a) assigned by management, or b) at the request of the employee with the supervisor's agreement, or, c) after a job audit will receive a Bilingual Premium Pay Differential of 2%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 2% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

The Fire Chief will accept applications from employees wishing to apply for a bilingual differential in the first quarter of each year, or within the first three (3) months of employment. Employees may be tested at the Fire Chief's discretion.

The bilingual premium will not be applicable under any circumstances except to an employee who possesses second language competency. Management reserves the right to test for second language appropriate competency prior to a Bilingual Premium Pay Differential.

SECTION 14: ACTING IN HIGHER CLASSIFICATION

14.1 Pay for work in a higher classification shall commence after two (2) hours of work at a higher classification; however, pay for working in a higher classification shall encompass the total time worked in the higher classification. An employee, to receive such pay, must be permanent in the rank immediately below the higher classification, with the only exception that Fire Fighters (in a permanent status) shall be allowed to "act" as a Fire Captain II.

14.1.1 Employees shall only be allowed to act in a higher classification if they are on the current promotional list for the position in which they are to act. If

no qualified personnel on the current promotional list are available to act, Minimum Qualification Actors shall be allowed to act in a higher classification. Minimum Qualification Actors must meet all the required qualifications, education, and experience to be eligible to participate in the promotional exam process for the classification in which they are to act. Minimum Qualification Actors must also successfully complete a certification process for the classification in which they are to act, administered by the Division of Training, before they are allowed to act in the specified classification.

14.1.2 Only those individuals who are currently on an active promotion list or who have completed the minimum qualifications task book and have it on file with the City shall be eligible to work in a higher classification. The City shall set the duration a task book shall be valid and the remedial steps a member must take if the member fails an exam, which will be outlined in the "Task Book" General Order.

14.2 The temporary assignment to a higher classification referred to herein shall be made at the same salary step in the acting classification as is held in the permanent classification, including the Longevity Pay Plan Range level held in the permanent classification.

14.2.1 For purposes of this section, there will be a distinction between short term and long term acting in a higher classification assignments. Short term acting in a higher classification assignments are those assignments that are expected to be up to but not exceed six weeks duration. Long term acting in a higher classification assignments are those assignments that are expected to be more than six weeks duration.

14.2.2 For short term acting assignments, employees who are on the promotional list will be given priority consideration for acting at their assigned fire station or on their assigned apparatus when the vacancy occurs on their assigned shift. In the absence of any available actors on the promotional list for a given shift, Minimum Qualification Actors from that shift will be given priority consideration for acting at their assigned fire station or on their assigned apparatus.

14.2.3 For long term acting in a higher classification assignments, employees who are on a promotional list or, in the absence of available persons on a promotional list, Minimum Qualification Actors may be assigned from another shift or another station to cover the vacancy and to ensure equal distribution of command and company officers.

14.3 An employee assigned to work as a Higher Class Battalion Chief in the fire suppression assignment shall be paid at the Battalion Chief 56 hour per week rate of pay.

An employee assigned to work as a Higher Class Assistant Chief in an Assistant Chief assignment shall be paid at the Assistant Chief forty (40) hour per week rate of pay.

14.4 In the absence of a Chief Officer assigned as the Fire Marshal for two (2) or more consecutive calendar days, in recognition of responsibility for performing additional duties, the Deputy Fire Marshal shall be paid a differential of ten percent (10%) above the rate of Fire Captain II at the forty (40) hour per week rate of pay. This differential shall be paid from the first day of the absence.

14.5 In the absence of a Chief Officer for five (5) or more consecutive calendar days, in recognition of responsibility for performing additional duties, the staff officer shall be paid a differential of ten percent (10%) above the rate of Fire Captain II at the forty (40) hour per week rate of pay. This differential shall be paid from the first day of the absence.

14.6 In the absence of the individual assigned as the Deputy Fire Marshal for two (2) or more consecutive calendar days, in recognition of responsibility for performing additional duties, the Sworn Fire Inspector shall be paid a differential of five percent (5%) above the applicable Sworn Inspector's base salary at the forty (40) hour per week rate of pay. This differential shall be paid from the first day of the absence.

14.7 An employee will only be eligible for higher class pay when working.

SECTION 15: HOURS & DAYS OF WORK / ALTERNATE WORK SCHEDULE PROGRAM

Hours and days of work shall be governed by rules established by the City Manager and the Department Head. The present work schedule shall be maintained during the term of this Memorandum of Understanding. In the 10/14 hour (day/night) overtime schedule, employees shall be paid for hours worked.

15.1 48/96 Work Schedule

Suppression employees shall work the 48/96 schedule as their regular schedule.

15.2 48/96 Impacts

If the Fire Chief determines the 48/96 schedule is causing negative impacts, such

as, but not limited to, an increase of vehicle accidents, industrial injuries, sick leave usage, Alameda County EMS unusual occurrences reports, health and safety complaints, quality improvement or assurance issues, performance of duty reprimands, or customer service complaints, the Union agrees to meet with the Fire Chief upon request to discuss concerns, if any, the Fire Chief might have in the future regarding the 48/96 schedule.

- 15.3 The City and the Association share the interest of ensuring responders are well rested and able to make sound decisions during emergency scenarios. Both parties recognize the need to evaluate the potential effects of fatigue secondary to consecutive work hours.

The City and the Association further agree that the Duty Chief shall have the authority to temporarily reassign a transport paramedic to a suppression company for relief purposes whenever the Duty Chief, a Company Officer, or a Paramedic Supervisor I, in his or her sole discretion, deems it necessary.

15.4 Daylight Saving Time

15.4.1 **Spring:** In the Spring when transitioning to Daylight Saving Time (DST), employees working during the one (1) hour transition from Standard Time to DST will be paid only for actual hours worked. Employees working on a shift which includes the one (1) hour transition may be granted an option by the Department Head or his or her designee, to work an additional hour or use compensatory time, floating holiday, or vacation to make up for the lost work hour.

15.4.2 **Fall:** In the Fall when transitioning from DST, employees working during the one (1) hour transition will be paid for all hours worked including overtime at one and one-half (1½) times the straight-time rate of pay for hours worked in excess of the regular workweek as set forth in Section 14 (Acting in Higher Class) of this MOU.

SECTION 16: OVERTIME

- 16.1 Overtime for employees in Unit B covered by this Memorandum of Understanding shall be defined as that time which the employee is required to do work during his/her day off, off-shift, or other scheduled time off during the tour of duty.

- 16.2 The overtime rate shall be one and one-half (1½) times the straight time rate based upon regular monthly salary at the hourly rate to which the employee is entitled under this Memorandum of Understanding at the time he or she works the overtime.

16.3 An employee may request compensation for overtime by compensatory time off or by payment. The department head shall consider the employee's preference. Whether the employee shall be compensated for overtime by compensatory time or by payment shall be at the sole discretion of the employee's department head.

16.4 For the purposes of this Memorandum of Understanding the term "Compensatory Time" shall mean the same as the term "Due Time".

Compensatory time shall not accumulate in excess of sixty (60) overtime hours worked which is the equivalent of ninety (90) hours of compensatory time for persons assigned to a forty (40) hour week work schedule. Compensatory time shall not accumulate in excess of one hundred thirty-two (132) overtime hours worked which is the equivalent of one hundred ninety-eight (198) hours of compensatory time for persons assigned to a fifty-six (56) hour week work schedule.

16.4.1 The conversion factor for employees accruing and using compensatory time is as shown below. The intent of the parties is to have the dollar value of the compensatory time accrued be the same whether an employee is assigned to a fifty-six (56) hour per week schedule or a forty (40) hour per week schedule.

16.4.1.1 Compensatory time accrued on a fifty-six (56) hour per week scheduled is converted to a forty (40) hour per week schedule by multiplying number of hours of compensatory time accrued by the conversion factor of 0.7143.

16.4.1.2 Compensatory time accrued on a forty (40) hour per week scheduled is converted to a fifty six (56) hour per week schedule by multiplying number of hours of compensatory time accrued by the conversion factor of 1.4.

16.4.2 Overtime accumulation in excess of sixty (60) hours for an employee assigned to a forty (40) hour per week schedule or one hundred eight (108) hours for an employee assigned to a fifty six (56) hour per week schedule shall be paid as compensation.

16.5 In the event an employee resigns or is terminated, the employee shall be paid for all accrued compensatory time.

16.6 For the purpose of computing overtime, the workweek shall be defined as beginning at 8:01 a.m. Sunday morning and ending the following Sunday.

16.7 Employees assigned to a position working a regular forty (40) hour week schedule shall receive overtime compensation for all time worked in excess of forty (40) hours per week in that assignment at the applicable 40 hour per week overtime

rate for this overtime as provided in Section 16.2. Employees assigned to a 40 hour per week schedule who perform overtime work in suppression shall be paid for this overtime at the applicable suppression overtime rate.

16.8 Overtime for activities (i.e., training, CERT classes, community meetings) not related to suppression staffing or emergency callbacks require the Deputy Fire Chief's approval in advance.

16.9 FLSA Premium:

Under the FLSA and Section 7(k), overtime pay is only required when the employee actually works in excess of 182 hours in a 24-day period. All firefighters in each shift will work exactly eight 24-hour work shifts every 24-day period. The start time of the 24-day work period for line employees to 8 am to align with the employees' start time. Shift in start time will be effective the first full pay period in January 2022.

City and the Union agree to meet and confer prior to February 2022 on creating a time worked provision/constant FLSA pay system and /or moving to a 14 day FLSA cycle. The parties understand that the City has the management right to administer its payroll system in compliance with the law and also understands that all impacts of any resulting changes to employee compensation must be negotiated.

16.9 Call-Back

16.9.1 Employees who are called back to work by the department for normal staffing needs (i.e., during non-emergency times), shall be paid overtime compensation only for actual time worked, commencing upon reporting for duty.

16.9.2 **Emergency Call-Back** - an employee who is required to report to work for an emergency will be paid for travel time as well, in accordance with FLSA standards.

16.9.3 In any case of emergency call-back when an employee responds, the minimum time for which such overtime compensation shall be paid will be four (4) hours.

16.10 Overtime Practices

The Department will adhere to the overtime hiring procedures and policy as stated in the Overtime General Order.

16.11 Holding Over After Shift Change

16.11.1 At or before 8:00 a.m. on the day of shift termination, the Duty Chief or his/her representative shall notify any personnel who is to be held over to await arrival of replacement personnel. Any personnel not so notified is deemed to have been released at 8:00 a.m.

16.11.2 Any personnel so notified who are held over shall be compensated at the overtime rate (see Section 16.2) for any time held over beyond 8:00 a.m.

SECTION 17: USE OF AUTOMOBILES

The City Manager shall govern the use of City-owned automotive equipment and privately-owned automotive equipment by such rules and regulations as he/she may establish. Compensation shall be given in the form of a cash allowance in the amount established by the Internal Revenue Service.

SECTION 18: COURT PAY

An off-duty employee, who is subpoenaed to appear in court in cases in which the City is a party, or as a witness for criminal acts or civil torts that were witnessed on duty, shall be compensated at one and one-half (1½) times his or her regular straight-time rate for all hours the employee is so ordered to appear.

ARTICLE 3 - LEAVES

SECTION 19: VACATION

19.1 A vacation period for employees on a 56-hour week shall consist of three 24-hour shifts (See Glossary), effective July 1, 1970. All employees who have worked for the City six (6) months or more and have worked half-time or more in the preceding year shall be entitled to vacation leave.

19.1.1 For employees on the 48/96 schedule, a vacation period for employees on a 56-hour week shall consist of two 24-hour shifts (See Glossary).

19.1.2 The City agrees that the present practice of choosing vacation by seniority on each shift shall be continued. Annual vacation picks may be scheduled at any time between January 5 and the last day of February, at the discretion of the Fire Chief. It is understood that the City has the necessity to evenly allocate vacation time throughout the calendar year in order to meet staffing obligations and maintain a manageable overtime liability. Therefore, the City may, after consultation with the Association, but at its sole discretion, schedule vacations on a flexible basis. If assignment of vacations is necessary, the principle of seniority shall prevail insofar as possible.

19.1.3 A maximum of up to five (5) vacation slots per shift, shall be allowed for twenty-two (22) vacation weeks. The maximum of four (4) vacation slots per period, per shift shall be allowed for the remainder of the vacation year. Paramedic picks will be included in this number and shall be based on seniority. Up to four (4) paramedics will be allowed off at one time.

19.1.4 Not more than three (3) Officers shall be allowed off during a vacation period.

19.1.5 Except in cases of emergency declared by the Fire Chief, employees shall not be allowed to work while on vacation. If an employee works on a day when vacation or incremental time off was approved, the number of hours worked will be coded as straight time and the equivalent number of vacation time will be credited.

19.1.6 If an employee is allowed to cancel any part of his/her vacation tour or incremental time off, and the vacation period has been fully selected, that vacation or incremental period will be reopened for selection by other members in order of seniority. Fifty-six (56) hour suppression

personnel shall not be allowed to cancel less than two (2) shifts of a vacation tour unless another vacation spot exists. If the entire tour or

shift is not selected, the tour or shift(s) shall be opened for incremental time selection. The Duty Chief must announce any cancellation by email for a minimum period of one (1) tour, with the exception that if cancelled vacation notification is made less than twenty-one days in advance. In such case, the Duty Chief may allow selection of the cancelled vacation within one (1) shift.

19.1.7 Incremental Time Off - Incremental Time Off is considered time off using vacation, due time, or sick leave bonus. Incremental vacation shall be taken in increments of ten (10) hours (days) from 0800 hours to 1800 hours or fourteen (14) hours (nights) from 1800 hours to 0800 hours.

19.1.8 An employee placed on workers' compensation leave, modified duty, special assignment or sick leave to a forty (40) hour work week shall have his/her vacation tour or incremental time off opened up to the fifty six (56) hour suppression staff in order of seniority. This will be done as soon as it is reasonably determined the member will not be returning to a fifty six (56) hour work week and no later than 1000 hours of the shift prior to the employee's scheduled vacation tour or shift.

19.2 Effective March 1, 2009 the vacation accrual schedule is as follows:

Years of Service	Vacation Accumulation	
	56 Hours	40 Hours
Through the first five (5) years of service (as provided in Sections 19.5, 19.5.1 and 19.6. below)	2 Vacation Periods	
	144 hours	80 hours
Six (6) through eleven (11) years of service (as provided in Sections 19.5, 19.5.1 and 19.6. below)	3 Vacation Periods	
	216 hours	120 hours
Twelve (12) through eighteen (18) years of service (as provided in Sections 19.5, 19.5.1 and 19.6. below)	4 Vacation Periods	
	288 hours	160 hours
Nineteen (19) through twenty-four (24) years of service (as provided in Sections 19.5, 19.5.1 and 19.6 below)	5 Vacation Periods	
	360 hours	200 hours
Twenty-five (25) and subsequent years of service as provided in Sections 19.5, 19.5.1 and 19.6 below).	6 Vacation Periods	
	432 hours	240 hours

19.2.1 Lateral Entry Vacation Accrual Rate at Time of Appointment: Subject to the provisions of Section 19.1, an employee appointed on or after October 1, 2006 as a lateral entry appointment as described in the Section 10.3 of the Agreement, shall accrue and be eligible to take

Vacation Leave commensurate with his or her years of experience as a paid sworn Fire Fighter, as defined in Section 19.2. However, such leave accrual shall be prospective. Vacation privileges associated with seniority from prior employment in another Fire Department as a Fire Fighter shall not apply in Berkeley.

19.3 Employees shall earn vacation leave according to the following schedule:

Hours of Vacation Leave Earned For Each Hour of Service		
Vacation Periods Earned Per Year	For Employees Working	
	56 Hours/Week	40 Hours/Week
2	.0495	.0385
3	.0742	.0577
4	.0989	.0769
5	.1236	.0962
6	.1484	.1154

19.3.1 Each employee shall be entitled to take, during his/her first two (2) full years of City employment, only such annual vacation leave as the employee earns; provided, however, that no employee with less than six (6) months of service shall be entitled to take earned vacation leave.

19.4 For an employee who has worked on a part-time or intermittent basis or has been on leave of absence without pay for a total of six (6) months, or more or who has been terminated and subsequently reemployed, the actual years of service with the City shall be used for the purpose of computing length of service in determining eligibility for vacation at the three (3), four (4), five (5) and six (6) vacation period rate.

19.4.1 Employees working on an intermittent or part-time basis who have worked half-time or more in the preceding twelve (12) months without termination shall be entitled to a prorated vacation leave based upon the actual years of service with the City and upon the actual amount of time worked in the preceding calendar year.

