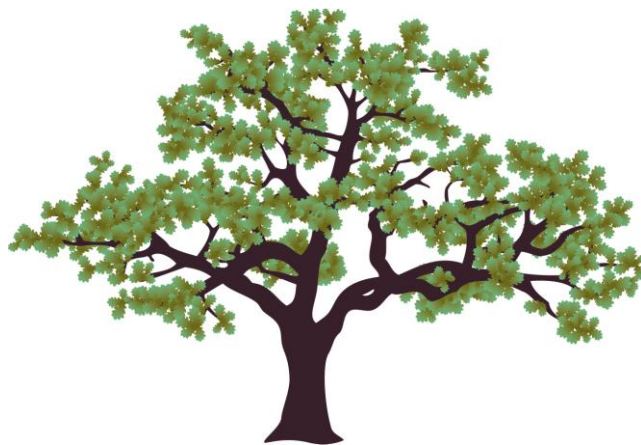


# **Memorandum of Understanding**

## **The City of Thousand Oaks & The Thousand Oaks Management Association**

**July 1, 2015 – June 30, 2017**



## EXHIBIT A

### AGREEMENT BETWEEN THE CITY OF THOUSAND OAKS AND THE THOUSAND OAKS MANAGEMENT ASSOCIATION

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## **ARTICLE 1 – RECOGNITION**

- 101 As provided by the City of Thousand Oaks (hereinafter “City”) Employer-Employee Relations Resolution (hereinafter EERR), the Thousand Oaks Management Association (hereinafter “TOMA”) was certified as the exclusive representative for employees in the Professional Unit.

## **ARTICLE 2 – PURPOSE**

- 201 It is the purpose of this comprehensive Agreement, commonly referred to as a Memorandum of Understanding (MOU), to promote and provide for harmonious relations, cooperation and understanding between the Employer and Employees covered herein, to provide an orderly and equitable means of resolving any misunderstanding or differences which may arise under the Agreement and to set forth the full and entire understanding of the parties reached as a result of meeting and conferring in good faith concerning wages, hours, terms and conditions of employment of the employees covered herein.
- 202 It is agreed that this Agreement shall be binding on the CITY and TOMA upon implementation by the City Council.
- 203 Upon implementation, the Agreement shall supersede any conflicting rule, regulation or ordinance of the City.

## **ARTICLE 3 – TERM**

- 301 The term of this Agreement shall be two years commencing July 1, 2015 and ending June 30, 2017. The specific provisions of the Agreement shall be effective as specified herein.

## **ARTICLE 4 – RENEGOTIATIONS**

- 401 The Parties shall meet no later than March 2017 to begin negotiations on a successor Agreement.

## **ARTICLE 5 – INTEGRATION**

- 501 This document embodies a written memorandum of the entire understanding and mutual agreement of the parties as required by Government Code Section 3505.1 and supersedes previous Memoranda of Understanding and Personnel Rules & Regulations.
- 502 This Agreement is subject to the approval of TOMA members and approval and implementation by the City Council pursuant to said Section 3505.1.

- 503 During the Meet and Confer process that resulted in the Agreement, each party hereto had an unlimited right to make proposals with respect to any subject matter within the scope of representation.
- 504 All terms and conditions of employment included in this Agreement shall remain in full force and effect for the term of this Agreement as particularized herein unless the City and TOMA mutually agree to amend this Agreement; however, neither party hereto shall be obliged to meet and confer during the term hereof except as provided herein.
- 505 Sections in this memo not addressed by either party shall remain in full force and effect when a successor Agreement is entered into.
- 506 The waiver of any breach, term or condition of this Agreement shall not bar future enforcement of all its terms and provisions. In the event of a violation of any part of this Agreement, failure to object to the violation shall not waiver or bar future enforcement of all provisions.

#### **ARTICLE 6 – SEVERABILITY**

- 601 If any provisions of this Agreement are held to be contrary to law by court of competent jurisdiction, or by State or Federal legislation or initiative or referendum, such provisions will not be deemed valid and subsisting except to the extent permitted by law, provided, however, that all other provisions of the Agreement will continue in full force and effect; and the parties to the Agreement will immediately meet and confer upon appropriate substitute provision or provisions.

#### **ARTICLE 7 – NON-DISCRIMINATION**

- 701 In accordance with applicable law, the City and TOMA shall not illegally discriminate against any employee or applicant for employment or Association membership on the basis of race, creed, color, religion, marital status, national origin, sex, gender, gender identity, gender expression, age, military and veteran status, political affiliation, sexual orientation, genetic information, medical condition, disability and/or any other protected classification under applicable law.
- 702 TOMA shall support the City's Equal Employment Opportunity Policy to the extent that it complies with Federal and State rules, regulations and laws enacted to achieve equal opportunities.

#### **ARTICLE 8 – CLASSIFICATIONS COVERED**

- 801 This Agreement shall apply to all professional classifications covered except those designated as Confidential in Resolution 2010-022.

802 Employees covered by the terms of this Agreement shall be those employees in the classifications listed in Section 803 below. Any additional classifications developed during the term of this Agreement and included by the City shall be added to those classifications listed in Section 803. TOMA shall be notified at least five (5) days before final adoption by the City Council when a classification in their unit is developed or eliminated.

803 Classifications for Professional Unit.

- Accountant
- Assistant Analyst
- Assistant Analyst Trainee
- Assistant Human Resources Analyst
- Assistant Planner
- Associate Analyst
- Associate Engineer
- Associate Planner
- Communications & Marketing Associate
- Communications & Marketing Analyst
- Construction Project Coordinator
- Debt and Investment Analyst
- Engineering Assistant
- Engineering Associate
- Environmental Programs Coordinator
- Financial Analyst
- Geographic Information Systems (GIS) Specialist
- GIS Coordinator
- Housing Coordinator
- Information Technology Analyst I
- Information Technology Analyst II
- Information Technology Analyst III
- Internal Auditor
- Land Surveyor Assistant
- Librarian
- Plan Check Assistant
- Plan Check Associate
- Senior Accountant
- Senior Analyst
- Senior Engineer
- Senior Financial Analyst
- Senior Planner
- Treasury Assistant

## **ARTICLE 9 – PURPOSELY LEFT BLANK**

## **ARTICLE 10 – DEFINITIONS**

- 1001 As used in these articles and any rules or policies adopted pursuant to these articles, the following terms shall be defined as follows unless otherwise indicated.
- 1002 **Bereavement Leave** shall mean a process whereby an employee shall be entitled to leave with pay whenever the death of an immediate family member, as defined in Article 32, occurs.
- 1003 **Business Day** is a day when the City Hall is open to the public
- 1004 **Catastrophe** shall mean a severe illness or injury which is expected to incapacitate, or has incapacitated, a full-time or designated part-time employee for an extended period of time and which creates a financial hardship because the employee has exhausted all of his or her accumulated paid leave.
- 1005 **Change of Status** shall mean that employees who are transferred from permanent full-time to designated part-time or vice-versa, will retain their anniversary date for purposes of vacation, annual leave, and/or service award recognition. This provision shall have no retroactive application and shall apply to employees who have been transferred in the past or who are transferred after the effective date of this agreement.
- 1006 **Certification** shall mean the process whereby the Human Resources Director establishes a list of candidates' names who have successfully completed an examination process.
- 1007 **City** shall mean the City of Thousand Oaks, a municipal corporation, and where appropriate herein, "City" refers to City Council, the governing body of said City, or any duly authorized management employee.
- 1008 **City Manager** shall mean the administrative head of the government of the City appointed by and under the direction and control of the City Council.
- 1009 **Classification** shall mean positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title in the application with equity of common standards of selection, promotion, transfer, demotion, and salary.
- 1010 **Classification Plan** shall mean a grouping together of positions into classes, and classes into series.
- 1011 **Classification Series** shall mean a group of classifications of the same general character of work but differing as to level of difficulty and responsibility.

- 1012 **Competitive Service** shall mean all positions of employment in the service of the City, except those specifically excluded by the Thousand Oaks Municipal Code.
- 1013 **Day** shall mean a calendar day unless otherwise stated.
- 1014 **Demotion** shall mean the movement of an employee from one classification to another classification having a lower maximum rate of pay.
- 1015 **Department Head** shall mean an officer of the City designated by the City Manager as responsible for the operations of a City department or his/her designee.
- 1016 **Designated Part-Time (DPT)** shall mean a designated permanent part-time position as being one allocated in the budget and filled with an employee who is scheduled to work a minimum of twenty (20) hours and a maximum of thirty (30) hours a week on an ongoing basis. These positions are allocated as part of the budget process as approved by the City Manager's Office and the City Council.
- 1017 **Discrimination** shall mean any act, practice or course of conduct which constitutes or results in inequality of treatment of any person or group of persons because of race, color, religion, marital status, national origin, sex, gender, gender identity, gender expression, sexual orientation, age, military and veteran status, genetic information, medical condition, disability and/or any other protected classification as defined in applicable State and Federal law.
- 1018 **Dismissal** shall mean separation from service for disciplinary reasons.
- 1019 **Examination** shall mean selection techniques used to measure the relative capacities of the persons applying for positions within the competitive service.
- 1020 **Employment List** shall mean a list of names of persons who may be considered for employment with the City under specified conditions.
- 1021 **Employment Standards** shall mean the experience, educational, physical, medical, licensure, certification, training standards and other requirements and required skill, knowledge, and abilities for a classification as established by the Human Resources Director.
- 1022 **Floating Holiday Pay** shall mean whenever a holiday is observed by the City on a Friday or on a Monday which is an employee's regularly scheduled day off, the employee will be granted an equivalent number of hours of his/her regularly scheduled work day as floating holiday pay.
- 1023 **Full-Time Employee** shall mean any probationary or permanent employee, hired into a budgeted position, who is scheduled to work a 40-hour work week.



- 1024 **Employee** shall be defined, under this Agreement, as those employees who hold positions in classifications which have been included in the Unit represented by TOMA.
- 1025 **Hourly Employee (To Replace Temporary Employee)** shall mean a person employed on a day-to-day basis who is compensated on an hourly basis, and receives no benefits and works less than 1,000 hours in a 12-month period.
- 1026 **Layoff** shall mean the separation of employees from the active work force due to the lack of work, funds, or the abolition of positions by the Council.
- 1027 **Limited Term Position** is one allocated in the budget to meet short-term objectives and may be phased out upon completion of assigned work programs through a particular date. The incumbent will be laid off if the position is eliminated from the City's budget regardless of any Agreement in force.
- 1028 **Management Employee** shall mean any management employee as designated by the Classification Plan. A management employee directs the work of supervisors and/or professionals of a specific Division including several functions or programs as designated by the City.
- 1029 **Miscellaneous Account** shall mean an account in which the employee floating holiday pay, employee time bank hours and DPT in lieu of holiday pay is credited.
- 1030 **Permanent Employee** shall mean an employee hired into a budgeted position for an indefinite period of time and who has successfully completed the probationary period.
- 1031 **Personnel Action Form** shall mean the document approved by the Human Resources Director which is used to make any appointment to, separation from, or any change in the employment status of an employee.
- 1032 **Position** shall mean a group of duties and responsibilities in the competitive service requiring the full-time or part-time employment of one person.
- 1033 **Probationary Employee** shall mean an employee who is serving during his/her probationary period.
- 1034 **Probationary Period** shall mean a working test period during which employees are required to demonstrate their fitness for the positions to which they are appointed by the actual performance of the duties assigned to the positions.
- 1035 **Promotion** shall mean the movement of an employee from one classification to another having a higher maximum rate of pay.

- 1036 **Provisional Appointment** shall mean an appointment of a person who possesses the minimum qualifications established for a particular classification and who has been appointed to a position in that classification in the absence of available candidates.
- 1037 **Provisional Employee** shall mean an employee who has been granted a provisional appointment.
- 1038 **Range Change** shall mean the movement of a classification pay range from one range to another.
- 1039 **Reassignment** shall mean a change within a department of an employee from one position to another position in the same classification or in a comparable classification.
- 1040 **Reclassification** shall mean the reallocation of an individual position or group of positions or group of similar positions to a higher classification, a lower classification, or to another classification at the same level on the basis of substantial changes in such things as the nature, difficulty, and/or responsibility of duties performed in such positions.
- 1041 **Reemployment** shall mean the reappointment of an individual who has been laid off from City employment.
- 1042 **Reinstatement** shall mean the appointment of an individual who held a permanent position and voluntarily resigned from City employment.
- 1043 **Review Date** shall mean the date upon which an employee is due for an employment performance review.
- 1044 **Seniority** shall mean continuous City service, including probationary periods successfully completed. Leaves of absence do not count for length of service.
- 1045 **Supervisory Employee** shall mean any supervisory employee as designated by the classification plan. In addition, a supervisory employee is defined as spending at least 50% of work time providing full supervision typically to three or more employees as designated by the City.
- 1046 **Suspension** shall mean the temporary separation from service of an employee, without pay, for disciplinary purposes.
- 1047 **Termination** shall mean voluntary or involuntary separation of service.
- 1048 **Transfer** shall mean a change between departments of an employee from one position to another position in the same classification or in a comparable classification.

- 1049 **Y-Rate** is a rate that is higher than the top step of a classification occupied by an employee and shall occur when an employee is moved to a different classification where the top step of the new salary classification is lower than the incumbent's regular rate of pay, the incumbent's rate of pay at the time the employee is moved.

