2008 - 2011

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

CITY OF SANTA CRUZ

AND THE

FIRE MANAGEMENT ASSOCIATION OF THE CITY OF SANTA CRUZ

MEMORANDUM OF UNDERSTANDING

CITY OF SANTA CRUZ AND

SANTA CRUZ FIRE MANAGEMENT ASSOCIATION

2008 – 2011

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2008 - 2011

MEMORANDUM OF UNDERSTANDING

CITY OF SANTA CRUZ AND FIRE MANAGEMENT ASSOCIATION

OF THE CITY OF SANTA CRUZ

SECTION 1.00 - TERM

The term of this Memorandum of Understanding shall commence August 9, 2008 and shall expire on the day prior to the beginning of the first full pay period in August, 2011 (August 5, 2011).

SECTION 2.00 - PREAMBLE

This Memorandum of Understanding is entered into by the City of Santa Cruz (hereinafter referred to as the City) and the Fire Management Association of the City of Santa Cruz (hereinafter referred to as the Association). Employee defined for the purpose of this Memorandum of Understanding shall mean a regular employee assigned to the classification of Fire Battalion Chief, Fire Division Chief, or Fire Deputy Chief. This Memorandum of Understanding is subject to Sections 3500-3510 of the Government Code of the State of California, the City of Santa Cruz Municipal Code and the Personnel Rules and Regulations for the City of Santa Cruz.

SECTION 3.00 - NO ABROGATION OF RIGHTS

The parties acknowledge that City responsibilities and rights as indicated in current Article 1, Section 1, (Appendix A) of the City Personnel Rules and Regulations and all applicable State or Municipal laws are neither abrogated nor made subject to the meet and confer process by adoption of this Memorandum of Understanding.

It is agreed that except as specifically delegated, granted, or modified by this Memorandum of Understanding, all of the rights, power and authority the City had prior to the signing of this Memorandum of Understanding, are retained by the City and remain the exclusive right of the City without limitation. Furthermore, these retained rights are not subject to any grievance or impasse procedure.

SECTION 4.00 - EMPLOYEE RIGHTS

The Association and the City acknowledge that although the Association is the recognized bargaining representative, the rights of employees under this Memorandum of Understanding, State

law, City Personnel Rules and Regulations and the City Charter are neither abrogated nor diminished by the adoption of this Memorandum of Understanding.

SECTION 5.00 - RECOGNITION

Pursuant to the Meyer-Milias-Brown Act and the City's Personnel Rules and Regulations, the City has certified the Association as the recognized employee organization of the representation unit consisting of all full-time Fire Battalion Chiefs, Fire Division Chiefs, and Fire Deputy Chief. This unit shall be titled the Fire Management Association Unit.

SECTION 6.00 - JOB ACTIONS

The Association recognizes the Santa Cruz Municipal Code and agrees not to permit, authorize or in any other manner allow its members or those supervised to strike, slowdown, sick-in or engage in any work stoppage or other legal or illegal work or job action.

SECTION 7.00 - NO DISCRIMINATION

The City and the Association agree to adhere to the City Council policies pertaining to equal employment and discriminatory harassment as listed in Exhibit A and B, as well as applicable federal and state discrimination laws.

SECTION 8.00 - SAFETY

The City intends to meet its obligation under the California Occupational Safety and Health Act and shall adopt and use safeguards, devices and practices reasonably adequate to render such employment safe.

The Association will cooperate with the City by requiring employees under its control to work safely and, further, the Association recognizes its obligation as management to support the City's effort to prevent injuries.

SECTION 9.00 - NOTIFICATION TO ASSOCIATION

Except in cases of bona fide emergency, the Association shall be given seven workday's advance written notification of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council or City Administration and shall be given the opportunity to meet with the City representative prior to its adoption.

SECTION 10.00 - WORK SCHEDULE

Work schedules utilized in the Fire Management Unit are as follows:

A. Employees assigned to a 56-hour/week schedule shall typically work hours corresponding to the Fire Operations shift schedule. On-duty shifts shall commence at the hour of 7:00 a.m. and shall be completed at 7:00 a.m. the following day.

Employees working shifts shall not be released from duty until they are relieved by the next shift supervisor, unless otherwise directed by the Fire Chief or his representative.

B. The work week for employees assigned to a 40-hour/week schedule shall typically consist of four or five consecutive days totaling 40 hours.

The Fire Chief shall assign starting and quitting times to these employees to meet operational needs. Affected employees will be notified five (5) working days in advance of changes in work schedules. This shall not preclude the City from effecting schedule changes due to operational needs, overtime or emergency work.

40-hour employees may request to work a 9/80 or 4/10 schedule.

10.01 Back-Up Duty Chief Assignment

Back-up duty Chief assignments will be made in accordance with the Santa Cruz Fire Department Police and Procedure Manual Article 2, #B.2-5 (Back-Up Duty Chief Assignment).

Compensation for back-up Duty Chief assignments is as follows:

A. For every weekday covered, a stipend equal to 1 ½ hours "B" step Battalion Chief (40-hour) pay shall be provided.

B. For every weekend day (24-hour period) covered, a stipend equal to 2 hours of "B" step Battalion Chief (40-hour) pay shall be provided.

C. For every 8-hour City designated holiday covered (24-hour period), a stipend equal to 4 hours of "B" step Battalion Chief (40-hour) pay shall be provided and 4 additional hours will be credited to the employee's holiday bank.

D. For every 4-hour City designated holiday covered (19-hour period), a stipend equal to 2 hours of "B" step Battalion Chief (40-hour) pay shall be provided and 2 additional hours will be credited to the employee's holiday bank.

E. When a back-up Duty Chief is dispatched or activated, the pay rate will revert to 1 ½ employee base rate as "emergency call back".

SECTION 11.00 - PERSONNEL ACTION

11.01 Performance Evaluations

It is compulsory that all regular employees receive an annual written performance evaluation from their supervisor. All employees serving their twelve (12)-month probationary period will be evaluated annually on their merit review date.

Evaluations are intended to be a summary of the employee's performance over the course of the evaluation period. Evaluations are also to be used as a tool to motivate the employee to work at his/her highest capacity and to communicate and document the employee's level of performance. To this end, the supervisor and the employee will meet and discuss work responsibilities, job standards and objectives, review progress and plan for the employee's future development prior to the evaluation being placed in the employee's personnel file. Disputes regarding performance reviews shall be resolved by the Fire Chief and disputes shall not be subject to the grievance process.

11.02 Probation

11.02.01 Probationary Period.

All original, promotional and re-hire appointments shall be subject to a probationary period of twelve (12) months. Any time spent by an employee on unpaid status shall not be counted as qualifying service toward completion of the probationary period.

11.02.02 Objective of Probationary Period.

The probationary period shall be regarded as part of the selection process and shall be utilized for training the new employee on work assignments and standards, and observing and evaluating the employee's performance.

11.02.03 Rejection of Probationary Employee.

During the probation period, an employee may be rejected at any time by the appointing authority without the right of appeal. Notification of rejection shall be served to the probationary employee in writing. Any promoted employee who is rejected during the probationary period shall be reinstated to the position from which promotion occurred; unless the rejection is due to discharge in which case no reinstatement shall occur.

11.02.04 Extension of Probation.

All efforts will be made to sufficiently evaluate the probationary employee during the assigned period. An extension of the probationary period may, however, be recommended by the appointing authority when good cause exists. Such extensions shall be for a specific period of time not to exceed three (3) months.

SECTION 12.00 - PAY RATES AND PRACTICES

12.01 Salary Steps

Each classification in the unit shall be assigned a salary range that increases by six percent (6%) between steps.

12.01.01 Salary Rates Upon Appointment.

New employees shall be hired at the first step of the classification's salary range; unless a higher starting step is recommended by the Fire Chief based on the employee's advance qualifications for the position and such recommendation is approved by the Director of Human Resources and City Manager.

12.01.02 Advancement within the Range.

A. Advancement within a classification's salary range shall normally be granted on the employee's scheduled merit review date. Such advancements shall be based solely on meritorious job performance as documented by a satisfactory performance evaluation and successful completion of department required training standards.

