MEMORANDUM OF UNDERSTANDING

Between

THE CITY OF EMERYVILLE

And the

EMERYVILLE POLICE OFFICERS' ASSOCIATION

JULY 1, 2014 - JUNE 30, 2017

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And

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July 1, 2014 - June 30, 2017

PREAMBLE

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (California Government Code Sections 3500, et. seq.) as amended. It has been jointly prepared and is the result of meeting and conferring in good faith and represents the complete understanding between the parties as to all matters upon which the parties reached agreement. Nothing herein shall prevent the parties to this Memorandum of Understanding from meeting and conferring and making modifications herein by mutual consent.

The City of Emeryville (hereinafter, "City") and the Emeryville Police Officers' Association (hereinafter, "EPOA") hereby restate their joint commitment to the achievement and maintenance of a relationship built on open communication which fosters the equitable resolution of the concerns of each part regarding hours, wages, and other applicable conditions of employment.

Section 1. Association Recognition

The EPOA is the recognized and exclusive representative of the bargaining unit consisting of the classifications of Police Officer and Sergeant of Police, and has concluded this Memorandum through its authorized representatives.

Section 2. Management Rights

Except as otherwise provided, the management rights of the City shall include, but are not limited to:

> the exclusive right to determine the mission of the Department; to determine work and performance standards; to plan, direct, and control all police operations and set departmental policy, goals, and objectives; to determine staffing levels; to determine work schedules, tours of duty and daily assignments; to determine the procedures and standards of selection for employment and promotion, and to hire and promote according to established City procedures; to determine standards of on duty conduct of employees; to discipline and fire employees under established procedures; to maintain the efficiency

of Department operations; to determine the number, location, and nature of its facilities; to determine the methods, means and personnel by which the Department operations are to be conducted; to determine and revise the content of job classifications; to determine transfer policy; to take any and all necessary actions to carry out its mission in emergencies; to educate and train employees and determine criteria and procedures; to contract or subcontract out for goods and services; and to exercise complete control and discretion over its organization and technology of performing its work.

The City shall not be required to meet and confer on any subject preempted by federal or state law nor shall it be required to meet and confer in good faith on management rights as defined in this section unless the exercise of those management rights affects any matter within the scope of representation under Government Code Section 3504.

Section 3. Discrimination Prohibited

The City and EPOA agree that they shall not discriminate in any way on account of race, creed, religion, sex, national origin, political affiliation, handicap, age, or sexual orientation. City agrees that no employee shall be discriminated against because of EPOA membership or activity.

Section 4. Health and Welfare

4.1 Medical Insurance

The City shall continue to contract with the Public Employees' Retirement System (PERS) for the purpose of providing medical insurance benefits for active employees, eligible retired employees and eligible survivors of retired employees.

The City shall pay the following amounts each month on behalf of each eligible full-time active employee who subscribes for coverage; except, however, the City will only pay up to 100% of the appropriate premium for the medical plan in which such eligible employee is enrolled:

Employee Only	182.75
Employee + One Dependent	352.75
Employee + Two or more Dependents	463.25

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

4.2 Flexible Benefits

The City shall establish a Flexible Benefits Account for each full-time active employee in regular or probationary status enrolled in one of the PERS medical insurance plans offered by the City.

City Contribution: In the event the above listed amounts are insufficient to the pay 100% of the premiums required of the medical insurance plan in which the employee is enrolled, the City shall make such supplemental payment into the employee's Flexible Benefit Account as is necessary to equal one hundred percent (100%) of the premium of the medical insurance in which the employee is enrolled up to a maximum monthly premium of:

	Effective January 1, 2014
Employee Only	636.21
Employee + One Dependent	1,272.41
Employee + Two or more Dependents	1,654.15

The City and EPOA will continue to follow the pre-existing 80/20 cost share formula for increases in the Kaiser Bay Area medical insurance rates at the respective levels of participation for the duration of this MOU.

The monies in an employee's Flexible Benefits Account shall be used for one of the following purposes only: a) payment of premium charges for the PERS medical insurance program in which the employee is enrolled; b) payments on the employee's behalf to the City of Emeryville/ICMA Deferred Compensation Program; or c) payments to an established Dependent Care Allowance Plan.

The City will not treat these monies under the Flexible Benefits plan as compensation subject to income tax withholding unless the Internal Revenue Service or the Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

In the event an employee enrolls in a medical plan for which the premium exceeds the City's contribution for medical insurance and Flexible Benefits as provided herein, such additional sum shall be withheld from the employee's salary by the City.

Unless the individual employee notifies the Chief Financial Officer in writing prior to May 30 each year, that he/she elects to have his/her Flexible Benefits paid into the Deferred Compensation Program, it will automatically be used to pay premium changes for the elected medical insurance program.

Each employee shall be responsible for providing immediate written notification to the Human Resources Director of any change to the number of his/her dependents which affects the amount of the City's payment to the Flexible Benefits Account. Changes to Flexible Benefit payments required because of a change in an employee's number of dependents shall take effect at the start of the first pay period in the month next following the month in which advice from the employee is received by the Human Resources Director. No retroactive increases to the City's payment shall be allowed.

The City reserves the right to provide medical insurance benefits under a program other than that offered through the PERS medical insurance program at any time during the term of this Memorandum of Understanding. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing medical insurance benefits for employees; or through a program of self-insurance. In the event the City exercises this option, the alternate coverage shall be substantially equivalent to the level of benefits in effect on July 1, 1990.

The City shall offer to meet and confer with the Union regarding such alternate coverage prior to the effective date of such alternate coverage.

4.3 Alternate Benefit

Employees shall be allowed an opportunity to select certain options as alternatives to those benefits listed in Section 4.1 and 4.2 of this Memorandum of Understanding.

A. Eligibility. Eligibility for receipt of alternative benefits is restricted to those employees for whom no City contribution is made towards premiums for group hospital-medical-surgical insurance because of coverage said employees have from a source other than the City. Proof of said coverage is required by the City.

B. City Contribution. The City shall contribute one-half (½) of the City-paid Kaiser Bay Area two-party premium cap per month for alternate benefits for eligible employees who select alternate benefits.

C. Available Benefits. Contributions made by the City may be applied by the employee to one or both of the following options:

1. A supplement to the employee's monthly salary. State and Federal taxes will be withheld on any monies applied to this option.

2. Contribution to the Deferred Compensation Plan currently in effect for City employees.

4.4 Dental Insurance

The City shall purchase dental insurance coverage for employees and their eligible dependents. The City's contribution towards the purchase of this insurance shall not exceed the following amounts per employee per month, nor shall the City's contribution towards the purchase of this insurance exceed 100% of the appropriate premium for the dental plan in which such eligible employee is enrolled:

Employee Only	$ 55.95
Employee + One Dependent	88.34
Employee + Two or more Dependents	129.98

If premiums for dental benefits exceed the amounts listed above during the term of this Memorandum of Understanding, the parties will re-open negotiations for the sole purpose of determining the amount of the increase, if any, to be paid by the City.

The City reserves the right to provide dental care benefits under a plan or through a carrier of its choice. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing dental care benefits for employees; or through a program of self-insurance. In the event the City exercises this option the alternate coverage shall be substantially equivalent to the coverage in effect on July 1, 2014. The City shall offer to meet and confer with the Union regarding such alternate coverage prior to the effective date of such alternate coverage.