#### **ARTICLE 11 – CODE OF ETHICS**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

#### **ARTICLE 12 – RECRUITMENT, SELECTION & CLASSIFICATION**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

#### **ARTICLE 13 – REINSTATEMENT POLICY**

- 1301 An employee who terminates employment in good standing may be reinstated to a vacant position in his/her former job classification within two (2) years of his/her termination date without requalifying for employment by competitive processes.
- 1302 An employee reinstated within thirty (30) days of termination date shall be considered to have continuous service and shall be credited with the amount of accumulated sick leave at the time of termination, be placed in his/her former salary step and shall retain his/her review date for purposes of merit pay increases. If a review date has occurred during the period of absence, the new review date shall be effective the date of the reinstatement.
- 1303 An employee reinstated after thirty (30) days of his/her termination date shall be considered to have a break in service for purposes of salary step status and for all other employee benefits.

#### **ARTICLE 14 – TRANSFER**

- 1401 A transfer from one department to another shall require the approval of the Department Head from which and to which the employee is transferring.
- 1402 Such a transfer shall be initiated by request of the Department Head or the employee, and such requests shall be effectuated if authorized by the Human Resources Director.

- 1403 A transferred employee, as defined in Section 1048 above which include Transfers pursuant to Section 1401 above, shall retain his/her rate of pay and review date for purposes of merit pay increases.

## **ARTICLE 15 – LAYOFF AND REEMPLOYMENT**

- 1501 Layoff and Reemployment Purpose: This article provides a means to determine which employees are to be demoted or laid off when a reduction in force occurs.
- 1502 Definition – Layoff:
- A. A layoff means a separation resulting from lack of work, lack of funds, abolishment of a position, or elimination or reduction in service level as considered necessary by the City.
  - B. A layoff is not disciplinary action.
  - C. A layoff may affect one or more departments and/or classifications as the needs of the City dictate.
  - D. Except as provided herein, the employee holding such a position or employment may be laid off or demoted without the right to appeal.
- 1503 Notice: The Human Resources Director shall send written notice by registered mail to the last known address of each employee affected by a layoff at least fourteen (14) days prior to the effective date of the action or shall be personally delivered to the employee. The notice shall include the:
- A. reason for layoff; and
  - B. effective date of the action; and
  - C. seniority of the employee; and
  - D. an explanation of how the seniority was determined or computed; and
  - E. the conditions governing retention on employment from reemployment lists; and
  - F. articles regarding the waiver of reemployment and voluntary withdrawal from the reemployment list.
- 1504 Employees who are laid off shall receive two weeks of leave with pay.
- 1505 Non-Discrimination in Reduction in Force: Layoffs and demotions which result from a reduction in force shall be made in a manner consistent with Article 7, Non-Discrimination.
- 1506 Order of Layoff: The order of layoff of employees shall be made on the basis of employees' performance in the two years preceding the layoff.
- 1507 In cases where there are two or more permanent employees in the classification from which the layoff is made, the order of layoff shall be based on the last rating in the classification, provided that the last rating has been on file at least one hundred and eighty (180) days before the layoff.

- 1508 If a rating which is on file has been completed within the past one hundred and eighty (180) days for a probationary employee, that employee shall be evaluated as “meets job standards” for purposes of layoff.
- 1509 The order of layoff shall be as follows:
- A. First, all employees having two consecutive overall ratings of “improvement needed: or “unsatisfactory” or a combination of these two overall ratings in the preceding two years shall be laid off first.
  - B. Second, all employees having ratings of “meets job standards” shall then be subject to layoff.
  - C. Finally, all employees having ratings of “exceeds job standards” shall be subject to layoff last.
- 1510 Once employees are categorized into these performance categories, the order of layoff within these categories shall be based on seniority which shall be calculated as follows:
- A. Seniority shall be defined as continuous City service, including probationary periods successfully completed. Leaves of absence do not constitute a break of service, but do not count for length of service. Breaks in service for employees who previously were reinstated in accordance with Article 13, Reinstatement Policy, will be considered for seniority as per that article and section.
  - B. Seniority for designated part-time employees will be defined as a combination of continuous City service as a full-time employee, if any, including probationary periods successfully completed, plus continuous City service as a designated part-time employee, including probationary periods successfully completed.
  - C. The continuous City service as a designated part-time employee will be prorated on the basis of hours actually paid. Designated part-time employees cannot bump full-time employees. Seniority, along with the evaluation on file, will be used to determine the order of layoff and/or bumping rights for designated part-time employees.
- 1511 Exceptions to Layoff Seniority: Whenever the Human Resources Director believes that the best interest of the City requires the retention of employees with special qualifications, characteristics, skills and fitness for the work, the Human Resources Director may prepare a written request to the City Manager to grant an exception to the order of layoff after consultation with representatives of the recognized employee associations.
- 1512 Checkout Upon Layoff, Separation or Termination: Any employee who is laid off, terminated or who separates from the service for any reason shall turn in to his/her supervisor all City-owned equipment, including his/her City identification card and clear with his/her Department Head the disposition of any clothing, tools or other working materials that have been provided to the employee by the City

and complete all exit interviews and forms which may be required by the City Manager.

- 1513 Bumping: The order of bumping shall be determined in the same manner in which a layoff is determined under Sections 1509 and 1510. Employees designated to be laid off may bump in the following order:
- A. First, to any vacant position in the same classification within their department for which they are qualified.
  - B. Second, into any positions of the same classification held by an employee with lesser seniority elsewhere in the department.
  - C. Third, if no such position exists within the Department, employees designated to be laid off may bump into any vacant position in the same classification within the City for which they are qualified.
  - D. Finally, if no such position(s) exists, the employee may bump into the next classification within the same department, provided that the employee has previously held permanent status in such classification with the City, or has held permanent status in the same classification series with the City as determined by the Human Resources Director, is qualified for the position and at least one of the incumbents in the bumped classification has less seniority than the employee exercising bumping privilege.
- 1514 An employee wishing to exercise his/her bumping right must submit a request in writing for such action to the Human Resources Director within five (5) working days of receipt of notice of layoff.
- 1515 Employees bumping to a lower or similar classification shall be placed at the salary step representing the least loss of pay.
- 1516 The employee laid off as a result of a laid off employee's bumping to a lower classification shall receive a written notice of layoff not less than fourteen (14) days prior to the effective date of the layoff.
- 1517 Once an employee has been laid off or bumped the employee shall be considered as "meeting job standards" for purposes of additional bumping or layoff.
- 1518 Reemployment List:
- A. The names of persons laid off or demoted in accordance with these articles shall be entered upon a reemployment list.
  - B. Lists from different departments or at different times for the same classification of position shall be combined into a single list.
  - C. Such list shall be used by the Human Resources Director when a vacancy arises in the same or lower classification of position before certification is made from an eligible list.

1519 Reemployment:

- A. An employee who has been laid off or taken a voluntary demotion in lieu of layoff to a lower class may be reemployed to a vacant position in his/her former job class within two (2) years of the effective date of the voluntary demotion or layoff in the inverse order of an equal combination of the employee's range and step and his/her last two (2) performance evaluations.
- B. An employee reinstated to his/her former job class from a voluntary demotion shall retain his/her rate of pay.
- C. If the rate of pay is not included in the salary schedule of the former job class, the employee shall be placed in the salary step of that salary schedule which is closest to his/her rate of pay.
- D. An employee shall retain the review date for purposes of merit pay increases; however, if placed in the base step of the salary schedule, he/she shall be eligible for a merit pay increase after completing the required amount of service.

1520 Notice of Recall:

- A. Notice of Recall from layoff shall be by Return Receipt – Registered Mail and shall specify the date for reporting to work which shall not be more than fourteen (14) working days from the date the notice is received.
- B. Notice shall be deemed to have been received when sent to the last known address on file with the City and attempted delivery or delivery is certified by the Postal Service.
- C. Upon receiving notice, the person on layoff shall have ten (10) days to accept or decline the recall opportunity.
- D. Eligible persons not responding to written notification of an opening within ten (10) working days may have their names removed from the Reemployment list.

1521 Salary and Benefits on Reemployment: Reemployed employees will regain service status and benefits which were held by the employee on the date of layoff.

1522 Resignation in Lieu of Layoff: An employee who elects to resign in lieu of layoff or demotion, or an employee who voluntarily wishes to resign in lieu of other employees being laid off or demoted, shall be placed on reemployment list for two (2) years if requested by the employee.

1523 Appeal Process: Any employee who is given a notice of layoff due to the existence of two (2) annual consecutive "improvement needed" evaluations on file shall have the right to file a grievance pursuant to Article 52, Grievance Procedure. The Hearing Officer will be selected by the process agreed to by the parties. All steps will be taken to expedite the grievance.

## **ARTICLE 16 – SALARY**

### **1601 Pay for Performance:**

- A. The purpose of the Pay for Performance program is to establish and maintain a compensation program that is externally competitive and internally equitable and that rewards professional employees based on their performance.
- B. Pay for performance will continue for the term of this agreement.
- C. Effective July 4, 2015, employees who receive a performance rating of at least meets standards shall receive a 2.0% salary adjustment. Employees who receive a performance rating of at least meets standards and whose salary, after the 2% salary adjustment, is below the 100% comparatio shall receive an additional 1.0% salary adjustment. Employees whose salary is above the 120% comparatio shall not receive a pay for performance salary adjustment.
- D. Any 2016 pay for performance adjustment shall be based only upon the 2016 evaluation and the merit guide in Section 1604 below. The effective date of any adjustment pursuant to this section shall be July 2, 2016.

### **1602 Policy and Procedure:**

- A. Each year the City Council will establish goals for the ensuing fiscal year.
- B. The goals will be incorporated into and addressed in the annual work objectives established by the Council during budget deliberations
- C. Departments accountable for the work objectives will be identified.

### **1603 Salary Distribution:**

- A. Each employee will have a comparatio computed by dividing his/her current rate of pay by the new midpoint of the salary range.
- B. Each employee's comparatio will fall within one of four sections of the salary range.
- C. The guide will be used to determine employee salary adjustments.
- D. Employees receiving a rating of "inconsistent" on their evaluation are ineligible for any salary increase but shall be re-revaluated after six (6) months. If substantial improvement has been made, and the employee achieves a rating of "proficient" or above, the employee shall receive a pay adjustment for the last half of the fiscal year based upon the merit guide set forth below.

1604 The following Pay for Performance Merit Guide shall be in effect for evaluation purposes only beginning July of 2016 through the end of the term of this Agreement.

**RATING SCALE**

Exceptional	4.0	5.0
Highly Effective	3.0	3.99
Proficient	2.0	2.99
Inconsistent	1.0	1.99



<b>RATING</b>	<b>COMPARATIO</b>			
	<b>80 to 90</b>	<b>90.1 to 100</b>	<b>100.1 to 110</b>	<b>110.1 to 120</b>
<b>5.0</b>	4.0%	3.5%	3.0%	2.5%
<b>4.8</b>	3.9%	3.4%	2.9%	2.4%
<b>4.6</b>	3.8%	3.3%	2.8%	2.3%
<b>4.4</b>	3.7%	3.2%	2.7%	2.2%
<b>4.2</b>	3.6%	3.1%	2.6%	2.1%
<b>4.0</b>	3.5%	3.0%	2.5%	2.0%
<b>3.8</b>	3.4%	2.9%	2.4%	1.9%
<b>3.6</b>	3.3%	2.8%	2.3%	1.8%
<b>3.4</b>	3.2%	2.7%	2.2%	1.7%
<b>3.2</b>	3.1%	2.6%	2.1%	1.6%
<b>3.0</b>	3.0%	2.5%	2.0%	1.5%
<b>2.8</b>	2.9%	2.4%	1.9%	1.4%
<b>2.6</b>	2.8%	2.3%	1.8%	1.3%
<b>2.4</b>	2.7%	2.2%	1.7%	1.2%
<b>2.2</b>	2.6%	2.1%	1.6%	1.1%
<b>2.0</b>	2.5%	2.0%	1.5%	1.0%

1605 Salary Reviews:

There will be a market review-based classification range survey or salary adjustments during the term of the agreement.

1606 Benchmark Survey:

The midpoint of the classification ranges shall be adjusted effective the first pay period in July 2015 as follows: by seven percent to reflect the loss of range capacity which occurred when the City and the employees agreed to implement the employee-paid seven percent CalPERS contribution in the prior MOU; to include market based salary range adjustments to within 1% of the market; and, to include internal equity salary range adjustments.

The City shall periodically collect total compensation market survey data and present such data to the bargaining unit. Typically, such data shall be presented to the bargaining unit every five years, several months prior to commencement of negotiations for a successor Memorandum of Understanding.

1607 General Market Review Methodology:

- A. Benchmark classifications within the Unit shall be surveyed by Human Resources or its agent no later than February in years when a General Market Review is conducted.

- B. The benchmark classes will be compared to classes with similar duties and function within the comparator agencies.
- C. The survey shall ascertain the maximum salary; employer payment of the employee's retirement contribution; and agency contribution to deferred compensation, cafeteria plan, medical plan, dental plan, vision plan, agency normal cost to retirement plan, and Medicare for each of the counterpart classifications. The survey agencies shall include: City of Burbank, City of Camarillo, City of Fullerton, City of Glendale, City of Irvine, City of Orange, City of Oxnard, City of Santa Clarita, City of Santa Monica, City of Simi Valley, City of Torrance, City of Ventura, County of Ventura, Las Virgenes Municipal Water District, and Ventura Regional Sanitation District.
- D. Prior to calculation of the market rate, the agency with the lowest total compensation and the agency with the highest total compensation shall be removed. For the remaining agencies, the market rate shall be the arithmetic mean of the total compensation of the counterpart classifications, as described in subsection C, above.
- E. The tabulated data shall be provided to TOMA and a meeting shall be held between TOMA and the City prior to the adjustment of the classification ranges.

1608 Application of Merit Guide:

An employee's salary shall not change solely due to an adjustment to the salary ranges based on market data, but shall only change based on the application of the merit guide.