B. Employees are eligible for their first merit increase at the end of the first six (6) months of their twelve (12) month probation. After successful completion of the full probation, the employee shall be eligible for subsequent merit increases after each full year on paid status from the last merit review date, continuing until the top of the salary range is attained.

C. Merit increases shall normally be from one pay step to the next higher pay step. Increases of greater than one (1) step may, however, be recommended by the Fire Chief when exceptional performance has been demonstrated by the employee. Such step increases must be approved by the City Manager.

D. A merit increase may be denied by the Fire Chief when an employee's job performance falls below the acceptable work standards for the duties assigned. The Fire Chief may, in such a case, recommend that the employee's work performance be reviewed again at a specific time before the next review date. If a merit increase is granted at that time, the employee's original review date shall not change and she/he shall be eligible for the next merit increase after one (1) year on a paid status from the original review date.

E. An employee's scheduled merit review date shall be adjusted for any time spent by the employee on unpaid status.

F. Upon receipt of a satisfactory annual evaluation, the effective date for a merit increase shall be the first day of the pay period which includes the employee's merit review date.

12.02 Working Out of Classification

The term "working out of classification" is defined as a management authorized, full-time assignment on a temporary basis of an employee in a lower classification to a budgeted higher classification. Assignments will only be made to qualified employees assuming a significant number of duties of the higher classified position. Pay for "working out of classification" shall be as follows:

A. Employees appointed to fill vacant positions will receive acting pay beginning the first day of the assignment.

B. Employees appointed to a position for vacation, sick leave or leave of absence coverage will receive acting pay beginning on the first work day of the appointment.

C. Acting pay will not be less than 5%.

12.03 Salary

A. Effective August 9, 2008, the salaries for represented classifications will be increased as follows:

Deputy Chief	10.00%
Division Chief	7.50%
Battalion Chief	11.25%

B. Effective November 1, 2008, the salaries for all represented classifications will be increased by 2.00%.

C. Effective February 7, 2009, the salaries for represented classifications will be increased as follows:

Deputy Chief	10.00%
Division Chief	10.50%
Battalion Chief	11.25%

D. Effective August 8, 2009, the salaries for all represented classifications will be increased by 2.00% and the salary for the Division Chief classification will be increased by an additional 3.00%.

E. Effective August 7, 2010, the salaries for all represented classifications will be increased by 3.00%.

12.04 CalPERS

The City will provide the 3% at 50 CalPERS Retirement Plan. Employees are responsible for the payment of the 9% employee share of CalPERS on a unit-wide basis.

The City will maintain the IRS 414(h)(2) provision allowing employees to defer State and Federal income taxes on their CalPERS contributions.

The City's contract with CalPERS includes service credit for unused sick leave (Section 20965).

12.05 Operational Compensation/Emergency Callback

If a Battalion Chief's absence creates or contributes to overtime as a result of minimum staffing requirements, a Battalion Chief may be offered to work the vacancy at a pay rate which is 10% above what a Step "F" Fire Captain, working out-of-class as a Battalion Chief would receive. Effective February 7, 2009, the pay rate will be 1.45% above the employees current base rate of pay. This provision is administered in accordance with Policy and Procedures Manual Article 5-26.

In addition, Battalion Chiefs required to return to work for emergency call duty as determined by the Fire Chief, will be paid time and one-half pay.

Battalion Chiefs will also be paid time and one-half pay if assigned to work for declared disaster team or to provide coverage for Battalion Chiefs required to perform such duty. Payment of time and one-half will only be for those incidents which the City receives reimbursement from OES, FEMA, or other appropriate State or Federal agencies.

Battalion Chiefs are designated as FLSA exempt and this compensation will not be considered PERS income, as it is considered additional duties.

12.06 Longevity

Upon completion of six (6) years of continuous regular service and with a satisfactory performance rating on the most recent evaluation, employees shall receive a 2½% longevity pay increase.

Effective February 7, 2009, the longevity provision will be revised to require ten (10) years of service.

Effective February 7, 2009, upon completion of fifteen (15) years of continuous regular service and with a satisfactory performance rating on the most recent evaluation, employees shall receive an additional 2% longevity pay increase.

12.07 On-Call Fire Investigator

On-call Fire Investigator assignments will be made in accordance with Santa Cruz Fire Department Policy and Procedure Manual Article 2, #B2-4 (On-Call Fire Investigator Assignment).

Compensation for on-call Fire Investigator assignments is as follows:

A. For every weekday covered, a stipend equal to 1 ½ hours of "C" step Deputy Fire Marshal pay shall be provided.

B. For every weekend day (24-hour period) covered, a stipend equal to 2 hours of "C" step Deputy Fire Marshal pay shall be provided.

C. For every City designated 8-hour holiday (24-hour period) covered, a stipend equal to 4 hours of "C" step Deputy Fire Marshal pay shall be provided and 4 additional hours will be credited to the employee's holiday bank.

D. For every City designated 4-hour holiday (19-hour period) covered, a stipend equal to 2 hours of "C" step Deputy Fire Marshal pay shall be provided and 2 additional hours will be credited to the employee's holiday bank.

E. When an on-call Fire Investigator is dispatched or activated, the pay rate will revert to 1 ½ the employee's base pay rate as "emergency call back".

12.08 Educational Incentive

Effective February 7, 2009, employees will be eligible for the following educational incentives (the maximum incentive available is four percent (4%):

A. AA/AS degree or 60 units and actively pursuing job related college work and/or bachelors, or AA/AS degree program – two percent (2%) of base salary.

B. BA/BS or Masters degree or State Chief Officer or Fire Marshal certification – four percent (4%) of base salary.

12.09 Emergency Medical Technician (EMT) Incentive

Effective February 7, 2009, each employee who is certified in the County of Santa Cruz as an Emergency Medical Technician-D shall be compensated an additional two percent (2%) of the employee's base salary.

12.10 Hazardous Materials (Haz-Mat) Technician Incentive

Effective February 7, 2009, a maximum of two (2) employees designated as haz-mat technicians in accordance with departmental policies and procedures will receive an incentive equal to two percent (2%) of the employee's base salary.

12.11 Special Event Compensation

A special event assignment is defined as an assignment for which the City is reimbursed by a event's sponsor, through the Finance Department, for fire services. If a unit employee staffs a special event that results in hours being worked in addition to the employee's 40-hour work week, the employee will be paid at time and one-half pay for hours worked while performing such duty. Payment of time and one-half special event pay will only be for those special events which are so designated by the Fire Chief and not co-sponsored by the City. Because unit employees are designated as FLSA exempt, this compensation will not be considered PERS income, as it is considered compensation for additional duties.

SECTION 13.00 - HOLIDAYS

13.01 56-Hour Per Week Employees

The City shall provide for holidays at the rate of 192 hours per fiscal year. Pursuant to City directives, time may be paid as time off granted. In no case will holiday time be carried over to the next fiscal year and holidays shall be paid at a straight time rate. If paid, a separate check shall be issued for 96 hours in the first six (6) months, and again for 96 hours in the second six (6) months of the fiscal year.

13.02 40-Hour Per Week Employees

40-hour per week employees, within the unit shall have the following specific holidays with pay:

New Year's Day
Martin Luther King's Birthday
Presidents' Day
Memorial Day
Independence Day
Labor Day
Veterans' Day
Thanksgiving Day
Friday after Thanksgiving
Second half of the workshift Christmas Eve
(if Christmas is on a Tuesday - Saturday)
Christmas Day
Second half of the workshift New Year's Eve

(if New Year's Day is on a Tuesday - Saturday)

Except as provided for on Christmas Eve and New Year's Eve, when a holiday falls on Sunday, the following Monday shall be observed. When a holiday falls on Saturday, the preceding Friday shall be observed.

In addition to the above fixed holidays, 40-hour per week employees shall be granted twenty-four hours of floating holiday on July 1 of each year. When an employee terminates, the employee shall pay the City for that portion of the floating holiday hours used that exceeds the portion of the year the employee worked.

New employees shall be granted floating holidays on a six (6) month pro-rated basis, i.e., if hired in July - December, given twenty-four (24) hours; hired January - June given twelve (12) hours. However, no floating holidays may be used until the employee has completed three (3) months of paid service.