19.4.2 For the purpose of computing length of service in determining eligibility for vacation at the three (3), four (4), five (5) or six (6) vacation period rate, time spent on extended military leave or parental leave shall be counted as time spent in the service of the City.

19.5 Employees can carry over from one vacation year (see Glossary) to the next, no more than eight (8) vacation periods of earned vacation.

- 19.6 Not later than November 1st of each year, the City will notify each affected employee whose earned vacation is projected to exceed eight (8) weeks by the end of the vacation year (see Glossary). By November 30th, those employees with projected excess vacation will submit to the Deputy Chief a proposal for use of that projected excess vacation prior to the end of the vacation year. An employee who has attained maximum accumulation may be required to take all projected excess earned vacation or receive pay in lieu thereof, at the option of the City. Such time off shall be scheduled in accordance with the provisions of the Leave Requests General Order and this Memorandum of Understanding.
- 19.7 An employee who is anticipating retirement in the next vacation year will not be forced to use accumulated vacation time in the last year of employment. He/she may request to sell the vacation to the City and the City will honor that request, provided that 1) the employee sends an email to the Fire Chief through the Chain of Command indicating the intent to retire, and 2) this requirement that the City buy the employee's vacation will be in effect for one (1) year maximum.
- 19.8 An employee who has returned from extended military leave or any other extended leave of absence without pay or who has been reemployed or reinstated shall be entitled, during the calendar year in which the employee returns to the City service, to a prorated vacation based upon the total years of service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, vacation shall be as provided in this Section 19.
- 19.9 An employee who is granted a leave of absence without pay and who is off the payroll for less than one hundred sixty (160) consecutive hours for employees assigned to a forty (40) hour work week or two hundred eighty eight (288) hours for employees assigned to a fifty six (56) hour work week shall be entitled to a full vacation. If such an employee is off the payroll for one hundred sixty (160) consecutive hours for employees assigned to a forty (40) hour work week or two hundred eighty eight (288) hours for employees assigned to a fifty six (56) hour work week, the employee's vacation shall be as provided in Sections 19.12, 19.13, 19.14, 19.15 or 19.16.
- 19.10 If, after six (6) months of continuous service, an employee dies, is terminated, or is granted an extended military leave, or other extended leave of absence without pay, such employee, or his or her estate, shall be paid for earned vacation periods in excess of the actual amount of vacation leave taken or such employee, or his or her estate, shall reimburse the City for the actual amount of vacation taken in excess of vacation leave earned, as the case may be.

19.11 Upon termination, extended military leave, or other extended leave of absence without pay, if the employee's vacation balance is positive, such employee, or his or her estate, shall be paid for the excess of credits on the basis hereinafter set forth. If the vacation balance is negative, such employee, or his or her estate, shall, on the same basis, reimburse the City or the City may deduct the balance due from the employee's salary due, deferred compensation, accrued floating holidays, holiday pay due, compensatory time due or sick leave, in the listed order of priority.

19.12 The basis for such payment by the City or for such reimbursement to the City shall be as follows:

19.12.1 The employee's regular hourly salary, as defined in the Glossary at date of termination, extended military leave, or other extended leave of absence without pay, multiplied by the excess of vacation leave hours earned or vacation leave hours taken, as the case may be.

19.13 Upon retirement, termination or extended military leave, employees shall be paid off one hundred percent (100%) of all vacation which he or she has earned, banked, or held over.

19.14 Employees shall accrue vacation leave credits for only those hours in which the employee is on the payroll and receiving pay.

19.15 Vacation Buy Back

Vacation buy back shall be done at the time of vacation picks, but prior to the vacation selection process. The buy back shall be done in order of seniority, by shift, similar to vacation selection. Employees have the option to sell some of their vacation back to the City at this time. Employees may sell in increments of one (1) week at a time during each round.

19.15.1 Employees may sell up to half ($\frac{1}{2}$) of their earned vacation, including any vacation carry-over.

19.15.2 For purposes of computing earned vacation, time may be counted up to the end of the second paycheck in February of the current year. Employees will be paid only for vacation time actually earned up to the time of buy back payoff.

19.15.3 Only whole weeks shall be counted for vacation buy back. For example, seven (7) weeks, twenty - one (21) hours would count as seven (7) weeks of earned vacation.

- 19.15.4 The City will allow up to twenty (20) weeks of vacation buy back per shift for personnel assigned to fire suppression for a given vacation year. Once that number has been reached no further vacation buy back request shall be honored.
- 19.15.5 Employees will be paid in March for vacation sold back to the City at the beginning of the vacation year, but in no event sooner than the first pay period after the fiscal year's budget is approved.
- 19.15.6 The vacation buy back provision as provided for in this section applies only to Unit B Personnel assigned to fire suppression and medical response vehicles.
- 19.15.6.1 Unit B Personnel not assigned to fire suppression and medical response vehicles will be able to sell back vacation leave as provided in Section 19.15.1 and this sell back of vacation will not apply to the twenty (20) week limit set forth in Section 19.15.4 for personnel assigned to fire suppression.
- 19.15.6.2 The Fire Department, at its discretion, may allow incremental vacation to be taken on short notice, in excess of the maximum number of vacation spots selected, when in the opinion of the Fire Chief or his/her representative, there are extra personnel working who are able to provide relief, and, the employee's absence will have no adverse impact on any departmental, or employee training program or other activity which is scheduled.
- 19.16 The conversion factor for employees accruing and using vacation leave is as shown below. The intent of the parties is to have the dollar value of the vacation leave accrued be the same whether an employee is assigned to a fifty-six (56) hour per week schedule or a forty (40) hour per week schedule.
- 19.16.1 Vacation leave accrued on a fifty-six (56) hour per week scheduled is converted to a forty (40) hour per week schedule by multiplying number of hours of vacation leave accrued by the conversion factor of 0.7143.
- 19.16.2 Vacation leave accrued on a forty (40) hour per week scheduled is converted to a fifty six (56) hour per week schedule by multiplying number of hours of vacation leave accrued by the conversion factor of 1.4.

SECTION 20: HOLIDAYS

All employees in Representation Unit B shall be paid additional compensation for the holidays hereinafter enumerated at the straight time salary rate based upon their regular monthly salaries. Employees who are regularly scheduled to work forty (40) hours per week will receive eight (8) hours of holiday pay and those regularly scheduled to work fifty-six (56) hours will receive twelve (12) hours of holiday pay. The holidays to which this provision applies are:

- 20.1 New Year's Day
- 20.2 Martin Luther King, Jr. Birthday (3rd Monday in January)
- 20.3 Lincoln's Birthday
- 20.4 Washington's Birthday
- 20.5 *International Women's Day - March 8 of each year (no time off is given for this holiday; only additional compensation is provided.)
- 20.6 Malcolm X's Birthday
- 20.7 Memorial Day
- 20.8 Juneteenth National Independence Day -Observed on the Monday or Friday, nearest to June 19
- 20.9 Independence Day
- 20.10 Labor Day (observed on the first Monday in September)
- 20.11 *Admission Day (no time off is given for this holiday; only additional compensation is provided.)
- 20.12 Indigenous People's Day (observed on the second Monday in October)
- 20.13 Veterans' Day
- 20.14 Thanksgiving Day
- 20.15 The day after Thanksgiving Day
- 20.16 Christmas Day
- 20.17 Any other special holiday as declared by the City Manager

*If, during the life of this contract, the City agrees to give International Women's Day as a holiday to other City Employees, in addition to the Holidays listed herein, one (1) additional floating holiday will be credited for the Fire Service.

20.17 If any other represented bargaining unit receives an additional holiday above fifteen (15) holidays, the City agrees to grant an additional holiday to the Berkeley Fire Fighters Association.

SECTION 21: SICK LEAVE

21.1 An employee shall be entitled to take sick leave with full pay in case of sickness, disability or serious illness of that employee or within the immediate family of the employee in accordance with the provisions of Sections 21.2 to 21.7 inclusive.

2021-2023 Memorandum of Understanding

City of Berkeley

Berkeley Fire Fighters Association

21.2 Each employee shall be credited with one (1) sick leave day (see Glossary) with full pay for each month of service, provided that each employee shall be credited with two (2) sick leave days with full pay for each month of service during the seventeenth (17th) year of employment and thereafter.

For purposes of this Section 21 (Sick Leave), a month of service shall mean thirty (30) consecutive calendar days in the case of employees working on a full-time or part-time basis and shall mean one hundred seventy three (173) hours of work in the case of employees working in a forty (40) hour per week assignments or two hundred forty three (243) hours for a fifty six (56) hour per week employees on an intermittent basis. Provided that effective upon the implementation of necessary data processing and programming changes, actual accrual of sick leave will be based upon those hours in which the employee was on the payroll and receiving pay.

21.3 An employee working on a part-time basis shall be entitled to use earned sick leave only on a pro rata basis; for example, if an employee works half-time, the employee shall be paid for time off on sick leave on half-time basis.

21.4 An employee who works on an intermittent basis shall be entitled to use earned sick leave only for those days on which the employee would have worked if the employee had not been sick; provided, however, that an employee working on an intermittent basis who works only when called shall be entitled to use earned sick leave only when the employee becomes sick after reporting to work in response to such call.

21.5 Such sick leave as provided in Section 21.2 when not used shall be cumulative, but the accumulated, unused period of sick leave, beginning in 1990, shall not exceed the following schedule:

For 56-hour A Week Employees	For 40-hour A Week Employees
base - 1800 hrs.	base - 1200 hrs.
1st year - 1944 hrs.	1st year - 1296 hrs.
2nd year - 2088 hrs.	2nd year - 1392 hrs.
3rd year - 2232 hrs.	3rd year - 1488 hrs.
4th year - 2376 hrs.	4th year - 1584 hrs.
(and so on, as described in the next paragraph)	

The previously established maximum accumulation level of 1800 hours (1200 hours for 40-hour a week employees) may at the employee's option, be increased by up to 144 hours (96 hours for 40-hour a week employees) each year following the year when the employee reaches 1800 hours (1200 hours for 40-hour a week employees) level.

In each year following that 1800 hour (1200 hour for 40 hour a week employees) base year, the employee may, on a form provided by the City, elect to receive pay for excess sick leave or may elect to increase their sick leave accumulated base by the 144 hours (96 hours for 40 hour a week employees) and take any additional excess sick leave in pay at the following prescribed rate: employees who choose to increase their sick leave accumulated base by the 144 hours (96 hours for 40 hour a week employees) will receive 50% pay off rate in March; employees who choose to receive pay out for excess sick leave over the base, and do not exercise the option of increasing their accumulated sick leave base by 144 hours (96 hours for 40 hour a week employees) in any particular year, will be paid for excess sick leave at the 38% pay off rate in March.

Forms, provided by the City along with projected excess sick leave balances, shall be distributed to affected employees by February of each year and shall be returned to the City by February 15th. If an employee uses part of an established "sick leave maximum accumulation level", the employee may replenish the used portion at the applicable rate provided in Section 21.2.

Determination of eligibility for such payment shall be made on an annual basis, and payment for such sick leave for any calendar year shall be made during the month of March each year. Such payment shall be made at the employee's regular monthly salary rate in effect on the last day of the first pay period to end in March. An employee shall be eligible for this provision whether or not the employee is on the payroll as of the last day of the first pay period to begin and end in March.

21.6 All accumulated sick leave shall be canceled when an employee terminates or is terminated, except that all employees hired on or before June 30, 2014 that retire (non-disability) or voluntarily terminate with twenty (20) years of service shall be entitled to receive payment at retirement or termination of unused sick leave days, based on the following schedule:

Number of Unused Sick Leave Days	Percentage Payout
0 - 74 days	38%
75 - 99 days	41%
100 - 124 days	44%
125 - 149 days	47%
150 and over	50%

This pay-out schedule shall also apply to any employee retiring on permanent disability arising out of and incurred in the course and scope of his/her employment with the City. Employees hired on or after July 1, 2014 shall not be eligible for payment of any unused sick leave days.

- 21.7 Sick leave shall not be considered as a privilege which an employee may use at his/her discretion but shall be allowed only in case of sickness or disability or in the case of serious illness within the immediate family of the employee. Not more than twelve (12) sick leave days in any calendar year may be taken because of the illness of a member of the employee's immediate family, except if leave is taken as part of an approved Family Medical Leave (FMLA). The immediate family of an employee, for the purpose of this Section, shall be defined as: child or dependent residing in the employee's household or spouse, domestic partner, son, daughter or parent.
- 21.8 No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that such injury is covered by the Workers' Compensation laws of the State of California, and no other provision for payment for time off because of injury is made by such other employer. In the event such injury is not covered by the Workers' Compensation laws of the State of California and no other provision for payment for time off because of such injury is made by such other employer, sick leave in accordance with the provisions of this Section shall be allowed only if such outside employment has been approved by the City.
- 21.9 In order to receive compensation while absent on sick leave, the employee shall notify the on-duty supervisor one (1) hour prior to the commencement of the employee's assigned shift. The reasons why an employee is off on sick leave is considered to be a matter of some privacy. Therefore, only the type of leave (sick leave or family sick leave,) shall be noted to the Station Officer, and recorded in station and dispatch logs.
- 21.10 The employee must inform the Duty Chief or Division Manager as to the nature of the illness. This is to be done via e-mail in a short format no later than two (2) hours after the employee reports for work. Records of such information will be kept confidential within the Fire Department office. The Duty Chief or Division Manager may use such information to initiate further action as circumstances or details warrant.
- 21.11 If an illness or injury is anticipated to continue for more than two (2) 24-hour shifts, it shall be reported immediately to the Duty Chief or Division Manager via telephone.
- 21.12 An employee who is granted a leave of absence without pay and who is off the payroll for less than two (2) pay periods shall receive earned sick leave credit. If an employee is off the payroll for two (2) or more successive pay periods, the employee shall not earn sick leave credit for each two (2) successive pay periods that he or she is off the payroll.

- 21.13 The City may establish a reasonable program for the control of abuse of sick leave and absenteeism, subject to Association review and comment.
- 21.14 Accumulated unused sick leave which has been canceled by reason of any employee's termination shall be credited back to such employee if he or she returns to City of Berkeley employment within two (2) years of such termination.
- 21.15 The City and Association agree that for every six (6) months of uninterrupted nonuse of sick leave, a 40-hour per week employee will receive eight (8) hours of bonus time and a 56-hour per week employee will receive twelve (12) hours of sick leave bonus time. A Workers Compensation leave of absence from work pursuant to workers' compensation is counted as an absence from work in the same manner as sick leave for the purpose of this bonus, except for partial day absences due to a prescribed follow-up physical therapy or medical appointment (Payroll Code M0) for a Workers' Compensation claim which absences shall not disqualify an employee from the sick leave bonus described in this paragraph. Such bonus time can be used for any leave purpose covered by this Memorandum of Understanding and may, in addition, be used as emergency personal leave.

The Department shall track sick leave bonus time separately. Sick leave bonus time accrual will not exceed 300 hours plus the current calendar year accrual. At the end of the calendar year, excess sick leave bonus time will be converted to vacation leave and the rules regarding maximum vacation leave accrual will apply.

- 21.16 The use of sick leave bonus time for emergency personal reasons shall not interrupt the earning cycle of sick leave bonus as long as the time being requested is not for use as sick leave or family sick leave. Requests for emergency personal time off shall be directed through the Company Officer to the Duty Chief or Division Manager. Such leave time may be taken in one (1) hour increments; however, the Assistant Chief shall be advised of the expected time of return to work as soon as possible and in no case later than four (4) hours from the time reported off. Upon the return of the employee, the Duty Chief or Division Manager may require a written explanation of the circumstances.
- 21.17 The conversion factor for employees accruing and using sick leave or sick leave bonus time is as shown below. The intent of the parties is to have the dollar value of the sick leave or sick leave bonus time accrued be the same whether an employee is assigned to a fifty-six (56) hour per week schedule or a forty (40) hour per week schedule.
- 21.17.1 Sick leave or sick leave bonus time accrued on a fifty-six (56) hour per week schedule is converted to a forty (40) hour per week schedule by

multiplying number of hours of sick leave or sick leave bonus time by the conversion factor of 0.7143.

21.17.2 Sick leave or sick leave bonus time accrued on a forty (40) hour per week scheduled is converted to a fifty six (56) hour per week schedule by multiplying number of hours of sick leave or sick leave bonus time accrued by the conversion factor of 1.4.

SECTION 22: WORKERS' COMPENSATION

All employees shall be entitled to such compensation as may be allowed pursuant to the applicable provisions of the Workers' Compensation Insurance and Safety Act of the State of California, specifically Labor Code Sections 4850 et seq.