1609 PURPOSELY LEFT BLANK

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1611 Compensation Schedule Policy: The City Council shall, by Resolution, establish a wage rate or Compensation Schedule for each classification in the competitive service. The Human Resources Director is responsible for recommending such rates or schedules to the City Council. The wage rate or Compensation Schedule for each class shall reflect fairly the similarities and differences in levels of duties and responsibilities and shall be related to compensation for comparable positions in private and public sector employment in the appropriate labor market.

1612 Salary on Employment: Newly hired employees shall be compensated at the base rate of the salary range of the job classification for which they are hired. When economic conditions, unusual employment conditions or exceptional qualifications of a candidate for employment indicate that a higher hiring rate would be in the City's best interest, the Human Resources Director may authorize hiring at a higher rate in the salary range. The provisions of this section shall also apply to reinstated employees.

- 1613 Salary Ranges: All employees shall be assigned to a salary range consisting of minimum and maximum amount of compensation for that range.
- 1614 Increases in Pay Within the Salary Range: Any pay increase within a salary range is not automatic and may be granted only for continued meritorious and efficient service by the employee in the effective performance of his/her duties.
- 1615 Eligibility for Increase Within the Range: An employee is eligible for consideration of a salary increase as follows:
- A. An initial increase may be granted within the range after six (6) months of service in a classification.
  - B. Unit employees hired or promoted after January 1, 2009, shall be folded into the annual Pay for Performance evaluation/compensation Program, including pro-ration if appropriate, per the following table:

<u>Employment Date*</u>	<u>Participate in Pay for Performance Program Begins</u>	<u>First Year Pro-ration of Eligible Merit Increase</u>
Jan	Jul	100%
Feb	Aug	92%
Mar	Sep	83%
Apr	Oct	75%
May	Nov	67%
Jun	Dec	58%
Jul	Jan	50%
Aug	Feb	42%
Sep	Mar	33%
Oct	Apr	25%
Nov	May	17%
Dec	Jun	8%

\*If employment date is after the 15<sup>th</sup> of the month, the following month's schedule will apply.

- 1616 Exceptional Salary Increases: Any increase in excess of the Merit Guide or any increase granted more frequently than provided for in these articles must be approved in advance by the City Manager.
- 1617 Effective Date of Increase: Salary increases, if granted, shall become effective on the date on the Personnel Action Form.
- 1618 Salary Increases Not Granted: When an employee is not granted a merit increase, the employee may be considered for a salary increase at a subsequent time interval as deemed appropriate by the Department Head. Since any salary increase is not automatic, any withholding, denial or delay in granting such an

increase does not constitute disciplinary action and is not subject to appeal by the employee.

- 1619 Salary on Downward Reclassification: An employee reclassified to a lower job classification for other than disciplinary reasons shall retain his/her rate of pay and the salary review date for purposes of pay increases or shall be placed in a lower salary schedule closest to his/her current rate of pay.
- 1620 Salary on Promotion: An employee who is promoted to a higher job classification shall be placed in a Compensation Schedule that will provide a pay increase of not less than 5%, except when the maximum of the higher salary range provides a lesser pay increase.
- 1621 Appointment above Base Rate:  
When economic conditions, unusual employment conditions or exceptional qualifications of a candidate for promotion or reclassification indicate that a higher pay rate would be in the City's best interest, the Human Resources Director may authorize appointment at a higher salary within the Compensation Schedule.
- 1622 Salary on Upward Reclassification: An employee who is reclassified to a higher job classification shall be placed at a rate of the higher salary schedule that will provide a pay increase of not less than 5%. The employee's review date for purposes of pay increases will remain the same.
- 1623 Salary Range Change: An employee who is reassigned to a higher salary range shall retain his/her current rate of pay. The employee's review date for purposes of pay increases will remain the same.
- 1624 Priority of Increases: When more than one personnel action involving changes in an employee's salary status becomes effective on the same day, all changes shall be in accordance with the provisions of the preceding sections of this article, and shall take place in the following order of precedence: 1) pay advancement or reduction in salary; 2) promotion, demotion, or reclassification; 3) special salary adjustment; 4) general wage adjustment.
- 1625 Leaves of Absence and Salary Increases: Any authorized leave of absence without pay for thirty (30) days or more shall require an adjustment in the employee's review date in an amount equivalent to those days in excess of 30 days. Leave without pay in excess of thirty (30) days will not accrue toward seniority. Merit, review and anniversary dates will be adjusted accordingly.
- 1626 Salary on Involuntary Demotion: An employee who is involuntarily demoted shall receive a reduction in pay of five percent (5%) or to the top of the lower salary range, whichever is lower. The employee shall be given a new salary review date for purposes of merit pay increases. Except, however, employees demoted

pursuant to a layoff who exercise their bumping rights shall be placed at the salary rate representing the least loss of pay.

- 1627 Salary on Voluntary Demotion: An employee who has taken a voluntary demotion to a lower job class may be reinstated to a vacant position in his/her former higher job class within two years of the effective date of the voluntary demotion without requalifying by competitive processes.
- 1628 Reinstatement after Voluntary Demotion: An employee reinstated to his/her former higher job class from a voluntary demotion shall retain their rate of pay. If the rate of pay is not included in the salary schedule of his/her former job class, the employee shall be placed in the salary step of that salary schedule which is closest to his/her rate of pay. The anniversary date shall be retained for purposes of merit pay increases; however, if placed in the base step of the salary schedule, the employee shall be eligible for a merit pay increase after completing the required amount of service according to the Salary Resolution or his/her regular anniversary date, whichever is sooner.

#### **ARTICLE 17 – OUT OF CLASS ASSIGNMENT**

- 1701 When, in the determination of the Department Head and with the approval by the Human Resources Director or designee, it is necessary to specifically assign in writing an employee all of the significant duties of a higher classification for three (3) consecutive workweeks, the employee so assigned shall be compensated at the minimum rate established for the higher call or five percent (5%) above the employee's regular base rate of pay, whichever is greater, with pay effective upon the date of the change of assignment. Under no circumstances shall the employee receive an amount greater than the maximum step of the higher class. For purposes of this Article, the out-of-class workweek shall begin on the day the employee begins the duties of the higher classification, as specified in the written assignment. For an example, see Section 1711 below.
- 1702 This policy shall apply in temporary situations due to:
- A. The vacation, sick leave, annual leave, or other temporary absence of the employee in the higher classification; or
  - B. If the position to be filled is vacant and there is no valid eligible list for the classification. In this case if the Department Head has initiated procedures to fill the vacancy on a permanent basis, may assign an employee to fill that position on a temporary basis. If an eligible list exists for the vacant position, the Department Head may appoint an employee from the eligible list at the earliest possible date.
- 1703 No permanent positions shall be filled by out-of-class appointees for a period longer than sixty (60) days, except when due to special circumstances such as extended leaves of absence or in cases of emergencies as approved by the Human Resources Director.

- 1704 Individuals hired specifically to temporarily fill a position vacancy due to illness, vacation, etc. are also excluded from working out-of-class.
- 1705 Individuals appointed to work out-of-class must meet minimum qualifications of the higher classification, and must be capable of handling major duties of the higher level classification without any more supervision than another would in the same job.
- 1706 The mere performance of certain portions of the higher position or only performing the less difficult parts until the position is filled does not constitute working out of class.
- 1707 When an employee is assigned to work in a higher-level classification that entails moving the employee into a classification represented by an employee unit other than that which represents his/her regular classification, the said employee shall not receive a change in his/her benefits. Similarly, an hourly employee temporarily filling a regular position shall receive no benefits, nor shall he/she be subject to retirement system payments.
- 1708 While working in an out-of-class assignment, an employee shall continue to accrue, and have recorded, normal step increases in the employee's regular position.
- 1709 At the time an employee returns to his/her regular position, his/her salary should reflect the same salary rate he/she had previously, with any merit or salary adjustments added as appropriate. At any time during the out-of-class appointment, an employee may be removed from that appointment without the right of appeal or hearing. Out-of-class appointments may not be made in excess of authorized budgeted funds without approval of the City Manager/City Council.
- 1710 The City shall not rotate employees in and out of higher position classification assignments in order to avoid paying out-of-class compensation.
- 1711 The following is to illustrate the meaning of "three consecutive weeks" as used in this Article. Assume an employee is assigned in writing, as required by Section 1701, to begin an out-of-class assignment starting on August 5, 2008. Then the last day of week one is August 11; the last day of week two is August 18; and the last day of week three is August 25. Therefore, if the employee is still on the out-of-class assignment on August 25, the employee will be paid retroactively to August 5 at the rate specified hereinabove. If the employee continues in the out-of-class assignment past August 25, then the employee shall continue to be paid the additional compensation until the assignment ends, subject to the limitations of Section 1703.

## **ARTICLE 18 – OVERTIME PURPOSELY LEFT BLANK**

## **ARTICLE 19 – ON-CALL PURPOSELY LEFT BLANK**

## **ARTICLE 20 – CALL-OUT PURPOSELY LEFT BLANK**

## **ARTICLE 21 – STAGE WORKER PURPOSELY LEFT BLANK**

## **ARTICLE 22 – NIGHT DIFFERENTIAL PURPOSELY LEFT BLANK**

## **ARTICLE 23 – BILINGUAL PAY**

2301 Permanent employees will be compensated when their position requires the use of bilingual skills according to the following provisions:

- A. The predominate and primary focus of an employee's job must be to use another language to communicate in person or by telephone with members of the public in connection with providing City services.
- B. Or the employee, on a regular ongoing basis, in the course of carrying out his/her normal job duties, must be called upon to use another language in communicating with members of the public.
- C. Or the employee, on a regular basis, must be called upon to provide interpretation or translation for other City employees in connection with performance of official duties of such other employees.
- D. To be eligible to receive this payment requires the recommendation from the Department Head and approval of the Human Resources Director, who shall retain an appropriate individual to determine whether or not an employee is fluent in bilingual communications. The form entitled "Bilingual Pay Request Form" was designed for this purpose and must be completed and approved prior to the completion and submittal of a Personnel Action Form.
- E. Employees shall be compensated \$25.00 bi-weekly.

## **ARTICLE 24 –CELL PHONE STIPEND**

2401 Cell Phone Stipend: If an employee is required by his/her supervisor to use a cell phone and does not accept the City provided cell phone, the employee shall receive a stipend as provided for in the City's Administrative Policies and Procedures regarding cell phones.

## **ARTICLE 25 – WORK SCHEDULES**

2501 Overall policy for work schedules:

- A. This policy provides a uniform set of guidelines relating to work hour schedules as set by the City. Alternate work schedules may be permitted or required of employees in those departments where it will not result in a reduction in the quality or level of service as authorized by the appropriate Department Head and approved by the City Manager.
- B. The City agrees that the normal regular work schedules for full time employees in the competitive service who are based at City Hall shall be eighty (80) work hours per nine (9) days in a two-week period, i.e., every other week, employees will have a Regular Day Off. A Department Head has the discretion to assign the Regular Day Off within the two-week period. The Regular Day Off shall normally be part of three consecutive days, including a weekend.
- C. A Department Head shall only require an employee to involuntarily transfer to a work schedule for good and sufficient business reasons.
- D. An employee may file a grievance pursuant to Article 53, Grievance Procedure, to challenge the business reasons cited by the Department Head.
- E. Time sheets shall reflect 80 hours worked in the pay period unless a full day absence has been taken, or a partial day absence has been taken pursuant to Section 2705 or 2706, either of which should be recorded as Annual Leave.
- F. Time sheets shall be signed by each individual employee.
- G. The work period shall be consistent with the provisions of the Fair Labor Standards Act (FLSA).

2502 9/80 Work Schedule:

- A. Employees permitted or required to work on a 9/80 schedule shall have their work week defined as forty (40) hours each week to comply with the provisions of the Fair Labor Standards Act (FLSA). For all employees working the 9/80 schedule, the workweek shall begin exactly four (4) hours into their eight (8) hour shift on the day of the week which constitutes their alternating regular day off. Regular work hours for the 9/80 schedule will be 9 hours/day.

2503 4/40 Work Schedule:

- A. Employees who work a 4/40 work schedule typically work 10 hours/day for 4 consecutive days. Regular work hours for the 4/40 schedule will be 10 hours/day.

2504 5/40 Work Schedule:

- A. Employees who work a 5/40 work schedule typically work 8 hours/day for 5 consecutive days. Regular work hours for the 5/40 schedule will be 8 hours/day.

2505 Flexible Work Schedules: Consistent with the needs of the City, employees are not necessarily required to work a fixed schedule. Arrival and departure times,



meal and break times, and the length of the work day may vary from time to time as determined by the Department Head. Flexible work schedule (Flextime) permits options for starting and quitting time. Example: Monday – Thursday, 7:00 a.m. – 6:00 p.m.; Monday – Thursday 12:00 noon – 11:00 p.m., etc.; 1 hour or 2 hour lunch break. Over the course of an employee's normal performance evaluation period, the employee shall utilize a combination of work time, annual leave time, holiday time, and/or other City authorized leave time equal to an average of 80 hours per pay period.