Floating holidays may only be taken with prior approval. Employees must use all floating holidays within the fiscal year earned. There will be no payment for unused floating holidays.

SECTION 14.00 - SICK LEAVE

14.01 Definition

The purpose of this section is to provide paid leave time to be used by employees in the event of a non-work related illness, injury, or the medical necessity of others as specified below. Sick leave shall not be construed to be a privilege which an employee may use at his/her discretion, but shall be allowed only in case of necessity herein set forth.

14.02 Accrual

14.02.01 24-Hour Shift Personnel

All 24-hour shift personnel shall accrue sick leave at the rate of 12 hours for each full month of continuous regular service in which the employee has worked or has been in authorized leave of absence with pay.

14.02.02 40-Hours per Week Personnel

All 40-hour week shall accrue such leave at the rate of 8 hours for each full month of continuous regular service in which the employee has worked or has been in authorized leave of absence with pay.

14.02.03 Eligibility

Employees must be on paid status at least 50% of the working hours of a pay period to earn sick leave for that period.

14.03 Limitations

A. To receive compensation while absent on sick leave, the employee shall notify his/her immediate supervisor in the manner provided in the departmental rules and regulations.

B. The Fire Chief may require an employee to submit verification of an illness or injury from a licensed medical practitioner prior to any use of sick leave being authorized.

In cases of chronic absenteeism or medical work restrictions, the Director of Human Resources may have an employee examined by a City-selected physician. The City shall pay the cost of any such medical exam.

C. Up to 72 hours for 24-hour shift personnel and 48 hours for 40-hour week of accrued sick leave per fiscal year may be used when the employee's personal attendance is required to care for a family member who is ill or injured. For the purposes of this provision, family is defined as a spouse, registered domestic partner, son, daughter, parent, sibling, step-parent, or other close relation residing in the employee's household. The seventy-two (72) or forty-eight (48) hour limitation may be extended by the City Manager with good cause.

D. A 40-hours per week employee may be granted up to 8 hours per calendar year of personal business leave chargeable to sick leave. The scheduling of such leave is subject to the approval of the Fire Chief.

14.04 Sick Leave Incentive Program

14.04.01 40 Hour Per Week Employees

On an annual basis, 40-hour week employees who have accumulated more than 400 hours of sick leave, will be asked to choose among the following options, which will be paid out on the last pay date in June:

1. To receive a cash pay-off of all hours in excess of 400 at the rate of 33% of their current rate of pay.

2. To "bank all hours in excess of 400. Banked hours may not later be converted to cash and will be used as sick leave only when all other sick leave is exhausted.

14.04.02 56-Hour per Week Employees

A. Maximum Sick Leave Accrual

As of the last pay date in June of each year, employees who have accumulated sick leave in excess of the minimum amounts listed below may take vacation pay or receive a cash payment for the amount of excess sick leave; or, employees may elect to accumulate sick leave up to the maximum limits at which point they must take the excess as cash or time off. The amount of vacation pay or cash payment will be made based on 25% of the time accrued above the designated threshold.

56-hour week employees: 1680 - 1860 hours

In addition, employees may be allowed to "bank" all hours in excess of 1,860. Banked hours may not later be converted to cash and will be used as sick leave only when all other sick leave is exhausted or be converted to CalPERS service credit upon retirement.

B. Vacation Conversion

Employees with 15 or more years of regular service and a minimum sick leave balance of 150 hours for 56-hour/week schedules may elect to convert sick leave to vacation time according to the following table:

Years of Service	Maximum No. of Extra Vacation Hours
15 - 19	24/year
20 - 24	36/year
25+	48/year

Department head approval is required prior to taking vacation, and converted hours are not allowed to accumulate from one calendar year to the next.

14.04.03 Retirement Conversion

In lieu of selecting the CalPERS service credit option, employees retiring from the City with at least twenty (20) years of regular service may elect to convert a maximum of 1,500 hours of their accrued sick leave (banked and unbanked) in 100 hour increments to an additional 1% contribution by the City towards the cost of their retiree medical benefits as defined by Sections 18.04 (Retiree Medical Plan) and 18.05 (Retiree Medical Incentive) of this memorandum. For example, the maximum conversion of 1,500 hours would equal a 15% increase in the City's contribution towards a retiree medical plan for a maximum 90% contribution. All restrictions and requirements of Sections 18.04 (Retiree Medical Plan) and 18.05 (Retiree Medical Incentive) apply to this sick leave incentive option including, but not limited to, eligibility and plan availability.

Procedures clarifying the sick leave incentive program shall be prescribed by the Director of Human Resources and/or City Manager and shall be subject to administrative directive.

SECTION 15.00 - VACATION

Vacation accrual will be on a monthly basis beginning at date of hire; however, no vacation time may be used until the employee has successfully completed the initial probationary period. Accumulated vacation time may not exceed twice the annual rate of accrual unless prior written authorization for a specified amount is received from the City Manager or Director of Human Resources. An employee must be on paid status at least 50% of the working hours of a pay period to earn vacation for that period.

Vacation accrual shall be based on continuous regular service, as follows:

15.01 40-hour per Week schedules

Up to 5 years (inclusive):	80 hours per year
6 to 10 years (inclusive):	120 hours per year
11 or more years:	120 hours, plus eight (8) hours for each year of service after ten (10) years to a maximum of 160 hours.

15.02 56-hour per Week Schedules

Up to 5 years (inclusive):	12 hours per month
6 to 10 years (inclusive)	18 hours per month
11 or more years:	18 hours per month plus one hour per month for each year of service after ten (10) years to a maximum of twenty-four (24) hours per month.

SECTION 16.00 - BEREAVEMENT LEAVE

The purpose of this section is to provide paid leave for employees when they are bereaved at the death of a family member and this loss has had a temporary effect on the employee's ability to continue daily work performance.

A leave of absence with pay of up to twenty-four (24) hours for 40-hour/week employees or thirty-six (36) hours for 56-hour/week employees per incident is available to an employee in the event of a death in the employee's family which shall, for the purpose of this article, include spouse, parent, son, daughter, grandparent, sibling, mother or father-in-law, registered Principal Domestic Partner, grandchild of employee, spouse, or registered Principal Domestic Partner, son-in-law, daughter-in-law, grandparent-in-law, or a close relation residing in the employee's household. In rare cases when the employee and the deceased have no other legal relationship than a foster or step-parent, the

Human Resources Director or City Manager has the discretion to approve that leave upon application.

SECTION 17.00 - LEAVES OF ABSENCE

17.01 Paid Leaves of Absence

17.01.01 Paid Birth/Adoptive Leave

An employee is entitled to forty-eight (48) hours leave (56 hours schedule) or forty (40) hours leave (40 hour schedule) with pay at or about the time of the birth of the employee's child or at the time of adopting a child. The paid leave shall be within two (2) months of the birth or adoption. This leave will be considered a part of the time allotted to family leave as authorized in Section 17.02.03 (Family Leave).

17.01.02 Military Duty

An employee who is a member of the National Guard or any reserve component of the armed services of the U.S. shall be granted up to thirty (30) days peryear of paid leave for any active duty scheduled during the employee's regular work hours (or 10 shifts per year for 24-hour personnel). The employee must give his/her supervisor forty-eight (48) hours advance notification of the need for such leave and must present a copy of the official notice for such duty. All other military leaves shall be granted pursuant to relevant state and federal statutes.

17.02 Unpaid Leaves of Absence

17.02.01 Medical or Personal Leave

Leave of absence without pay may be granted to an employee in a case of extended illness or disability, personal emergency or other situation where such absence would not be contrary to the best interests of the City. Approval of all such leaves of absence is at the sole discretion of management. Such unpaid leave will only be granted after an employee has depleted all appropriate paid leaves. The department head may grant a leave of absence of up to thirty (30) consecutive calendar days; additional leave may only be granted by the City Manager and may not exceed a total of twelve months. No vacation, holidays, sick leave, or any other paid benefit shall be accrued or earned during such leave. All requests for unpaid leaves of absence must be made in writing and include specific begin and end dates for the leave. Denials of unpaid leaves of absence shall be given in writing and contain the reason therefore.