SECTION 23: FUNERAL LEAVE

23.1 In the case of death within the immediate family of an employee such employee shall be entitled to remain absent from duty with pay in order to attend the funeral or memorial service for a period not exceeding 48 hours for employees assigned to the fire suppression schedule and 40 hours for employees on a 40 hour per

week work schedule. The immediate family of an employee, for the purpose of this Section, shall be defined as wife, husband, domestic partner (see Glossary), mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and grandchildren or dependent residing within the household.

23.2 Leave of absence with pay, because of death in an employee's immediate family, is allowed solely for the purpose of attending funeral and memorial services, and such leave shall not be charged against vacation or sick leave which an employee may be entitled to but shall be in addition thereto.

23.3 Discretionary Approval:

An employee may submit a request for additional time off as vacation or compensatory time to adjust to the death of a family member.

SECTION 24: MILITARY & MARITIME LEAVE

Military and Maritime Leave shall be governed by the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), regulations implementing USERRA and the California Military & Veteran's Code.

SECTION 25: PARENTAL LEAVE

25.1 A continuous leave of up to one (1) year will be granted to any employee with one (1) [2080 hours] or more years of employment with the City (or equivalent in the case of part-time employees) upon the birth of a child or the legal adoption of a child who is five (5) years or younger, providing that:

25.1.1 An employee wishing to exercise his/her rights under this provision must provide the City with at least thirty (30) day notice prior to the anticipated commencement date of the parental leave, and that one (1) year parental leave must commence no later than thirteen (13) months from the date of birth or adoption and must expire no later than twenty-five (25) months from the date of the birth or adoption.

25.1.2 The employee, at his or her option, may request that all or any portion of sick leave days (see Glossary) or vacation leave days (see Glossary) or other accumulated compensatory time that he or she has accumulated be paid in the same manner as it would if he or she had been absent due to illness or vacation during the leave. In the event both parents are employed by the City, nothing in Administrative Regulation 2.4 (Family Care Leave) shall prohibit both employees from taking simultaneous parental leave.

25.1.3 During approved parental leave, after all earned leaves are exhausted, the City agrees to maintain life and health insurance coverage for twelve (12) months subject to any regular participation requirement of the employee. Thereafter the City agrees to continue coverage for the employee at the employee's expense.

25.1.4 The foregoing leave shall be granted upon medical certification of pregnancy or the presentation of legal evidence of adoption.

25.1.5 Approved Parental Leaves shall not be deducted from the employee's seniority service date.

25.1.6 Parental leave may be taken intermittently upon advance mutual agreement between the employee and department director.

SECTION 26: LEAVE OF ABSENCE WITHOUT PAY

26.1 Upon the request of the employee, a department head may grant a leave of absence to an employee within his/her department without pay for a period not to exceed

fifteen (15) leave days (see Glossary). No leave without pay shall be granted for more than fifteen (15) leave days, except upon the written request of an employee and approval of the City Manager. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for discharge.

26.2 An employee must use all available compensatory and vacation leave, including banked vacation, in order to become eligible for an approved leave of absence without pay. In the event of illness, an employee must also exhaust sick leave prior to receiving authorization for leave without pay. However, in the event of an illness or injury requiring the use of sick leave, an employee has an option to notify the City in writing that he/she wishes to freeze the use of sick leave after thirty (30) calendar days prior to receiving authorization for leave without pay in order to take advantage of an Association sponsored Long Term Disability benefit.

SECTION 27: JURY DUTY LEAVE

27.1 An employee who is called or required to serve as a trial juror shall be entitled to be absent from duties or service with the City with pay during the period of such jury service as defined in the Glossary. The employee shall keep any payment received for jury service, including mileage reimbursement, upon submittal of proof of jury service.

27.2 Employees who receive compensation for jury service during off-shift hours shall not be required to assign such compensation to the City. Employees shall not lose pay for adhering to court established rules pertaining to jurors not working on days they perform jury duty. The City may require written instructions from the Court.

ARTICLE 4 - HEALTH AND WELFARE BENEFITS

SECTION 28: MEDICAL, DENTAL & LIFE INSURANCE

28.1 Medical Insurance: The City will maintain life and health insurance during parental leave, as provided in Section 25.1.3.

28.2 Medical Cash in Lieu

Effective January 1, 2014, the cash in lieu payment to employees who show proof of alternate coverage will be a flat dollar amount equal to the amount of the Kaiser employee only rate as of January 1, 2014 (\$560.72). In order to comply with FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments.

28.3 Dental Coverage

The City shall provide a dental care program for employees, spouses, domestic partners and dependents. The City shall pay dental coverage to 90% of the Bay Area Usual, Customary and Reasonable charges. Effective January 1, 2007, the maximum annual coverage will increase from \$2,500 to \$3,000 and the lifetime orthodontia limit will increase from \$2,500 to \$3,000.

28.4 All career and grant-funded provisional employees working less than a full forty (40) hour week shall receive prorated rather than full fringe benefits and shall pay, by payroll deduction, a prorated portion of the health and dental insurance premiums.

28.5 Life Insurance

Effective with the beginning of the first month after Council approval of this Memorandum of Understanding, the City shall increase the term life insurance to \$100,000 for each employee that shall include a standard accidental death and dismemberment provision of a like amount. In addition, employees may purchase additional life insurance in increments of \$10,000 up to a maximum of \$300,000 at the rate offered by the City's insurance carrier, subject to any rules and restrictions of the carrier, including but not limited to any medical exam that might be required by the insurance carrier.

28.6 Replacement Health Plan Meet and Confer:

The Union agrees to meet with the City during the term of this MOU in a timely fashion following a City request, regarding whether the Union will agree to meet and confer regarding how the City can avoid potential 2015 Affordable Care Act

(ACA) excise tax obligations and on a new and/or replacement health plan or plans and other methods to reduce the cost of health benefits.

SECTION 29: RETIREE MEDICAL COVERAGE

29.1 Effective January 1, 2001, for employees who retire on or after July 1, 1997, the City will assist in the payment of medical insurance payments for the retiree and/or surviving spouse/domestic partner by making payment directly to the medical insurance provider. The maximum amount the City contributes toward the payment of medical premiums is described below and is based on the combination of the following factors:

- 29.1.1 the years of service of the employee at time of retirement
- 29.1.2 whether the employee is eligible to participate in Medicare
- 29.1.3 the annual increase of 4.5% on the amount the City will contribute toward the payment of the medical premium

The maximum amount the City will contribute toward the medical premium is based on the following schedule:

Years of City Service to be Completed	Percentage Paid by City
10 years of service	City to pay 25% of either the Health Net Senior Advantage or Health Net Standard rate as applicable
15 years of service	City to pay 50% of either the Health Net Senior Advantage or Health Net Standard rate as applicable
20 years of service	City to pay 75% of either the Health Net Senior Advantage or Health Net Standard rate as applicable
25 years of service	City to pay 100% of either the Health Net Senior Advantage or Health Net Standard rate as applicable

29.2 For employees who are not eligible for Medicare, the City will assist the retiree and/or surviving spouse or domestic partner in the payment of the medical insurance premium as follows:

29.2.1 Effective January 1, 2001, each month after the employee retires, the City will pay directly to the health care service provider an amount equal to the Health Net Standard premium rate which is \$387.47 for two party coverage for the retiree and spouse or domestic partner or \$194.41 for single party coverage. If there is no spouse at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse or domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost.

- 29.2.2 Effective each January 1 that follows, the base rates shall be increased by 4.5%. The employee or his/her surviving spouse or domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.
- 29.3 For employees or retirees who reach age 65 and are eligible for Medicare, the City will assist the retiree and/or surviving spouse/or domestic partner in the payment of the medical insurance premium as follows:
- 29.3.1 Effective January 1, 2001, each month after the employee retires and reaches age 65, the City will pay directly to the health care service provider an amount equal to the Health Net Seniority Plus premium rate which is \$315.40 for two party coverage for the retiree and spouse or domestic partner or \$157.70 for single party coverage. If there is no spouse at the time of retirement, the City shall only pay the single party rate. The retiree and/or surviving spouse or domestic partner will be responsible for payment of the difference between the amount the City contributes toward payment of the premium and the actual premium cost.
- 29.3.2 Effective each January 1 that follows, the base rates shall be increased by 4.5%. The employee or his/her surviving spouse or domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.
- 29.4 For the purposes of this section a "Retiree" is anyone who is vested in CalPERS, has reached the age of 50 for classic employees or age of 57 for new members as defined in Section 59 of this MOU, and has chosen to separate from the City. A retiree is also anyone, regardless of age, who receives a retirement benefit (disability or industrial disability) from CalPERS.
- 29.5 Retiring employees may receive continuing health coverage in City sponsored group health plans subject to the limitations and co-pay amounts permitted by the health care providers. The City has no present intention, nor any proposal under consideration, to remove retirees from eligibility to participate in the City's group health and medical plan. Should such a proposal receive future consideration, the Association will be notified in advance and shall be afforded the opportunity to discuss such proposal.
- 29.6 Retiring employees may obtain other health care coverage at his or her own initiative. The retiring employee who selects other health care coverage must provide proof of alternate coverage at the time and in the form and manner required by the third

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party administrator. The third party administrator will pay up to the applicable amount set forth in this Section to the health care service provider.

29.7 For employees who retire on or after July 1, 2006 and have not reached the age of 65 and become eligible for Medicare, the City will assist in the payment of medical insurance payments for the retiree and/or surviving spouse/domestic partner until the death of both by making payment directly to the medical insurance provider. On July 1, 2006, the City will increase the amount the City contributes from \$242.26 per month (single party) and \$482.86 per month (two party) to \$327.76 per month (single party) and \$653.86 per month (two party). Effective each January 1 that follows, the base rates shall be increased by 4.5%. The employee or his/her surviving spouse or domestic partner shall pay the difference between the amount the City contributes toward payment of the premium and the actual premium cost.

The maximum amount the City will contribute toward the medical premium is based on the following schedule:

Years of City Service to be Completed	Percentage Paid by City
10 years of service	City to pay 25% of the Kaiser single or two-party rate as applicable
15 years of service	City to pay 50% of the Kaiser single or two-party rate as applicable
20 years of service	City to pay 75% of the Kaiser single or two-party rate as applicable
25 years of service	City to pay 100% of the Kaiser single or two-party rate as applicable

Minimum eligibility is 10 years of service with the City of Berkeley Fire Department.

The parties agree that within 90 days of the implementation of the successor MOU to meet and discuss the Retiree Health Premium Assistance Plan Document.

29.8 The parties will meet and confer in good faith regarding the possibility of the City providing two party premium assistance reimbursement for retirees who are Medicare eligible and their spouse/domestic partner who are on two separate plans. The parties agree that the first meeting shall be no later than sixty (60) days following Council adoption of this MOU.

SECTION 30: SUPPLEMENTAL RETIREMENT PLAN

Effective July 1, 2001 the City adopted a Supplemental Retirement Plan and Trust Agreement to provide supplemental retirement income and other benefits for eligible career benefited employees through the liquidation of termination pay. Termination pay means pay due to an eligible career benefited employee from the City on account of termination of his/her employment, but only including the commuted value of the following such accumulated pay: vacation, sick leave, sick leave bonus, compensatory time and floating holidays. The Supplemental Retirement Plan includes both mandatory contributions of termination pay and voluntary contributions for employees who provide the City with an irrevocable payroll deduction authorization at least 90 days in advance of the date of termination.

30.1 Supplementary Retirement and Income Plan II

In lieu of participating in the Federal Social Security Program, the City provides the Supplementary Retirement and Income Plan II (SRIP II). The City's contributions to this on behalf of participating employees is not subject to income tax until it is paid out to the employees upon retirement or termination, or to the employee's beneficiary in the event of the employee's death. The City contributes 6.7% of the participating employee's salary (up to a maximum annual salary of \$32,400) into an investment account and pays into a disability insurance benefit plan on the employee's behalf; and employees may also borrow up to 50% of the balance in their SRIP II investment accounts, subject to certain limitations. Bargaining unit employees will be enrolled in SRIP II as soon as administratively possible following Council adoption of this agreement.

ARTICLE 5 - TERMS AND CONDITIONS OF EMPLOYMENT**SECTION 31: PROBATIONARY PERIOD**

31.1 Original appointments from employment lists for the classification of Fire Fighter/Fire Fighter Paramedic shall be tentative and subject to a probationary period within a period of two (2) years of actual service. Probationary employees who are granted parental leave or military leaves of absence shall complete the balance of their probationary period within a period of six (6) months following their return to City service. Probationary employees who are granted military leaves of absence shall complete the balance upon their return to City service. No provision of this Section 31 (Probationary Period) shall be interpreted to preclude the City from establishing new classifications that may require probationary periods of varying lengths.

For probationary employees originally appointed to the class of Fire Fighter/Fire Fighter Paramedic, City of Berkeley Performance Appraisal Report shall be made at the completion of the Fire Academy, six (6) months after the Fire Academy,

twelve (12) months after the Fire Academy, and prior to ten (10) days before the end of the probationary period.

Original and promotional appointments to classes of Fire Captain II, Fire Prevention Inspector, Deputy Fire Marshal, Paramedic Supervisor I, and Fire Apparatus Operator, shall be tentative and subject to a probationary period of one (1) year of actual service.

31.2 If, before completing the required probationary period, an employee is provisionally appointed to a higher class in the same or a related series of classes, the time served in such higher class shall be counted toward completion of the probationary period in the lower class.

31.3 If the service of the probationary employee has been satisfactory to the department head, the department head shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such probationary employee in the service is desired. If such service has been unsatisfactory, the department head shall file with the Director of Human Resources such a statement, in writing, with the recommendation to the City Manager that the employee be rejected.

SECTION 32: PROMOTIONS/EXAMINATIONS & FILLING OF VACANCIES

32.1 Eligibility for Promotion

32.1.1 Insofar as is practical and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service after a promotional examination has been given and a promotional list established.

32.1.2 The experience related qualification requirements for Captain II must be attained with the Berkeley Fire Department.

32.2 Development of Examinations

Examinations will be developed with the assistance of qualified persons in the subject matter being tested. The job announcement for promotional examinations will be reviewed by Human Resources, the Fire Chief or his or her designee, and Association representatives.

32.3 Scheduling & Announcing Examinations

32.3.1 Regular tests shall be given for all ranks including entry level personnel. Testing for entry level personnel shall take place at least every three (3) years and will, to the extent feasible, be administered within the provisions of a contract that may be negotiated between the City of Berkeley and the Joint Apprenticeship Committee (JAC).

32.3.2 The City will make a good faith effort to meet the following test schedule and if deviation from the goals becomes necessary, the City will provide the Association with written reason or reasons for the deviation.

TEST	CYCLE BEGINS	QUARTER FOR TEST	INTERVAL BETWEEN TEST
Apparatus Operator	Odd Years	Second Quarter	2 years
Captain	Even Years	Third Quarter	2 years
Paramedic Supervisor I	Even Years	First Quarter	2 years
Battalion Chief	2018 and then Even Years	First Quarter	2 Years starting in 2018
Assistant Chief	2018 and then Even Years	First Quarter	2 Years starting in 2018

32.3.3.1 The Fire Chief will make every reasonable attempt to send internal notice of a promotional examination by Department bulletin or via e-mail sent to all represented employees on the date the application period opens, which shall be no less than sixty (60) calendar days in advance of the written test date.

32.3.3.2 Promotional examination announcements shall include the following information: identification of all component parts to the exam; type of exam; (e.g., multiple choice, true/false); and on scoring methodology (See Glossary). A study list shall be included in each promotional examination announcement.

32.3.3.3 The Association and the City of Berkeley agree to form a Joint Apprenticeship Committee for the Fire Department. The Committee shall include at least two (2) members of the Association, and two (2) representatives from Fire Administration plus alternates as may be designated by each party.

32.4 Accommodating Employees Taking Examinations

The Fire Department will provide relief for employees taking examinations for promotion if they are scheduled for duty during the examination.

32.5 Questions & Protests about Examinations

All questions regarding the examination will be directed to the Human Resources Analyst in charge of recruitment.

32.5.1 After the conclusion of the written examination for promotional positions represented by the Association, a protest period will take place. During the protest period, a written test participant will be allowed an amount of time equal to the time allowed for the test to review the written examination and the test participant's individual answer sheet with incorrect responses marked.

32.5.2 A Written Question Protest Review Committee shall be convened at the conclusion of the protest period. The Written Question Protest Review Committee shall have access to the written test and the answer key. The purpose of the Written Question Protest Review Committee is to review the written protests and determine whether a test question should be discarded or the answer re-keyed.

32.5.3 There will, if the Association so desires, be a member of the Association assigned by the Association Executive Committee on the Question Protest Review Committee as established by the Chief.