4.5 Vision Care

The City shall continue to provide vision care for employees and their eligible dependents only under Vision Service Plan (VSP), with a Twenty-five Dollar ($25.00) deductible. The City's contribution towards the purchase of this insurance shall not exceed the following amounts per employee per month, nor shall the City's contribution toward the purchase of this insurance exceed 100% of the appropriate premium:

Employee Only	$ 21.30
Employee + One Dependent	21.30
Employee + Two or more Dependents	21.30

If premium rates for vision benefits exceed the amounts listed above during the term of this Memorandum of Understanding, the parties will re-open negotiations for the purpose of determining the amount of such increase, if any, to be paid by the City.

The City reserves the right to provide vision care benefits under a plan or through a carrier of its choice. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing vision care benefits for employees; or through a program of self-insurance. In the event the City exercises this option the alternate coverage shall be substantially equivalent to the coverage in effect on July 1, 2014. The City shall offer to meet and confer with the Union regarding such alternate coverage prior to the effective date of such alternate coverage.

4.6 Life Insurance

The City shall pay the entire cost of providing each regular and probationary full-time employee with group term life insurance equal to the individual employee's annual salary, to a maximum of Fifty Thousand Dollars ($50,000). Such policy to include accidental death and dismemberment coverage, and the right to conversion at the time of termination of employment to a form of permanent coverage without medical restrictions

to the extent allowable by the insurance carrier and the law. The payment for such converted coverage shall be the responsibility of the individual electing such coverage. Should the IRS increase the non-taxable insurance amount beyond $50,000, then maximum level of insurance coverage may be increased to that limit which is non-taxable under the IRS codes and regulations. In any event the City will not provide life insurance beyond the amount of the employee's annual salary.

4.7 Federal or State Health Plan

If, pursuant to any federal or state law which may become effective subsequent to the effective date of this Memorandum of Understanding, the City is required to pay contributions or taxes for hospital-medical, dental care, prescription drug or other health benefits to be provided employees under such Federal or State Act, the City's obligation to furnish the same benefits under the Hospital-Medical-Surgical-Dental Care and Prescription Drug Plans shall be suspended and the contributions agreed to be paid monthly hereunder by the City under Sections 4.1, 4.2 and 4.3 of this Memorandum of Understanding shall be reduced each month by the amounts which the City is required to expend during any such month in the form of contributions or taxes to support said federal or state health plan.

If, as a result of such a law, the level of benefits provided by such law for any group of employees, or their dependents, is lower in certain categories of services than that provided under Sections 4.1 and 4.2, the City shall, to the extent practicable, provide a plan of benefits supplementary to the federal or state benefits so as to make benefits in each category of coverage as nearly comparable as possible to the benefits provided under said Sections 4.1 and 4.2. The City need only expend for this purpose the actual amount required to achieve parity between the benefits agreed to be provided under Sections 4.1 and 4.2 and the benefits provided under any federal or state plan as supplemented in the manner hereinabove described.

If the benefits provided under the Federal or State Act exceeds the benefits provided hereunder in each category of coverage, the City shall be under no further obligation to make any contribution in pursuance of this Section.

If the federal or state government enacts a health care program requiring contributions by employees, such employee contribution shall be reimbursed by the City to the amount by which said employee contribution reduces the City contribution required under this Section of the Memorandum of Understanding.

4.8 Retired Employees

The City shall contribute the following amounts each month on behalf of each eligible retired employee (employees who retired prior to January 1, 1981 are eligible for medical benefits only. Employees who retired between January 1, 1981 and January 1, 1984 inclusive are eligible for Medical and Dental benefits only. Employees who retire subsequent to January 1, 1984 are eligible for medical, dental and vision care benefits)

for the purpose of providing medical insurance benefits, dental benefits, and vision care benefits for said retired employees and their eligible dependents:

	Medical	Dental	Vision
Retiree	$182.75	$21.57	$4.72
Retiree + One Dependent	352.75	40.15	10.68
Retiree + Two or more Dependents	463.25	56.69	10.68

Retired employees who qualify for the Federal Government Medicare Benefits are eligible for Medicare Supplemental coverage only and may not elect any other medical insurance benefit. They remain eligible for dental and vision care benefits as provided herein.

Eligible employees are those who have passed probation who retire from the City of Emeryville for service or disability and who have a minimum of five (5) years PERS service credit. Additionally, in order to be eligible for this benefit, the employee's effective date of retirement must occur within one hundred twenty (120) days of the effective date of his separation from employment with the City of Emeryville and he/she must be enrolled in a medical, dental and vision care plan offered by the City of Emeryville. The surviving spouse of a retired employee who qualifies to receive these benefits is also entitled to receive the benefits in the event a) he or she was designated by the employee prior to the employee's retirement, to receive a survivor benefit under the Public Employees' Retirement System (PERS) plan, and b) he or she is receiving said survivor benefit, and c) he or she is a member of a medical, dental and vision plan offered by the City of Emeryville. In the event a retired employee has designated more than one survivor who satisfies the above criteria, benefit payments made pursuant to this Section shall not exceed the monthly amount recited above for all such eligible survivors of the employee.

4.9 Psychological Services Plan

The City agrees to pay the annual cost of providing psychological counseling services to employees and/or dependents. The City reserves the right to define the extent of coverage, and that such psychological services are private and confidential. Consistent with applicable statutory and decisional law, the service provider shall maintain the confidentiality of medical records, and doctor-patient privilege.

4.10 Chiropractic Care

The City shall maintain a self-insured chiropractic benefit of two hundred fifty dollars ($250.00) per year, per family for verified chiropractic services.

4.11 Participation in the California Government Voluntary Employee Benefits Association (CALGOVEBA)

All bargaining unit members will participate in the CalGOVEBA ("VEBA") program. All members of the bargaining unit are required to enroll and remain active members until separation from the City/MESA. Participation will be subject to and governed by all IRS requirements applicable to the VEBA. Bargaining unit members will make the following uniform monthly contributions to the VEBA, based on length of service, effective on the dates shown below:

CalGOVEBA Participation Levels (by Date of Hire Bands)							
Effective	Participation Bands by Date of Hire Ranges			Contribution ($) per Pay Period	Terminal Leave Deferral		
					Vacation (%)	Sick Leave (%)	Comp Time (%)
April 1, 2012	Jan. 1, 1987	to	Mar. 31, 1999	$25	100%	100%	100%
	Apr. 1, 1999	to	May 31, 2003	$50	100%	100%	100%
	Jun. 1, 2003	to	Jun 30, 2014	$25	100%	100%	100%
Jan. 1, 2013	Jan. 1, 1987	to	Mar. 31, 1999	$25	100%	100%	100%
	Apr. 1, 1999	to	May 31, 2003	$50	100%	100%	100%
	Jun. 1, 2003	to	Jun 30, 2014	$25	100%	100%	100%
Jan. 1, 2014	Jan. 1, 1987	to	Mar. 31, 1999	$25	100%	100%	100%
	Apr. 1, 1999	to	May 31, 2003	$50	100%	100%	100%
	Jun. 1, 2003	to	Jun 30, 2014	$25	100%	100%	100%

Section 5. Uniform Allowance

5.1 Initial Uniform Allowance

A new employee shall receive the total annual uniform allowance, payable at the time of employment; that is, payment shall not be in two equal installments.