17.02.02 Pregnancy Disability Leave

An employee may take a leave of absence up to four (4) months in length for the purpose of pregnancy disability leave. The City may request a license medical practitioner's opinion regarding any work restrictions that may exist prior to or after delivery.

Requests for pregnancy disability leave must be made in writing to the Fire Chief at least thirty (30) days in advance of the anticipated starting date. Such request must include specific begin and end dates for the leave. Starting dates should be as accurate as possible barring any unforeseen medical issues related to the pregnancy or earlier or later birth than expected. Any requests for extension of pregnancy disability leave must be made in writing to the Fire Chief at least ten (10) calendar days prior to the scheduled end of the existing leave.

The employee may elect to use any appropriate paid leave either before or after an approved pregnancy disability leave, within the use limitations of those leave provisions. No combination of pregnancy disability leave, family leave, sick leave or vacation may exceed one year total or seven (7) months post-partum.

Any additional post-partum leave, not to exceed one (1) year total, may be approved by the City Manager or his designee after consideration of the nature of the request and the operational needs of the department.

Upon return to work, the employee shall be assigned to the same position but not necessarily to the same assignment .

17.02.03 Family Leave

In accordance with the Federal Family and Medical Leave Act and the California Family Rights Act, the City will grant job protected unpaid family and medical leave to eligible employees for up to twelve (12) weeks, (continuous or cumulative), per twelve (12) month calendar year period of any one or more of the following reasons:

A. The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the twelve-month period following the child's birth or placement with the employee); or

B. In order to care for an immediate family member (spouse, domestic partner, child, or parent) of the employee if such immediate family member has a serious health condition; or

C. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

17.02.04 Conditions Covering Family Leave

A. Eligible employee means having been employed by the City for twelve (12) months and has worked for at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the leave.

B. Medical verification is required for employee or ill family member for medical leave period.

C. Employees are required to give at least thirty (30) days written notice in the event of a foreseeable leave. In unexpected or unforeseeable situations, an employee should provide as much written notice as is practicable.

D. Employees are required to use accrued vacation as a part of the family leave period. Use of sick leave is not required, but may be used pursuant to the applicable provisions of the Memorandum of Understanding.

E. Pregnancy disability is not covered under this section and is covered by the California Fair Employment and Housing Act which allows up to four (4) months of leave depending on the actual disability (see Section 17.02.02 – Pregnancy Disability Leave).

F. Employees retain "employee" status while on family care leave. The leave does not constitute a break in service for purposed of longevity, and/or seniority. Upon return to work, employee will be reinstated to an equivalent position with equivalent pay and benefits.

G. Any request for additional leave may be made pursuant to Section 17.02.01 (Medical or Personal Leave). Requests for leave time using multiple time off provisions may not exceed the total amount allowed pursuant to Section 17.02.01 (Medical or Personal Leave).

H. Benefits premiums shall be made in accordance with the Federal Family and Medical Leave Act and the California Family Rights Act. Under the current law, the City will continue to maintain coverage under the same conditions, as coverage would have been provided if the employee had been continuously employed during the leave period.

I. Any other conditions or interpretations of the leave shall be based upon the Federal Family and Medical Leave Act and the California Family Rights Act.

17.03 Continuation of Benefits During Unpaid Leaves of Absence

City sponsored insurance benefits may be continued during unpaid leaves of absence in accordance with the following provisions:

17.03.01 Personal Leave

The City shall continue to pay benefit premiums during a personal leave of less than thirty (30) calendar days. For leaves of more than thirty (30) calendar days, employees may continue premium payments at their own cost, in accordance with appropriate CalPERS medical plan provisions.

17.03.02 Medical Leave

The City shall continue to pay benefit premiums during the entire length of a medical leave of absence.

17.03.03 Family Leave

Benefit premiums shall be made in accordance with the Federal Family and Medical Leave Act and the California Family Rights Act. Under the current law, the City will continue to maintain coverage under the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period.

SECTION 18.00 - BENEFITS

18.01 Medical Plan/Flexible Benefits

The City will provide a medical insurance plan to employees and eligible dependents through the California Public Employees' Retirement System (CalPERS). The City will contribute a monthly amount to CalPERS pursuant to Government Code Section 22892 of the Public Employees Medical and Hospital Care Act (PEMHCA).

In accordance with IRS Section 125, the City will provide a flexible benefits plan ("cafeteria plan") to all eligible employees. If an employee elects to participate in a medical plan, the maximum monthly City contribution to the cafeteria plan is the cost of the Blue Shield HMO Plan (for the Bay Area/Sacrament region) less the following employee contribution amounts.

Employee Only	$0
Employee & One Dependent	$22.04
Family	$25.50

In no event will the maximum monthly City contribution exceed the premium for the plan in which the employee is enrolled. In no event will employees receive cash back based on the plan chosen.

Employees may elect to waive City medical coverage and receive a cash benefit. In order to receive the medical waiver benefit, the employee must provide proof to the City of other current medical coverage. Full-time employees who waive medical coverage are eligible to receive $200 per month; part-time employees shall receive a pro-rated amount based upon

their full-time equivalency (FTE). The medical waiver may be applied toward the purchase of any pre-tax or post-tax optional benefits, or paid as a taxable cash benefit.

Employees receiving the medical waiver must notify the Human Resources Department if they cease to be covered by any other medical plan, thereby making them ineligible for the medical waiver benefit.

18.01.01 Pre-Tax Optional Benefits

Through the cafeteria plan, employees may enroll in the following optional benefits and elect to pay premiums on a pre-tax basis:

1. Medical Reimbursement Account (MRA)
2. Dependent Care Assistance Plan (DCAP)
3. Cancer and Critical Illness Protection Insurance

18.01.02 Post-Tax Optional Benefits

Employees may also enroll in the following optional benefits and elect to pay premiums on a post-tax basis:

1. Additional life insurance
2. Accident protection insurance
3. Long term care insurance

18.02 Principal Domestic Partners

The City will provide medical, dental, and vision benefits to employees with Principal Domestic Partners equivalent to those provided to an employee's spouse. Employees may enroll their eligible Principal Domestic Partners and the eligible dependents of their Principal Domestic Partners subject to eligibility requirements established either by CalPERS or the City and subject to tax regulations of the State of California and the Internal Revenue Service of the United States government.

18.03 Dental and Vision Benefits

The City shall provide a dental plan for employees and their eligible dependents at no premium cost to employees and with the following minimum benefit levels.

		In-PPO Network	Out-of-PPO Network (fees charged are usually higher)
Annual Deductible		$25/person, $75/family	$25/person, $75/family
Annual Maximum		$1,500/person	$1,500/person
Diagnostic	&	100%	80% of contract allowance

Preventive		
Basic Benefits	80%	80% of contract allowance
Crowns & Other Cast Restorations	50%	50% of contract allowance
Prosthodontics	50%	50% of contract allowance
Orthodontic Benefits (for dependent children only)	50% up to $2,000 lifetime maximum/person (up to age 23)	50% of contract allowance, up to $2,000 lifetime maximum/person (up to age 23)

The City shall provide a vision plan for employees and their eligible dependents at no premium cost to employees and with the following minimum benefit levels.

Co-Pays	$15 (does not apply to contacts)
Exams	100%, every 12 months after co-pay
Prescription Lenses	100%, every 12 months after co-pay
Frames	100% up to $115 plus 20% off any out-of-pocket costs, every 24 months after co-pay
Contacts	100% (in lieu of glasses) up to $105, every 12 months - no co-pay

18.04 Retired Health Plan

Covered employees who retire under the provisions of the City's contract with CalPERS are currently eligible to continue CalPERS medical coverage. The City will contribute a monthly amount to CalPERS pursuant to Government Code Section 22892 of the Public Employees Medical and Hospital Care Act (PEMHCA).

18.05. Retiree Medical Incentive

Employees currently on the City's retiree medical plan and future covered employees who receive a retirement from PERS and have at least five (5) years of continued service with the City and are at least fifty (50) years of age will receive a retiree medical incentive in the amount of $112.04 per month in addition to the City's contribution listed in Section 18.04 (Retiree Medical Plan). This incentive will continue as long as the employee continues PERS medical coverage and until such time the retiree is eligible for Medicare or other Federal or State health programs, solely on account of age.