- 2506 Accounting of Work Hours: The reporting of the use of annual leave should normally be in increments of one full work day. Any part-time absences of less than an employee's full regular work day may be charged against the employee's paid annual leave account pursuant to Section 2705 or 2706 below.
- 2507 Pay Days: Regular salaries and compensation of all City employees shall be paid on a bi-weekly basis. All current and newly hired employees shall participate in direct deposit. The pay period is fourteen (14) calendar days. Payroll summaries shall normally be distributed on the following Friday. Effective in July 2015, paydays shall occur every other Friday. If paydays fall on a holiday, payroll summaries shall normally be distributed on the preceding day. If operational factors necessitate a delay in this normal schedule, payroll summaries shall be distributed as soon as possible.
- 2508 Lunch & Breaks: All employees shall regularly take at least a ½-hour lunch break. Two breaks are available to be taken, one at mid-morning and one at mid-afternoon per department scheduling policies. The work day hours shall not be reduced by break time not being taken. Lunch and breaks cannot be accumulated toward time worked. The rest period and lunch break shall not interfere with the completion of regular or emergency work. If approved in advance by the Department Head or designee, employees may be allowed or required on infrequent occasions due to special circumstances to work through their lunch break and have their work day hours for that day only adjusted accordingly.
- 2509 Modification of Schedule: Per the staffing requirements as determined by the Department Head, arrival and departure times, meal and break times, length of work day, and number of work days and work hours in any given pay period may vary from time to time as determined and authorized by the Department Head.
- 2510 Provision of Meals: If an employee is required to remain at work for at least two hours following the close of his or her regular work shift for the purpose of performing emergency work, the City shall provide the employee with an adequate meal. If an employee is called at home and asked to return to work to perform emergency work, the City shall provide the employee with an adequate meal at four-hour intervals during the performance of such work. The City shall not provide meals before, during or after any work which is scheduled in advance

or performed at the discretion of the employee except as approved by the Department Head.

## **ARTICLE 26 – HOLIDAYS**

2601 Recognized Holidays: The following days shall be recognized as holidays for permanent and probationary employees:

- A. January 1<sup>st</sup>, New Year's Day
- B. Third Monday in January, Martin Luther King's Birthday
- C. Third Monday in February, President's Day
- D. Last Monday in May, Memorial Day
- E. July 4<sup>th</sup>, Independence Day
- F. First Monday in September, Labor Day
- G. November 11<sup>th</sup>, Veteran's Day
- H. Fourth Thursday in November, Thanksgiving Day
- I. November, Friday after Thanksgiving
- J. December 24<sup>th</sup>, Christmas Eve<sup>1</sup>
- K. December 25<sup>th</sup>, Christmas Day

<sup>1</sup> December 24<sup>th</sup>, Christmas Eve, at 1:00 p.m. when Christmas falls on a Tuesday through Saturday.

2602 And every day appointed by the President, Governor, or City Council for a public feast, Thanksgiving, holiday or in memoriam when specifically authorized by the City Council.

2603 Except for December 24<sup>th</sup>, Christmas Eve, whenever any of the above listed holidays falls on a Sunday, the holiday shall be observed by the City on the following Monday. Whenever any of the above listed holidays fall on a Saturday, the preceding Friday shall be observed by the City as a holiday. As to the Library, the City shall have the ability to schedule closures in the Library on the day of the actual holiday.

2604 Except for December 24<sup>th</sup>, Christmas Eve, whenever any of the above listed holidays is observed by the City on a Friday or on a Monday which is an employee's regularly scheduled day off, the employee will be granted an equivalent number of hours of his/her regularly scheduled work day as floating holiday pay.

2605 Total Holiday Hours for Full-Time Employees: It is the intent of this Article to grant all employees, regardless of their work schedule, one hundred hours of holiday pay each calendar year. If the application of this Article results in an employee utilizing less than one hundred hours <sup>2</sup> of holiday pay, the difference between the holiday hours actually used and the one hundred hours <sup>2</sup> shall be credited to the employee's holiday hours account. Holiday hours shall be used in the calendar year in which they are earned, and shall have no cash value. In the event an employee has not used all of their holiday hours by the end of the

calendar year, employees will be able to carry over no more than 40 holiday hours into the following calendar year.

<sup>2</sup> For years in which the December 24<sup>th</sup> holiday applies, the total shall be 104 hours.

2606 Additional Holiday Hours/Full-Time Employees on Alternate Work Schedules: To grant all employees the same number of holiday hours each calendar year, employees who are assigned to a 9/80 work schedule shall receive an additional ten hours of holiday pay <sup>3</sup>. Employees assigned to a 5/40 work schedule shall receive an additional twenty hours of holiday pay <sup>4</sup>. Such additional hours shall be credited to the employee's holiday hours account in hourly increments in the pay period that includes the recognized holiday.

<sup>3</sup> For years in which December 24<sup>th</sup> holiday applies, the total shall be 14 hours.

<sup>4</sup> For years in which December 24<sup>th</sup> holiday applies, the total shall be 24 hours.

2607 Work on a Non-Scheduled Day: Employees who are required to work on any of the aforementioned holidays, or days observed in lieu of those holidays, shall have the right to take a day off in lieu of the holiday or observed day during the pay period in which the holiday or observed day occurs or the next pay period if the holiday or observed day occurs during the second week of the pay period.

2608 Eligibility for Holiday Pay: To be eligible for holiday pay, an employee must be at work or on authorized paid leave of absence on the regularly scheduled workday immediately preceding the holiday or day observed in lieu of the holiday and the regularly scheduled workday immediately following the holiday or day observed in lieu of the holiday. No employee who is on suspension or unpaid leave of absence on either the regularly scheduled workday immediately preceding or immediately following the holiday or day observed in lieu of the holiday shall receive compensation for said holiday or day observed in lieu of the holiday.

2609 Holiday Closure:

- A. The City shall have a holiday closure at the City Hall Facility and Municipal Services Center, with minimal holiday staffing at Libraries and the Hill Canyon Treatment Plant between December 26 and December 31 each year.
- B. Employees not specifically required to work shall use accrued Annual or Miscellaneous Leave, or may use Leave Without Pay during this closure.
- C. Employees who experience a significant financial hardship due to leave banks that have been depleted due to emergency use may be accommodated through meetings with the Human Resources Department and their bargaining unit representative.

2610 Miscellaneous Leave Account

Effective July 1, 2015, employees may continue to use any existing time in their miscellaneous leave account, but no additional time will be added to the miscellaneous leave account.

## **ARTICLE 27 – ANNUAL LEAVE**

2701 Policy: In lieu of vacation time or sick time, permanent and probationary employees shall receive annual leave time. Some of the appropriate uses of this leave time include the following:

- A. To provide recuperation time for an employee incapacitated due to illness, injury, or other medical disability;
- B. To allow for the quarantine of an employee exposed to a contagious disease which results in the enforced quarantine of an employee in accordance with public health regulations;
- C. To attend to the immediate health needs of family members;
- D. For attending medical or dental office appointments;
- E. To enable employees to conduct important personal business during normal working hours;
- F. To provide time for periods of rest and relaxation; or
- G. In other instances consistent with all existing Rules and Regulation as authorized by the employee's Department Head or representative.

2702 Employees are encouraged to accrue annual leave balance as a protection against the adverse affects of short- or long-term absences due to a major illness or injury.

2703 Annual Leave Schedule:

- A. Annual leave time will accrue on a bi-weekly basis for twenty-six (26) pay periods a year.
- B. Each permanent and probationary full-time employee shall have annual leave time accrue for each pay period starting from the first day of probationary appointment.
- C. Accrual rates are based on years of service.
- D. Annual leave accruals rates shall be:

<u>Annual Hours</u>	<u>Biweekly Hours</u>	<u>Accrual Period for Years of Continuous Service</u>
190	7.308	From the beginning of the employee's employment up to the last day of the employee's third year of continuous service (0-3)
230	8.846	Beginning of the employee's fourth year of continuous service to last day of the employee's eighth year of continuous service (4-8)
254	9.769	Beginning of the employee's ninth year of continuous service to last day of the employee's thirteenth year of continuous service (9-13)
270	10.385	Beginning of the employee's fourteenth year of continuous service to last day of the employee's seventeenth year of continuous service (14-17)
290	11.154	Beginning of the employee's eighteenth year of continuous service to last day of the employee's twenty-second year of continuous service (18-22)

306	11.769	Beginning of the employee's twenty-third year of continuous service to the last day of the employee's twenty-eighth year of continuous service (23-28)
322	12.385	Beginning of the employee's twenty-ninth year of continuous service up to the last day of continuous service (29+)

2704 Purposely left blank.

2705 Annual Leave Usage: Paid annual leave shall continue to accrue in accordance with the provisions of Section 2703 during any authorized period of leave with pay. All annual leave shall be scheduled and taken in accordance with the best interest of the City and the department or division in which the employee is employed. Effective July 1, 2015, the maximum amount of annual leave that may be accrued shall not exceed one thousand, and forty (1040) hours.

Effective July 1, 2015, any employee with accruals in excess of 960 hours shall have hours in excess of 960 hours put in a separate 2017 one-time annual leave bank. There will be no conditions related to the usage and/or cash out of annual leave from this 2017 one-time annual leave bank (the cash-out limits provided for in Section 2710 shall not apply to any such cash out(s)). By the last pay period in June 2016, the one-time bank must be reduced by 50%, or the remaining balance of 50% will be cashed out. Effective the last pay date in June, 2017, any remaining hours shall be cashed out, and the employee will either receive the payment in cash or place the cashed out amount into deferred compensation.

In no case shall said employees be allowed to again accumulate in excess of one thousand and forty (1040) hours of annual leave.

2706 Reporting Annual Leave: The reporting of the use of annual leave should normally be in increments of full work days, except that an employee shall be required to report an absence of less than a full day for time taken off on either Christmas Eve or New Year's Eve or for time taken for regularly scheduled or recurring personal appointments. Also, the City may require an employee to report an absence of less than a full day for other days if the employee is not complying with the provisions of Section 2505 above, but only after written warning to the employee concerning the non-compliance.

2707 Family Illness-Related Usage: An employee, with the approval of his/her Department Head or representative, may be allowed to use annual leave whenever an illness occurs to a member of the employee's immediate family. For the purposes of this section, immediate family shall include mother, father, brother, sister, spouse, child, domestic partner, child of domestic partner, or parent of a spouse, or a member of the employee's immediate household. For the purpose of this section, illness shall be defined as a situation in that the injured or ill family member requires immediate personal attention by the employee. Employees are expected to make suitable arrangements for the care

of the injured or ill family member as soon as practical following the actual illness or injury.

- 2708 Holidays Occurring While Using Annual Leave Time: In the event that any recognized holiday occurs concurrent with any full-time employee's use of annual leave time, the holiday shall not be charged against the employee's accrued annual leave. The only annual leave days that shall be charged against an employee's accrued annual leave shall be those days that the employee would have been regularly scheduled to work during the annual leave period.
- 2709 Physician's Certificate: An employee absent on unscheduled annual leave in excess of three (3) consecutive working days due to illness or injury, may be required by his/her Department Head to submit a written statement by a physician certifying that the employee's condition prevented the employee from performing his/her duties. The Department Head may also require a written statement that such employee is able to resume his/her normal duties.
- 2710 Annual Leave Cash-out: Employees may elect to receive cash equal to the employee's daily base wage for 8 hours minimum to 200 hours maximum of annual leave accrued but not taken providing the following conditions are met:
- A. The employee has taken or is scheduled to take at least 80 hours of annual and/or miscellaneous leave during the current calendar year, in which case the employee may cash out a maximum of 100 hours; for employees who have taken or are scheduled to take an additional 40 hours of annual and/or miscellaneous leave during the current calendar year, the employee may cash out up to the maximum of 200 hours; and
  - B. The employee will still have a minimum of 180 hours of accrued annual leave after cashing out of these days and after all scheduled annual leave has been taken during the current calendar year; and
  - C. The employee may cash out annual leave no more than twice during the current calendar year; and
  - D. The employee has taken off the required annual leave time during the time periods set forth herein.
  - E. In calculating the hours of leave taken in subsection A, above, employee donations of leave for purposes of catastrophic illness or injury shall be included.
- 2711 Payment on Separation: Upon termination, an employee shall be compensated by check at his/her current rate of pay for any annual leave or miscellaneous leave accrued but not used.

## **ARTICLE 28 – SICK LEAVE**

### **2801 Prior Sick Time Accruals**

- A. Employees shall retain all existing sick leave hours accrued prior to the approval of this Agreement or prior to promotion to a classification represented under this Agreement.
- B. Although sick leave will no longer continue to accrue for employees, an employee's sick leave balance will be available for use in the event of an illness or injury per Section 2701, Sub-sections A through D, after the employee has used 40 consecutive hours of annual leave time for such illness or injury.

**2802 Annual Cash Out**

- A. Employees who have current credit for at least 200 hours of sick leave are eligible to convert unused sick leave to cash at the rate of 50% for each hour not used between 1 to 48 hours during a calendar year.
- B. Employees must elect this choice in writing and do so no more than one time per Calendar year no later than March 31.
- C. If an employee elects this cash-out, the employee shall receive the full amount that he/she is eligible for.
- D. Once a cash-out is made it cannot be returned to the City.
- E. An employee who receives a cash-out shall have their sick leave hours reduced by the number of hours that are cashed-out.

**2803 Separation from the City:**

- A. There is no payoff for sick leave upon separation from the City.
- B. All unused sick leave still on the books at the time an employee retires shall be credited 100% towards PERS retirement.

**ARTICLE 29 – MATERNITY LEAVE**

- 2901 Disabilities caused or contributed to by pregnancy, childbirth or related medical conditions, for all job-related purposes, shall be treated the same as non-service related disabilities caused or contributed to by other medical conditions, under any disability insurance or sick leave plan available in connection with employment.
- 2902 Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other such disabilities.
- 2903 The basic principle is that female employees affected by pregnancy and related conditions be treated the same as other job applicants and employees on the basis of their ability or inability to work. Leave under this Section will be deducted from the employee's Family and Medical Leave Act (FMLA) allotment.