5.2 Annual Uniform Allowance

The annual uniform allowance will be One Thousand Two Hundred Dollars ($1,200) per year, effective January 1, 2015. The uniform allowance is payable in equal installments on the first payroll check in the months of October and March of each year.

5.3 If an employee separates from City Service, for whatever reason (except death), during the year for which the annual uniform allowance has been paid, such payment shall be adjusted on a prorata basis in relationship to the period of service for that year.

5.4 Damaged Uniform/Personal Property

An employee's uniform damaged in the course of duty beyond repair or collected and

secured for evidentiary purposes related to the performance of the employee's duty shall be replaced at no cost to the employee by the City's designated vendor. Other personal property damaged in the course of duty or collected and secured for evidentiary purposes shall be repaired, replaced, or compensated for at fair market value as determined by the Chief of Police. Replacement or compensation as provided in this subsection 5.4 will not apply to property secured for evidentiary purposes but returned to the employee within fourteen (14) days from the date it is secured.

Section 6. Pay for Acting Assignment to Higher Classification

6.1 Work in a Higher Classification Pay

An employee assigned by the Chief of Police, or the Chief's designee, to work in a higher classification shall be paid according to Step C of the pay schedule for the next higher rank, provided that the increase shall not be less than five percent (5%).

The Chief of Police or the Chief's designee shall determine acting assignments. An employee in an acting assignment must meet the minimum qualifications for the classification in which he/she is assigned to act.

6.2 Posting & Filling of Vacancies

The City shall post notices of testing processes for a minimum of two weeks. Such notice shall include the requisite requirements for the position as well as the dates and times of test elements and recommended study materials.

Section 7. Field Training Officer

An employee who is certified in writing by the Chief of Police to train and evaluate probationary police officers assigned to the Field Training Program shall receive five and one-half percent (5-1/2%) per day worked, in addition to his/her base rate of pay when a probationary police officer is actually assigned to him/her for such training purposes. The pay shall not be paid to a Field Training Officer when not specifically assigned a probationary police officer actually engaged in any portion of the Field Training Program.

Section 8. Canine Handler

8.1 An employee who is regularly assigned the responsibility for the care, shelter and feeding of a Police Service Dog shall be indemnified by the City for all such costs.

8.2 Expenses related to the care, shelter and feeding of a Police Service Dog include the following: medical costs, veterinarian costs, food, construction and maintenance of a shelter, and kennel costs during the handler's vacation.

8.3 Officers assigned as Canine Handlers shall be compensated for overtime as provided in this Memorandum for attendance at monthly training sessions related to their assigned

canine.

8.4 All expenses provided for by the City under Section 8 shall be pre-approved by the Chief of Police or designee before such reimbursement will be granted to the handler, and the handler shall furnish proof to the satisfaction of the City for such expenditure.

8.5 Canine Officers shall receive 5% over base pay as compensation for commute and other time related to canine care.

Section 9. Shift Differential

The City shall pay an employee assigned to the Patrol Division a shift differential of four percent (4%) of the employee's base wage rate for all hours actually worked on patrol between 1800 and 0600 hours.

Section10. Deferred Compensation Plan

Employees may, at their election and at their own expense, participate in a deferred compensation plan available to Emeryville City employees. Payments into such plan may be made by payroll deduction.

Section 11. Vacation Leave

11.1 Eligibility

An employee may use any portion of accrued vacation subject to approval of the employee's immediate supervisor and Division Commander.

11.2 Accrual

Each eligible employee shall be entitled to an annual vacation on the following basis ("days" are defined as normal work days):

Employees Hired Prior To 7/1/00		Employees Hired Beginning 7/1/00	
1 - end of 10 years:	120 hours	0 – end of 4 years:	80 hours
11 – end of 20 years:	160 hours	5 – end of 9 years:	120 hours
21 years and over:	200 hours	10 – end of 20 years:	160 hours
		21 plus years:	200 hours

11.3 Use of Accrued Vacation

An employee may elect to take all or part of earned vacation, or may carry over to the next service year all or part of earned vacation as approved by the Department head and consistent with the provisions of Subsection 11.2, hereinabove.

11.4 Vacation Scheduling

Annual vacation sign up shall begin on October 1 and conclude no later than December 15 of each year.

11.5 Holiday Within Vacation Leave

Holidays which occur during a scheduled vacation period shall be counted as a holiday. Employees may request in advance that they extend their vacation leave by the number of holidays occurring within their scheduled leave, or they may request fewer vacation hours which, together with the holiday(s), will comprise the total time period of their scheduled leave, or the employee has the option to be paid in cash for the holiday(s) which occur during a scheduled vacation period.

11.6 Called Back to Work

In the event it becomes necessary to call an employee back to work from a scheduled vacation, the employee shall be credited with the unused vacation hours and shall have the opportunity to take such remaining vacation leave at a time of the employee's choosing with the Department head's approval; or may be compensated as provided by Departmental rules, policies, or this Memorandum of Understanding.

11.7 If an employee leaves the City's employment and has unused accrued vacation time, the employee shall be compensated for the unused vacation time, at his or her regular hourly rate.

Section 12. Sick Leave

12.1 Employees may accrue unused sick leave without limit on accrual, and further agrees to continue the option available through the Public Employees' Retirement System (PERS) which provides for the conversion of accrued unused sick leave into retirement benefits.

12.2 Employees shall be provided and have the right to accrue unused sick leave at the rate of one and one-quarter (1-1/4) days per month.

12.3 To qualify for paid sick leave, the employee must notify dispatch at least two (2) hours prior to the start of the day's/shift's work, except in cases of emergency.

12.4 When sickness or injury exceeds two (2) consecutive working days or shifts the Department Head may require written medical verification.

12.5 When such medical certificate is requested, the Department Head shall specify whether it is intended to verify the employee's illness or to release the employee to return to full duty, or both.

12.6 Serious Illness/Injury

An employee who suffers a serious non-job-related illness or injury may be required to undergo a medical examination to determine fitness for employment before returning to work. The necessity for such medical examinations will be determined by the Chief of Police, his designee and/or Human Resources Director on a case-by-case basis. Such medical examinations shall be used to determine fitness for duty following a serious illness or injury that results from off-duty activities. Such medical examinations shall be conducted by a physician selected by the City. The City shall pay the cost of such medical examinations.

If the opinions of the City-selected physician and the personal physician of the employee seeking to return to work conflict, the City and employee shall select a neutral physician to determine the ability of the employee to return to his/her regular employment activities. During the resolution of the conflict, the employee shall be placed on paid administrative leave. If the employee is unable to return to work, as determined by the neutral physician, the entire period of paid administrative leave shall revert back to sick leave.

All other provisions of sick leave including "Sick Leave Abuse" shall be in accordance with the Sick Leave provisions contained in the City Personnel Rules, Section 1.12.070.

12.7 Catastrophic Injury/Illness Time Bank

EPOA members will be covered by the City wide Catastrophic Injury/Illness Leave policy, as outlined in Administrative Instruction 1129 – Catastrophic Injury/Illness Leave. The implementation and administration of the Catastrophic Injury/Illness Leave policy is not grievable or arbitrable under the Section 24 – Grievance Procedure of this Memorandum of Understanding.