Retirees eligible for the CalPERS retiree medical plan listed above, with more than twenty (20) years of City service, will receive a retiree medical incentive of 75% the cost of the employee-only coverage of the highest CalPERS HMO plan from only among those plans available in Santa Cruz County at the time of ratification of this agreement (less the contribution listed in Section 18.04 (Retiree Medical Plan) of this memorandum).

To the extent allowed by law, the benefits bestowed by this section are intended to survive the termination and/or expiration of this memorandum. To this end, future Fire Management bargaining representatives shall not amend or delete these benefits retroactively or agree to benefits at variance with the above defined benefits so as to reduce or eliminate the benefits herein conferred upon existing retirees.

18.06 Disability Retirement Before Age 50

Upon disability retirement before age 50, an employee shall be reimbursed for unused sick leave through the provision of the City's retired health care plan for the employee only to the following limits, whichever occurs first: (1) up to the current value of the employee's sick leave accrual; or (2) until such time as the employee obtains primary health care coverage under another plan; or (3) until the employee is eligible for Federal or State medical programs. Once any of these limits are reached, the employee is no longer eligible for coverage under this plan.

The retiree shall notify the City in writing at such time as he/she is receiving primary coverage under another plan.

Two years after the date of retirement, if a retiree is still covered under the City's plan, he/she must provide the City with an affidavit stating that he/she is not receiving primary coverage under another plan. If the retiree fails to provide such an affidavit, the City has the right to cancel coverage with 30 days written notice.

To be eligible for this Retired Health Care Plan, the employee must have an accrued sick leave balance of 144 hours as of the effective date of disability retirement.

If an employee is medically declared to be totally disabled, the City shall provide the retired health plan to that employee until he/she is eligible for Federal or state medical programs, regardless of the employee's sick leave balance.
In all cases, retired employees may purchase coverage for their dependents under this plan as long as they, themselves, remain eligible and are insured under the plan.

Employees with 15 or more years of service may elect to apply all or part of their sick leave toward purchase of the retired health care plan or convert it to cash as provided under Section 14.04 (C).

18.07 Health Care Cost Containment

The Health Care Cost Containment Committee, one member of which shall be a Fire Management representative, will continue to study cost containment measures. Any changes to the existing health plan recommended by the HCCC will be negotiated by way of a mutually agreed upon reopener to this Memorandum of Understanding limited only to health care insurance and potential cost savings.

Implementation of agreed-to changes must be consistent with contracts with current providers and with the City's overall benefit program. Following implementation of any agreed-to cost containment programs, the Health Care Cost Containment Committee will continue to meet on an ongoing basis to monitor the effectiveness of the cost containment measures and to develop related promotional wellness programs.

The Committee shall meet regularly as determined by the needs of the Committee. The Human Resources Department shall serve as staff to the Committee. Regular Committee members shall receive release time to attend Committee meetings. In advance of attending meetings, members shall obtain permission through supervisory channels.

18.08 Life Insurance

The City shall contribute full cost toward the City-sponsored $25,000 basic term life insurance program.

The City shall make a voluntary term life insurance policy available to unit employees.

18.09 Long Term Disability Insurance

The City shall contribute full cost of the City-sponsored long-term disability program. The maximum monthly benefit shall be at least $5,000.

18.10 Medicare Buy Back

The City will meet and discuss with the Association the desirability and implementation of Medicare buyback. Because this item is not cost neutral to the City, further discussion regarding the level of employee participation is needed before the City can agree to implement a Medicare buyback process.

SECTION 19.00 - UNIFORM ALLOWANCE AND REPLACEMENT

Employees will comply with departmental standards with regard to appearance and cleanliness. To this end, the City agrees to pay the cost of cleaning department authorized uniforms. For this purpose, the City will establish an account at a dry cleaning establishment located within the City of Santa Cruz. For their part, employees will deliver and retrieve uniforms from the dry cleaning establishment, and do so during non-working hours. However, under exceptional circumstances, subject to the approval of the Fire Chief or his representative, uniforms may be delivered or retrieved during working hours.

The City agrees to replace uniforms on an as-needed basis, as determined by the Fire Chief. It shall be the responsibility of each unit employee to arrange for purchasing, fitting, pickup, delivery, return, repair and control of uniform items.

The parties agree that for PERS reporting purposes, the value of the cleaning service is four hundred and sixty-eight dollars ($468.00) per year.

Employees who themselves pay the employee share of PERS, shall pay the PERS cost of the value of cleaning service. Such payment shall be made through a payroll deduction out of her/his paycheck each pay period. The amount of the deduction shall be determined by multiplying the employee's PERS contribution rate by eighteen ($18.00) dollars.

SECTION 20.00 - MANAGEMENT BENEFITS

20.01 Management Vacation

In the pay period that includes January 1 of each year all management employees will be credited with vacation time in addition to their normal authorized vacation allowance. Those on a 40-hour/week schedule shall receive 60 hours management vacation, and those on a 56-hour/week schedule shall receive 84 hours management vacation. Although these additional hours will be documented on the employee sick leave and vacation schedule, it will be itemized separately. Employees desiring to be paid for any or all of their management vacation may so indicate on either July 1 or December 31 of each year. These hours may not be accumulated from one year to another, and all unused vacation hours will be paid on December 31 of each year.

Effective February 7, 2009 the amount of credited management vacation will increase to eighty (80) hours for 40-hour per week employees and one hundred twelve (112) hours for 56-hour per week employees.

20.02 Optional Management Benefit

In recognition of unscheduled and special assignments performed by management employees and night meetings they occasionally attend, the City will contribute $1,200 for employees with more than ten (10) years of service and $1,000 for employees with less than ten (10) years of service, annually, to an optional management benefit plan. Payment for this benefit shall be made in July of each year for the previous fiscal year's service.

Employees may select the following options for use of the benefit:

1. Payment to deferred compensation;
2. Upon approval of the department head, purchase of additional vacation leave;
3. Direct payment to the employee.

This benefit will be prorated for new hires and terminated employees.

Any changes to this benefit granted to the City’s general mid-management bargaining unit will be incorporated into this section.

Effective February 7, 2009 the optional management benefit for employees with less than ten (10) years of service will be increased to $1,300 and the optional management benefit for employees with ten (10) or more years of service will be increased to $1,500.

SECTION 21.00 – CITY PROVIDED VEHICLE

Subject to the approval of the Fire Chief and the City Manager, a City provided car may be provided to the Deputy Chief and/or Division Chiefs. Employees approved for and provided with City vehicles are responsible for all associated tax liabilities in accordance with Federal, State, and local regulations and laws.

SECTION 22.00 - REDUCTION IN FORCE

All Fire department employees shall be subject to the layoff policy and procedure provided in this section. In case of elimination, reorganization, or reclassification of personnel during the term of this agreement, the City agrees to discuss redistributing negotiated cost of living adjustments to assist with additional work loads that may be imposed. It is recognized and agreed that the salary savings resulting from any reductions of the work force are to be wholly realized by the City.

22.01 Lay-Offs

The City reserves the right to reduce its workforce by layoff of employees for reasons of economy or changes in departmental operations. When one or more employees assigned to the same classification within a department are to be laid off, the order of layoff shall be as follows:

1. Temporary

2. Probationary

3. Regular

The order of layoffs shall be governed by seniority in the current classification from the date of hire in the classified position.

22.02 Bumping

Bumping is defined as a voluntary movement of an employee to be laid off from his/her current classification to a previously held lower classification (based upon previous duties, if title has changed) held by an employee with less seniority. An employee with sufficient seniority to bump an employee in a lower classification shall bump the least senior person in that classification.

For bumping purposes, the employee exercising bumping, will add time in the affected position (position bumping into), current position (laid off position), and related higher position as total seniority time. This time will be carried forward and bump that employee in the next lower classification with less time in the lower classification. This seniority will establish the individual's seniority in the lower classification.

22.03 Notification

Employees to be laid off shall be given not less than fifteen (15) working days written notice prior to the reduction in force. An employee wishing to bump to a lower classification shall provide written notice to the City within ten (10) days of receiving their layoff notice.