- 2904 Maternity Leave: An employee whose attending physician has certified that she is physically incapacitated from performing her duties due to pregnancy or childbirth is eligible for leave from her job.
- 2905 An employee requesting maternity leave shall submit, in writing, her intent to take leave and in the following order (e.g. sick leave, compensatory time, vacation, leave without pay).
- 2906 The leave request shall indicate whether the employee intends to return to work.
- 2907 The request for maternity leave shall be submitted to the Department Head and the Human Resources Director and be accompanied by the statement from the attending physician. A Personnel Action form shall be issued which indicates the probable length of time of the leave and a leave of absence form.
- 2908 In most cases, the length of time for maternity leave should not exceed four (4) months from last day worked. However, more or less time maybe appropriated depending upon the physical condition of the employee. The form and length of time of leave shall conform to the rules and regulations of this Agreement that deal with the particular forms of leave, e.g., sick leave, vacation, leave without pay.
- 2909 Leave under this article is granted according to the health of the female employee. Leave for purposes of child care after the employee is medically able to return to work shall be granted to the employee on the same basis as leave for other non-medical reasons.
- 2910 The City will continue to maintain and pay the premiums for health insurance coverage for up to four months while the employee is out on maternity leave. The employee is responsible for paying the costs she had previously authorized towards premiums. If the employee does not return to work following maternity leave, the City may recover premiums it paid to maintain health insurance coverage unless:
- A. The employee's inability to return to work is due to the continuation, recurrence, or onset of a health condition that entitles the employee to pregnancy disability leave, unless the employee chooses not to return to work following the leave;
  - B. The employee has non-pregnancy related medical conditions requiring further leave, unless the employee chooses not to return to work following the leave; or
  - C. There are other circumstances beyond the control of the employee.
- 2911 Upon the expiration of the maternity leave, the employee will be reinstated to her original or equivalent position, so long as it was not eliminated for a legitimate business reason during the leave.



## **ARTICLE 30 – FAMILY LEAVE AND MEDICAL LEAVE**

- 3001 Employees who can demonstrate the need to take time off to care for a newborn, adopted child, or foster child, or to tend to the needs of a seriously ill child, spouse, or parent with a serious health condition, or an employee who is unable to work because of a serious health condition are eligible to request a leave without pay from their job. Employees who can demonstrate the need to take time off to care for a spouse, son, daughter, parent, or next of kin who is a covered servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or aggravated by service in the line of duty on active duty (“military caregiver leave”) are also eligible to request a leave without pay from their job. Eligible employees with a spouse, son, daughter, or parent on covered active duty or call to active duty status in the Armed Forces, including the National Guard or Reserves, may also use their 12-week leave entitlement to address certain “qualifying exigencies.” Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment reintegration briefings, and arranging for parental care.
- 3002 “Eligible employee” is defined as an employee who has worked for the City for at least 12 months and for at least 1250 hours during the 12-month period before the leave.
- 3003 For purposes of this policy, “child” includes a biological, adopted, or foster child, a stepchild, a legal ward, a child of a domestic partner or a child who is either under age 18, or an adult dependent child.
- 3004 “Spouse” is defined in accordance with applicable state law, including common marriages and domestic partner where recognized by the State.
- 3005 “Parent” includes biological, foster, or adoptive parent, a step-parent, or legal guardian.
- 3006 A “serious health condition” means an illness, injury impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of the treatment or supervision and involves either: 1) Inpatient care in a hospital, hospice, or residential health care facility; or 2) Continuing treatment or continuing supervision by a health care provider.
- 3007 The length of leave shall not exceed 12 weeks in a rolling 12-month period, unless the employer and employee agree otherwise. The length of leave for military caregiver leave shall not exceed 26 weeks in a 12-month period.
- 3008 An employee shall submit in writing his/her intent to take such leave.

- 3009 If an employee's need for family care leave is foreseeable, employees are required to provide reasonable advanced notice of the need for the leave and make a reasonable effort to schedule the treatment or supervision to avoid disruption to the operations of the City.
- 3010 The City may require certification from the health care provider of the individual requiring care. Such certification shall include a statement that the condition warrants participation of a family member, and an estimate of the amount of time the employee needs to care for the individual. If an employee requests leave because of a qualifying exigency, the City may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military.
- 3011 Employees on unpaid family leave continue to be eligible for health plans and the same benefits as others on a personal leave without pay.
- 3012 Insurance Coverage: The City shall continue to pay the premiums for employee health, dental, vision, life, and disability insurance previously paid for by the City for the period covered under this article. The employee is responsible for paying the costs he/she had previously authorized towards premiums. Any City payment of premiums and coverage beyond that time will be the responsibility of the employee.
- 3013 Nothing herein in any way limits the rights of the City to increase, decrease, change or delete any benefit of any group insurance plans it provides to its current employees. Employees who are on a leave without pay may or may not continue under any new or revised plan subject to the carrier's or provider's approval.
- 3014 Benefits: Except to the extent provided under Sections 3012 and 3013, an employee on Family Leave shall receive no compensation and shall accumulate no annual leave, or other paid leave, except when in a paid status. Any authorized leave of absence without pay for 30 days or more shall require an adjustment in the employee's review date in an amount equivalent to those days in excess of 30 days. Leave without pay in excess of 30 days will not accrue toward seniority. Merit, review and anniversary dates will be adjusted accordingly.
- 3015 Return from Leave: Employees who take Family Leave shall be entitled, on return from leave, to be restored to the position of employment held by the employee when the leave commenced or be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

## **ARTICLE 31 – INDUSTRIAL ACCIDENT LEAVE**

- 3101 Defined: In the event that any employee is absent from work as a result of any injury of disease which comes under the Workers' Compensation Act, such absence shall be considered to be industrial accident leave. Industrial accident leave shall be noted on the employee's time sheet.
- 3102 Compensation While on Industrial Leave: Any employee on industrial accident leave shall continue to be considered employed at regular base rate to the extent provided for in this article. Pursuant to the City's workers' compensation insurance program, payments received by or to which the employee is entitled in accordance with the aforementioned Act shall be remitted to the Finance Department as a condition for the benefits due the employee under this article.
- 3103 Length of Leave: Industrial accident leave shall begin the first day of such absence as defined in Section 3101 and shall continue for a total of not more than 173 hours.
- A. In the event that an employee who has returned to duty from industrial accident leave is subsequently absent from work as a result of the same injury or disease, such absence shall be considered to be part of the original industrial accident leave.
  - B. Industrial accident leave benefits provided by this article shall apply to each unrelated injury or disease as defined in Section 3101.
- 3104 Annual Leave: No employee shall have accrued sick leave or annual leave deducted while on industrial accident leave of 173 hours. Annual leave shall continue to accrue for any employee on industrial accident leave in accordance with the provisions of Article 27, Annual Leave.
- 3105 Filing of Report: All injuries sustained in the course of employment shall be reported at once to the employee's supervisor who shall notify his/her supervisor and file a written accident investigation report to the appropriate Department Head. When applicable, the Department Head shall file a completed Workers' Compensation claim with the Human Resources Director. The Human Resources Director shall review and sign the Workers' Compensation claim and submit it for processing with the City's third party administrator.

## **ARTICLE 32 – BEREAVEMENT LEAVE**

- 3201 Any use of bereavement leave requires notification of the Department Head. Employees shall be entitled to three (3) working days leave with pay whenever the death of their immediate family member occurs. Immediate family for purposes of this article is defined to include the following: employee's mother, father, brother, sister, spouse, children; parent, grandparent, grandchild or child of spouse; former legal guardian, grandmother, grandfather, or grandchild, sister-in-law, brother-in-law, daughter-in-law, son-in-law, domestic partner or immediate household member.

3202 Any authorized leave necessary in excess of three (3) days leave without pay shall be chargeable to sick leave or annual leave, in that order, as approved by the Department Head.

3203 Employees shall be entitled to five (5) working days leave with pay whenever the death of an immediate family member necessitates traveling out of state or the country.

#### **ARTICLE 33 – MILITARY DUTY LEAVE**

3301 City policy relating to military leave, the extent of compensation and other benefits, while on such leave shall be in accordance with City Council Resolution 2001-180 and with the provisions of all Federal and State laws.

3302 Employees entitled to military leave shall give their Department Head an opportunity within the limits of military regulations to determine when such leave shall be taken.

3303 Active Military Duty commences when the employee has expired all the compensation provided for in the Military and Veterans' Code of the State of California.

#### **ARTICLE 34 – CATASTROPHIC LEAVE POLICY**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

#### **ARTICLE 35 – JURY AND WITNESS DUTY POLICY**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

#### **ARTICLE 36 – PERSONAL COURT APPEARANCE**

3601 A full-time employee necessarily absent from work in response to a subpoena or other official order from a law enforcement agency to testify as a witness in cases where the employee is not a party or a real part in interest to the proceeding, but is testifying as a result of observations made in the course and scope of City employment may receive regular compensation pursuant to Article 35 Jury and Witness Duty Policy.

3602 Employees who are required to serve as such witness shall receive approval in advance by the Human Resources Director.

## **ARTICLE 37 – LEAVE OF ABSENCE POLICY**

3701 An employee who is authorized to be absent from work and who is not on an authorized leave with pay shall be on leave without pay.

3702 Any leave of absence, with or without pay, shall not exceed three (3) months except as provided in Article 29, Maternity Leave and Article 30, Family and Medical Leave. Should an employee request leave beyond three (3) months, approval will be at the discretion of the City Manager.

3703 **Leave of Absence Statement:**

- A. An employee who has a compelling need to be absent from work and who is not eligible for leave with pay may request to be placed on leave without pay.
- B. Before requesting leave without pay, an employee must have first exhausted his/her compensatory time, vacation leave, and sick leave if leave is for illness or injury.
- C. Leave without pay for a period not to exceed one week may be granted by the employee's Department Head.
- D. Leave without pay in excess of one week shall require the approval of the employee's Department Head and the Human Resources Director.
- E. Under special circumstances and with the prior approval of their Department Head and the Human Resources Director, employees may be granted a leave without pay while not first exhausting their annual leave accruals.

3704 **Leave of Absence Procedure:**

- A. It is the responsibility of the employee to submit a written request for a leave of absence two weeks before such leave would begin stating the reason for the request, the date such leave will begin, and the duration of the leave.
- B. A "Leave of Absence Request" form and a "Personnel Action Form" must also be completed by the employee.
- C. Failure of an employee to apply for leave of absence and complete all necessary forms will be considered to be absent without leave, and all City-paid benefits will be terminated.

3705 **Absence Without Leave:**

- A. Any unauthorized absence of an employee from duty shall be deemed to be absent without pay and may be cause for disciplinary action.
- B. Failure to report for work or call in for three (3) consecutive workdays shall be considered a voluntary resignation.
- C. Employee may appeal the voluntary resignation under the provision of Article 50 of this Agreement.

3706 Refusal of Leave of Absence:

The Human Resources Director or the City Manager shall refuse a leave of absence request if such a leave is contrary to the good of the City or where there is no probability of the employee's return to work.

3707 Insurance Coverage:

- A. In the event that leave without pay is granted for an employee for reasons of illness or physical incapacity due to illness or injury, the City shall continue to pay the premiums for employee health, dental, vision, life, and disability insurance previously paid for by the City for a period not to exceed three (3) months, except where otherwise provided in this Agreement.
- B. The employee is responsible for paying the costs he/she had previously authorized towards premiums.
- C. Any City payment of premiums and coverage beyond three (3) months will be the responsibility of the employee, except where otherwise provided in this Agreement.
- D. In the event that leave without pay is granted to an employee for personal reasons any City payment of premiums for health, dental, vision, life, and disability insurances will be the responsibility of the employee.
- E. Nothing herein in any way limits the rights of the City to increase, decrease, change or delete any benefit of any group insurance plans it provides to its current employees.
- F. Employees who are on a leave without pay may or may not continue under any new or revised plan subject to the carrier's or provider's approval.
- G. Any failure of the employee to pay his/her portion of the premiums as prescribed by the MOU shall result in termination of coverage.

3708 Benefits:

- A. Except to the extent provided under Sections 3703 and 3707 above, an employee on leave without pay shall receive no compensation and shall accumulate no annual leave, sick leave or other paid leave.
- B. Any authorized leave of absence without pay for 30 days or more shall require an adjustment in the employee's review date in an amount equivalent to those days in excess of 30 days.
- C. Leave without pay in excess of 30 days will not accrue toward seniority.
- D. Merit, review and anniversary dates will be adjusted accordingly.

3709 Other Deductions:

- A. An employee who is on leave without pay shall be responsible for directly paying any agency for any payroll deductions that he/she has authorized.
- B. In the event an employee is placed on leave without pay for disciplinary purposes, the City shall continue to pay premiums previously paid by the City.

- C. It will be the responsibility of the employee to provide the City with an advance payment to cover the total cost of all premiums for the benefits the employee wants continued during the absence without pay leave period.

3710 Return from Leave:

Employees who take leave shall be entitled, on return from leave, to be restored to the position of employment held by the employee when the leave commenced or be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

**ARTICLE 38 – CIVIL DEFENSE LEAVE**

3801 As provided for in Government Code 3100, Civil Defense is a responsibility of all employees of the City.

3802 Upon recommendation of the City Manager and adoption of a Resolution by the City Council, employees whose absence from work arises out of or is due to such civil defense may be authorized by the Council for a leave with pay during the time of the civil defense as specified in the Resolution adopted by the Council.

**ARTICLE 39– SAFETY SHOES**

3901 Employees who are required to wear steel-toed safety shoes will receive \$200 toward the purchase and/or replacement of these shoes in the first quarter of each year. Any employee out on an authorized leave shall receive payment within thirty days of their return to paid duty.

**ARTICLE 40 – UNIFORMS**

4001 Designated personnel as determined by the Human Resources Director shall be furnished uniforms in accordance with regulations established by the Human Resource Director.

**ARTICLE 41 – HEALTH AND CAFETERIA PLAN**

- 4101 A. The City contracts with the California Public Employees Retirement System for participation under the Public Employees Medical and Hospital Care Act, for the purpose of providing medical insurance benefits for employees and qualifying annuitants.
- B. The City's maximum contribution for eligible employees for a Health Benefits Plan shall not exceed \$435 per month.
- C. For TOMA members employed by the City as a full-time or designated part-time employee prior to July 1, 2013 and who retire under the City's

retirement, the maximum City contribution toward health plan coverage shall be \$435 per month.

- 4102 A. The City shall maintain in accordance with Section 125 of the IRS Code, a Cafeteria Plan, for the purpose of providing employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include but are not limited to:
- Group Health Plan Medical Premiums
  - Flexible Spending Account for Dependent Care
  - Flexible Spending Account for Medical Expenses
  - Voluntary Optional Life Insurance Premiums
  - Voluntary Optional Critical Illness and Cancer Insurance Premiums
- B. Effective January 1, 2014 the City's contribution to the Cafeteria Plan per each full-time and designated part-time eligible employee shall be \$560 per month.  
Effective January 1, 2016, the City's contribution to the Cafeteria Plan per each full-time and designated part-time eligible employee shall be \$620 per month.  
Effective January 1, 2017, the City's contribution to the Cafeteria Plan per each full-time and designated part-time eligible employee shall be \$680 per month.
- C. Effective January 1, 2016, eligible employees who opt out or do not fully utilize the City's \$435 per month contribution toward health benefits and /or the City's Cafeteria Plan contribution of \$620 per month will receive cash-back of unused premiums to a maximum of \$700 per month. That is, if the employee's combined utilization of the \$435 Health Benefit Contribution plus the City's Cafeteria Plan contribution of \$620 is less than \$700, then the difference between the employee utilization and the \$700 is eligible for cash-back. If the employee's combined utilization exceeds \$700, then there shall be no cash-back.
- D. Effective January 1, 2017, eligible employees who opt out or do not fully utilize the City's \$435 per month contribution toward health benefits and/or the City's Cafeteria Plan contribution of \$680 per month will receive cash-back of unused premiums to a maximum of \$700 per month. That is, if the employee's combined utilization of the \$435 Health Benefit Contribution plus the City's Cafeteria Plan contribution of \$680 is less than \$700, then the difference between the employee utilization and the \$700 is eligible for cash-back. If the employee's combined utilization exceeds \$700, then there shall be no cash-back.
- 4103 During the term of this Agreement, the City will pay 100% of any increased dental insurance premiums for employees and dependents.



- 4104 The City will pay 100% of the increased premiums for vision insurance for employees and dependents, life insurance (\$100,000) and long-term disability with no opt out or cash back provisions.
- 4105 The core benefit for Long Term Disability (LTD) is 66 2/3%.
- 4106 The monthly administrative fee for an employee to be enrolled in the Section 125 plan will be paid for by the City.
- 4107 Employees may elect to be covered by additional (optional) life insurance. Employees shall pay the full amount for premium costs for any additional (optional) life insurance they may elect to receive.
- 4108 The City will pay the full costs of the Employee Assistance Program for employees and dependents.
- 4109 Domestic partners and their children are included in the definition of dependents for the purposes of this Section.

#### **ARTICLE 42 – RETIREMENT**

- 4201 The City shall contract with the Public Employees' Retirement System (PERS) to provide Section 21258.4 for classic members (2% at 55).
- 4202 The City shall contract with PERS to provide a benefit commonly referred to as single highest year for classic members (Section 20042).
- 4203 The City shall contract with PERS to provide the "Fourth Level of 1959 Survivor Benefits".
- 4204 The City shall contract with PERS to provide Section 21024 (Military Service Credit as Public Service) with continuous active military or merchant marine service time prior to employment with the City.
- 4205 The City shall contract with PERS to provide Sections 21551 and 21635 regarding survivor benefits from retirement, even if the spouse remarries.
- 4206 The City shall contract with PERS to provide that sick leave not taken or cashed out will be credited at 100% on retirement when calculating an employee's total years of service credit upon retirement from the City.
- 4207 A. Classic members shall pay 7.0% of the employees' normal contribution to PERS. Classic members are those employees who do not meet the definition of "new member" under the California Public Employees' Pension Reform Act of 2013. All such employee contributions toward

employee cost of retirement will be made on a pre-tax basis in accordance with Section 414(h)(2) of the Internal Revenue Code.

- B. The City shall pay the employer cost in accordance with the provisions of the contract between the City and PERS.

4208 PURPOSELY LEFT BLANK.

4209 The California Public Employees' Pension Reform Act of 2013 (PEPRA) shall in its entirety be given full force and effect. Any provision in the this MOU which contradicts any provision of the PEPRA shall be deemed null and void, with the contrary PEPRA provision(s) being given full force and effect. Therefore, no provision of the PEPRA shall be deemed to impair any provision of this MOU or any MOU, Agreement, Rule or Regulation predating this MOU.

Employees hired on and after January 1, 2013, deemed to be "new members" as defined in Government Code § 7522.04, shall individually pay an initial Member CALPERS contribution rate of 50% of the normal cost rate for the Defined Benefit Plan in which said new member is enrolled, rounded to the nearest quarter of 1%, or the current contribution rate of similarly situated employees, whichever is greater (PEPRA, Government Code section 7522.30).

New members shall be enrolled in the PEPRA provided for retirement formula 2.0% at 62 (Government Code section 7522.20(a)). Final pensionable compensation (as defined for new members in Government Code section 7522.34) shall be determined by reference to the highest average annual pensionable compensation earned during a period of at least 36 consecutive months (Government Code section 7522.32(a)).

#### **ARTICLE 43 – COMPUTER LOAN PROGRAM**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

#### **ARTICLE 44 – DEFERRED COMPENSATION**

4401 The City shall contribute 1.0% of annual salaries for employees into the 401(a) Deferred Compensation Plan.

#### **ARTICLE 45 – TUITION REIMBURSEMENT POLICY**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

## **ARTICLE 46 – EXCEPTIONAL SERVICE AWARD PURPOSELY LEFT BLANK**

### **ARTICLE 47 – DPT BENEFITS**

- 4701 DPT Holidays: DPT employees will receive 1.9235 hours per pay period in miscellaneous accrual time (maximum 26 pay periods a year) in lieu of holiday pay.
- 4702 DPT Annual Leave: DPT employees will receive 3.462 hours per pay period for 26 pay periods per year. The maximum amount of annual leave that can be accrued for DPT employees is 720 hours.
- 4703 DPT Bereavement Leave:
- A. DPT employees are entitled to three working days of bereavement leave.
  - B. If bereavement leave falls on a regularly scheduled work day, then employee is eligible to take only those hours he/she was normally scheduled to work with a maximum of three regularly scheduled days.
  - C. Employees shall be entitled to five (5) working days leave with pay whenever the death of an immediate family member necessitates traveling out of state.
- 4704 DPT Health and Cafeteria Plan:  
Health and Cafeteria Plan benefits for DPT employees are described in Article 41.
- 4705 Retirement:  
DPT employees shall be enrolled in the City's Hourly/Part-Time Employee Retirement Plan, currently administered by Public Agency Retirement Services (PARS). The plan is a defined benefit plan which provides either a one-time lump sum payment of the accrued benefit, or a monthly lifetime benefit commencing at age 65. If selected, the monthly benefit is calculated by multiplying 2% by the compensation earned each year of employment.
- If a full-time employee enrolled in CalPERS subsequently becomes a DPT employee they shall remain enrolled in CalPERS retirement as set forth in Article 42.
- 4706 During the term of this Agreement, the City will pay 100% of any increased dental insurance premiums for employees and dependents.
- 4707 The City will pay 100% of the increased premiums for vision insurance for employees and dependents, life insurance (\$100,000) and long-term disability with no opt out or cash back provisions.
- 4708 DPT Safety Shoes: DPT employees are eligible for \$150.00 payment every other year towards the purchase of safety shoes.

- 4709 DPT Catastrophic Leave & Military Duty Program: This program applies to DPT employees. Refer to Articles 33 and 34.
- 4710 DPT Computer Loan: DPT employees are eligible to participate in the City's computer loan purchase program.
- 4711 Designated Part-Time (DPT) – Compensation: A Designated Part-Time employee shall be paid hourly at the rate appropriate for the classification to which the employee is allocated.
- 4712 DPT – Hours of Work: DPT workweeks will be a minimum of twenty (20) scheduled hours to a maximum of thirty (30) scheduled hours unless approved by City Manager under special circumstances.
- 4713 DPT – Lunch Periods and Rest Breaks:
- A. DPT employees may take a ½ hour lunch break, depending on the schedule that is worked.
  - B. Two breaks may be available to be taken, depending on the schedule that is worked.
  - C. The workday hours shall not be reduced by the break-time not being taken. Lunch and breaks cannot be accumulated toward time worked.
  - D. The rest period and lunch break shall not interfere with the completion of regular or emergency work.
  - E. If approved in advance by the Department Head or designee, employees may be allowed or required on infrequent occasions due to special circumstances to work through their lunch break and have their workday hours for that day only adjusted accordingly.
- 4714 Change of Status Between DPT and Full-Time: Employees who are transferred from permanent full-time to designated part-time or vice-versa, will retain their anniversary date for purposes of annual leave and service award recognition.
- 4715 DPT – Probationary Period: DPT employees shall be subject to the probationary period provisions of Section 4902 and 4903 below.

#### **ARTICLE 48 – CARPOOL/VANPOOL**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

## **ARTICLE 49 – EMPLOYEE STATUS**

- 4901 Objective of Probationary Period: The probationary period is part of the selection process and shall be utilized for closely observing the employee's job-related performance and conduct to insure the most effective adjustment of a new employee to a position.
- 4902 Permanent Appointment Following Probationary Period:
- A. All promotional appointments shall be tentative and subject to a probationary period of six months actual service. All new hires to the City shall be tentative and subject to a probationary period of twelve months actual service.
  - B. If approved by the Human Resources Director, the Department Head may extend such probationary period for unit employees up to a maximum of six additional months.
  - C. If the service of the probationary employee has been satisfactory to the Department Head, then the Department Head shall file with the Human Resources Director a statement in writing to such effect and stating that the retention of such employee in the service is desired.
  - D. If the services of the probationary employee have not been satisfactory to the Department Head, the Department Head will notify the employee and the Human Resources Director prior to the end of the probationary period that he/she has not successfully completed the probationary period.
  - E. Failure to notify the employee prior to the end of his/her probationary period that his/her services are not satisfactory will result in the employee being granted permanent status and will have been deemed to have passed probation.
- 4903 Release of Probationer: During the probationary period an employee may be released by the Department Head at any time without cause and without the right of appeal. Notification of such release shall be served on the probationer after consultation with the Human Resources Department.
- 4904 Release of Promotional Probationer: Promoted employees who fail their probationary period, except if the cause warrants action to dismiss from the City service, shall return to the position in which they held permanent status, if vacant, or any other vacant position in their former classification within their department unless all position in that classification are filled.
- 4905 Upon a return to his/her former position in the same department, the employee shall not serve a new probationary period provided he/she has completed the probationary period in his/her former position. In the absence of such vacancy in the department in which he/she held permanent status, such probationary employees shall have the right to either:
- A. Be placed on a reemployment list;
  - B. Accept a voluntary demotion to a lower vacant classification within the same classification series within the department in which they held

permanent status, with the right to be restored to their original classification when the first vacancy occurs within their department.

- 4906 The employees need not serve a new probationary period if they accept a voluntary demotion.
- 4907 When employees take a demotion to a lower related classification in which a probationary period has not previously been served, such employee shall be required to begin a new probationary period.

## **ARTICLE 50 – DISCIPLINARY ACTIONS**

- 5001 Standards of Conduct and Performance: Grounds for disciplinary action include but are not limited to such conduct or omissions as incompetence, inefficiency, dishonesty, fraud in securing employment, insubordination, failure to fully and satisfactorily perform duties, failure to comply with or abuse of City departmental rules, regulations or directives, or relevant provisions in Agreement, absence or tardiness without authorization, abuse of leave articles, intoxication or use of intoxicants on duty, being under the influence of or use of unlawful drugs or narcotics on duty, conviction of a felony or misdemeanor involving moral turpitude, discourteous treatment of the public or other employees, misuse of City property or facilities, chronic or excessive absenteeism or tardiness, unauthorized use of or falsification of records or documents, and any other failure of good behavior or acts which are incompatible with or inimical to City service.
- 5002 Disciplinary Actions: Disciplinary actions are suspensions without pay, reduction in pay, demotions and dismissals imposed for reasons of punishment. Actions taken due to layoffs are not disciplinary actions, nor are performance evaluations written reprimands, and the withholding of step increases disciplinary action.
- 5003 Nothing provided herein shall permit or cause an exempt employee to be suspended without pay for less than one work period except in the case of violations of a workplace conduct rule, where the discipline is imposed in good faith and the disciplinary suspension is imposed pursuant to a written policy that is applicable to all employees.
- 5004 Imposing Disciplinary Actions: Disciplinary actions will be determined by the City Manger, Department Head or designee.
- 5005 Resignation to Avoid Dismissal:
- A. When a Department Head or designee intends to impose a disciplinary dismissal, the employee without coercion may be afforded the option to choose to resign to avoid dismissal.
  - B. The decision to resign in lieu of discharge must be voluntary and the employee is allowed a full day in which to exercise this option.

- C. The Department Head or designee must inform the employee of the consequences of resignation.
- D. An employee who resigns loses the right of appeal. His/her resignation cannot be withdrawn after acceptance by the Department Head and the employee shall be ineligible for future employment with the City.
- E. The Personnel Action form separating the employee shall state "resignation in lieu of discharge".

5006 Relief from Duty:

- A. A Department Head may, upon approval from the Human Resources Director, relieve an employee from duty with pay.
- B. Such relief from duty may occur in order to maintain employee morale, safety or security of the workplace during an investigation to determine appropriate action concerning an employee.
- C. If, as the result of an investigation, it is determined that the affected employee was without fault, any reference to the fact that the employee was relieved from duty pursuant to this section shall be deleted from the employee's personnel file.

5007 Disciplinary Procedure:

- A. A permanent employee against whom disciplinary action is instituted by the Department Head or designee shall be given written notice at least five (5) calendar days prior to the effective date of the action informing the employee of the intended action, the ground or grounds therefore, the employee's acts or omissions that form the basis for the cause(s), informing the employee that any documents or material giving rise to the action are attached to the written notice, and informing the employee that he/she may respond to the Department Head orally or in writing prior to the intended effective date of the action. Any employee requests for additional documentation shall be assessed by the Department Head or designee.
- B. After the notice and the employee's timely response, if any, the Department Head shall implement, modify or not implement such action as the Department Head deems appropriate, and shall so notify the employee.

5008 Disciplinary Appeals: Disciplinary actions may be appealed by a permanent employee by filing a written request to the City Manager within five (5) calendar days of the day of the Department Head's final decision, setting forth the basis of such an appeal.

- A. For those permanent employees, including confidential employees who have been reduced in pay, temporarily demoted, or suspended without pay for less than 80 hours, the City Manager or designee shall conduct a hearing, or may appoint an outside hearing officer to conduct such hearing. Prior to setting the date for the hearing, either party may request the matter be subject to mediation pursuant to Section 5010. The date for

the hearing shall be scheduled within thirty (30) calendar days of receipt of the employee's request, as provided above, to commence as soon as can be expeditiously arranged. At any step in the discipline appeal process, the affected employee may be represented by an attorney or any other representative of his/her choosing. The City Manager, designee or hearing officer shall give all appropriate and relevant parties a reasonable opportunity to be heard on relevant issues. The formal rules of evidence utilized in judicial proceedings shall not apply to such hearings. The City Manager or designee shall utilize such rules and procedures that he/she deems appropriate. The right of cross-examination shall be provided to all parties concerned. The City Manager or designee shall not be precluded from making an independent investigation outside the context of the hearing. Any relevant information which is considered in reaching a decision shall be disclosed in the hearing and the parties thereto are given opportunity to respond. If the hearing is conducted by a designee of the City Manager, written findings and recommendations to the City Manager shall be prepared to affirm, modify or reverse the action with copies to the employee or representative, the Department Head and/or representative.

- B. The decision of the City Manager to affirm, modify or reverse the action shall be expeditiously made and notice shall be served upon the affected employee or representative, the affected Department Head and/or representative. The decision of the City Manager shall be final and conclusive.

5009 Disciplinary Appeals/Mediation/Arbitration:

- A. Permanent employees who have been given a Notice of Intended Action to be suspended without pay for 80 or more hours, permanently demoted, or terminated, may within five (5) calendar days of receipt of the notice, file a written notice of appeal to the City Manager. The City Manager or his/her designee shall review the employee's response, and make a determination whether to cancel, amend, or sustain the proposed action. If the City Manager decides to amend or sustain the proposed action, the employee will be served with a Final Notice of Disciplinary Action.
- B. If the employee is not satisfied with the City Manager's ruling, per the disciplinary action as stated in Section 5010 A, the matter may be submitted to mediation. This request shall be submitted to the City Manager or designee in writing within five (5) days of the employee's receipt of the Notice of Final Discipline from the City Manager.
- C. If all parties, or their designated representatives, agree to mediation, a request shall be submitted to the California State Mediation and Conciliation Service (CSMCS) in writing. Absent the ability of CSMCS to serve in a timely manner, the parties shall agree on another mediator. Any costs of the mediator or the mediation process shall be divided equally between the City and TOMA.
- D. The function of the mediator shall be to attempt to assist the parties to achieve a mutually satisfactory resolution of the dispute. The mediator has



no authority to compel resolution of the grievances. Proceedings before the mediator shall be informal.

- E. If a satisfactory resolution of the dispute is achieved by means of this mediation process, the parties shall sign a written statement to that effect and thus waive the right of either party to any further appeal.
- F. If either party does not accept the mediator's opinion, or if the parties do not elect to proceed with mediation, the matter may then proceed to an arbitrator in the manner and from provided in Section 5010. Such arbitration hearings will be held as if mediation had not taken place. Nothing said or done by the parties or the mediator during mediation can be used in any subsequent arbitration, court or government agency proceeding. The mediator may not serve as the arbitrator.
- G. If the employee elects not to be represented by the recognized employee organization, the employee may request an advisory independent hearing subject to review by the City Manager. The City Manager or designee shall conduct a hearing, or may appoint an outside hearing officer to conduct a hearing. The costs of the hearing shall be paid by the City. The employee shall be responsible for the cost of his or her representation and court reporter(s) if requested.
- H. The date for the hearing shall be scheduled within thirty (30) calendar days of receipt of the employee's request, as provided above, to commence as soon as can be expeditiously arranged. The affected employee may be represented by an attorney or any other representative of his/her choosing. The City Manager, designee or hearing officer shall give all appropriate and relevant parties a reasonable opportunity to be heard on relevant issues. The formal rules of evidence utilized in judicial proceedings shall not apply to such hearings. The City Manager or designee shall utilize such rules and procedures that he/she deems appropriate. The right of cross-examination shall be provided to all parties concerned. If the hearing is conducted by a designee of the City Manager, written findings and recommendations to the City Manager shall be prepared to affirm, modify or reverse the action with copies to the employee or representative, the Department Head and/or representative.

#### 5010 Request for Arbitration:

- A. When the City Manager's final decision consists of termination from City employment, permanent demotion or suspension without pay for a period of 80 or more hours and the employee wishes to appeal the disciplinary action, the employee shall ask that the matter be submitted to arbitration by the recognized employee organization.
- B. The employee's representative may submit a written request for arbitration to the City Manager. Said request must be submitted within ten (10) days from the date of the City Manager's final decision.
- C. Upon receipt of the request for arbitration, the parties shall, within ten (10) days, make an attempt to agree to and select an arbitrator. If the parties are not able to mutually agree on an arbitrator, they will use a strikeout

procedure using a list of seven names provided by the California State Mediation and Conciliation Service.

- D. An arbitrator is subject, in each appeal, to the execution in writing of "An Agreement for Arbitration" signed by the employee, the employee's representative, and the City Manager. The agreement for arbitration will provide that the arbitration decision will have the effect of a judgment. All arbitration proceedings arising under this Section shall be governed by the provisions of Title 9 of Part 3 of the Code of Civil Procedure of the State of California. However, Code of Civil Procedure Section 1283.05, relating to discovery, shall not be a part of this Agreement. Further, subpoenas duces tecum may be issued by either party's representative as well as by the arbitrator. All other provisions relating to subpoenas found in Chapter 3 of Title 9 of the Code of Civil Procedure shall apply.
- E. The costs of retaining the arbitrator and the incidental expense of the hearing shall be paid by the loser of the appeal. Costs of the court reporter, if any, shall be paid by the party who requested the presence of the reporter; however, nothing shall preclude the parties from agreeing to share equally in the costs of the reporter. If a cancellation fee is imposed on the parties by the arbitrator, it shall be paid by the party whose actions were responsible for the imposition of said fee.
- F. The arbitrator shall conduct a hearing within thirty (30) days of being selected by both parties unless there is a mutual agreement to extend the time frame. The decision of the Arbitrator shall be made in writing within thirty (30) calendar days of the close of the hearing and receipt of briefs, if any; direct the City Manager in the disposition of the case; and shall be final and binding upon both parties. The Arbitrator's authority is limited to the determination as to whether there was just cause for the disciplinary action taken. The Arbitrator shall expressly confine himself/herself to the precise issues included in the Agreement to Arbitrate and shall have no authority to increase the discipline imposed by the appointing authority or to take testimony from one party outside the presence of the other. If the discipline consists of termination, the Arbitrator may order the reinstatement of the employee with or without back pay. Any award in favor of the employee shall not exceed lost wages and benefits suffered by the employee. The Arbitrator shall have no power to alter, amend, add to or subtract from the provisions of this Section or any other terms of the Agreement between the City and TOMA and shall be bound by applicable Federal, State and local laws.
- G. Notwithstanding any provision in this section, any time limit or stage of procedure specified in this section may be waived upon consent of all parties involved. If an employee or representative fails to comply with the time limits, the appeal shall be considered resolved on the basis of the City's last response and the appeal shall be considered waived and abandoned for all purposes.

## **ARTICLE 51 – DRIVER’S LICENSE**

- 5101 For those positions that require a valid California driver’s license, an employee whose driver’s license has been revoked, suspended or restricted must inform his/her first line supervisor before the start of the employee’s next work shift.
- 5102 If an employee whose job description mandates a valid, unrestricted driver’s license, has the driver’s license and/or other required driving documents restricted, revoked or suspended for medical reasons, he/she must do the following or be subject to discipline up to and including termination:
- A. Notify the supervisor of the restriction, revocation or suspension of the driver’s license and/or medical examiner’s certificate before the start of his/her next work period.
  - B. Provide the City with an original copy (no photocopies) of the DMV report.
- 5103 It is the employee’s responsibility where a valid driver’s license is a job mandate, to renew his/her driver’s license or medical examiner’s certificate and appropriate insurance prior to expiration, including taking and passing the required physical examination.
- 5104 If a position requires a commercial driver’s license, the City will continue to pay for the cost of renewing the employee’s commercial driver’s license and medical examiner’s certificate.
- 5105 It is further the employee’s responsibility to keep the required license and medical certificate in his/her possession when driving a City vehicle.
- 5106 Failure to satisfy these requirements may result in disciplinary actions, up to and including termination.
- 5107 The City will review the job requirements and operational needs to determine if the employee can perform the essential functions of his/her position with the “no driving” limitation and without causing an undue hardship to the department.

## **ARTICLE 52 – GRIEVANCE PROCEDURE**

- 5201 Definition: A grievance shall be defined as an alleged violation of any article of the Agreement between the City and TOMA, other written personnel rules and regulations pertaining to wages, hours or other terms and conditions of employment, or provisions of any memoranda of understanding in effect at the time of the alleged violation.
- 5202 Exclusions: Grievance shall only include matters defined in Section 5201 and specifically shall not include appeals from any disciplinary action, complaints of discrimination, performance reviews except as provided in Article 15, Section 1523 above or any matter that would require modification of a policy established by the City Council or provided for by law.

- 5203 First Step – Informal Complaint: Within twenty-one (21) days from the occurrence or from the point the grievant knew or should have known of the matter on which a complaint is based, an employee shall discuss his/her complaint with his/her immediate supervisor. Attempts shall be made to resolve all complaints on an informal basis between the employee and his/her immediate supervisor.
- 5204 Second Step – Submission of Grievance: If the complaint is not resolved within ten (10) days after the meeting with the employee's immediate supervisor, the employee shall file within five (5) days a written grievance with the Department Head. A grievance shall not be deemed to be properly filed unless it is signed by the employee and includes all of the following:
- A. A full description of the grievance and how the employee was adversely affected;
  - B. The provisions of the Memoranda of Understanding, or written personnel policies alleged to have been violated;
  - C. The date of the incident grieved; and
  - D. The specific remedy or solution to the grievance sought by the employee.
- 5205 Third Step – Department Head Review: Within ten (10) days upon receipt of the written grievance, the Department Head shall meet with the employee or designated representative. The Department Head shall deliver an answer to the employee or designated representative within ten (10) days of the meeting.
- 5206 Fourth and Final Step – City Manager Review: If the grievance is not resolved at the third step, the employee shall submit the grievance in writing, to the City Manager, within ten (10) days after the Department Head's answer is rendered. The City Manager or designee shall deliver an answer to the employee or representative within ten (10) days of the receipt of the grievance.
- In the alternative, the City Manger or designee may meet with the employee or representative within ten (10) days after submission of the grievance. The City Manager or designee shall deliver an answer to the employee or representative within ten (10) days after said meeting.
- 5207 Final Decision – City Manager: The decision of the City Manager shall be final and conclusive.
- 5208 Waivers and Time Limits:
- A. The time limits prescribed in this article may be extended only upon mutual written agreement of the parties.
  - B. Should the City fail to respond orally or in writing when required within the specific time limits, the grievance shall automatically proceed into the next step of the grievance procedure.
  - C. If an employee fails to initiate or appeal any grievance within the specified time limits, the grievance shall be considered resolved on the basis of the

employer's last response and shall be considered waived and abandoned for all purposes.

5209 Reasonable Time Off:

- A. Employees are authorized reasonable time off during regular work hours without loss of pay to resolve a grievance.
- B. any employee who wishes to leave his/her workstation or assignment shall receive prior approval of the Department Head or designee.
- C. Time involved in resolving grievances must be reasonable and consistent with operating needs and work schedules of the City.
- D. Nothing provided herein shall limit or restrict the City from scheduling meetings before or after an employee's regular duty or work hours.

**ARTICLE 53 – DISCRIMINATION AND HARASSMENT POLICY**

5301 Policy:

- A. It is the policy of the City that all employees are to be treated with respect and dignity.
- B. Actual or perceived discrimination and/or harassment of an employee by a supervisor, management employee and/or co-worker on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sex orientation, or age will not be tolerated.
- C. The guidelines of this policy refer to unwanted attention from supervisors and/or co-workers to employees, to protect employees from harassment or other unwanted attention and/or action.
- D. The City has an affirmative duty to maintain a working environment that is free from harassment.
- E. It is inappropriate to use words, gestures, and actions which tend to annoy, alarm, or abuse another person or has the effect of creating an intimidating, hostile or offensive working environment or unreasonably interferes with an individual's work performance.
- F. Disciplinary action up to and including termination will be instituted for violation of this policy.

5302 Harassment – Definition: Harassment included, but is not limited to:

- A. Verbal Harassment – For example, epithets, derogatory comments or slurs on the basis of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation, age, or denial of family and medical care leave and denial of pregnancy disability leave.
- B. Physical Harassment – For example, assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation, age, or denial of family and medical care leave and denial of pregnancy disability leave.

- C. Visual Forms of Harassment – For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation, age, or denial of family and medical care leave and denial of pregnancy disability leave.
- D. Sexual Harassment – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or an offensive work environment.

5303 The City shall ensure each employee has a copy of the City's anti-harassment policy which will include information on its internal complaint procedure. Additionally, employees have the right to file an administrative complaint of discrimination or harassment with the Department of Fair Employment and housing (DFEH). Employees may contact DFEH directly at (800) 884-1684; 1055 West 7<sup>th</sup> St., #1400; Los Angeles, California 90017.

5304 Additionally, it is the policy of the City to prohibit retaliation against any employee who has exercised his/her right to make a complaint under this section or who has participated in any investigation conducted pursuant to this section. Disciplinary action up to and including termination will be instituted for violation of this policy.

5305 Pre-grievance Process: An employee who feels that he/she has been harassed on the job should immediately inform his/her Supervisor, Division and/or Department Head and/or the Human Resources Department. To accommodate the unique nature of the harassment complaints, a pre-grievance process is provided for the primary purpose of resolution of a complaint at the earliest possible date. Elements of this process are:

- A. Complaint Advisors: The Human Resources Department will be available to receive harassment complaints. The Human Resources Department will:
  - a. Counsel the employee, and outline the options available.
  - b. Obtain a factual written statement of the complaint for the affected Department Head.
  - c. Assist in follow-up investigation, interview accused, witnesses and supervisors as appropriate, and recommend disposition of the complaint.
- B. Department Head and/or Human Resources Department:
  - a. Authorizes investigation of the complaint, reviews factual information collected to determine whether the alleged conduct constitutes harassment, giving consideration to the record as a whole and the totality of circumstances, including the nature of the alleged verbal, physical, visual or sexual harassment and the context in which the alleged incidents occurred.

- b. Takes and/or authorizes appropriate action.

5306 Formal Grievance Process: Formal grievance procedures, as detailed in Article 52, Grievance/Harassment, are available for resolution of complaints alleging harassment if the complaint is not adjusted to the satisfaction of the employee in the pre-grievance process.

5307 Extension of Time Requirements:

- A. Time limits specified in the formal grievance procedures may be extended if pre-grievance procedures for a harassment complaint were initiated within the applicable time limits for filing a formal complaint.
- B. In these instances, if the complaint is not adjusted to the satisfaction of the employee, the time limits for filing a formal grievance should begin as of the date of notification of action taken by the Department Head.
- C. If the employee did not initiate pre-grievance procedures within the time limits of the applicable normal grievance procedure, the Human Resources Director may recommend extension of the filing deadline for a formal complaint.
- D. It should be reemphasized that the City wishes to know of any complaint alleging harassment as soon as possible after it occurs.

5308 Waiver of Informal Step: Preliminary informal steps to resolve a grievance may, depending on circumstances of the complaint, be waived and the formal grievance initiated at an appropriate higher step in the process.

5309 Sanctions:

- A. Harassment as defined above, violates Title VII of the Civil Rights Act of 1964, the California Government Code, and regulatory guidelines of the Equal Employment Opportunity Commission, and the California Fair Employment and Housing Commission.
- B. Appropriate sanctions will be imposed on individuals found to be engaging in harassment.
- C. Violation of this policy shall generally constitute just and reasonable cause for discipline, up to and including termination.

5310 Harassment of Employees: In compliance with Government Code, Section 9414, the City adopts the policy that it will not coerce or attempt to coerce or harass any employee, based upon the fact that the employee is, was, or may have been, a witness for any legislative committee covered by that Government Code section.

## **ARTICLE 54 – HEALTH & SAFETY**

### **5401 Fitness For Duty Examinations:**

- A. Any employee in the competitive service may be required by Department Head or the Human Resources Director to undergo a physical examination, which examination shall be at the City expense, where the Department Head or Human Resources Director has reasonable suspicion based on an articulable basis, to believe the employee is unfit to perform the essential duties of his/her position..
- B. In the event that an employee fails to pass such physical examination, the employee's Department Head and the Human Resources Director may prescribe assignment of duties to reasonably accommodate the employee's physical condition.
- C. If no appropriate position is available, such employee shall be recommended for disability retirement, if eligible, or terminated.

5402 Immunizations – Periodic: The City may provide or require periodic immunizations or inoculations as a condition of continued employment.

## **ARTICLE 55 – SUBSTANCE ABUSE POLICY**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

## **ARTICLE 56 – E-MAIL POLICY**

See applicable administrative policy. Removal from the MOU of reference to a variety of City policies and inclusion of said policies in a separate manual shall not alter any meet and confer obligations which must precede modifications being made to such language.

## **ARTICLE 57– MILEAGE REIMBURSEMENT – PURPOSELY LEFT BLANK**

## **ARTICLE 58– MANAGEMENT RIGHTS**

5801 The City reserves, retains, and is vested with, solely and exclusively, all rights of management, regardless of the frequency of use, which have not been expressly abridged by specific provisions of the Agreement or by law, to manage the City for the citizens of Thousand Oaks as such rights existed prior to the execution of this or any predecessor Agreement.

5802 Without limiting the generality of the foregoing, the City continues to reserve and retain solely and exclusively all rights of management, including those City rights set forth in the Employer-Employee Relations Resolution, and including but not limited to the right:



- A. To determine the mission of its constituent departments, commissions, and boards and the services to be rendered thereby;
- B. To set standards of service;
- C. To determine the procedures and standards of selection for employment, promotion, demotion and layoff;
- D. To direct its employees;
- E. To take disciplinary action;
- F. To relieve its employees from duty because of lack of work or for other legitimate reasons;
- G. To maintain the efficiency of governmental operations;
- H. To determine the methods, means and personnel, including contract and/or part-time personnel, by which government operations are to be conducted;
- I. To determine the content of job classifications;
- J. To take all necessary actions to carry out its mission in emergencies;
- K. To exercise complete control and discretion over its organization and the technology of performing its work.

5803 The exercise and retention of the City's exclusive rights enumerated above does not preclude employees or their representatives from meeting and conferring regarding the impact of the exercise of management rights on wages, hours, and other terms and conditions of employment.

## **ARTICLE 59 – ASSOCIATION RIGHTS**

5901 Fair Share: This provision shall apply to all employees represented by TOMA except for management employees as provided under Section 3502.5 of the California Government Code.

5902 Employees who are members of TOMA on the effective date of this Agreement shall maintain their membership in TOMA subject to the right to resign from membership in TOMA during the first twenty (20) calendar days in January of each year. However, the employee shall be required to pay a representational service fee as provided in Section 5906 below.

5903 Any member may exercise his/her right to resign membership by submitting a written notice to the Association and the City during this period.

5904 Employees who were not members of TOMA when this Section first became applicable are not required to join the Association or pay a representation service fee.

5905 All new full-time and designated part-time and employees hired or appointed into an eligible classification, shall be required to pay a representation service fee to TOMA effective the date of their employment.

5906 Representation Fee:

- A. The representation service fee represents the employee's proportionate share of TOMA's cost of legally authorized representation services on behalf of Unit employees in their labor relations with the City.
- B. In conformance with California Government Code 3502.5(a), such representation service fee shall in no event exceed the regular, periodic membership dues, and general assessments of such organization paid by Unit employees who are members of TOMA.
- C. The representation fee shall not reflect, expenditures which the Courts have determined to be non-chargeable, including political contributions to candidates and parties, members only benefits, charitable contributions and ideological expenditures and, to the extent prohibited by law, shall not reflect expenditures for certain aspects of lobbying, ballot measures, publications, organizing and litigation.

5907 Religious Exemption:

- A. Any employee who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting an employee organization shall not be required to join or pay a service fee.
- B. Such employee, however, shall be required to pay a monthly sum equal to membership dues to the United Way, City of Hope or the American Cancer Society.
- C. Such payment shall be in the same manner and the same time as required for membership dues.
- D. Such charitable contributions shall be made for the duration of employment or until the employee becomes an association member or pays the service fee.

5908 TOMA Legal Requirements: TOMA shall comply with applicable law regarding disclosure and allocation of its expenses, notice to employees of their right to object, provision for agency fee payers to challenge TOMA's determinations of amounts chargeable to the objecting non-members, and appropriate escrow provisions to hold contested amounts while the challenges are underway.

5909 Disputes:

- A. When a dispute exists between a unit employee and TOMA involving claimed violation of employee rights with respect to (1) representation service fee expenditures or obligations by TOMA, or (2) employee religious exemption, TOMA shall thereafter deposit such disputed dues or fees in an interest bearing escrow or comparable account pending final resolution of the dispute.
- B. Final resolution as used in this subdivision shall mean resolution of the dispute by way of legally binding settlement agreement between the employee and TOMA, or non-appealable final judgment of an administrative agency and/or court of competent jurisdiction.

- C. The sole obligation of the City with respect to such disputes is as set forth in this paragraph.
- D. The City shall not be made a party to administrative or court proceedings, except to the limited extent where such administrative body and/or court determine such to be necessary for the purpose of enforcing its order or judgment.
- E. In such event, the City shall be entitled to payment of its attorney fees and costs by TOMA.

5910 Indemnification: TOMA agrees to fully indemnify the City and its officers, employees and agents against any and all claims, proceedings and liability arising, directly or indirectly, out of any action taken by or on behalf of the City under this section.

5911 Rescission Procedure: The representation service fee arrangement provided in this section may be rescinded by majority vote of all employees represented by TOMA provided that:

- A. A request for such vote is supported by petition containing the signatures of at least thirty percent (30%) of the employees in the unit represented by TOMA.
- B. Such a vote is by secret ballot;
- C. Such a vote may be taken anytime. However, in no event shall there be more than one vote taken during the term of an existing Agreement. The sufficiency of the petitioners shall be determined, and the election conducted by the State Mediation and Conciliation Service.

5912 Employee Rights: The City shall not hinder, interfere, intimidate, restrain, discriminate, coerce, or discipline any employee for exercising any rights or benefits provided in this Agreement or law.

5913 Association Rights:

- A. TOMA shall notify the City in writing of the names of its representatives as follows: Consultant, Officers, Bargaining Committee Members, and Departmental Representatives.
- B. The formally recognized employee organization may select not more than three (3) employee members of such organization to attend scheduled meetings with the City Manager or other management officials on subjects within the scope of representation during regular work hours without loss of compensation.
- C. Where circumstances warrant, the City Manager may approve the attendance at such meetings of additional employee representatives with or without loss of compensation.

- D. The employee organization shall, whenever practicable, submit the names of all such employee representatives to the City Manager at least two working days in advance of such meetings. Provided further:
  - a. That no employee representative shall leave his/her duty or work station or assignment without specific approval of the department head or other authorized City management official.
  - b. That any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules.
- E. Nothing provided herein, however, shall limit or restrict City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.
- F. A designated TOMA representative shall be entitled to leave his/her work during working hours without the loss of pay for reasonable periods of time, with prior approval of his/her supervisor for purposes of reviewing and processing grievances.
- G. TOMA stall may have access to TOMA members provided that supervisors are notified prior to a meeting being scheduled and the meetings held will not interfere with work.
- H. The City agrees to allow TOMA Board meetings on City time and in the City facilities once a month. It is understood meetings will last approximately one and one-half hours in length.

5914 The parties hereby incorporate by reference the provisions regarding access to work locations, use of city facilities, use of bulletin boards, availability of data and violation of resolution contained in the Employer-Employee Relations Resolution.

5915 At the orientation of new employees, a City-approved TOMA information packet will be provided to those who would be eligible to join TOMA.

## ARTICLE 60 – SIGNATURE PAGE

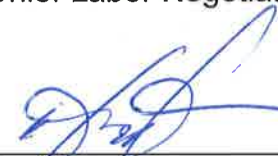
City of Thousand Oaks

THOUSAND OAKS MANAGEMENT  
ASSOCIATION

 7/20/15  
\_\_\_\_\_  
Laura Kalty Date  
Chief Labor Negotiator

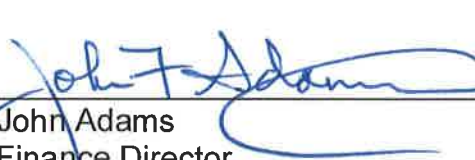
 6/24/15  
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Mark Pachowicz Date  
Chief Labor Negotiator


 7/8/15  
\_\_\_\_\_  
Andrew Powers Date  
Assistant City Manager

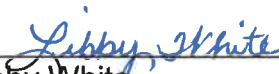
 6/26/15  
\_\_\_\_\_  
Nader Heydari Date  
President, TOMA

 7/9/15  
\_\_\_\_\_  
Gary Rogers Date  
Deputy City Manager/  
Human Resources Director

 6-26-15  
\_\_\_\_\_  
Dan Lazo Date  
Board Member, TOMA

 7/9/15  
\_\_\_\_\_  
John Adams Date  
Finance Director

 6-30-15  
\_\_\_\_\_  
Jeanette Berard Date  
Secretary, TOMA

 7/13/15  
\_\_\_\_\_  
Libby White Date  
Deputy Human Resources Director

 7/2/15  
\_\_\_\_\_  
Gilbert Punsalan Date  
Board Member, TOMA

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