12.8 Payment for Unused Sick Leave

For employees hired before July 1, 2014, if the employee has completed the probationary period, voluntarily resigns from the City with at least two (2) weeks' notice of intent, is separated by the City from non-probationary status, or retires from City service, the City shall pay a portion of sick leave accrued but unused at the rate of sixty percent (60%) of up to nine hundred sixty (960) hours. The payment shall be calculated by multiplying the employee's eligible number of unused sick leave hours times the employee's hourly salary (at time of separation) less the employee's 9% PERS contribution.

For employees hired on or after July 1, 2014, if the employee has at least five (5) years of continuous service, voluntarily resigns from the City with at least two (2) weeks' notice of intent, is separated by the City from non-probationary status, or retires from City service, the City shall pay a portion of sick leave accrued but unused at the rate of sixty percent (60%) of up to nine hundred sixty (960) hours. The payment shall be calculated by multiplying the employee's eligible number of unused sick leave hours times the

employee's hourly salary (at time of separation) less the employee's 9% PERS contribution.

12.10 Family Sick Leave

1) Definition of Immediate Family. Immediate family is defined as employee's parents, spouse, domestic partner, children, brother, sister, foster child, ward of the court, grandparents, legal guardian, grandchildren, parents of employee's spouse, any person living in employee's household as a family member.

2) Entitlement. An employee may use accrued sick leave to attend to or care for an immediate family member with a serious health condition as defined by Californian Family Rights Act. At the Employer's request, the employee will provide satisfactory evidence of the facts justifying such absence.

Section 13. Bereavement Leave

13.1 Time off for a death in the immediate family will be granted at straight-time pay for up to three (3) days. Bereavement leave is not deducted from accrued sick leave.

13.2 Immediate family is defined as the employee's parents, grandparents, legal guardian, spouse, brother, sister, children, grandchildren, or parents of the employee's spouse. Reasonable proof of death may be required to qualify an employee for bereavement leave.

13.3 Up to an additional two (2) days for travel to attend funeral services otherwise covered under this section may be authorized by the Department Head upon showing of good cause by the affected represented employee. Any disputes arising out of the denial of a request for travel time may be appealed under the grievance procedure contained in this Memorandum of Understanding, provided that the appeal may be only to the step in the procedure above the official who denied the request.

13.4 Funeral leave is not compensable when the employee is on leave of absence, vacation, bona fide lay-off, or for days falling outside the employee's regular work schedule.

Section 14. Holidays

All employees shall be compensated eight (8) hours for the following holidays:

New Year's Day
Third Monday in January, known as "Martin Luther King, Jr. Birthday"
Lincoln's Birthday
Washington's Birthday
Memorial Day
Independence Day
Labor Day
Columbus Day

Veteran's Day
Thanksgiving Day
Day after Thanksgiving Day
Christmas Day
Employee's Birthday

The holiday above designated as the employee's birthday shall be a floating holiday, to be taken on the employee's birthday, or within the calendar month of the actual birthday. If scheduling requirements cannot be met, the City may postpone the holiday beyond the calendar month, and it shall be rescheduled to a date mutually agreeable to the employees and the City.
All aforementioned holidays are recognized on the City observed days. For those employees who are assigned to work on Independence Day, Christmas and New Year's Day, the holidays are observed on the actual date of the holiday.

Section 15. Release Time for Association Officials

Association officials may collectively take an aggregate total of eighty (80) hours time off each year to attend conferences and seminars of interest and benefit to the Association and its membership and at no expense to the City.

Release time for such attendance shall be subject to the approval of the Chief of Police, and the denial of any request for release time shall not be subject to review under the grievance procedure contained in this agreement.

Section 16. Shift Selection

16.1 Shift selection by employees who are assigned to their respective Sections shall be governed by the seniority of each individual so assigned. It is the intent of the parties that the Chief of Police shall retain the authority to assign personnel, for good cause, to a shift other than that selected by the employee on the basis of his or her seniority.

16.2 The seniority of Police Officers shall be determined by the date of original appointment to the position of Police Officer; however, any periods of absence from employment due to resignation or leave of absence shall be deducted from the total amount of service and the officer's seniority date adjusted accordingly.

16.3 Seniority for officers in the rank of Sergeant of Police shall be determined by the date of their original regular appointment to the rank of Sergeant on a continuing basis. The provisions of the preceding paragraph for determination of seniority dates shall apply to Sergeants, as well as determine their seniority in rank.

16.4 The Chief of Police shall determine the number of positions necessary to staff each Section with Police Officers and Sergeants. The allocation of such positions shall also include the days off assigned to each such position.

16.5 Sworn personnel in the ranks of Sergeant and Police Officer shall select the position to

which they wish assignment in their respective Sections from the positions allocated by the Chief of Police. The selection shall be made by Sergeants and Police Officers in the order of their seniority as determined by the process set forth above.

16.6 The duration of each Patrol Section shift selection shall be for a period of six (6) months. This procedure may be evaluated at any time by the parties to this Agreement, and it may be modified by mutual agreement.

Section 17. Public Employees' Retirement System

17.1 For employees hired before the implementation of the 3 at 55 formula, as stated below and for the duration of this agreement, the City shall implement and maintain a contract with the Public Employees' Retirement System (PERS) providing members of the EPOA with a 3% @ 55 retirement plan with 1959 Survivor benefits, effective July 1, 2001. The Parties acknowledge that this formula, as adopted by the City, provides that "final compensation" for purposes of determining the employee's pension benefit is based on the highest single year of compensation earnable pursuant to Government Code Section 20042. Additionally, the City shall pay the rate prescribed by the Public Employees' Retirement System (PERS) for employer contributions to the public Employees' Retirement System in accordance with the rules and regulations governing such employer contributions.

On or after January 1, 2011, as the date is determined by the Employer to accommodate legal and administrative requirements, the City will contract for and implement a second pension tier providing the PERS "3% at age 55" formula for employees hired on or after the date the Employer adopts that formula. The formula will provide that "final compensation" for purposes of determining the employee's pension benefit is based on the highest average annual compensation earnable by the member during three consecutive years of service pursuant to Government Code section 20037.

The City contract with the Public Employees Retirement System will continue to provide for Military Service Credit buy back. Military Service credit may only be purchased at the time of application for service retirement.

17.2 For purposes of withholding, the City shall deduct that portion of the employee's contribution paid to PERS toward the PERS employee contribution on a tax deferred basis pursuant to section 414 (h) (2) of the Internal Revenue Code, adopted pursuant to City of Emeryville resolution. The tax deferral does not apply to FICA/Social Security. Each employee shall be solely and personally responsible for any federal, state, or local tax liability of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

17.3 Mandatory Employee Partial Payment of Employer Contribution.

In recognition of additional pension benefits previously granted to members of the bargaining unit, employees will pay three (3%) percent of their "compensation earnable",

as defined by Government Code Section 20636, toward the Employer's CalPERS contribution. Effective June 30, 2017, at the end of day, this contribution will increase by an additional one (1%) percent for a total of four (4%) percent of employee compensation earnable. These employee payments are mandatory and will be deemed employee contributions, as provided below. To the extent allowable by applicable law, the payments made by employees pursuant to this subsection 17.3, Mandatory Employee Partial Payment of Employer Contribution, will be deducted from their paychecks on a pre-tax basis pursuant to section 414(h)(2) of the Internal Revenue Code, as described above. The contribution made by the employee will be attributed to the employee's CalPERS account to the extent permissible by the California Public Employee Retirement Law. The City has adopted a resolution specifically providing a section 414(h)(2) of the Internal Revenue Code mechanism for employee payments made under this subsection 17.3.