22.04 Reinstatement

Should there be a vacancy in the classification from which an employee was laid off be re-established within 18 months, the employee shall be eligible for reinstatement. It shall be the employee's responsibility to notify the Human Resources Department of his/her current address. Every effort shall be made to notify the affected individual of any reinstatement opportunity. Reinstatement shall be in the reverse order of layoff.

SECTION 23.00 - GRIEVANCE PROCEDURE

23.01 Purpose

To assure prompt and fair treatment of employee grievances related to employment. Any employee covered by this Memorandum of Understanding may file a grievance.

23.02 Definitions

A. Grievance: An alleged violation, misinterpretation or misapplication of the provisions of this Memorandum, the City's Personnel Rules and Regulations or Fire Department Rules and Regulations.

B. Workday: All weekdays excluding holidays and weekends.

23.03 Limitations

A. A grievant may be represented by any representative of his or her choosing in preparing and presenting a grievance.

B. No reprisal shall result against any employee who presents a bona fide grievance under this procedure.

C. Time limits may be extended by written mutual agreement of the parties.

D. A grievance shall be considered settled in favor of the other party if, at any step, a decision is not rendered or appealed within the specified time limit.

E. Only upon mutual written agreement between the parties may Step I of the grievance procedure be waived.

23.04 Procedures

23.04.01 Step I

The grievant will first attempt to resolve the grievance through informal discussions with successive levels of supervision beginning with his/her immediate supervisor through his/her highest management-level supervisor, exclusive of the department head. These discussions must be initiated within ten (10) workdays of when the employee knew, or reasonably should have known the incident upon which the grievance is based. Every attempt will be made by the parties to settle the issue at this level.

23.04.02 Step II

If the grievance is not resolved through the informal discussion, the employee may, within ten (10) workdays, submit a written grievance to his/her department head after the informal meeting.

The written grievance must contain in clear, factual and concise language:

1. A brief statement as to the date of the occurrence on which the grievance is based and the facts as the grievant see them.

2. The rule, regulation or act on which the grievance is based.

3. The action the grievant believes will resolve the grievance.

4. Signature of the employee.

The department head shall have ten (10) workdays following receipt of the appeal to review the matter and prepare a written response. Copies shall go to the parties involved and the Human Resources Department.

23.04.03 Step III

If the grievance is not resolved, the grievant may, within five (5) workdays following receipt of the department head's response, appeal to the City Manager or his/her representative, stating in writing the basis for the appeal.

The City Manager or his/her representative shall render a written decision to all parties directly involved within fifteen (15) workdays following the date which the aggrieved employee appealed the department head's decision.

23.04.04 Step IV

If the grievance is not resolved to the satisfaction of the employee at the conclusion of Step III, the employee may appeal the decision of the City Manager to a neutral arbitrator, provided s/he so informs the City Manager in writing within ten (10) working days following receipt of the City Manager's decision.

Within ten (10) working days from the date of receipt of the appeal, the parties may mutually agree on a neutral party from an independent source to serve as an arbitrator. In the event the parties fail to agree on the neutral party, they shall immediately, thereafter, jointly request the California State Mediation and Conciliation Service to submit to them a list of five (5) persons qualified and available to act as arbitrator.

If such a list is requested from the state Mediation and Conciliation Service, the parties within five (5) working days of receipt of the list, shall mutually agree upon the person on the list who shall be the Arbitrator. If one person is not mutually agreed upon, the parties shall within five (5) days after receipt of the list of names alternately strike two (2) names from such list with the last remaining name to be the person serving as arbitrator. The party having first choice to strike a name from the list shall be determined by lot.

The Arbitrator shall have no authority to add to, detract from, alter, amend or modify any provision of this Agreement, or impose on any party hereto a limitation or obligation not explicitly provided for in the Agreement, or to alter any wage rate or wage structure. The decision of the arbitrator shall be rendered after the evidence and arguments are presented to him/her by the parties in the presence of each other and in post-hearing briefs, if necessary. The decision of the Arbitrator shall be final and binding upon the parties.

The arbitrator is requested to expedite the decision as the parties normally expect a decision to be issued within fifteen (15) days after the conclusion of the hearing.

The Arbitrator's expenses, if any, shall be borne equally by the parties. Each party shall bear the cost of its own representation.

SECTION 24.00 - DISCIPLINARY APPEALS PROCEDURE

24.01 Definition

Disciplinary action shall mean written reprimand, suspension (as authorized by FLSA), demotion, disciplinary reduction in salary, or discharge.

The appeal procedure described herein shall apply to cases of disciplinary action affecting regular employees. It shall not be applicable to probationary employees. Employees have the right to representation at any or all stages of the appeal process.

24.02 Pre-Action Procedure

24.02.01 Step I

Prior to imposing disciplinary action which would result in a loss of salary, the supervisor shall first provide the employee a preliminary written notice of the proposed action stating the effective date, the specific grounds and particular facts upon which the action will be taken. The employee shall have access to any known written materials, reports or documents upon which the action is based. The employee shall have the right to respond to the charges within five (5) workdays from receipt of the notice either orally, in writing, or both to the Fire Chief.

The employee may request an extension of the time to respond for justifiable reasons. Failure to respond within the time specified will result in the employee's waiver of his/her procedural rights and final action will be taken.

24.02.02 Step II

Following a review of a proposed disciplinary action the Fire Chief, within five (5) workdays of receiving employee's response, shall render a written decision and send it by registered mail or personal delivery to the employee. A copy shall also be mailed to the employee's representative.

The employee has the right, within five (5) workdays after receiving the decision, to file a request for appeal with the City Manger. The appeal shall be a written statement, signed by the applicant, explaining the matter appealed from, stating the action desired by the appellant, with his/her reasons therefore, and stating that the pre-action procedures have been exhausted.

If, within the five-day (5) appeal period, the employee involved does not file such appeal, the Fire Chief's decision shall be final and shall take effect as prescribed.

24.03 Post-Action Appeal

24.03.01 Step III

If the employee files a timely appeal, the City Manager shall, within five (5) workdays after receiving the appeal, designate a hearing officer who shall schedule a hearing not less than five (5) workdays from the date the appeal is received.

The hearing officer may conduct such independent investigation of the matter as he/she deems necessary. The appellant shall be given the opportunity to answer or present evidence in opposition to the findings of this independent investigation.

The appellant shall appear personally at the scheduled hearing unless physically unable to do so. The appellant or his/her representative may produce relevant oral or documentary evidence at the hearing.

Within fifteen (15) workdays following the hearing, the hearing officer shall render a written decision to all parties involved. The hearing officer has the authority to affirm, repeal or modify the disciplinary action.

For discipline equivalent to the severity of suspension (as authorized by FLSA) of one (1) week or less, or leave balance reduction of one (1) week or less, there shall be no appeal beyond Step III and the City Manager's decision shall be final.

24.03.02 Step IV

If the appeal (except as exempted above) is not resolved to the satisfaction of the appellant at the conclusion of Step III, the employee may appeal the decision of the City Manager to a neutral arbitrator, provided it so informs the City Manager in writing within ten (10) working days following receipt of the City Manager's decision.

Within ten (10) working days from the date of receipt of the appeal, the parties may mutually agree on a neutral party from an independent source to serve as an arbitrator. In the event the parties fail to agree on the neutral party, they shall immediately, thereafter jointly request the California State Mediation and Conciliation Service to submit to them a list of five (5) persons qualified and available to act as arbitrator.

If such a list is requested from the State Mediation and Conciliation Service, the parties within five (5) working days of receipt of the list, shall mutually agree upon the person on the list who shall be the arbitrator. If one person is not mutually agreed upon the parties shall within five (5) days after receipt of the list of names, alternately strike two (2) names from such list with the last remaining name to be the person serving as arbitrator. The party having first choice to strike a name from the list shall be determined by lot.

The arbitrator shall have no authority to add to, detract from, alter, amend, or modify any provision of this agreement, or impose on any party hereto a limitation or obligation not explicitly provided for in this agreement, or to alter any wage rate or wage structure. The decision of the arbitrator shall be rendered after the evidence and arguments are presented to him/her by the parties in the presence of each other

and in post hearing briefs, if necessary. The decision of the arbitrator shall be final and binding upon the parties.

The arbitrator is requested to expedite the decision as the parties normally expect a decision to be issued within fifteen (15) days after the conclusion of the hearing. The arbitrator's expenses shall be borne equally by the parties. Each party shall bear the cost of its own representation.

24.04 Firefighter Procedural Bill of Rights Act

The City and the Association recognize the applicability of AB 200 (The Firefighters Procedural Bill of Rights Act) to this memorandum. Given the newness of this legislation (signed in October, 2007 and effective January 1, 2008) and the likelihood of many clarifications and updated interpretations over the course of this memorandum, it is impractical to incorporate specific procedures into this document. The intent of the City and the Association to conform to the requirements of AB 220 is commemorated into this memorandum by reference.

SECTION 25.00 - WRITTEN REPRIMANDS

A written reprimand may be issued by an employee's supervisor if an employee has violated a City rule, provision of the M.O.U., or if his/her performance is in need of improvement. Written reprimands shall be placed in the employee's personnel file. An employee shall have the right to prepare a written response to the reprimand and have said response placed in his/her personnel file. An employee may appeal the supervisor's decision to issue a written reprimand to the Fire Chief by filing an appeal to the Fire Chief within five (5) working days of receipt of the reprimand. The Fire Chief's decision regarding the written reprimand shall be final.

SECTION 26.00 - SEVERABILITY

This Memorandum is subject to all current and future applicable Federal and State laws, State regulations, California Constitution, and City of Santa Cruz Charter, Resolutions, or Ordinances.

Should any of the provisions herein contained be rendered or declared invalid by reason of any State or Federal legislation or court action, such invalidations of such part or portions of this Memorandum shall not invalidate the remaining portions hereof and they shall remain in full force and effect insofar as such remaining portions are severable.

DATED: _____

FIRE MANAGEMENT ASSOCIATION OF THE CITY OF SANTA CRUZ

_____
Mike Venezio

_____
John Lucchesi

CITY OF SANTA CRUZ COUNCIL REPRESENTATIVE

_____
Lisa Martinez Sullivan, Director of Human Resources

_____
Joe McMullen, Assistant Director of Human Resources

EXHIBIT A – STATEMENT OF EEO AND NON-DISCRIMINATION POLICY

SANTA CRUZ CITY COUNCIL

STATEMENT OF EQUAL EMPLOYMENT OPPORTUNITY
and
NON-DISCRIMINATION POLICY

It is the policy of the City Council of Santa Cruz to provide all current and prospective employees with equal opportunity in employment without discrimination on the basis of race, color, creed, national origin, ancestry, religion, disability, medical condition, gender, height, weight, physical characteristics, marital status, sex, age, sexual orientation, organizational affiliation, disabled veteran status, or status as a veteran of the Vietnam era (except when sex, age, disability, or medical condition is a bonafide occupational qualification). This non-discrimination policy applies to decisions affecting recruitment, selection, placement, assignment, training, transfer, promotion, evaluation, discipline, termination, compensation, benefits, and all other aspects of employment.

The City Council recognizes that the most fundamental function of a municipality is to deliver services such as law enforcement, fire protection, and public utilities to persons who live and work in the City and who pay taxes to finance the delivery of these services. Because the populace of Santa Cruz is culturally diverse and ethnically diverse, it is reasonable to conclude that Santa Cruz can most effectively and efficiently function in its role as a municipal service provider when its workforce, charged with responsibility for delivering municipal services, is similarly, ethnically, and culturally diverse. While Santa Cruz does not have, and never has had, "quota" or "set-aside" programs to assure that its workforce enjoys the same cultural and ethnic diversity that the City enjoys overall, it is the policy of the City Council, in order to achieve its objective of effective and efficient delivery of municipal services, to actively and aggressively recruit qualified applicants for City employment from <u>all</u> cultural and ethnic sectors of the City and County of Santa Cruz, including members of protected classes who may have been inadvertently excluded or under-utilized in the past. While this recruitment policy process specifically contemplates identifying groups and organizations comprised of, or with close connections to, members of protected classes, the policy is implemented within the context of the City's overall policy to recruit the most qualified employees from all sectors of the community, and is included within the overall policy as a safeguard to assure that protected class members are not inadvertently deprived of an equal opportunity to compete for City employment positions. This policy serves to assist the City in approaching a goal whereby, through the provision of equal opportunity to all sectors of the community, the City achieves and maintains a workforce which includes women and minorities in percentages consistent with those of the Santa Cruz labor market and/or the labor market of any larger recruitment area.

The City Council further recognizes that discrimination of the type prohibited by Santa Cruz City policy and ordinance is also strictly prohibited by the Constitution of the United States of America and the State of California Constitution. These constitutional proscriptions against discrimination not only forbid acts of discrimination by individuals, but also institutional discrimination by public entities that might not be apparent but for periodic review and examination of patterns and practices with respect to hiring and employment of workers. To that end, Santa Cruz is committed to an annual self-examination of its workforce to identify the number and placement of minority, women, disabled, and other protected class individuals within that workforce to confirm that Santa Cruz is not engaging in unlawful and unconstitutional discriminatory hiring and employment practices either through acts of commission or omission.

Through the establishment and implementation of this policy, it is the intent of the City Council to actively support and comply with the following laws and regulations: the Equal Pay Act of 1963; Title VII of the Civil Rights Act of 1964 (as

amended by the Equal Employment Opportunity Act of 1972); Executive Order 11246 (as amended by Executive Order 11375 [revised order #4] of 1968); the Age Discrimination in Employment Act of 1967 (as amended in 1978); the Rehabilitation Act of 1973; the Vietnam Veteran's Readjustment Act of 1974; the California Fair Employment and Housing Act of 1980; the California Fair Employment and Housing Commission Rules and Regulations; the Americans With Disabilities Act of 1991; the Civil Rights Act of 1991; and the City of Santa Cruz Anti-Discrimination Ordinance of 1992.

The City Council charges the City Manager with responsibility for, and holds the City Manager accountable for developing, implementing, and administering an Equal Employment Opportunity/Non-Discrimination Program to carry out these policies and objectives.

EXHIBIT B – DISCRIMINATION/HARASSMENT POLICY

CITY OF SANTA CRUZ
ADMINISTRATIVE PROCEDURE ORDER
SECTION II, #1A (Revised October 1, 1999)

TO: **Department Heads**

SUBJECT: **DISCRIMINATION/HARASSMENT POLICY AND COMPLAINT PROCEDURE**

PURPOSE

The purpose of this Policy is to confirm the City of Santa Cruz's commitment to maintain a work environment free from unlawful discrimination and/or harassment for all current and prospective City employees.

This Policy:

- defines discrimination and harassment under this policy;
- confirms the City's commitment to prohibit and prevent unlawful discrimination and harassment in employment; and
- provides a City complaint and investigation procedure to resolve complaints of alleged discrimination or harassment in violation of law or this Policy.

POLICY

It is the policy of the City Council of Santa Cruz to provide all current and prospective employees with equal opportunity in employment without discrimination on the basis of race, color, creed, national origin, ancestry, religion, disability, medical condition (including pregnancy, child birth, and cancer-related conditions), gender, height, weight, physical characteristics, marital status, sex, age, sexual orientation, organizational affiliation, disabled veteran status, or status as a veteran of the Vietnam era (except when age, disability, or medical condition is a bonafide occupational qualification), and to further assure that all such current and prospective employees are guaranteed a work environment free from unlawful discrimination. In applying and interpreting this Policy, any person charged with doing so shall define the terms of art used in the Policy in a manner which is consistent with all applicable federal, state, and municipal statutes, regulations and ordinances. This Policy pertains to all aspects of employment with the City or the application for employment with the City including, but not limited to, recruitment, selection, placement, assignment, training, transfer, promotion, evaluation, discipline, termination, compensation, and benefits. The City's non-discrimination/non-harassment policy prohibits any form of unlawful conduct and the City shall take aggressive steps to prevent discrimination and harassment from occurring in the workplace. When such discrimination or harassment is detected in the workplace, the City will take aggressive, prompt, and fair measures to eradicate the misconduct. To this end the City, upon confirming the existence of discrimination or harassment prohibited by this Policy, shall take disciplinary action against those responsible for the discrimination or harassment up to and including termination of employment.