32.5.4 The Human Resources Department will provide the Fire Department with a list of the protested questions. The Fire Department will post a list of the numbers of the protests that are upheld and denied. Upon request, a representative of the Protest Committee will discuss the reasons for denial with the protesting employee.

32.5.5 The Human Resources Department, upon request of the employee, will check the accuracy of the scoring of a written examination in the presence of the employee.

32.6 Examination Results

Each candidate in a formal written examination where scores are provided shall be given notice of his or her score. Each candidate shall be given notice of his or her score on each phase of the exam process. The final score used to establish the eligible list with category ranking shall be a standard test score that is calculated using only the test scores of those candidates who successfully complete all phases of the examination.

The Human Resources Department will provide the Fire Chief with a list of applicants, in alphabetical order, who successfully completed the examination process and are eligible for appointment. The Fire Chief will make this list available to supervisors who need this information in order to assign employees to work in a higher class and to Association Officers so that they can monitor the consistency of such appointments with the terms of this Memorandum of Understanding.

32.7 Selection

32.7.1 Following the determination to fill vacancies and the certification of an eligibility list to the Fire Department, the selection by the Department will be made as soon as possible.

32.7.2 Promotional vacancies shall be filled within thirty (30) days when practicable after the vacancy is final, subject to the approval of the City Manager.

32.7.3 Employees shall be considered for promotion based on examination results, previous work performance, previous training and experience, merit, ability, seniority and other job-related criteria.

32.7.4 Where an eligible list exists, and the Fire Chief desires to interview persons on the eligible list for a vacancy, the interview shall be conducted by the Fire Chief or his/her designee with any sworn Chief Officer or Fire Marshal. The City will arrange for consistent interview panels; i.e., the same individuals as interviewers for all candidates for the particular vacancies. The Association recognizes that the requirement for consistent panels may lead to unavoidable delays in filling positions.

32.7.5 When the City Manager makes an appointment on the recommendation of the Fire Chief after a department level interview, all members interviewed who are not successful at the Department level in being selected, shall be notified by the City Human Resources Department in writing that they were not selected. At the request of the employee, the Fire Chief or a Deputy Fire Chief will meet with the employee to discuss non-selection.

32.8 The Life Span of a List

If a list includes two (2) or more eligible candidates on that list, the City will not allow that list to expire more than thirty (30) days before giving a new examination.

SECTION 33: TRANSFER BETWEEN SHIFTS

33.1 The present administrative practices shall continue for assuring that the employees on each shift will, as a group, represent a broad range of seniority (i.e., that each shift will include some employees with high and some with low seniority ranking).

A shift balancing meeting will take place each year. The actual shift changes will take place after January 1st of each year. Employees will be notified of transfer of shift by February 1. Actual transfer dates will be completed prior to the implementation of the vacation year. Employees may submit requests for possible shift changes through the chain of command.

When a vacancy is created by a retirement or promotion, the Department shall announce the vacancy through an e-mail to all personnel covered by this MOU. Fire Personnel may submit letters of interest through channels to the Deputy Chief.

The Department may award the position based on seniority at the discretion of the Fire Chief. The Association recognizes that the Fire Chief retains full discretion to place personnel in positions based on the needs of the Department.

The Fire Chief or his or her designee still has the ability to transfer, at other times of the year, personnel based on the needs of the department.

33.2 Seniority

33.2.1 The Fire Department shall establish and maintain two (2) seniority lists, one (1) by total service in the Department and one (1) by time in classification, and they shall be brought up-to-date once a year prior to vacation picks and shall be immediately posted in all Fire stations, and the Fire Prevention Office. Any objections to the seniority lists, as posted, shall be reported to the Fire Chief in written form within ten (10) days.

33.2.2 Rank seniority shall be seriously considered in the selection of personnel in assigned fire stations (positions) providing that seniority assignments do not conflict with Department personnel needs, i.e. special qualities or skills assigned to a position.

33.2.3 Promotions: If two (2) or more employees have the same promotion date in rank, seniority in the promoted rank at the time of promotion shall be determined based on the selection order made by the Fire Chief.

SECTION 34: PERFORMANCE EVALUATION

The City will implement a program of annual performance evaluation. Such evaluation shall be conducted by the employee's immediate supervisor(s) and reviewed by additional levels of supervision. Each employee may make written comments on the evaluation, which shall be made a part of the employee's personnel record.

ARTICLE 6 - GRIEVANCE AND APPEAL PROCEDURE

SECTION 35: GRIEVANCE PROCEDURE

35.1 A grievance is any dispute which involves the interpretation, application, claimed violation, or claimed noncompliance with the provisions of the Memorandum of Understanding between the City and the Association or any City ordinance, rule, or regulation which may have been or may hereafter be adopted by the City to govern personnel practices or working conditions of the City's employees covered by such Memorandum of Understanding, including any rule, regulation, or resolution which may be adopted by the City Council which results from the meet and-confer process. The grievance procedure discussed below shall be the sole grievance mechanism applicable to employees covered by this Memorandum of Understanding. No matter shall be considered as a grievance under this Section unless it is presented within thirty (30) calendar days after the employee or the Association could reasonably have been aware of events on which the grievance is based. Failure to comply with the time lines of the Grievance Procedure by either party will constitute forfeiture of their position on the grievance. In the event of a forfeiture by the City, the City will comply with the request for resolution. However, the provisions of Section 35.8 (Suspension or Discharge) of this Memorandum of Understanding will apply in the event of forfeiture. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.

35.2 Grievances shall be processed in the following manner:

35.2.1 **Step I: Informal Step:** Any employee who believes he or she has a grievance (and/or the employee's Association representative) shall discuss the employee's complaint with the Deputy Fire Chief. If the issue is not resolved within fifteen (15) calendar days, the employee (and/or the employee's Association representative) may elect to invoke the procedure hereinafter specified by filing a formal grievance.

35.2.2 **Step II: Fire Chief:** Any grievance that has not been resolved at Step I (Informal Step) may be referred to the Fire Chief (or his or her designee) by the grievant (and/or the employee's Association representative). Any such referral shall be in writing to the Fire Chief with a copy to the Human Resources Department, on a grievance form provided by the City (see Exhibit E), and approved by the Association. The written statement shall be a clear concise statement of the grievance, including specific provisions of this agreement and/or City ordinance, rule or regulation, and/or past practice alleged to have been violated, the circumstances

involved in the decision rendered at Step I, and the specific remedy sought. Either party shall be entitled to a

personal conference upon request.

The Fire Chief shall communicate a decision to the grievant with a copy to the Association and to the Director of Human Resources in writing within ten (10) working days after receiving the grievance or ten (10) working days from the date of the personal conference, whichever is later, and such action will terminate Step II.

35.2.3 **Step III: City Manager:** In the event that the employee (or the employee's Association representative) is not satisfied with the decision at Step II, the employee (or the employee's Association representative) may appeal the decision in writing to the City Manager or his/her designee within ten (10) working days after the termination of Step II.

The written statement shall include a copy of the original grievance, the decision rendered at Step II, and a clear and concise statement of the reasons for the appeal. The grievant or the City Manager or his / her designee shall be entitled to a personal conference upon request within the time limits specified.

The City Manager or his/her designee shall communicate a decision within ten (10) working days after receiving the appeal or ten (10) working days from the date of the personal conference, whichever is later and such decision will terminate Step III.

35.2.4 **Step IV: Arbitration:** If the Association is not satisfied with the City Manager's response at Step III- the Association may require that the grievance be referred to an impartial arbitrator, who shall be designated by mutual agreement between the Association and the City Manager. The Association must notify the City Manager in writing within ten (10) working days of receipt of the City Manager's decision that they intend to move the grievance to arbitration.

The fees and expenses of the State Mediation and Conciliation Services arbitrator and the court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation including preparation and post-hearing briefs, if any. The Association shall provide the City with half of the cost charged by State Mediation to provide the parties with an arbitrator list no later than 30 days following notification to the City Manager that the Association wishes to advance the grievance to arbitration. Failure to timely do so

shall result in a waiver of the right to advance the grievance to arbitration.

35.3 Suspensions or Discharge Arbitration Decisions

Arbitrator decisions on matters properly before them which pertain to the suspension or discharge of an employee shall be final and binding upon both parties hereto to the extent permitted by the Charter of the City.

35.4 Non-Disciplinary Arbitration Matters

Those arbitration decisions on matters properly before them which do not pertain to suspension or discharge shall be in the form of recommendations to the City Manager, who may, within five (5) working days of receipt of said decision, reject said decision.

In the event of said rejection, then as to that particular grievance the fees and expenses of the arbitrator and court reporter shall not be shared by the Association, and full payment thereof shall be the sole responsibility of the City.

35.5 Written Reprimand

Consistent with the Firefighter Bill of Rights Act, an employee receiving a written reprimand shall have the right to a non-evidentiary administrative appeal to the Fire Chief or Fire Chief's designee. The employee must request an administrative appeal in writing to the Fire Chief within ten (10) working days of receipt of the written reprimand. Failure to do so shall be deemed a waiver of the employee's right to appeal. The Fire Chief or Fire Chief's designee shall have discretion regarding how the appeal meeting is conducted, including whether and the extent to which witnesses other than the employee and employee's representative are required and may participate. The Fire Chief or Fire Chief's designee shall notify the employee of his/her decision within ten (10) working days of the appeal meeting. An employee and the Association have no further right to appeal or grieve a written reprimand beyond the administrative appeal described in this paragraph.

Formal letters of reprimand concerning work rules or time and attendance shall be removed from an employee's official files upon request after 18 months provided the employee has maintained satisfactory performance. Letters of reprimand concerning all other subjects shall be removed from an employees' official personnel file upon request after 36 months provided the employee has maintained satisfactory performance.

35.6 Equal Employment Opportunity (EEO) Program

Any grievance which in any way affects implementation of the City's EEO program shall not be subject to arbitration. The decision as to whether or not

implementation of the EEO program is in any way involved shall be made in the sole discretion of the City Manager. If, in the City Manager's judgment, any grievance involves the EEO program, the EEO & Diversity Officer shall notify the Association to that effect in writing within seven (7) days of the date upon which the grievance is received by the City Manager and, in such notification shall refer to that section of the EEO program which is involved; provided, however, that such notice may come at any time prior to arbitration if additional factors come to the attention of the EEO & Diversity Officer on the basis of which he/she considers it appropriate to change his /her original determination.

35.7 No arbitrator shall entertain, hear, decide, or make recommendations on the dispute a) unless the Association seeks a determination, or b) if the dispute involves the issue of unit determination, or c) if the dispute involves a question of representation, or d) if the aggrieved employee is not in a classification within the unit represented by the Association.

35.8 Suspension or Discharge

No grievance involving the suspension or discharge of an employee will be entertained unless it is filed in writing with the City Manager within fifteen (15) calendar days of the time at which the affected employee was notified by certified mail. If the City Manager, in pursuance of the procedures outlined in Section 35.2 above, resolves a grievance which involves suspension or discharge, he/she may order payment for lost time or reinstatement with or without payment for lost time.

35.9 Compensation Grievances

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Fire Chief or his or her designated representative for payroll issues within 30 working days from the date when the employee may reasonably be expected to have learned of the alleged compensation violation. If such issues cannot be resolved by the Fire Chief (or in consultation with the Auditor), the Fire Chief will refer the matter to the Director of Human Resources within ten (10) working days of receipt of the grievance. The Director of Human Resources or his or her designee shall have 30 working days to research the issue and provide a written response to the Association and the affected employee. In such cases no adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed or thirty (30) days from the date when an employee may reasonably be expected to have learned of said claimed violation whichever is later. Only complaints which allege that employees are not being compensated in accordance with the rules, regulations, and resolutions of the City Council or in accordance with the understanding contained in any Memorandum of Understanding which has resulted from meet-and-confer process shall be considered as grievances. Any other matters of compensation shall be deemed withdrawn until the meet-and-confer process is next opened for discussion.

If the affected employee is not satisfied with the written decision of the Director of Human Resources or his or her designee, the affected employee will have ten (10) working days to appeal the decision in writing to the City Manager and the grievance will move to Step III of the Grievance Procedure as provided in Section 35.2.4.

35.10 No changes in the Memorandum of Understanding or interpretation thereof (except interpretation resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the City Manager and the Association.

35.11 Probationary Employees

35.11.1 Notwithstanding their probationary status, probationary employees have appeal rights for disciplinary actions where the employee's allegation is that the City's action was for an illegal or discriminatory reason, such as the exercise of Association membership, political affiliation, or other constitutionally-protected activities; provided, however, that any appeal by a probationary employee alleging a violation of his/her rights under Title VII (42 U.S.C. Section 2000e, et. seq.) or the California Fair Employment Practices Act (California Labor Code Section 12900, et seq.) may be pursued only as provided in the City's Equal Employment Opportunity program, which shall be specifically amended to allow probationary employee rights of appeal under that program.

35.11.2 The grievance procedure is also available to probationary employees for matters other than those related to discharge, discipline, or other performance issues, where the claim is a City breach of agreed-upon wages, hours, working conditions, or discrimination based on Association activity.

35.12 Calendar Days

All references in this Section 35 (Grievance Procedures) to days shall mean calendar day unless otherwise provided.

35.13 Association Right to File

No provisions shall prevent the Association from filing and/or appealing grievances on behalf of the employees represented by the Association.

ARTICLE 7 - MISCELLANEOUS TERMS AND CONDITIONS

SECTION 36: UNIFORM ALLOWANCE & DRESS UNIFORM REQUIREMENTS**36.1 Uniform Allowance**

36.1.1 Effective the first full pay period after Council approval, the annual uniform allowance will be increased from \$1,100 to \$1,400. The uniform allowance will be paid in equal biweekly installments in accordance with California Government Code Section 20363 .. The amount the City contributes toward the uniform allowance is subject to federal and state income tax withholding.

36.1.2 The uniform allowance shall be paid in employee paychecks. CalPERS will be deducted for all members in accordance with the provisions of Section 59 (Public Employees Retirement System).

36.1.3 The uniform allowance is for the purpose of purchase and maintenance of station uniforms, and other required or optional garments, as necessary, for the duration of this contract. The City shall continue to purchase turn out gear.

36.2 New hires who are PEPRA members will receive a one-time lump sum \$500 stipend within sixty (60) days of hire to be used towards the purchase of uniforms and equipment.

SECTION 37: SAFETY COMMITTEE

37.1 The Assistant Fire Chief assigned to the Training and Safety Division shall be the designated safety officer for the department. The Safety Officer shall appoint a safety committee consisting of three (3) individuals on each shift (preferably one (1) complete company). The City's Occupational Safety Officer shall be a standing member of that Committee.

37.2 The safety committee shall meet on shift every two (2) months and shall review personal injury reports and reported safety deficiencies and perform follow-up investigations if necessary.

37.3 The purpose of the committee shall be to recommend changes based on the reviews or investigations to help avoid future accidents or injuries in the areas looked at.

37.4 The committee shall investigate possible short comings in equipment, methods, tactics, and procedures and report their findings to the safety officer who shall

forward the committee findings to the Deputy Fire Chief through channels in writing.

37.5 The Training Chief shall determine the appropriate action needed to reduce the possibility of similar accidents happening in the future and shall inform the appropriate committee and employee(s) in writing of the actions taken. A copy of the committee findings will be included with the Training Chief's recommendations.

SECTION 38: EDUCATION/ESTABLISHMENT OF AN ASSOCIATION SPONSORED EDUCATION FUND

38.1 Funding for not less than five (5) Unit B employees to attend the National Fire Academy shall be provided each year. Personnel must be qualified by being in a position to make good use of the information learned for the benefit of the Fire Department, at the discretion of the Fire Chief.

38.2 Personnel desiring to attend the National Fire Academy shall submit requests to the Fire Chief no less than three (3) months prior to the beginning of the course. If less than three (3) months are available before the course notifications have been distributed, requests shall be submitted no more than one (1) week after distribution of course notification.

38.3 The Fire Chief will not restrict the number of departmental personnel attempting to attend National Fire Academy, Asilomar or other pertinent classes if such attendance involves no cost to the City. Attendance will be subject to the conditions imposed by the National Fire Academy, Asilomar, or other teaching institutions sponsoring the course of instruction. If in the event more personnel attempt to attend National Fire Academy, Asilomar, or other pertinent classes than there are classes available and the teaching institution sponsoring the course request the Fire Chief to limit the number of attendees, the Fire Chief will determine the personnel to attend, based on the needs of the fire service.

38.4 Educational funds shall be equally shared except in special circumstances to be determined at the discretion of the Fire Chief.

38.5 Association Sponsored Education Fund

On or around July 1st of each year, the City shall pay the Association an amount sufficient to fund the Education Fund to \$80,000. The Education Fund is to be used for educational purposes at the sole and exclusive discretion of the Association. The Fire Chief or his/her designee will make every reasonable attempt to send internal notice of any outside courses held in city facilities by the

Department bulletin no less than thirty (30) calendar days in advance to the first day of class.