17.4 Public Employees' Pension Reform Act

Effective January 1, 2013, newly hired employees that are considered "new members" in accordance with the Public Employees' Pension Reform Act (PEPRA) shall be enrolled in the PEPRA 2.7% at age 57 Safety benefit formula (average of highest three years compensation earnable and Level III Survivor Benefits plan), in accordance with applicable law and PEPRA. Employees enrolled in the 2.7% @ 55 shall contribute to the PERS each pay period twelve and one quarter percent (12.25%) of "PERSable" compensation toward the PERS employee contribution rate.

17.5 Public Agency Retirement System.

1) The City will maintain a contract with the Public Agency Retirement System ("PARS") whereby retiring employees, hired before the effective date of the second tier PERS formula the City adopts pursuant to section 17.1 above, will be eligible for a supplemental pension benefit that, in combination with their CalPERS "3% @ 55" benefit will provide them with a total lifetime benefit that equals three percent (3%) of their highest year's PERS-able wages at age 50 (up to a maximum benefit equal to 90% of those wages). The PARS supplemental pension benefit includes a two percent (2%) compounding annual cost of living increase on the anniversary date of the employee's retirement. Subject to any modification that the City and Union may hereafter negotiate, vesting in and eligibility to receive this supplemental benefit will not occur until and unless the employee simultaneously retires from the City through CalPERS and PARS with at least fifteen (15) years of City service at or after age 50. The PARS benefit provided under this section shall only be payable for periods that the employee remains simultaneously retired under CalPERS.

2) The City shall determine the investment mix for its PARS benefit fund, within the range of options offered through PARS.

3) An updated actuarial study of the cost of the PARS benefit shall be performed each year, with adjustments to occur the following July 1. PARS shall select the actuary to perform such studies. All documents transmitted between PARS and the City pertaining to such study shall be copied to the EPOA. The actuarial

methodology employed shall be substantially the same as that used in the study performed prior to the final agreement reached between the parties to provide this benefit. The parties acknowledge that the assumptions included a seven percent (7%) rate or return on investment, a twenty (20) year amortization period for unfunded liability, and a payroll growth rate of 3.25% per year. However, pursuant to the recommendations of the actuary retained by PARS, reasonable variations or changes in methods and assumptions may be implemented by the City to reflect the recommended actuarial practices, changes in actual and expected rates of return on investment, salary growth rate, retirement behavior, unit demographics, etc. The City shall promptly notify the EPOA of any recommended changes in assumptions or methodology and, on request within seven (7) days of such notice, meet with the EPOA to discuss the changes before they take effect.

4) If the actuarially determined contribution necessary to fully fund the PARS benefit provided herein exceeds four and one-half percent (4.5%) of PERS-able pay, the excess shall be offset by a uniform reduction of the wage schedule until the excess no longer exists.

Section 18. Salaries

18.1 Salaries of represented employees shall be paid in the amounts reflected in the salary schedule attached hereto as Appendix "A". The base rates shown in Appendix A shall increase by three percent (3%) effective on the first day of the first pay period beginning on or after January 1, 2015; by three percent (3%) on the first day of the first pay period beginning on or after July 1, 2015; by three percent (3%) on the first day of the first pay period beginning on or after July 1, 2016; and by one percent (1%) on June 30, 2017, at the end of day.

Step F of the Sergeant wage range shall be set at one hundred two percent (102%) of the Step E rate (i.e. 2% above step E). To move to step F a Sergeant must have completed four (4) years with the City at that rank. Step F of the Police Offer wage range shall be set at one hundred four percent (104%) of the step E rate (i.e. 4% above step E). To move to step F an Officer must have completed eight (8) years with the City at that rank.

18.2 Education Incentive Rate: 2-1/2% over base salary for A.A. Degree or an Intermediate P.O.S.T. Certificate; 5% over base salary for B.A. or B.S. Degree or an Advanced P.O.S.T. Certificate. Eligibility for Educational Incentive pay shall be determined by the date on the P.O.S.T. certificate or the date on the college diploma.

18.3 Settlement Incentive Not Affecting Base Pay - If the MOU is ratified by represented employees on or before December 1, 2014, and is subsequently ratified by the City Council, all EPOA represented employees shall be entitled to a flat dollar amount equal to one and a half percent (1.5%) of total annual base wages of all full time EPOA bargaining unit positions, which were effective July 1, 2014. The one and one- half percent (1.5%) amount shall be divided equally among the total number of EPOA

represented employees who are actively employed as of December 1, 2014. Payment to employees shall be issued within 30 days of contract ratification by the City Council or 30 days from December 1, 2014, whichever is later.

Section 19. Probationary Period

Police officers shall serve a probationary period during the first eighteen (18) months of employment. During the probationary period, an employee may be discharged at any time without cause by the City without appeal through Section 24, Grievance Procedure. The Police Chief shall have the authority to extend the probationary period an additional six (6) months.

Employees promoted to the Police Sergeant classification shall serve a six (6) month probationary period. The Police Chief shall have the authority to extend the probationary period an additional six (6) months.

Section 20. Overtime

20.1 Definitions

1) "Overtime" is any work performed in excess of forty (40) hours in a work week, or in excess of an employee's regularly scheduled work day, or on a regularly scheduled day off.

2) "Extension of the work day" means an extension of a regular work day, either before or after the shift.

3) "Standby overtime" occurs when any employee is required while off duty to be in an on-call status and available for immediate call back or is otherwise required to stand by or report his or her whereabouts during off duty hours.

4) "Call back time" is that time, exclusive of training or court overtime, which any employee spends at work when called back to duty on the employee's day off or during off duty hours on a regular work day other than time worked as an extension of the work day.

5) "Court Overtime" is time worked off duty for the purpose of conferring with members of the District Attorney's Office or appearing in court when subpoenaed as a witness in a criminal case or a civil case related to events perceived or investigated in the course of the employee's duty.

20.2 Rate of Compensation

Any authorized overtime worked shall be compensated at the rate of one and one-half (1-1/2) times the employee's regular straight-time rate of pay as defined in the Fair Labor Standards Act (FLSA). Overtime compensation shall be earned/compensated in increments of six (6) minutes.

Except as otherwise provided herein, overtime shall commence at the time an employee reaches the place where he or she is directed to report and shall continue until he or she is released or the work is completed, whichever is the earlier.

Compensation for an overtime shift will be based on the same method as for regular shifts, modified by the overtime rate.

20.3 Overtime Approval

All overtime credit must be approved by the Watch Supervisor or Division Commander.

20.4 Standby Time

If an employee is placed in an on call status, known as standby, by the Department or the District Attorney's Office, such employee shall be credited with one-half (½) his or her regular hourly salary rate during the period that he or she is on standby, provided that the employee shall be available at a telephone number supplied to the Department or District Attorney's Office during the standby period, and must report for duty if called at the time specified by the Department or the District Attorney's Office and that an employee will not be on standby for more than twelve (12) consecutive hours.

When the District Attorney's Office places an employee on standby, the employee must notify the Communications Unit on-duty dispatcher, who will complete the necessary Department records. At the completion of the standby period, the employee will complete the necessary Department form in person or by telephoning the dispatcher with the ending time. The form shall be verified by the on-duty Watch Supervisor.