This policy is promulgated in recognition of the fact that discrimination and harassment of the type prohibited by this Policy, if allowed to exist, not only violates federal, state, and municipal law, but also serves to undermine employee integrity, to create low employee morale, to reduce employee productivity, and to cause skilled and valuable workers to leave their City employment. All of this, in turn, is detrimental to the general health and welfare of the community, which depends upon a highly motivated and skilled body of City employees to deliver essential municipal services.

The City Council further acknowledges and understands that in order to implement a non-discrimination/non-harassment policy of the type hereby promulgated, it is essential that all persons who witness or experience discrimination or

harassment of the type prohibited by this Policy, report that discrimination or harassment immediately in order to facilitate early, effective, efficient, and impartial investigation and intervention by the City. Accordingly, any retaliation against a person for filing a discrimination/harassment complaint, reporting discrimination/harassment which he or she has witnessed, or assisting in a discrimination/harassment investigation is strictly prohibited. Employees found to have participated in retaliatory action in contravention of this Policy shall, therefore, be subject to disciplinary action up to and including termination.

In interpreting and implementing this policy, the constitutional rights of free speech and association shall be accommodated in a manner consistent with applicable federal and state law in a manner consistent with the intent of this Policy.

DEFINITIONS

I. Discrimination

"Discrimination" as used in this Policy is defined to include, but is not limited to:

A. Basing an employment decision as to a job applicant or employee (e.g., decision to hire, promote, transfer, terminate, etc.) on one's protected status (e.g., race, sex, age, religion, etc.)

B. Treating an applicant or employee differently with regard to any aspect of employment because of his or her protected status;

C. Engaging in harassment, as more specifically defined below;

D. Taking adverse employment action (i.e., demotion, transfer, discipline, termination) against an employee based on the employee opposing discrimination in the workplace, assisting, supporting, or associating with a member of a protected group who complains about discrimination, or assisting in an investigation of discrimination.

II. Harassment

"Harassment" as used in this Policy is defined to include, but is not limited to:

A. Speech, such as epithets, derogatory comments or slurs, and lewd propositioning on the basis of race, color, creed, national origin, ancestry, religion, disability, medical condition (cancer-related), gender, height, weight, physical characteristics, marital status, sex, age, sexual orientation, organizational affiliation, disabled veteran status, or status as a veteran of the Vietnam era. Prohibited speech may include inappropriate sex-oriented comments on appearance, including dress or physical features, or race-oriented stories and jokes.

B. Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement when directed at an individual on the protected bases listed in the policy. Prohibited physical acts include pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.

C. Visual insults, such as derogatory posters, cartoons, or drawings related to the protected bases listed in the policy (e.g., race, sex, religion, etc.).

D. Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

DUTIES

I. Director of Human Resources

The Director of Human Resources shall be responsible for:

A. insuring that this policy and complaint procedures are disseminated to all employees;

B. providing training and assistance to department heads, supervisors, and employees in preventing and addressing discrimination and harassment; and

C. investigating, resolving, and making findings and recommendations on complaints of unlawful discrimination and harassment.

II. Department Heads

Department Heads shall be responsible for:

A. assisting the Director of Human Resources by disseminating this policy and ensuring that the workplace remains free of discrimination and/or harassment;

B. coordinating and cooperating with the Director of Human Resources in resolving complaints involving employees in their respective departments; and, when discrimination/ harassment has occurred,

- taking prompt and appropriate remedial action against the perpetrator/harasser
- taking reasonable steps to protect the complainant from further discrimination/ harassment
- taking reasonable steps to protect the complainant from retaliation as a result of communicating the complaint
- taking action to remedy the effects of discrimination/harassment.

III. Employees

Employees shall cooperate fully with all investigations of discrimination and harassment and implementation of remedial measures, and not retaliate against complainants or witnesses.

IV. Independent Contractors

Contracts with the City of Santa Cruz which contain an equal employment/non-discrimination clause shall also include language requiring those contractors to be responsible for insuring that effective policies and procedures concerning the prevention of harassment exist in their companies.

DISSEMINATION OF POLICY AND TRAINING

All employees, supervisors, and managers shall receive a copy of this policy, and all regular City employees shall attend sexual harassment and cultural diversity training.

DISCRIMINATION/ HARASSMENT COMPLAINT PROCEDURE

This complaint procedure is available to City of Santa Cruz employees and individuals that believe that they have been subjected to discrimination and/or harassment in relation to employment with the City of Santa Cruz.

Complainants, and employees alleged to have engaged in discrimination or harassment, may choose to be represented at any or all steps in the complaint process.

I. Filing a Complaint

Complaints may be submitted to an employee's immediate supervisor, any supervisor or manager within or outside the department, the department head, or the Director of Human Resources, within one (1) year of the date the alleged action occurred. Any City of Santa Cruz supervisor, manager, or department head who receives a discrimination/harassment complaint shall notify the Director of Human Resources as soon as possible after receiving the complaint. Complaints may be presented orally, or in writing.

If possible, written complaints should include the following information:

- The name, address, and telephone number of the complainant.
- The basis for the alleged discrimination or harassment (i.e., race, color, religion, age, sex, etc.).
- The specific discriminatory practice(s) or incident(s) that have occurred.
- The names of any persons thought to be responsible for the discrimination/harassment.
- The remedy the complainant is seeking as a result of the complaint.
- The name, address, and telephone number of the complainant's representative, if any.

If complainants wish to file the complaint in person and receive assistance, they may contact the Human Resources Department to schedule an appointment with a staff investigator.

II. Investigation and Resolution

After reviewing the discrimination/harassment complaint, the Director of Human Resources shall determine if an investigation is necessary to resolve the issues of the complaint and, if so, authorize and supervise the investigation of the complaint. The complainant will be contacted by the investigator upon the investigator's receipt of the complaint, and will be kept apprised of the status of the investigation. Every effort will be made to conclude the investigation within one hundred and twenty (120) calendar days of receipt of the complaint.

The Director of Human Resources will not proceed with the investigation of a complaint if the complaint contains no assertion that the alleged acts occurred based on one or more of the nineteen discriminatory bases; or, if a nexus cannot be established between the alleged act(s) and discrimination based on one of the nineteen protected categories.
When the investigation is completed, the Director of Human Resources will determine if there is sufficient evidence to substantiate a violation of the City's Discrimination/Harassment Policy, and if remedial action is necessary to resolve the issues of the complaint. The complainant, alleged perpetrator/harasser, and department head will be notified of the Director's determination. If discipline is imposed, the discipline will not be communicated to the complainant.

If it would present a conflict (or the appearance of such) for the review and investigation of a complaint to be conducted by the Human Resources Department, the City Manager will be responsible for this process.

III. City Manager Review

Complainants who are not satisfied with the Human Resources Director's determination may request a review by the City Manager (or his/her representative), in writing, within ten (10) workdays following receipt of the Director of Human Resources' determination. The City Manager (or his/her representative) shall review the complainant's written appeal and the investigative findings, and shall render a written decision within thirty (30) workdays following the review.

IV. Additional Remedies

Current City employees covered by a memorandum of understanding that includes arbitration as the final step in the grievance process, may request that the matter be taken to arbitration in accordance with the specific procedures contained in the applicable memorandum of understanding.

In addition, all complainants may file complaints of discrimination or harassment with the State of California Department of Fair Employment and Housing and the Federal Equal Employment Opportunity Commission, whether or not complainants choose to use the City of Santa Cruz's complaint procedure. Time limits for filing complaints with State and Federal compliance agencies vary and those agencies should be contacted directly for specific information. The addresses and telephone numbers (as of the revision date of this procedure) are:

Department of Fair Employment and Housing
111 North Market Street, Suite 810
San Jose, California 95113-1102
Phone: (408) 277-1277 or (800) 884-1684

Equal Employment Opportunity Commission
San Jose Office
96 North Third Street, Suite 200
San Jose, California 95112
Phone: (408) 291-7352