38.5.1 The Association shall manage the Education Fund for the purposes outlined above but shall provide reimbursement of paramedics for completion of CE classes required by the Alameda County EMS Agency.

38.5.2 Personnel attending classes are not eligible for overtime compensation. Reimbursement shall only be provided to members who are off duty or are placed on OSC by his/her supervisor.

38.5.3 Of the total amount, \$10,000 annually shall be allocated to support the education and development of firefighter recruits assigned to the Division of Training. These moneys shall be managed by the Division of Training.

SECTION 39: WELLNESS FITNESS INITIATIVE (WFI)

39.1 The City and the Association are committed to maintaining a wellness program that provides represented employees information and resources that aid in maintaining health and wellness.

39.2 Part of this WFI may include a physical assessment (based on the City's specification as to scope of examination and examiner), diagnostics, education and referrals to other practitioners at a schedule to be determined by the Fire Chief or when required by MOU, Department policy and/or applicable law.

SECTION 40: ASSIGNMENTS FOR TEMPORARILY DISABLED EMPLOYEES

40.1 The City may accommodate, when feasible, employees covered by this Memorandum of Understanding who are on Workers' Compensation leave, and such work assignments are to incorporate the following provisions:

40.1.1 The modified assignment shall be consistent with medical limitations as determined by the attending physician.

40.1.2 The assignment shall be within the Fire Department, if feasible, or in other City departments if an assignment is not available in the Fire Department and shall be on the day shift (8:00 a.m. to 5:00 p.m., Monday through Friday). The assignment shall be consistent with the skills and abilities of the individual employee.

40.2 The City may accommodate an employee temporarily disabled with a nonindustrial disability by providing a modified work assignment in that employee's classification. If modification of that position does not serve the best interests of the City, other classifications within the City may be considered, subject to the approval of the Director of Human Resources. To be eligible for such a modified assignment, the employee must provide the Human Resources Department with a medical statement from his/her treating physician that clearly states the medical limitations and abilities of the employee. Compensation will be provided at the level of the classification in which the temporarily disabled employee is reassigned. The employee must meet standards of satisfactory performance for the duration of the work assignment. However, an employee who is temporarily transferred as a result of pregnancy to a less strenuous or hazardous position or to less strenuous or hazardous duties shall receive the equivalent rate of pay and benefits of the employee's regular position. The alternative position must be one for which the employee is qualified, and the position must better accommodate recurring periods of leave than the employee's regular job.

40.3 Nothing herein shall require the City Manager to approve modified work assignments nor shall give an employee the right to refuse an assignment which complies with medical restrictions. Such refusal may subject an employee to loss of benefits and/or disciplinary action.

SECTION 41:

SECTION 42: MEAL PERIODS

42.1 Meal periods will be interrupted as little as possible, and, with the exception of emergencies, any interruption will be limited to situations involving a substantial Department need.

42.2 Because each employee may be called upon to perform emergency services during the meal period, employees rarely leave the station during their scheduled meal periods. Meals are often organized at each station because employees are required to be available for emergency calls during meal periods. Because of this, employees are required to contribute financially to an organized meal, supervised at each individual station, at a charge equal to the value of each employee's portion of the meal, regardless of whether the employee chooses to eat the meal. The portion of each organized meal attributable to each employee is required to be contributed to an organized "kitty" fund, which will be deducted monthly by the Association. Employees shall be solely responsible for any financial or tax liability regarding this provision.

SECTION 43: STATION WORK ACTIVITIES

43.1 Employees shall not be required to move office furniture and equipment from one station or headquarters to another.

43.2 Prior to any major work being done within the fire stations, the designated Captain will be informed as to the plans.

SECTION 44: MUTUAL RESPONSE AGREEMENTS

Prior to entering into any new mutual response agreements, the City and the Association shall form a committee of two (2) representatives from the Association and two (2) from the City who shall meet and confer to discuss mutual aid response agreements which will provide for automatic, prearranged (as distinguished from existing emergency mutual aid agreement) mutual aid response from other jurisdictions.

SECTION 45: STAFFING AND UNITS IN OPERATION

45.1 Except as specifically provided for herein, the normal staffing requirements shall provide that at all times there shall be on duty at least the staffing set forth in Exhibit D of the MOU.

45.2 The City retains the discretion to temporarily reduce staffing in the Division of Operations only upon the declaration of a "fiscal emergency" via a 2/3 vote of the City Council.

45.2.1 If the City Manager determines during the Fiscal Year that fund revenues have or will decline substantially below the estimate of fund revenues in the adopted Budget and/or expenditures have or will increase substantially above the projected expenditures in the adopted Budget, the City Council may declare a "fiscal emergency" that shall thereupon cause the City of Berkeley and the Berkeley Fire Fighters Association to assemble in a meet and confer process regarding a temporary staffing reduction plan.

45.3 Prior to a policy change which will result in a temporary reduction in the number of employees assigned to the Division of Operations (see Sections 45.1 through 45.2) or a temporary change in staffing levels of suppression or transport units, as soon as is reasonably possible, the City will meet and confer about the matter with the Association.

45.4 As soon as possible following the end of the “fiscal emergency”, it is the intent of the City to restore the staffing of the fire department to the levels defined above.

45.5 The Association strenuously objects to any reduction, on the grounds of standards set forth by the National Fire Protection Association (#1500 and #1710), employee safety, and reduced firefighting efficiency, but understands that, in the City's view, fiscal constraints may dictate such a reduction. The Association accepts no responsibility for any increased exposure or liability to employees or the public resulting from any such reduction.

45.6 All reductions necessary to accomplish this staffing reduction shall be accomplished by attrition, and not by reduction in force or by layoffs.

See General Order - Apparatus Staffing Levels (Exhibit D).

45.7 In the event of sending an engine, truck or ambulance company outside the City for training, including CERT, or drills, for eight (8) or more hours, during a twenty-four (24) hour shift, causes the on duty assignment to fall below normal staffing (see Exhibit D); additional personnel will be hired or held over to maintain this minimum level of safety. Staffing can be accomplished by using extra on duty staffing and/or overtime. Overtime staffing can include the use of mandatory hiring but would not include emergency recall procedures.

45.8 Training or drill events held in the areas of East Bay Regional Parks District Tilden Park or Claremont Canyon Regional Preserve, Lawrence Berkeley National Laboratory or University of California Berkeley properties shall not be considered outside the city. The Duty Chief has the option of replacing companies based on the eight (8) hour requirement for planned events in these areas.

45.9 When unplanned events such as mutual aid responses or other emergencies, but not limited to, will cause an engine, truck or ambulance companies to be unavailable, out of service to the City of Berkeley and outside the city limits for more than eight (8) hours the Duty Chief shall have the option to replace the companies. The decision to replace the companies will be based on various factors in no defined order.

45.9.1 Nature of the unplanned event?

45.9.2 Coverage available within the City of Berkeley and call activity?

45.9.3 When did the determination of exceeding the eight (8) hour requirement become apparent?

45.9.4 What is the estimated time before the company or companies will become available?

45.9.5 Time of day and length of shift remaining?

45.9.6 Availability of apparatus for staffing?

45.9.7 Availability of personnel for staffing?

45.10 Emergency recall can be used for staffing for unplanned events once other staffing options have been utilized and shall be done in consultation with management.

45.11 Nothing prevents the immediate use of emergency recall based on a local or regional emergency that requires extra staffing as quickly as possible.

SECTION 46: DEPARTMENT TRAINING SCHEDULE

Generally, there are two windows that companies will be expected to report for training. This does not preclude the Department from scheduling training in alternative configurations, during evening time and/or at night. The Department will avoid holding companies through a meal period whenever possible.

Morning Schedule: Companies shall arrive no later than 0845 hours and may be required to stay until 1200 hours.

Afternoon Schedule: Companies shall arrive no later than 1330 hours and may be required to stay until 1645 hours.

There shall be no "routine" hose drills in the rain except as needed for the fire academy or probationary testing. During winter months, the Division of Training shall schedule an alternative drill with each scheduled "routine or standard" hose drill. If rain occurs when a standard hose drill is scheduled, the alternative drill may be used instead. An effort will be made by the Division of Training to keep personnel and equipment dry during rainy weather.

SECTION 47: FIRE APPARATUS

47.1 All fire apparatus and equipment used in emergency operations, in need of repairs, will be repaired in a timely manner.

47.2 The City agrees, when purchasing fire apparatus in the future, development of the specifications will be conducted by the Apparatus Specification Committee in conjunction with the Chief Officer designated as the Apparatus Maintenance Officer, and will be forwarded to the Fire Chief for approval.

SECTION 48: EQUIPMENT MAINTENANCE

48.1 Electrical and natural gas appliances will be repaired as soon as possible by qualified outside repair persons.

- 48.2 Fire extinguishers of all types will be tested, refilled, and maintained by licensed contractors in the manner prescribed by state and federal law.
- 48.3 Hose repair will be done only by qualified personnel who have been properly instructed in the various types of couplings and types of hoses and in the proper operation of the mechanical hose repair equipment.
- 48.4 There will be a qualified mechanic from Equipment Maintenance or the Fire Department assigned to the testing, repair, and maintenance of all Fire Department vehicles. This assignment will be his/her first priority.
- 48.5 The washing, waxing, and cleaning of Assistant Chief - Fire Suppression vehicles shall not be assigned to personnel covered by this Memorandum of Understanding. Daily cleaning of windows and car interiors and the checking of the battery, oil, gas, water, and other safety and emergency equipment may be assigned.
- 48.6 Painting in the interior of the fire stations shall be considered a special project.

SECTION 49: TRADES

Procedures for trades are covered in the Trade Policy General Order.

SECTION 50: EQUAL TREATMENT OF COMMITTEE MEMBERS

Unit B members on any committee that is formed at the direction of the Fire Chief are entitled to equal treatment. A single standard will be used to determine the number of hours for which off-duty participants will receive time off, (due time) etc. for all committee members who participate equally. Payment of hours will be hour-for-hour pay or hour-for-hour due time in accordance with FLSA. All members shall have an opportunity if desired, to apply for committee membership.

SECTION 51: TIME OF RECEIPT OF PAYCHECKS

If the City utilizes a new computer and/or payroll system, it will extend "best efforts" to achieving, and treat as a very high priority the end that Fire Department employees have checks ready for pickup by 8 a.m. on the relevant Friday. Further, if the situation changes such that any City employees routinely receive their paychecks at or before 8 a.m. on paydays, all Fire Department employees shall receive their checks at or before that same time.

SECTION 52: COURTESY

The Fire Chief will add the following policy statement to the General Orders: When making routine visits to stations, chief officers and division captains shall make a reasonable effort to announce themselves and/or knock before entering the private areas (bathrooms, private areas within dormitories, private office areas) of fire stations.

SECTION 53: PHYSICAL & PSYCHOLOGICAL EXAMINATIONS/MOP

The City may require employees to submit to physical or psychiatric examinations by a City appointed physician where reasonable cause exists to believe that the employee is suffering from a physical or psychiatric condition which adversely impacts the employee's ability to perform his/her duties. Whenever possible, an employee shall be advised in writing of the basis for the existence of "reasonable cause" and the grounds thereof before being directed to report to any such examination. In any case, such written notice is to be provided within forty-eight (48) hours of such an examination.

Any psychiatric report to the City shall consist of the psychiatrist's ultimate conclusion as to the employee's fitness to serve and return to work date, if any. If the psychiatrist believes that the employee is not fit for duty he/she shall advise the City of any functional limitations which relate to the employee's ability to perform his/her duties, if such information may be provided without revealing the cause of those limitations. The psychiatrist shall respect the physician-patient privilege in all other regards and shall not, without the employee's written permission, release any other information, documents, reports or conclusions to the City.

Failure to report for a medical or psychiatric examination under this section may constitute grounds for discipline.

SECTION 54: HAIR SAFETY STANDARDS

54.1 There are many hair styles that are acceptable. So long as the person's hair is kept in a neat, clean manner, the acceptability of the style will be judged by the following criteria:

54.1.1 Hair styles that preclude the proper wearing of SCBA are not permitted.

54.1.2 Hair may be pinned or worn so as to minimize the potential of being caught in machinery or in any way become a safety hazard.

54.2 These standards have been developed to accommodate contemporary hair styles without jeopardizing the safety of Fire Fighters involved in the hazardous activities associated with the varied operational requirements of the modern fire service.

SECTION 55: NON-UNIFORMED FIRE PREVENTION INSPECTORS

In the event any remaining uniform Inspectors vacate their Fire Prevention Inspector's position, the City may fill their position with non-uniformed personnel.

SECTION 56: HYDRANT TESTING, HOSE AND LADDER INSPECTIONS

56.1 Hydrant inspections will be performed on an annual basis starting by April 15th and ending by June 30th of each year. Hydrant servicing and testing will occur on even numbered years during the annual inspection period.

56.2 The City will contract with an outside vendor to perform testing of fire hoses and ground ladders each year. Scheduling of this testing will be factored into the department training schedule.

SECTION 57: YMCA

The cost of YMCA membership will be divided between the City and the employees, with the City contribution to be 75% of the monthly membership fee. The amount the City contributes toward the employee's monthly membership fee is subject to federal and state income tax withholding.

Use of a YMCA membership by a City of Berkeley employee, as provided for in this Agreement, is non-compensable, is not a part of the employee's work-related duties, is not required for employment and is not condoned as part of a physical fitness program, or required to maintain top physical conditioning for the employee's job performance.

The City of Berkeley or its Claims Administrator may not be liable for any injury which arises out of a City of Berkeley employee's participation in and use of a YMCA membership.

ARTICLE 8 - PUBLIC EMPLOYEES' RETIREMENT SYSTEM**SECTION 59: CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

59.1 The City shall continue participating under the Safety Members Plan of the Public Employees' Retirement System (CalPERS).

59.2 CalPERS Retirement Formula for "New Members"

"New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2.7% at 57 retirement formula with highest three year average compensation as set forth in PEPRA.

59.3 CalPERS Retirement Formula for Classic Employees

Current employees and other employees who do not qualify as "New Members" under PEPRA shall continue to be entitled to the 3% at 50 retirement formula with single highest year compensation. In addition to the single highest year earnings formula, Legacy Employees' retirement benefit will continue to include all other benefits as were in effect as of November 28, 1996. The Plan will continue to require retirement at age sixty (60) as permitted by law.

59.4 Optional Benefits

For both Legacy Employees and New Members, the City's contract with CalPERS shall include the following optional benefits:

59.4.1 One-Year Final Compensation as provided in Section 20042 (July 22, 1976).

59.4.2 Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (March 1, 1973).

59.4.3 Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).

59.4.4 Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).

59.4.5 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (March 1, 1973).

59.4.6 Military Service Credit as Public Service as provided in Section 21024 (July 14, 2000).

59.4.7 Indexed Level 1959 Survivor Benefit as provided in Section 21574.5 (June 13, 2003).

59.5 Legacy Employees' Pension Contribution

On July 1, 1994, the City increased the base salary of employees in the amount of nine percent (9%). Effective January 1, 2015, Legacy employees will contribute an additional one percent (1%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis. The City and Association agree that, effective 1st pay period after Council approval of this MOU, employees will pay an additional one percent (1%) to the City's CalPERS employer contribution rate via automatic payroll deduction. Employees then assumed, and shall continue while the terms of this MOU are effective to assume, responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payment as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contribution shall be made through automatic payroll deductions.

59.6 New Members' Pension Contributions

New Members hired on or after January 1, 2013 shall pay 50% of the normal share of cost required by PEPRA. Effective January 1, 2015, New Members shall also contribute an additional one percent (1%) of pensionable compensation (in addition to contributing 50% of the normal cost) towards the City's CalPERS employer contribution through automatic payroll deduction on a pre-tax basis. The City and Association agree that, effective 1st pay period after Council approval of this MOU, employees will pay an additional one percent (1%) to the City's CalPERS employer contribution rate via automatic payroll deduction.

ARTICLE 9 - LAYOFF PROCEDURE

SECTION 60: LAYOFF PROCEDURE

The layoff policy for the City of Berkeley is intended to provide the maximum employment protection to City staff should a layoff become necessary. The policy also aims to minimize the impact such a layoff might have on the City's affirmative action accomplishments.

60.1 Announcement of Layoff

60.1.1 The City Council, City Manager, and department heads shall make every reasonable effort to manage and budget the City's resources effectively and to plan for the delivery of City services in a manner which will avoid the necessity of laying off career City employees. If a reduction in the

work force for more than thirty (30) calendar days is necessitated by, but not limited to, the following: a material change in duties and organization, adverse working conditions, return of employee from leave of absence, or shortage of work or funds, the City Manager shall notify the Director of Human Resources of the intended action and the reason for layoff.

60.1.2 Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the competitive service in similar and related classifications to those likely to be targeted for layoff, as well as all related full-time, benefited, temporary positions which are expected to last six (6) months or more, and notify all department heads that such current and anticipated vacancies will be frozen until further notice in order to implement the provisions of Section 60.7.

60.2 Seniority Service Date

60.2.1 All service in the employ of the City shall be counted toward the establishment of the employee's seniority service date, including, for example, permanent, probationary, provisional, temporary (full-time and intermittent), seasonal, and exempt employment, as well as leaves of absence for parental leave or obligatory military service while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the seniority service date. Time off as result of formal disciplinary action will be subtracted from the seniority service date.

60.2.2 All service of persons in the employ of the City in a promotional rank above the entry-level rank shall be counted toward the establishment of an employee's rank seniority service date including only probationary and permanent service as well as leaves of absence for parental leave or obligatory military service while an employee of the City. Less than full-time service will be consolidated in equivalences of full-time service for the purpose of establishing the rank seniority service date. Time off as a result of disciplinary action will be subtracted from the rank seniority service date.

60.2.3 All time spent in an appointed rank shall be credited to the employee's service in the employee's permanent rank. In computing both City and rank seniority, all time spent on paid leaves of absence shall be included, and all time spent on unpaid leaves of absence in excess of two

consecutive payroll periods shall be excluded with the exception of parental leave.

- 60.2.4 The Human Resources Department will maintain up-to-date and current seniority dates for all City employees holding probationary and permanent appointments.

60.3 Establishment of Seniority Lists

60.3.1 Whenever a layoff of one or more career employees becomes necessary, as defined above, such layoffs shall be made according to City-wide classification seniority lists. Upon receiving notification that the City Manager must proceed with a possible reduction in the work force and following receipt of information concerning the specific positions, programs, and departments involved, the Human Resources Department will immediately establish separate probationary and permanent seniority lists for each classification targeted for layoff.

60.3.2 The names of all City employees holding permanent and probationary appointments in a given classification will be listed on the appropriate list in descending order by City seniority service date in the entry-level position and by rank seniority service date in promotional positions. Except as provided in 60.4 below, employees on all lists shall be laid off on the basis of their seniority service dates, i.e., employees with the least amount of total service shall be laid off first. All emergency, temporary, and provisional employees working in classifications similar to those identified for layoff must be terminated prior to the layoff of probationary or permanent employees. Employees on the probationary seniority list for a specific classification will be laid off prior to employees on the permanent seniority list for that class.

60.3.3 Probationary or permanent employees holding a provisional appointment in another classification will only be listed on a seniority list of the class in which they hold permanent or probationary status targeted for layoff.

60.3.4 If two (2) or more employees on a seniority list have an identical seniority service date, the tie shall be broken in the following order: If an employee has taken the one-year written probationary examination, the score on that examination will be used to break ties. If an employee has not taken that examination, then the written entrance examination and agility test scores shall be used to break ties; the written exam and the agility test will be equally considered.

60.3.5 Promotions: If two (2) or more employees have the same promotion date in rank, seniority in the promoted rank at the time of promotion shall be determined based on the selection order made by the Fire Chief.

60.4 Employee Retreat Rights

60.4.1 Before an employee with permanent or probationary status may be released from employment with the City of Berkeley, the Human Resources Department must consider the employee's right to retreat to lower-level classification through which he or she was originally promoted or any subsequently created intermediate-level career classification which provides normal progression through the classification series. Retreat rights shall also extend to employees who have not previously been promoted through a classification but for whom the classification is a natural progression or beginning in the classification series.

60.4.2 In the process of retreating, the rank seniority date list shall be utilized. Employees with the least amount of rank seniority shall retreat first; provided, however, that a retreat from any rank below the employee's current rank shall be based on a rank seniority date which is derived from combination of all credited service in the rank to which the employee has retreated and all credited service in higher ranks held on a probationary or permanent basis. Retreat rights to the rank of permanent Fire Apparatus Operator will be available only to employees who have previously held this rank on a permanent or probationary basis. There shall be no retreat rights to appointed ranks or positions, i.e., Assistant Fire Marshal, Assistant Director of Training.

60.4.3 If an employee is qualified for retreat into more than one classification with comparable salary ranges or if a vacancy exists in a classification to which an employee is entitled to retreat, the options shall be discussed with the employee, and due consideration shall be given to

the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee.

60.4.4 The retreating employee has a right to be retained in the highest salary range possible which is equal to or less than his or her present salary range. An employee involved in layoff does not have a right of mandatory placement to positions with a higher salary range, i.e., promotion.

60.5 Employee Notification

60.5.1 Emergency, temporary, intermittent, seasonal, etc., employees shall be notified individually, in writing, of pending layoff as soon as possible, but no definite time period is required. However, at least two (2) weeks notification is desirable if possible.

60.5.2 Provisional employees shall be notified individually, in writing, of pending layoff as soon as possible, with no less than fifteen (15) calendar days notification if targeted for release or reassignment.

60.5.3 Permanent, probationary, and career-exempt employees should be notified individually, in writing, of pending layoffs as soon as possible, with no less than thirty (30) calendar days notification if targeted for release or reassignment or retreat. Notice to an employee absent from work for any reason shall be sent by United States Mail, return receipt requested.

If an employee fails to accept a bona fide offer of reassignment or retreat in writing within five (5) calendar days after the offer has been made, he or she forfeits further right to employment retention. Acceptance of a reassignment does not remove the right of appeal under Section 60.9 (Appeal Procedures).

60.6 Flexible Placement Program

60.6.1 In order to minimize the negative impact of a layoff, the City Manager will, as previously stated in Section 60.1 (Announcement of Layoff), impose a City-wide freeze on all appropriate vacancies as soon as it has been determined that a layoff of career City employees may be necessary.

60.6.2 Following the release of all emergency, temporary, and provisional employees in classes similar to those targeted for layoff and as soon as employees targeted for layoff have been identified and the provisions

under Section 60.4 (Employee Retreat Rights) have been carried out, the Human Resources Department will review and identify the frozen vacant classifications into which employees ultimately targeted for layoff may be placed on the basis of total experience and education. In making this decision, a waiver of minimum qualification standard and/or the substitution of related experience and education may be made, with an understanding on the part of management and supervisory personnel that adequate on-the-job training, which can be completed within no more than six (6) months, will be provided to facilitate job adjustment

and to compensate for the waiver of qualification standards, if that has occurred.

60.6.3 Assignments under the flexible placement program shall be limited to positions in the same or lesser salary range as the classification for which the employee is to be laid off.

60.6.4 Offers of positions under the flexible placement program shall be made according to seniority service date and in accordance with the probationary and permanent seniority list certification process outlined in Section 60.3 (Establishment of Seniority Lists). All offers and placements made under this provision of the layoff policy shall be documented in detail, with records available for audit and review at all times, including written acceptance of the offer.

60.6.5 If an employee fails to accept a bona fide written offer of an alternative job within five (5) calendar days after the offer has been made he or she forfeits further rights to employment retention. Acceptance of an alternative job under the flexible placement program in no way jeopardizes an employee's standing on the reemployment priority lists on which his or her name has been placed in accordance with Section 60.7 (Reemployment Lists).

60.7 Reemployment Lists

60.7.1 The names of all probationary and permanent employees released from positions in the competitive service as a result of layoff must be placed on reemployment priority lists for those classifications from which they were separated, as well as all other classifications to which they have retreat rights in accordance with Section 60.4 Employee Retreat Rights).

60.7.2 A reemployment priority list shall remain in effect for three (3) years. Said list shall remain in effect indefinitely for employees who were retreated.

60.7.3 Departments with vacancies in any classification for which there is an active reemployment priority list must use the reemployment priority list to fill their positions and may not use any other recruitment or appointment method to fill a vacancy until appropriate reemployment lists have been exhausted.

60.7.4 When a vacancy occurs in a class for which there is a reemployment priority list, the name of the employee on the appropriate reemployment priority

list with the highest seniority date shall be certified to the selecting official. Employees so certified from the reemployment priority list must be appointed to the existing vacancy.

60.7.5 If a former employee fails to accept a bona fide written offer or reemployment within five (5) calendar days, his or her name will be removed permanently from the reemployment priority list from which the offer was made. Failure to accept an offer of reemployment to the class with the highest salary range for which the employee is eligible for reemployment will result in automatic removal from all reemployment priority lists. However, the employee may decline (or accept) reemployment to lower salary range classifications without jeopardizing his or her standing on the reemployment priority list for the classification from which he or she was originally terminated.

60.7.6 Upon reappointment to the classification from which the employee was originally separated or demoted, the employee has the right to be placed at the step of the salary range which the employee held at the time of layoff or demotion.

60.7.7 Employees reinstated or reemployed after layoff shall receive a rate within the range established for the class. Transfers shall not affect an employee's salary rate. Employees appointed to any of the positions set forth in Exhibit "A" and employed and working on a part-time basis, shall be paid in proportion to the time worked as described in their appointment.

60.8 Career-Exempt Employees

Only those employees holding full-time, benefited exempt positions who in the past have achieved permanent status and have been continuously employed without a break in service between their career and exempt appointment have the right to retreat to previously held career classifications, placement on the reemployment priority lists, and all other provisions governing layoff procedures. For the purpose of layoff, such employees shall be referred to as "career-exempt".

60.9 Appeal Procedures

Any permanent, probationary, or career-exempt employee who is laid off, demoted, or reassigned as a result of layoff and who believes that the layoff procedure has been administered in violation of the terms of this agreement as it pertains to the employee's case may appeal the action under Section 35 (Grievance Procedure). In addition, employees may, at all times before, during, and subsequent to layoff, review all records including seniority lists, reemployment priority lists, documentation pertaining to appointments under the flexible placement program,

etc., which pertain to their classification and their rights under the provisions of the layoff policy.

60.10 Audit

60.10.1 On an annual basis, the City Manager's office shall order an audit by an outside auditor of all vacant positions filled in each department and authorized positions which have not been filled to determine whether the vacancies occurred in classifications for which reemployment priority lists were in existence, and, if so, whether the appointments made by the selecting official were in accordance with the procedures outlined in Section 60.7 (Reemployment Lists). In the event vacancies for which reemployment priority lists were in existence remain unfilled, the auditor shall offer an opinion as to whether or not the reasons for leaving the positions vacant appear to be legitimate. A report of the audit must be transmitted to the City Manager and the City Council.

60.10.2 If it is determined that a vacancy has been filled by a non-reemployment priority list eligible in a classification for which a reemployment priority list existed and which included available applicants at the time, the former employee with reemployment rights shall be hired and given retroactive pay from the date that the vacancy occurred. The employee who was originally hired to fill the vacancy shall continue to be retained in City employment.

2021-2023 Memorandum of Understanding

City of Berkeley

Berkeley Fire Fighters Association

SIGNATURE PAGE

Employee Representatives
Berkeley Fire Fighters Association
International Association of Fire Fighters Local
1227:

City of Berkeley:

DocuSigned by:
James Geissinger 10/29/2021
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Jim Geissinger, President, BFFA 1227

DocuSigned by:
Ken Martin 10/29/2021
A75012646BD242B...

Ken Martin, Chief Negotiator

DocuSigned by:
Jonathan Fischer 10/28/2021
DE52BD598C16490...

Jon Fischer, BFFA 1227

DocuSigned by:
Justin Ironside 11/1/2021
F8D487848BCF4AC...

Justin Ironside, BFFA 1227

DocuSigned by:
Calvin Mettler 10/31/2021
DC31A1FCB1AC410...

Cal Mettler, BFFA 1227

DocuSigned by:
Andrew Arrindell 10/29/2021
15C90343CDB540E...

Andrew Arrindell, Secretary, BFFA 1227

DocuSigned by:
Matt George 10/30/2021
ED0A1519CBA9491...

Matt George, 1st Vice President, BFFA 1227

DocuSigned by:
Kamran Mustafa 10/30/2021
E7044EBB461A49C...

Kamran Mustafa, Director, BFFA 1227

DocuSigned by:
Dee Williams-Ridley 11/2/2021
87467A6DB035432...

Dee Williams-Ridley, City Manager

DocuSigned by:
LaTanya Bellow 10/28/2021
0FA91751B2694F3...

LaTanya, Bellow, Chief Negotiator

DocuSigned by:
Abraham Roman 11/1/2021
15E1298AFB144F7...

Abe Roman, Fire Chief

DocuSigned by:
Ravinder Rangji 10/28/2021
91F65AA4F4A6479...

Ravi Rangji, Employee Relations Mgr

DocuSigned by:
Alicia Platt 10/28/2021
4C698BF6C30E4AB...

Alicia Platt, Sr. HR Analyst

DocuSigned by:
Amani Manning 11/3/2021
BCC9D0043A7940E...

Amani Manning, Asst. HR Analyst

EXHIBIT A – Hourly

Hourly Salary Schedule as of July 1, 2021 (Two and one half Percent (2.5%) Wage Increase)					
CLASSIFICATION TITLE	STEP A	STEP B	STEP C	STEP D	STEP E
*Fire Fighter	\$ 32.1811	\$ 32.9185	\$ 33.6739	\$ 34.4539	\$ 35.5814
	STEP F	STEP G	STEP H	STEP I	
	\$ 36.7573	\$ 37.9703	\$ 39.2252	\$ 40.5375	
CLASSIFICATION TITLE	STEP A	STEP B	STEP C	STEP D	STEP E
*Fire Apparatus Operator		\$ 39.6513	\$ 40.9656	\$ 42.3167	\$ 43.7105
*Fire Prevention Inspector		\$ 58.1035	\$ 60.0310	\$ 62.0099	\$ 64.0570
Deputy Fire Marshal		\$ 65.8594	\$ 68.0307	\$ 70.2804	\$ 72.5956
*Fire Captain II		\$ 47.0716	\$ 48.6238	\$ 50.2323	\$ 51.8881
Paramedic Supervisor I		\$ 45.8337	\$ 47.3442	\$ 48.9141	\$ 50.5197

*Includes salary realignment as listed in the provision of Section 10.1.1

2021-2023 Memorandum of Understanding

City of Berkeley

Berkeley Fire Fighters Association

Hourly Salary Schedule as of July 1, 2022
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CLASSIFICATION TITLE	STEP A	STEP B	STEP C	STEP D	STEP E
Fire Fighter	\$33.3074	\$34.0706	\$34.8525	\$35.6598	\$36.8268
	STEP F	STEP G	STEP H	STEP I	
	\$38.0439	\$39.2992	\$40.5981	\$41.9563	
CLASSIFICATION TITLE	STEP A	STEP B	STEP C	STEP D	STEP E
Fire Apparatus Operator		\$41.0391	\$42.3994	\$43.7978	\$45.2403
Fire Prevention Inspector		\$60.1371	\$62.1321	\$64.1803	\$66.2990
Deputy Fire Marshal		\$68.1645	\$70.4118	\$72.7402	\$75.1365
Fire Captain II		\$48.7191	\$50.3256	\$51.9904	\$53.7042
Paramedic Supervisor I		\$47.4379	\$49.0013	\$50.6261	\$52.2879

EXHIBIT B – Glossary of Terms

ALLOCATION: The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

CAREER EMPLOYEE: An employee who is appointed to a position in the competitive service and who has a probationary or permanent appointment with the City of Berkeley.

CLASSIFICATION (CLASS): A group of positions sufficiently similar in respect to their duties and responsibilities that: (a) the same descriptive title may be used with clarity to designate each position allocated to the class; (b) the same minimum requirements as to education, experience, knowledge, ability and other qualifications may be required of all incumbents; (c) the same tests of fitness may be used to choose qualified employees and, (d) the same schedule of compensation can be made to apply with equity under the same or substantially the same employment conditions.

COMPENSATORY TIME: Shall mean paid time off the job which is earned and accrued by an employee in lieu of immediate cash payment for employment in excess of the statutory hours for which overtime is required by this Memorandum of Understanding or the Fair Labor Standards Act. For the purpose of this Memorandum of Understanding, the term “Due Time” shall mean the same as Compensatory Time.

CONTINUOUS TESTING: An examination process in which applications are accepted on a continuous basis, not subject to a closing date with a viable list maintained at all times.

DEMOTION: The movement of an employee from one class to another class having a lower maximum rate of pay.

DOMESTIC PARTNER: A person residing with and sharing the common necessities of life with a City of Berkeley employee, where both intend to continue this arrangement indefinitely. They are unmarried; at least eighteen (18) years of age; not related by blood closer than would bar marriage in the State of California and mentally competent to consent to contracts.

EMPLOYEE: A person who has been legally appointed under the City of Berkeley Personnel Ordinance and the Personnel Rules and Regulations, who is on the City payroll and whose employment has not been terminated and whose position is included in this representation unit.

END OF YEAR: For payroll-related purposes, the last day of the last pay period in December for which the payday occurs in December. For example, if the last pay day in

December falls on Thursday, the 31st (because the following Friday, January 1st is a holiday), the corresponding pay period would end on December 26. The last day of the year for payroll-related purposes would be December 26. Similarly, if the last pay day of the calendar year were December 28, the last day of the payroll year would be December 22.

EXEMPT: Appointment which is exempt from the competitive service, in accordance with Section 4.04.120 of City of Berkeley Personnel Ordinance, No. 6280- N.S.

FRALS PARAMEDIC: A paramedic with current certification who is assigned to an engine or truck company and is entitled to receive the full FRALS paramedic differential pay.

FULL-TIME: An assignment or combination of assignments which total forty (40) or fifty-six (56) hours per week.

HIGH RISK CLASSIFICATIONS: A group of positions whose duties and responsibilities present a) significant probability or chance of injury, damage or loss of life; b) exposure to risk; and c) ability to incur the risk.

JURY DUTY PERIOD: The period of time from which an employee appears in court as required by law to serve on an inquest jury or trial jury until such time as the employee is discharged from such service by the court. "Jury Duty Period" expressly covers only that period of time spent by the employee in service of the court as a juror and does not include any time spent in court by the employee as a result of being a party to the action, being a witness to the action, or being subpoenaed to testify in the action.

LEAVE DAY: A leave day is used for computing earned leave and is equivalent to a 12-hour working day for a 56-hour per week employee, or is equivalent to an 8-hour working day for a 40-hour per week employee. Leave taken is computed as the actual hours used.

MEMORANDUM OF UNDERSTANDING: A binding contract, as provided for by the Meyers-Miliias-Brown Act, between the City of Berkeley and the Berkeley Fire Fighters Association specifying wages, hours and other terms and conditions of employment.

MINIMUM QUALIFICATION ACTOR: An employee allowed to act in a higher classification, when there are no qualified personnel on the current promotional list available, shall be known as a Minimum Qualification Actor. They must meet all the required qualifications, education, and experience to be eligible to participate in the promotional exam process for the classification in which they are to act. Minimum Qualification Actors must also successfully complete a certification process for the classification in which they are to act, administered by the Division of Training, before they are allowed to act in the specified classification.

OFF THE UNIT: An active paramedic who, on a given day, is assigned to suppression and is not working on an ambulance.

ON THE UNIT: An active paramedic who is actually assigned and is working on an ambulance.

OPEN COMPETITIVE EXAMINATION: An examination for a class (entry level or higher) in the competitive service in which participation is open to all qualified applicants.

POSITION: A grouping of duties and responsibilities which constitute a single assignment which is in a classification covered by this Memorandum of Understanding.

PROMOTION: The movement of an employee from one class to another class having a higher maximum rate of pay.

PROMOTIONAL EXAMINATION: An examination for promotion to a class in the competitive service in which participation is limited to current employees with permanent status and/or to former permanent or probationary employees who are on current mandatory reemployment lists of layoff.

PROVISIONAL: A career employee who is temporarily serving in a higher level or unclassified position as a temporary assignment, pending examination, classification, or in the absence of the permanent incumbent.

RECLASSIFICATION: Reallocation of a position from one classification to another classification based upon consideration of the kind and level of assigned duties and responsibilities.

REEMPLOYMENT: Reappointment of a former probationary or permanent employee to a vacant position who has been laid off under Section 59.7 in this Memorandum of Understanding.

REGULAR HOURLY SALARY: The Regular Monthly Salary multiplied by twelve (12) months and divided by 2080 annual work hours for forty (40) hour per week employees. For fifty six (56) hour per week assignments, the Regular Monthly Salary is multiplied by twelve (12) and divided by 2912 annual work hours, except that time worked on the day shift is multiplied by a factor of 1.2 and time worked on the night shift is multiplied by a factor of 0.85714.

REGULAR MONTHLY SALARY: The base pay for a classification (as included in Exhibits "A" through "E" of this Memorandum of Understanding) and for paramedic assignments.

REINSTATEMENT: Appointment to a vacant position of a former probationary or permanent employee, within two years of the termination date, without obtaining new eligibility through examination. Reinstatement is not mandatory and a former employee must request consideration in writing. Eligibility for reinstatement is no guarantee of appointment and former probationary employees who did not obtain permanent status must complete their probationary period in accordance with Section 31 (Probationary Period).

REJECTION (PROBATION): The separation of an employee from the service during or at the completion of the probationary period.

RELEASE TIME: Paid time off permitted employees, during their scheduled hours of work, to perform Association activities as provided by this Memorandum of Understanding. This paid time off is in addition to the employee paid leave and is subject to the conditions of the applicable sections of this Understanding.

SCORING METHODOLOGY: The relative weights of components of a specific examination. This information is to be included in the announcement of the opening of the application process. For example, the announcement would specify that in the scoring of applicants that the written examination shall contribute a maximum of x per cent of the total score and that an assessment center shall contribute a maximum of y per cent, with $x + y = 100\%$.

SHIFT: A set of continuous work hours. For 40-hour per week employees, a shift comprises eight (8) hours. For 56-hour per week employees, a shift comprises twentyfour (24) hours, except that the term "day shift" means ten (10) consecutive hours and "night shift" means fourteen (14) consecutive hours and "12-hour shift" is used for purposes of computing leave time and compensatory overtime (for purposes of this Memorandum of Understanding). The term "working shift" refers to a day or night shift for 56-hour employees or a regular shift for 40-hour employees. The term "assigned shift" refers to separate schedules in effect for 56 hour employees, such as A-shift", "B-Shift" and "C-Shift". For purposes of computing leave time and compensatory overtime (for purposes of this Memorandum of Understanding), an average twelve (12) hour shift is used.

TERMINATION: The separation of an employee from the service of the City. Termination may include death, discharge, layoff, resignation, retirement, and work completion.

TOUR: The basic work cycle; for example, the 56-hour employee's tour consists of nine consecutive days, during which time the employee is scheduled for 3 shifts on duty and 6 off duty

TOUR (48/96): The basic work cycle; for example, the 56-hour employee's tour consists of six consecutive days, during which time the employee is scheduled for 2 shifts on duty and 4 off duty.

TRANSFER: The movement of an employee from one position to another within the same class in another department or the movement of an employee from one class to another class having a comparable level of duties and responsibilities and the same maximum rate of pay.

TRANSPORT PARAMEDIC: A paramedic with current certification who is assigned to ambulance duty and is entitled to receive the full paramedic transport differential pay.

VACATION YEAR: A vacation year runs twelve months, (i.e. 26 payroll periods), starting and ending on a payroll period break.

Y-RATE: An employee occupying a position which is reallocated to a class, the maximum salary for which is less than the incumbent's present salary or occupying a position in a class the salary rate or range for which is reduced, shall continue to receive his/her present salary. Such salary shall be designated as a Y rate and when that employee vacates this position, it shall be filled in accordance with new salary range established. Y-rating shall not apply to employees who are demoted for just cause, including unacceptable level of performance, or as a result of demotion under the provisions of the Layoff policy.

EXHIBIT C – Emergency Medical Services Programs

I. PROGRAM ADMINISTRATION

- A. The Fire Chief will be responsible for program administration.

II. GUIDING PRINCIPALS OF THE PROGRAM

- A. Create and sustain Emergency Medical Service (EMS) programs that deliver the highest quality care to the Berkeley community.
- B. Minimize personnel movement and support program adjustments that maintain a high level of morale.

III. PARAMEDIC PROGRAM – WORKING CONDITIONS

- A. A paramedic shall not be assigned Fire Prevention inspection details while assigned to an ambulance.
- B. A paramedic shall be responsible for the maintenance of their equipment and vehicle (i.e. cleanliness, minor servicing, and operational readiness).
- C. A paramedic shall be responsible for maintenance of their own quarters and normal shift assignments. Station maintenance will be determined by the Station Commander and supervising Officer(s).
- D. All paramedics will assist in EMS training.
- E. A paramedic shall complete all EMS related paperwork in accordance with established Alameda County EMS and Berkeley Fire Department policies and procedures.

IV. LICENSURE & ACCREDITATION

- A. Employees who function as paramedics and are permanently assigned as paramedics as a condition of employment will maintain a current State of California Paramedic License, current Alameda County accreditation, and current California Class C Driver's License with firefighter endorsement or equivalent California Vehicle Code requirements to drive fire apparatus and ambulances.

- B. During any period or lapse in which an individual does not possess required accreditation or licensure the individual shall not receive any paramedic differential pay.

V. OPERATIONS

- A. The Department will seek to maintain sufficient paramedics for each shift. To maintain four (4) paramedic Transport units, seven (7) engine companies and two (2) truck companies with ALS capabilities a staff of 72 paramedics or 24 per shift is considered desirable (*emphasis added*).
 - 1. To maintain four (4) paramedic Transport units, a staff of 42 paramedics or 14 per shift, assigned to permanent ambulance rotation is considered desirable (*emphasis added*).
 - 2. To maintain seven (7) engine companies and two (2) truck companies with FRALS capabilities, a staff of 36 FRALS paramedics or 12 per shift is considered desirable (*emphasis added*).
- B. Engines and Truck companies shall be staffed with a minimum of one (1) paramedic.
- C. Transport companies shall be staffed with two (2) paramedics.
- D. Additional advanced life support units placed in service for special events, or multi-casualty incidents may be staffed with a minimum of one (1) paramedic and one (1) EMT only to avoid mandatory and emergency hires.
- E. Each working day a paramedic who is assigned to rotate on the ambulance will be classified in one of the following ways:
 - 1. ON – Employee is assigned to a transport unit.
 - 2. OFF – Employee may not be assigned to a transport unit.
 - 3. DUE ON – Employee may be assigned to a suppression or transport unit.
 - a. When a paramedic is “off the ambulance” the individual is required to serve as a paramedic on a suppression company unless assigned as a Higher class Captain (though the employee shall still receive the FRALS paramedic pay).

- F. Paramedics assigned to the ambulance will work a rotational schedule of a maximum of two tours on the ambulance and a minimum of one tour on fire apparatus.
1. By mutual agreement between the paramedic and the shift's Duty Chief, a paramedic may voluntarily remain on the ambulance longer than the rotational schedule described above for special needs such as to precept paramedic interns. However, such additional volunteer time on the ambulance will not be counted toward time off the ambulance as described in the rotational schedule above. The paramedic rotational schedule will always determine time off and on the ambulance.
- G. The City and BFFA will form a joint committee consisting of BFFA and City representatives that will explore possible changes to the City's service delivery model.

VI. TRANSFER TO SUPPRESSION

The March 5, 2019 side-Letter Agreement has been amended and folded in to the MOU as Paragraph A and B below.

- A. All Apparatus Operators assigned as paramedics may be assigned to a transport ambulance not to exceed 24 hours per calendar quarter to avoid mandatory hires or meet department needs. They shall not be assigned to the transport unit in a routine manner nor shall they be placed in regular rotation on the paramedic schedule.
- B. There shall be no less than six (6) Paramedic Supervisor I positions. In lieu of an available Paramedic Supervisor, a Supervisor shall be appointed and paid a Paramedic Supervisor I's rate (HCPS). An employee working as an HCPS will not be paid the 15.0% HCAT differential.

VII. TRADES

- A. A paramedic shall be limited to trading with a paramedic so long as each employee possesses the minimum qualifications (as set by the department) to fulfill the responsibilities of the assignment.

VIII. PARAMEDIC COMPENSATION

- A. Fire Officers shall not be eligible to act as a paramedic.

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- B. Effective the first full pay period after Council approval, all personnel below the rank of Fire Captain that maintain a current paramedic license shall receive FRALS Pay.
- C. Personnel who “transferred to suppression” as a firefighter prior to January 1, 2013 will continue to provide service as a FRALS paramedic until they retire or promote.
- D. The differential for being assigned as a paramedic by the department is 6.25% above base pay for that employee’s rank.
1. This paramedic differential will be reported to CalPERS as Paramedic Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.
- E. Any employee assigned to work on the transport unit shall be paid a differential when assigned and works on an ambulance (Higher Class Ambulance Transport - HCAT) of 15.0% above base pay for that employee’s rank.
1. For all time an employee is assigned to work a transport unit they shall receive both the base paramedic differential and the HCAT differential.
 2. Paramedic Supervisor I’s are exempt from receiving the paramedic differential or HCAT pay.
 3. This HCAT differential will be reported to CalPERS as Higher Class Ambulance Transport Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported “compensation earnable” in California Government Code Section 20635.
- F. A permanent employee assigned as a transport or FRALS paramedic will be given an allowance of \$1,500 after submission of a renewed California paramedic license, completion of Alameda County EMS requirements, and submission of a Fire Department reaccreditation form. Paramedic Reaccreditation Form submission must occur within three (3) calendar months of the effective date on the California paramedic license.

IX. PARAMEDIC FIELD TRAINING OFFICER (FTO)

A. Any paramedic that is assigned by the Fire Chief as a Field Training Officer (FTO) for the purpose of evaluating and training probationary employees on a paramedic transport unit shall be compensated as FTOs at a rate of 5% above base pay for that employee's rank.

1. The Paramedic Supervisor I, in consultation with the EMS Chief & EMS Captain shall recommend which employees will be assigned FTO duties.
2. FTO pay shall be provided for hours worked as an FTO on an ambulance.
3. FTO pay shall not be provided to Paramedic Supervisor I's when they are tasked with these evaluations as those responsibilities are part of the PSI job description.

X. PARAMEDIC SUPERVISOR I ADMINISTRATIVE TIME

To handle administrative duties and staff work that are challenging to complete while in service and running calls, a paramedic supervisor will be back-filled from 0800 – 1800 hours the first day of each calendar month.

XI. EMT CERTIFICATION IS A CONDITION OF CONTINUED EMPLOYMENT

A. The Department will offer on-duty EMT recertification classes and online continuing education for the benefit of employees to meet the twenty-four hour requirement. The City of Berkeley will give sufficient notice for the scheduling of recertification classes or online continuing education. A limited number of make-up classes will be offered. The City of Berkeley will provide up to twelve (12) hours of make-up classes or online continuing education per shift for a total of 36 hours in each certification cycle. However, if an employee misses the available classes he/she will be responsible to obtain the training on his/her own time at his or her own cost. It is not the department's policy to pay for recertification classes taken while off-duty.

B. In the event that EMT recertification requirements from the State and/or County are modified, the City of Berkeley and the Association agree to meet and confer on this issue.

- C. The City agrees to provide the required testing for EMT employees in each four-year cycle.

XII. CONDITIONS FOR WHICH PARTIES AGREE TO REOPEN AND MEET AND CONFER

- A. The parties agree to meet and confer if there is an increase or decrease in either Measure GG or the Paramedic Tax revenues (with the exception of the increase of Consumer Priced Index or Personal Income Growth rate increases).
- B. The City and Association hereby agree to reopen labor negotiations and to immediately begin to meet and confer specifically to address Exhibit C Sections III-X of this MOU if Berkeley voters fail to approve Gann limit reauthorization of the 2008 Measure GG.

EXHIBIT D – General Order – Apparatus Staffing Levels

A. **NORMAL STAFFING**

- 1. Normal in-service staffing for fire apparatus shall be as follows:
 - a. Seven (7) Engine Companies: three personnel each.
 - b. Two (2) Truck Companies: three personnel each.
 - c. Four (4) Ambulance Units: two personnel each.

2. Truck Company Out of Service:

When a truck apparatus is placed out of service for mechanical reasons, and no reserve truck is available, the truck personnel will staff a reserve engine.

B. **BELOW NORMAL STAFFING**

When fire companies are below strength in personnel, the following guidelines shall apply:

- 1. Two (2) Personnel:
 - a. Fire units, Engine and Truck companies, with a minimum of two (2) persons on board shall be called a "Medical Unit".
 - 1. They shall take medical calls within district.

- 2. They shall normally be Out-of-Service for fires.
 - i. Shall monitor radio and respond to fires if needed.
 - ii. Dispatch shall notify Asst. Chief when a unit is short of personnel.
 - iii. Dispatch shall indicate medical units when dispatching full assignments.

2. Less Than Two (2) Personnel:

- a. When fire units have less than two personnel, companies are placed out-of-service.

C. IMPLEMENTATION OF POLICY

Deputy Chiefs may use discretion in exercising this policy, based upon realistic department needs for training, special assignments, fire patrols, UC Football coverage, or additional coverage during critical fire weather.

Should the City decide to move forward with changes in current staffing levels to include a single role paramedic program, EMT or other staffing design the City agrees to meet and confer with the Union to discuss staffing and impacts on daily operations prior to implementation

EXHIBIT E – Grievance Forms

STEP 1 - Informal Step

STEP 1.1 - Deputy Fire Chief Response

STEP 2 – Appeal to Fire Chief

STEP 2.1 – Fire Chief Response

STEP 2.2 – Director of Human Resources Response (Compensation)

STEP 3 – Appeal to City Manager

STEP 3.1 - City Manager Response

STEP 4 – Appeal to Arbitration



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(Days defined as Calendar Days, unless otherwise noted)



STEP 1 – Informal Step

Important Notes (MOU Section 35.1): A grievance is any dispute which involves the interpretation, application, claimed violation, or claimed noncompliance with the provisions of the Memorandum of Understanding between the City and the Association or any City ordinance, rule, regulation, or past practice which may have been or may hereafter be adopted by the City to govern personnel practices or working conditions of the City's employees covered by such Memorandum of Understanding, including any rule, regulation, or resolution which may be adopted by the City Council which results from the meet-and-confer process.

No matter shall be considered as a grievance under this Section unless it is presented within thirty (30) calendar days after the employee or the Association could reasonably have been aware of events on which the grievance is based. All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Fire Chief or his or her designated representative for payroll issues within 30 working days from the date when the employee may reasonably be expected to have learned of the alleged compensation violation. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.

Grievance Tracking
No.: _____

Grievant First Name		Grievant Last Name		Date:	
Job Title:	Firefighter	Dept/Location:	Station One	E-Board Rep:	First, Last Name

Nature of Grievance *(Include specific provisions of the MOU, City ordinance, rule or regulation and/or past practice, and the circumstances involved):*

Relief Desired:

Grievant: _____ <i>Signature</i>		Rep./Steward: _____ <i>Signature</i>	
Date Rec'd by Chief Officer:	Meeting Requested:	Yes <input type="checkbox"/> No <input type="checkbox"/>	Date meeting occurred: _____
Deputy Fire Chief: _____ <i>Signature</i>		Date: _____	



BFFA Local 1227 – City of Berkeley Grievance Form



(Days defined as Calendar Days, unless otherwise noted)

Instructions: The grievant should complete this form electronically and print it out. It should then be given to an Executive Board member who will submit it to the Deputy Fire Chief and obtain a signature confirming receipt. Return a copy of the signed form to your assigned 1227 Executive Board representative.

Grievance Tracking
No.:

Grievant First Name | Grievant Last Name | Date:

STEP 1.1 – Deputy Fire Chief Response

Important Note: Any employee who believes he or she has a grievance (and/or the employee's Association representative) shall discuss the employee's complaint with the Deputy Fire Chief. If the issue is not resolved within fifteen (15) calendar days, the employee (and/or the employee's Association representative) may elect to invoke the formal grievance procedure (Step II).

Deputy Fire Chief's Response *(1227 must be in receipt of this response within 15-days of their initial receipt of this grievance):*

Deputy Fire Chief: _____ Date: _____
Signature

Receipt of Return to 1227:

Rep/Steward: _____ Date Rec'd: _____

Rep/Steward: *Signature*
First Name

Printed Name

Response to Deputy Fire Chief (to be completed by 1227 Rep./Steward):

Date:

Deputy Fire Chief's Response is:

Satisfactory: Unsatisfactory:

Grievance is:



BFFA Local 1227 – City of Berkeley Grievance Form



(Days defined as Calendar Days, unless otherwise noted)

Appealed: Withdrawn:

Grievance Tracking
No.: _____

Instructions: The Deputy Fire Chief shall complete this page electronically, print and return to a 1227 Executive Board representative. The 1227 representative shall immediately notify the President, 1st Vice President, or the 2nd Vice President.

Grievant First Name _____ Grievant Last Name _____ Date: _____

STEP 2 – Appeal to Fire Chief

Important Notes: The written statement shall be a clear concise statement of the grievance, including specific provisions of this agreement and/or City ordinance, rule or regulation, and/or past practice alleged to have been violated, the circumstances involved in the decision rendered at Step I, and the specific remedy sought. Either party shall be entitled to a personal conference upon request.

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Fire Chief or his or her designated representative for payroll issues within 30 working days from the date when the employee may reasonably be expected to have learned of the alleged compensation violation. If such issues cannot be resolved by the Fire Chief (or in consultation with the Auditor), the Fire Chief will refer the matter to the Director of Human Resources within ten (10) working days of receipt of the grievance.

Reasons for the appeal:

Date Rec'd by
Fire Chief: _____

Fire Chief: _____
Signature

by Yes No



BFFA Local 1227 – City of Berkeley Grievance Form



(Days defined as Calendar Days, unless otherwise noted)

Meeting Requested 1227: _____

Grievance Tracking No.: _____

Yes No

Meeting Requested Fire Chief: _____ by _____

Date meeting occurred: _____

Instructions: The grievant and their Executive Board representative shall complete this form electronically, print it out and submit it directly to the Fire Chief along with all previous forms (Step I Nature, Step I DC Response, and any addendum documents) within 10 working days of receiving the DC response.

Grievant First Name _____ Grievant Last Name _____ Date: _____

STEP 2.1 – Fire Chief Response

Important Notes: The Fire Chief shall communicate a decision to the grievant with a copy to the Association and to the Director of Human Resources in writing within ten (10) working days after receiving the grievance or ten (10) working days from the date of the personal conference, whichever is later, and such action will terminate Step II.

Fire Chief's Response:

Fire Chief: _____ Date: _____

Signature

Receipt of Return to 1227:

Rep/Steward: _____ Date Rec'd: _____



BFFA Local 1227 – City of Berkeley Grievance Form

(Days defined as Calendar Days, unless otherwise noted)



Grievance Tracking

No.:

Signature

Response to Fire Chief (to be completed by 1227 Rep./Steward):

Date:

Fire Chief's Response is:

Satisfactory: Unsatisfactory:

Grievance is:

Appealed: Withdrawn:

Instructions: The Fire Chief shall complete this page electronically, print and return to a 1227 Executive Board representative. The 1227 representative shall immediately notify the President, 1st Vice President, or the 2nd Vice President.

Grievant First Name

Grievant Last Name

Date:

STEP 2.2 – Director of Human Resources Response (Compensation)

Important Notes: The Director of Human Resources or his or her designee shall have 30 working days to research the issue and provide a written response to the Association and the affected employee. In such cases no adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed or thirty (30) days from the date when an employee may reasonably be expected to have learned of said claimed violation whichever is later.

If the affected employee is not satisfied with the written decision of the Director of Human Resources or his or her designee, the affected employee will have ten (10) working days to appeal the decision in writing to the City Manager and the grievance will move to Step III of the Grievance Procedure as provided in Section 35.2.4.



BFFA Local 1227 – City of Berkeley Grievance Form

(Days defined as Calendar Days, unless otherwise noted)



Grievance Tracking
No.:

Compensation		Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
Matter: _____			
HR Representative:	Enter Name	Date:	
			Signature
HR Response <i>(required within 30-working days of receipt of grievance)</i> received:			
Receipt of Return to 1227:			
Rep/Steward:	Date Rec'd:		
Signature			
Response to Human Resources <i>(to be completed by 1227 Rep./Steward):</i>			
Human Resources Response is:			
Satisfactory:	<input type="checkbox"/>	Unsatisfactory:	<input type="checkbox"/>
Grievance is:			
Appealed:	<input type="checkbox"/>	Withdrawn:	<input type="checkbox"/>
<i>Appeal deadline: 10-working days from receipt of HR response.</i>			

Grievant First Name	Grievant Last Name	Date:
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STEP 3 – Appeal to City Manager

Important Notes: In the event that the employee (or the employee’s Association representative) is not satisfied with the decision at Step II, the employee (or the employee’s Association representative) may appeal the decision in writing to the City Manager or his/her designee within ten (10) working days after the termination of Step II.

The grievant or the City Manager or his / her designee shall be entitled to a personal conference upon request within the time limits specified.



BFFA Local 1227 – City of Berkeley Grievance Form

(Days defined as Calendar Days, unless otherwise noted)



Reasons for the appeal: Date

Grievance Tracking
No.:

Rec'd by

City Manager: _____

City Manager
(or designee): _____
Signature

Date: _____

Meeting Requested: Yes No

Date meeting occurred:

Instructions: The grievant and their Executive Board representative shall complete this form electronically, print it out and submit it to the City Manager along with all previous forms (Step I Nature, Step I DC Response, and any addendum documents) within **10 working days** after the termination of Step II. Once a signature of receipt is obtained a copy of this form shall be made and returned to the assigned Executive Board representative.



BFFA Local 1227 – City of Berkeley Grievance Form

(Days defined as Calendar Days, unless otherwise noted)



Grievance Tracking
No.:

Grievant First Name

Grievant Last Name

Date:

STEP 3.1 – City Manager Response

Important Notes: The City Manager or his/her designee shall communicate a decision within ten (10) working days after receiving the appeal or ten (10) working days from the date of the personal conference, whichever is later and such decision will terminate Step III.

City Manager Response:

City Manager:

Date:

Signature

Return to 1227:

Rep/Steward:

Date Rec'd:

Signature

Response to City Manager *(to be completed by 1227 Rep./Steward):*

Date:

City Manager's Response is:

Satisfactory: Unsatisfactory:

Grievance is:

Appealed: Withdrawn:

Instructions: The City Manager (or his/her designee) shall complete this page electronically, print and return to a 1227 Executive Board representative. The 1227 representative shall immediately notify the President, 1st Vice President, or the 2nd Vice President.

Grievant First Name

Grievant Last Name

Date:

STEP 4 – Appeal to Arbitration

Important Notes: If the Association is not satisfied with the City Manager's response at Step III- the Association may require that the grievance be referred to an impartial arbitrator, who shall be designated by mutual agreement between the Association and the City Manager. The Association must notify the City Manager in writing within ten (10) working days of receipt of the City Manager's decision that they intend to move the grievance to arbitration.



BFFA Local 1227 – City of Berkeley Grievance Form

(Days defined as Calendar Days, unless otherwise noted)



Grievance Tracking
No.:

1227 Executive Board Arbitration Request:

Date:

City Manager's Response was:

Satisfactory: Unsatisfactory:

Association Requires Grievance to be Submitted to Arbitration:

Yes: Withdrawn:

President: _____
Signature

1st Vice
President: _____
Signature

2nd Vice
President: _____
Signature

Instructions: The 1227 Executive Board shall complete this form electronically and submit it to the City Manager along with all previous forms (Step I Nature, Step I DC Response, and any addendum documents) with copies to the Director of Human Resources, the Fire Chief, the Union President, and the 1st Vice President. This must occur within ten (10) **working days** of receipt of the City Manager's decision that they intend to move the grievance to arbitration.

EXHIBIT F – Wellness/Fitness Program**A. Participation**

1. The City and the Association realize the importance of establishing and maintaining an effective Wellness Fitness program. It is the intent of this program to effectively increase the overall health of the workforce, thereby reducing workers compensation claims and chronic illnesses caused by improper nutrition and poor exercise habits.
2. All uniformed members of the Berkeley Fire Department are encouraged to participate in the B.F.D. Wellness/Fitness Program.
3. All approved on-duty activities will be covered by Workers' Compensation. However, due to the potential for injury, competitive sports activities (tennis, volleyball, etc.) are strictly prohibited while on duty.
4. It shall be the responsibility of each member to participate daily (while on duty) in the program and to make every effort to maintain his/her physical fitness so as to be able to perform the duties of a Firefighter.
5. Daily scheduling of the program shall be the responsibility of each company officer.

B. Off-Duty Activities

No off-duty conditioning activities can be covered by Workers' Compensation. All reference to off-duty activities are merely suggestions to be considered for physical fitness.

C. Funding

1. On or around July 1st of each year, the City shall pay the Association an amount sufficient to replenish the Wellness Fitness Initiative (WFI) fund to \$50,000 for the next fiscal year of which \$20,000 shall be designated for mental health treatment facilities. The WFI Fund expenditures shall be managed by the Association. WFI funds shall be used to maintain the WFI program through education and training of peer fitness trainers, for executing repairs to existing equipment, for reimbursement to members who are pursuing changes to their health and wellness through practitioners approved by the City's WFI (Section

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39), and for the purchase or replacement of equipment necessary to maintain a safe and effective exercising environment.

2. The Association will contract with a third party vendor who will provide repair services and scheduled maintenance for all exercise equipment. All claims for service will be made from the Association to the Department and will be acted upon in an expedient manner.
3. The Association may transmit equipment purchase order requests to the Department in order to take advantage of GSA pricing. The Department will act on said requests within fifteen (15) calendar days of receipt. The Association and the Department recognize there is a blackout period for all purchasing at the end of each fiscal year. The Association will be specific with make, model and suggested vendor.

EXHIBIT G – Hazardous Materials Response Team**1. STAFFING**

- A. It is recognized that to be operational, the Hazardous Materials Response Team need not be staffed at the current level. It is understood that operational effectiveness may be reduced when current certified staffing levels are reduced. The Department shall make every effort to keep nine (9) personnel (3 on each shift) assigned to the team.
- B. Though the Berkeley Fire Fighters Association's position is that the Hazardous Materials Team staffing should remain at its current level of eighteen (18) with adequate funding for equipment and training, we recognize the City's managerial right to reduce staffing due to budget consideration.
- C. We propose that the Department pursue and develop a multi-agency response capability with adjacent municipalities. In addition all remaining team members should be trained to a specialist level.
- D. To reduce the team down to nine (9), the Fire Chief will consider recommendations by the Hazardous Materials Leader and the appropriate staff officers.

2. TEAM OPERATIONAL LEVELS

- A. Guidelines for team operational levels shall be dictated by State regulations.
- B. To keep team staffed a maximum operational levels, the on-duty Battalion Chief shall have the discretion to change personnel assignments as needed. This includes personnel working overtime, trades, etc.
- C. Team members may be drawn from other stations if needed to respond to an incident. The on-duty Battalion Chief shall have this discretion should the need arise.

3. TRAINING

- A. All Hazardous Materials Response training required for certification as Hazardous Materials Specialist must be completed by selected personnel in order to remain on the team. However, the specialist requirement will apply only to those members joining the team after the ratification of this

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agreement. Every effort will be made by the fire administration to upgrade the remaining team members to the specialist level by January 1, 1996.

- B. Team members may be required by City Fire Administration to assist in providing appropriate Hazardous Materials training to other Fire Department personnel. Team members providing training will possess the necessary credentials as required by current State and/or Federal standards for hazardous materials instructors.
- C. Staffing during training shall be in accordance with Section 45 (Staffing and Units in Operations) of the Memorandum of Understanding.

4. **CONDITIONS**

- A. Participation on the Hazardous Materials Response Team will not limit members ability to be eligible for higher class assignments, trades, overtime or vacation scheduling.
- B. The "HAZ-MAT" Team may be required to enforce those sections of the fire code relating to Hazardous Materials and Fire Prevention.

5. **COMPENSATION**

- A. After appointment to the HMRT employees will be compensated for attending hazardous materials training while off duty.
- B. The City will provide Hazardous Materials Specialist Training as needed to maintain a Hazardous Materials Response Team of up to four (4) per shift. Upon successful completion of the required Hazardous Materials Specialist Course, a Hazardous Materials team member, who is regularly assigned, shall receive an additional five percent (5%) to base pay. This Hazardous Materials Response Team differential will be reported to CalPERS as Hazard Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.
- C. This 5% Hazardous Materials Response Team member differential shall become effective the closest pay period following completion of the course. To receive the above compensation, a three (3) year commitment to the team will be required.

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- D. Employees not assigned to the Hazardous Materials Response Team who meet and maintain the Hazardous Materials Team Specialist Training requirements may receive a five percent (5%) higher classification Haz Mat Team differential when there are fewer than four (4) regularly assigned members absent from duty for the hours they are assigned to work temporarily as a substitute member of the Team. If there are two or more individuals that have the Hazardous Materials Specialist Training, priority for this assignment will be given to a person assigned to Station 2, followed by department seniority.
- E. Hazardous Materials Response Team member who fails to complete the Hazardous Materials training will no longer receive the above mentioned compensation and shall be removed from the team.
- F. HMRT members will be assigned to Station 2. Any member who voluntarily changes assignments from Station 2 will be removed from the HMRT. If a member is moved from Station 2 due to departmental need, he/she will be removed from the HMRT.
- G. The Fire Chief reserves the right to reassign personnel from Station 2 in order to assign a HMRT member to Station 2 based on departmental need.

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