20.5 Court Overtime

1) Employees who are required to testify in court or attend an attorney conference in any employment related civil or criminal matter immediately before or after his/her tour of duty, that is, as an extension of his/her work day shall be compensated at the time and one-half (1-1/2) rate for actual time worked.

2) Employees who are off duty and who are required to testify in court or attend an attorney's conference in any employment related civil or criminal matter will receive a minimum four (4) hours overtime computed at time and one-half (1-1/2). Overtime worked in excess of the minimum four (4) hours will be computed at time and one-half (1-1/2) for actual time worked.

3) Employees who are on a scheduled day off and are required to testify in court or attend an attorney's conference in any employment related civil or criminal matter will receive a minimum of four (4) hours overtime computed at the time and one-half (1-1/2) rate. Overtime worked in excess of the minimum will be computed at time and one-half (1-1/2) for actual time worked.

4) To be eligible for compensation under the provisions of paragraphs one through three (1-3) above, employees shall verify with the Department Court Liaison Clerk that his/her appearance at an attorney's conference is required before making such response.

5) Employees shall be reimbursed for expenses necessarily incurred in connection with court appearances and attorney conferences, and must receive the on-duty watch commander's prior approval for use of City vehicles for transportation while on duty.

6) When an employee is on vacation and the vacation is interrupted by a required court appearance or attorney conference, the employee shall be given an additional vacation day for each day of court appearance or attorney conference, and, subject to the approval of the Chief of Police, for travel time when the return from vacation is outside the immediate area.

20.6 Call Back Time

If an employee is called back to work, he or she shall, upon reporting, receive a minimum of four (4) hours work, or if four (4) hours work is not furnished, a minimum of four (4) hours pay at time and one-half (1-1/2). This provision does not apply to instances in which the employee is called to report before his or her regular starting time and performs the work as an extension of the regular work day.

An employee affected by this provision may be assigned to perform any duties in his or her job classification in lieu of being sent home.

If, during off-duty hours, an employee assigned to the Crime Investigation Section (CIS) receives and participates in a phone or text communication related to a specific investigation during off-duty hours, he/she shall be compensated one (1) hour of pay at the overtime rate (1.5 times regular rate of pay). If there are multiple phone and/or text communications during the same one hour period, an employee is only entitled to one (1) hour of pay at the overtime rate for the multiple phone or text communications. Before communicating in the above manner, an employee must obtain approval from an on-duty supervisor. To be compensated for the one (1) hour of pay at the overtime rate, the employee assigned to CIS is required to note the relevant police report, incident or case number on his/her timesheet for the pay period in which the call was taken.

20.7 Extension of Work Day Overtime

Overtime performed as an extension of the work day is computed at time and one-half (1-1/2) for the actual time worked. If an employee is required to report for duty early as an extension of the employee's work day, every effort shall be made to permit the employee to terminate work after an employee's regularly scheduled work shift if requested by the employee.

20.8 Overtime for Training

1) If an employee is required by the Department or by state law to attend a training class on a regular day off or on a regular work day, but not as an extension of the work day, the employee shall be guaranteed a minimum of four (4) hours overtime at the overtime rate of pay which shall be paid.

2) If an employee is required by the Department to attend a training class as an extension of the regular work day, the employee shall be guaranteed a minimum of one (1) hour overtime at the overtime rate of pay, with the understanding that there may be, at the Department's discretion, a break of less than fifteen (15) minutes between the end of the work day and the beginning or end of the one (1) hour training period.

3) Compensable training under this section may include, but is not limited to education, compulsory firearms training, meetings, conferences, and emergency care procedures, i.e., first aid and CPR.

20.9 Commuter Training

Travel time to a training venue shall be pre-approved, assessed and authorized by the Chief of Police or his/her designee. All off-duty approved travel time will be compensated at a rate of time and-half (1½) the regular hourly rate of pay.

20.10 Compensatory Time Off

An employee may elect to accumulate compensatory time off in lieu of payment for overtime worked. Compensatory time off shall accumulate at the rate of one and one-half (1-1/2) hours for each hour of overtime worked, to a maximum accumulation of one hundred (100) hours. The City shall buy-back compensatory time off accumulated in excess of eighty (80) hours annually during the month of November.

20.11 Use of Compensatory Time

Employees wishing to take compensatory time off must submit the necessary Department forms to his/her supervisor, giving reasonable advance notice.

1) The supervisor will make every effort to grant the request and shall sign the authorized Department form and forward it to the Division Commander for final review. In urgent cases, and in the absence of the supervisor, the request may be submitted directly to the Division Commander.

2) For the purpose of this subsection, the number of compensatory hours an employee is required to use to be off on their scheduled work day and/or work week, will be a function of the employee's regular work schedule.

3) Compensatory time off may be requested and scheduled in advance to allow an employee to be off work on a combined vacation leave/compensatory time off period of one (1) week.

Section 21. Strikes and Lockouts

Employees represented by the EPOA shall not engage in any illegal strike, walkout, work stoppage, slow down or other interference with the conduct of City operation. Any employee engaged in such activity which is illegal may be subject to disciplinary action. The City shall not engage in any illegal lockout of employees covered by this agreement.

Section 22. Layoff Procedures

22.1 Purpose:

This article provides the procedure to be followed when an employee is displaced/laid off from his/her position due to a reduction in the work force.

22.2 Definitions:

1) Layoff: Dismissal of at least one employee due to the lack of work, lack of funds, or abolishment of position.

2) Downgrade: A change in job classification of which the top salary is less than the top salary of the employee's present classification due to the layoff.

3) Salary: The monthly salary range and respective step for the affected classification.

22.3 Notification:

1) Whenever the Department head anticipates a reduction in the work force, immediate notification to the City Manager shall be made. The notification shall include the anticipated number and classifications of employees to be laid off and plan for conducting an orderly layoff to reduce the adverse affect on employees to be laid off.

2) Whenever possible the City Personnel Officer shall notify affected employees, in writing, of the impending layoff at least thirty (30) days in advance of the layoff. Service of notice to an employee absent from work for any reason shall be made by certified or registered United States mail or personal service.

3) The Notice of Layoff shall include an explanation of an employee's right to accept layoff in lieu of downgrade pursuant to Section 22.4(5) of this article.

22.4 Layoff Policy

1) The City agrees to meet and confer with the Association prior to any action taken on a proposal to reduce the work force.

2) During the first two (2) years following a layoff, laid off employees shall have the right to reinstatement to any vacancies in the classification from which they were laid off.

3) Laid off employees shall be eligible to take promotional examinations if they meet the minimum qualifications for the position in question. This eligibility shall not exceed two (2) years.

4) An employee scheduled for lay off shall have the right to downgrade to a former classification in which the employee held probationary or permanent status. An employee who is downgraded pursuant to this article shall be paid in the new classification the salary range step closest to the monthly pay rate received immediately prior to downgrade. An employee who accepts downgrade in lieu of layoff shall retain the right to his or her former classification for a period of four (4) years.

5) Any employee downgraded pursuant to Section 22.4 of this article shall assume the seniority position that he or she would have been entitled to had he or she been serving continuously in the position that he or she has downgraded to.

22.5 Order of Layoff

1) Layoff shall be by classification unless the Department head, with the approval of the City Manager, deems it in the best interest of the Department to make reductions in classification first and thereby cause separation from the service only in the lower ranks.

2) Employees who have held probationary or permanent status in non-affected classifications shall have the right to downgrade pursuant to Section 21.4(4) of this article.

3) The services of all temporary, part-time and probationary employees in the classification affected shall be terminated, in that order, before any reduction in the regular work force.

4) Layoff amongst full-time employees in the affected classification shall be made on the basis of classification seniority.

22.6 Exception to Order of Layoff

1) Whenever the Department head believes that the best interests of the Department require the retention of employees with special qualifications, characteristics, and fitness for the work, the Department head may request an exception to the order of layoff. Such request shall be made to the City Manager in writing.

2) If the Association disagrees with a request for an exception to the order of layoff, the Association may request that the matter be studied by a review committee. The review committee shall be comprised of an Association representative, a management representative, and a third party to be mutually agreed upon by the first two representatives. The review committee shall rule upon the appropriateness of an exception to the order of layoff. The finding of the review committee shall be advisory to the City Manager. The review of an exception to the order of layoff shall be the only role of this committee.

22.7 Fringe Benefits

1) Employees being laid off shall be paid vacation, holiday accrual, overtime accrual and similar benefits per applicable ordinances and agreements.

2) Employees hired before July 1, 2014, upon being laid off may elect to receive compensation for sixty percent (60%) of the employee's accumulated and unused sick leave at the date of layoff, with a maximum payment equivalent to five hundred and seventy-six (576) hours sick leave pay. Such pay out shall be at the hourly rate of pay at separation less the 9% PERS contribution.

3) Employees with at least five (5) years of continuous service hired on or after July 1, 2014, upon being laid off may elect to receive compensation for sixty percent (60%) of the employee's accumulated and unused sick leave at the date of layoff, with a maximum payment equivalent to five hundred and seventy-six (576) hours sick leave pay. Such pay out shall be at the hourly rate of pay at separation less the 9% PERS contribution.

22.8 Assistance to Affected Employees

Assistance with unemployment benefits and the availability of retirement benefits or refunds shall be provided by the Personnel Officer at the request of laid off employees.

22.9 Recall

1) Employees in layoff status shall retain recall rights for a period of two (2) years following layoff and shall have preference to work over applicants on eligibility lists.

2) Recall shall be made by written notice to the affected employee made by personal

service or certified or registered United States mail to the employee's last known address in the City personnel file. Recalled employees must signify their intent to return to work within ten (10) calendar days of receipt of the recall notice. Response to recalls shall be made to the City Personnel Officer.

3) Recall shall be offered to laid off employees, provided that meet standards set by the California Commission on Peace Officer Standards and Training.

4) Recall from layoff shall be by classification in the reverse order of layoff.

5) An employee recalled within two (2) years of layoff shall keep the same department and classification seniority dates as existed prior to layoff.

6) Employees who return to a job classification covered by this agreement from a management status shall receive that rate of pay which is closest to that rate of pay in the classification that they were receiving prior to return.

Section 23. Off Duty Employment

23.1 Purpose

The purpose of this article is to provide for authorization of off duty employment of employees covered by this agreement and to set forth steps which must be taken when an employee seeks outside employment during his or her off duty hours.

23.2 Policy

It is the policy of the City of Emeryville and Emeryville Police Department that no employee shall seek or obtain outside employment which is inconsistent with, incompatible to, or in conflict with the employee's duties with the Department. This includes any and all off duty work whether in or out of uniform. Outside employment not otherwise prohibited herein shall not be obtained without prior written authorization from the Chief of Police.

23.3 Rule

No employee of the Department shall enter any employment outside of regular duties or establish any business that will in either case require him or her to work more than four (4) hours on any scheduled work day. All outside business or work for others is subject to authorization of the Chief of Police and will be allowed only under provision that:

1) Such outside work or business does not interfere with the employee's efficiency in performing regular duties.

2) Such outside work or business does not prevent the employee from responding to orders from the Chief of Police or his/her designee, to perform overtime work.

3) Such outside work does not involve the use for private gain of Department time, facilities, equipment, supplies, badge, uniform, prestige, or influence of the employee's departmental position or authority.

4) Such outside work does not involve receipt or acceptance by any employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her Department employment or as a part of his or her duties as a Department employee.

5) Such outside work does not involve the performance of an act in other than his or her capacity as a Department employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other employee of the Department.

6) An employee who sustains a disabling injury or illness during the course of self-employment or off duty employment, not related to employment in the City of Emeryville, is not entitled to receive workers' compensation benefits provided by the City.

23.4 Procedure

Every employee desiring to seek or accept outside employment shall submit a "Request for Outside Work Approval" to the Chief of Police, who shall investigate the request for outside employment and make a final decision and shall be responsible for proper notification to the applicant.

Section 24. Grievance Procedure

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

24.2 Grievances shall be processed in the following manner:

1) The grievance shall be presented in writing either by the employee or by an authorized Association representative to the Chief of Police or his designated representative within fourteen (14) calendar days after the cause of such grievance occurs, or within fourteen (14) calendar days from the date the employee first had reason to know of the cause of such grievance.

2) The Chief of Police or his designated representative shall have ten (10) calendar days from date of receipt of the grievance in which to respond. If the grievance is not satisfactorily adjusted within this period, the grievance may be presented in writing either by the employee or by an authorized Association representative to the City Manager or to such representative as he/she may designate.

3) If, within ten (10) calendar days after the City Manager or his or her designee receives the grievance, the grievance remains unresolved either party may refer the grievance to arbitration. Such referral must be made within thirty (30) calendar days after expiration of the period set forth herein for the City Manager or his/her designee to consider the grievance.

Referral of a grievance to arbitration shall be in writing and deemed timely if it is postmarked or hand delivered to the other party within the thirty (30) calendar day period. In the event the Association and the City Manager or his or her designee are unable to select an impartial arbitrator by mutual agreement, the parties shall jointly request that the State Mediation and Conciliation Service provide the parties with a list of the names of seven (7) impartial arbitrators. Each party shall alternately strike a name from the list until only one name remains. The party to strike first shall be chosen by lot. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear its own costs, fees and expenses, including attorney's fees, duplication costs, witness fees and expert witness fees, if any, in pursuing or defending a grievance at every stage of the proceeding, including but not limited to, the hearing before the arbitrator, or before a court of competent jurisdiction.

5) Decisions of arbitrators on matters properly before them shall be final and binding on the parties hereto.

24.3 The arbitrator shall not entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Association and unless such dispute falls within the definition of a grievance as set forth in subsection 24.1, and is properly advanced through the chain of steps contained in this grievance procedure. Further, the arbitrator may not waive the rights of either party to the full enforcement of the grievance procedure or other provisions of this Memorandum of Understanding.

24.4 Proposals to add to or change this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. No arbitrator shall have any power or authority to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.

24.5 No grievance involving disciplinary action taken against an employee will be entertained unless it is filed in writing with the City Manager within seven (7) calendar days of the time at which the affected employee was notified of such action.

24.6 All complaints involving or concerning the payment of compensation shall be initially filed in writing with the City Manager or his or her designee. Only claims that

employees have been compensated in a manner that violates one or more provisions of this Memorandum of Understanding shall be considered as grievances. Any other matters concerning compensation shall be deemed beyond the scope of the grievance procedure..

24.7 General Conditions

1) The Police Chief shall be responsible for maintaining all grievance records, provided, however, the Association shall be entitled to copies of documents related to grievances filed by employees it represents and may maintain its own independent files of such documents.

2) Both parties may agree in writing to shorten or lengthen the time limits between steps in the grievance procedure. Similarly, both parties may agree in writing to bypass steps in the grievance procedure in the interest of effecting a speedy resolution.

3) When possible, meetings required by the grievance procedure shall be scheduled during regular work hours. The grievant shall be entitled to reasonable time off without loss of pay for attending the meetings and/or hearings specifically set forth in the grievance procedure.

4) Time spent by the grievant outside the regular hours of work in the pursuit of resolution to the grievance is not compensable.

5) An aggrieved employee may be represented by any person or organization of his/her choice at any stage of the grievance procedure. A representative of the Association is entitled to be present at all meetings, conferences and hearings required by the grievance procedure in connection with the grievances filed by members of the unit represented by the Association.

6) Employees shall be assured freedom from reprisal for using the grievance procedure.

7) Failure of the grievant to proceed to any subsequent step of the grievance procedure shall be deemed a withdrawal of the grievance.

8) The City shall have the right to consolidate grievances where it deems consolidation appropriate.

9) The authority of an arbitrator to award damages is expressly limited to salary and benefits, with interest thereon, which an employee would otherwise be entitled under this Memorandum of Understanding.

10) Nothing in this section shall be construed to preclude an employee's right to separately pursue legal remedies which may be available under state and/or

federal law.

24.8 Personnel Files

The official personnel file and the official grievance file shall be maintained separately.

1) Employees shall be provided with copies of any derogatory written material before it is placed in the employee's personnel file. The employee shall have an opportunity to respond, within thirty (30) days, in writing to such derogatory material and have his/her written response attached thereto.

2) Material in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the employee involved.

3) An employee, upon reasonable notice to his/her supervisor, shall have the right without loss of pay to examine and/or obtain copies of any material from his/her personnel file with the exception of material that includes ratings, reports, or records which were obtained prior to the employment of the employee involved. The employee's personnel file shall be available for examination by the Union Field Representative as authorized by the employee. Employees covered by this Agreement wishing to review their personnel file shall call the Personnel Office in advance and schedule an appointment to inspect their personnel files. This right will be exercised reasonably.

4) All personnel files shall be kept confidential.

5) Formal letters of reprimand and/or formal counseling memoranda may, by mutual agreement between the City and the Union, include a specific date by which the letter or memorandum will be removed from the employee's personnel file provided that no further reprimands, memoranda, or other disciplinary actions have occurred with the employee during the intervening time period.

Employees or their designated representative may request a review of material contained in their personnel files for possible deletion. Any deletion of documents from any employee's personnel file requires the mutual agreement of the City and the employee.

Section 25. Health and Safety

A Safety and Training Committee consisting of five (5) persons (consisting of one representative from each City Bargaining Unit) will meet at regularly scheduled intervals and shall hold safety meetings and inspections to recommend improvements consistent with OSHA and to recommend training programs to City Management. The Human Resources Manager shall serve as staff to the Committee. Each bargaining unit shall designate one alternate member.

Section 26. Savings Clause

If any provision of this Agreement should be held invalid, or restrained by law, or nullified by any court of competent jurisdiction, the remainder of this agreement shall not be affected thereby. Further, the parties to this Agreement shall meet and confer in good faith for the sole purpose of negotiating a mutually agreed upon substitute provision.

Section 27. Term of Agreement

This Memorandum of Understanding shall be effective on the date that it is signed by both parties hereto, and shall remain in effect through June 30, 2017.

Signed this day, Nov. 18, 2014

FOR THE EMERYVILLE POLICE OFFICERS' ASSOCIATION

Mike Costello
President

John Foley
Vice-President

Jason Bosetti
EPOA

John Noble
Labor Relations Consultant/RLS

FOR THE CITY OF EMERYVILLE

Sabrina Landreth
City Manager

Ian Appleyard
Human Resources Director

Jeannie Quan
Civilian Commander

Darrell Murray
Labor Relations Consultant/IEDA

APPROVED AS TO FORM:

Michael Biddle, City Attorney

APPENDIX A - WAGE SCHEDULE

Effective 1/1/15 (3%)						
Step:	A	B	C	D	E	F*
POLICE OFFICER	7687	7956	8235	8523	8821	9174
2.5% ED INCENTIVE	192	199	206	213	221	230
5.0% ED INCENTIVE	384	398	412	426	441	458
CANINE INCENTIVE	384	398	412	426	441	458
POLICE SERGEANT			9617	10097	10601	10813
2.5% ED INCENTIVE (Sgt)			240	252	265	270
5.0% ED INCENTIVE (Sgt)			481	505	530	541

Effective 7/1/15 (3%)						
Step:	A	B	C	D	E	F*
POLICE OFFICER	7918	8195	8482	8779	9086	9449
2.5% ED INCENTIVE	198	205	212	219	227	236
5.0% ED INCENTIVE	396	410	424	439	454	472
CANINE INCENTIVE	396	410	424	439	454	472
POLICE SERGEANT			9906	10400	10919	11137
2.5% ED INCENTIVE (Sgt)			247	260	273	278
5.0% ED INCENTIVE (Sgt)			495	520	546	557

Effective 7/1/16 (3%)						
Step:	A	B	C	D	E	F*
POLICE OFFICER	8156	8441	8736	9042	9359	9733
2.5% ED INCENTIVE	204	211	218	226	234	243
5.0% ED INCENTIVE	408	422	437	452	468	487
CANINE INCENTIVE	408	422	437	452	468	487
POLICE SERGEANT			10203	10712	11247	11472
2.5% ED INCENTIVE (Sgt)			255	268	281	287
5.0% ED INCENTIVE (Sgt)			510	536	562	574

Effective 6/30/17 (1%)						
Step:	A	B	C	D	E	F*
POLICE OFFICER	8238	8525	8823	9132	9453	9831
2.5% ED INCENTIVE	206	213	220	228	236	246
5.0% ED INCENTIVE	412	426	441	457	473	492
CANINE INCENTIVE	412	426	441	457	473	492
POLICE SERGEANT			10305	10819	11359	11587
2.5% ED INCENTIVE (Sgt)			258	270	284	290
5.0% ED INCENTIVE (Sgt)			515	541	568	579

RESOLUTION NO. 14-153

Resolution Of The City Council Of The City Of Emeryville Approving And Authorizing the City Manager And City Representatives To Execute And Enter Into A Memorandum Of Understanding Between The City of Emeryville And The Emeryville Police Officers' Association With A Term Effective November 18, 2014 Through June 30, 2017

WHEREAS, the City Council of the City of Emeryville provided direction and authority to its designated representatives to bargain the provisions of a Memorandum of Understanding covering terms and conditions of employment for employees represented by the Emeryville Police Officers Association; and

WHEREAS, the negotiations have resulted in a three year successor Memorandum of Understanding, with a term of effective upon the adoption of this resolution through June 30, 2017; now, therefore, be it

RESOLVED, that the City Council of the City of Emeryville hereby approves and authorizes the City Manager and City Representatives to execute and enter into the Memorandum of Understanding between the City of Emeryville and the Emeryville Police Officers' Association, in the form attached hereto as Exhibit A, effective upon adoption.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, November 18, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY