

**MEMORANDUM OF UNDERSTANDING  
CITY OF BENICIA  
&  
PUBLIC EMPLOYEES UNION, LOCAL ONE  
(Approved via Council Resolution 16-93)**

**July 1, 2016 – June 30, 2019**

## **I. PREAMBLE**

This agreement is entered into by the City of Benicia, hereinafter referred to as the "City," and the Public Employees Union, Local One, hereinafter referred to as "Local One," for the purpose of promoting harmonious relations between the City and its Professional and Confidential and Supervisory employees to establish an orderly and peaceful procedure, to settle differences which might arise and to set forth the basic, complete and full agreement between the parties concerning salaries and all other conditions of employment, and preclude any further negotiations during its term unless otherwise stated herein.

## **II. RECOGNITION**

### **A. Recognition of P.E.U., Local One**

The City of Benicia recognizes Public Employees Union, Local One as the majority and exclusive representative of City employees in the Professional and Confidential and Supervisory classifications as set forth below, and in classifications appropriately added to Professional and Confidential or Supervisory hereafter.

### **B. Parties to this Agreement**

This agreement is entered into by the City and Public Employees Union, Local One in accordance with Government Code Section 3500 et seq.

### **C. Professional & Confidential employees covered by this agreement include the following positions:**

- Administrative Secretary
- Library Technician I/II
- Assistant Engineer
- Associate Civil Engineer
- Literacy Program Supervisor
- Assistant Fire Marshall
- Management Analyst I/II
- Assistant Planner
- Associate Planner
- Senior Civil Engineer
- Executive Secretary

Information Technology Analyst I/II  
Community Preservation Officer  
Economic Development Specialist

Supervisory employees covered by this agreement include the following positions:

Accounting Systems Supervisor  
Field Utilities and Streets Supervisor  
Maintenance Supervisor  
Parks Landscape and Building Maintenance Supervisor  
Plant Supervisor (Water/Wastewater)  
Recreations Supervisor  
Senior Planner  
Water Quality Supervisor

### **III. NON-DISCRIMINATION**

The City shall not discriminate against any employee because of race, color, creed, sex, age, disability, national origin, gender, sexual orientation, or any other State or Federal protected class; nor shall the City discriminate against any employee covered by this Memorandum of Understanding because of membership or non-membership in Local One, or authorized activity, as required in this Memorandum of Understanding, in behalf of the members of Local One.

Local One shall not unlawfully discriminate against any Professional, Confidential or Supervisory employee because of membership or non-membership in Local One or because of race, creed, color, national origin, sex, disability, age, gender or sexual orientation.

The City and Local One recognize that the City has an obligation under the Americans with Disabilities Act (ADA) to meet with individual employees who allege a need for reasonable accommodation in the workplace because of a disability. If by reason of the aforesaid requirement, the City contemplates actions to provide reasonable accommodation to an individual employee in compliance with the ADA which are in potential conflict with any provision of this Memorandum of Understanding, Local One will be advised of any such proposed accommodation and be afforded an opportunity to discuss same prior to implementation by the City.

## **IV. DUES DEDUCTIONS AND FAIR SHARE FEES**

### **Section 1 Scope of Coverage**

The City and Local One have agreed to conduct an election to determine if unit employees wish to implement a Dues Deduction/Fair Share Fee Agreement (hereinafter known as "the Agreement") for employees in the Professional and Confidential and the Supervisory classifications as authorized by Government Code 3502.5. The following provisions shall apply if employees so elect.

### **Section 2 Deductions**

The City of Benicia agrees to deduct dues, initiation fees and special assessments from the salaries of those employees who sign dues deduction/fair share fee forms said dues/fair share fees, initiation fees and special assessments and remit the total dues/fair share fees, initiation fees and special assessments to Local One promptly.

### **Section 3 Local One Responsibilities**

Local One agrees that it has a duty to provide fair and nondiscriminatory representation to all employees in the Professional and Confidential and Supervisory classifications, regardless of whether or not they are members of Local One. All employees in, and all employees subsequently hired, promoted, demoted or transferred into classifications in the Professional and Confidential and Supervisory classifications shall as a condition of employment fulfill one of the following:

- A. Become and remain a member of Local One; or
- B. Pay to Local One a fair share fee in an amount which does not exceed the amount which may be lawfully collected under applicable constitutional, statutory and case law, and which under no circumstances shall exceed the monthly dues, initiation fees and general assessments made during the term of this Agreement; or
- C. Do both of the following:
  1. Execute a written declaration to Local One with a copy to the Payroll Division of the Auditor/Controller, that the employee has a conscientious religious objection to all unions. The holding of such a belief can be demonstrated by being a member of a bona fide religion, body or sect which has

historically held a conscientious objection to joining or financially supporting any union as a condition of employment or providing an affidavit asserting such a conscientious religious belief and statements from two non-relatives that the employee holds such a belief; and

2. Pay a sum equal to the fair share fee to a nonreligious, non-labor, charitable fund exempt from taxation under Internal Revenue Service Code Section 501(c) (3), chosen by the employee from the following charities:
  - i. Community Action Council of Benicia
  - ii. Friends of Benicia Library
  - iii. Benicia Human Services and Arts Fund
  - iv. Partners Encouraging Parks and Recreation in the Community

#### **Section 4 Compliance**

##### **A. Notice to employee and the City**

An employee in or hired into, a job classification in the Professional and Confidential or Supervisory classifications represented by Local One shall be provided with an Employee Authorization for Payroll Deduction form by Local One. If the form authorizing payroll deduction for Local One dues, fair share fees, initiation fee, or charitable contribution is not returned to Local One within thirty (30) calendar days after notice of this fair share and initiation fee, Local One may, in writing, direct that the City withhold the fair share fee and the initiation fee from the employee's salary, in which case the employee's monthly salary shall be reduced by an amount equal to the fair share and initiation fees, and the City shall pay an equal amount to Local One.

##### **B. Forfeiture of Deductions**

If the balance of an employee's wages, after all other involuntary and insurance premium deductions are made in any one pay period, is not sufficient to pay deductions required by this Agreement, no such deduction shall be made for that period.

##### **C. Withdrawal from Union**

Members shall be able to withdraw their membership by notifying the Union in writing of their desire to withdraw their membership and to become fee payers during the period of May

15-31 of any year. Members may not withdraw from membership at any other time.

**D. Advance Notice of Fair Shares Fees, Fair Share Fee Explanation and Right to Challenge**

No fair share service fee shall be collected from any employee who is not paying dues or a fair share fee until the employee has received written notice from Local One, which includes legally adequate information concerning the breakdown of "chargeable" and "non-chargeable" expenses. A prompt opportunity, as provided below, shall be established by Local One for challenge of the amount of the fee before an impartial arbitrator. An escrow account shall be set up by P.E.U., Local One for the amounts in dispute while such challenges are pending.

**Section 5. Hold Harmless**

The authorization for payroll deductions described in this Agreement shall specifically require the employee and Local One to agree to hold the City harmless from all claims, demands, suits or other forms of liability that may arise against the City for or on account of any deduction made from the wages of such employee.

Local One shall defend, indemnify and hold harmless, release and save the City and its agents and employees against any and all claims, demands, suits, orders, judgments or other forms of liability that shall arise out of, or by reason of, action taken or not taken by the City under this Agreement. This includes but is not limited to the collection and procedures for collection of fair share fees and reasonable cost of City's attorney fees and costs, along with reasonable cost of management preparations time as well.

**V. MANAGEMENT RIGHTS**

The employee organization agrees that the City retains all its exclusive rights and authority under the law and expressly and exclusively retains its management rights, which include, but are not limited to; the exclusive right to determine the mission of its constituent departments, commissions, boards; set standards and levels of service; determine the procedures and standards of selection for employment and promotions;

direct its employees; maintain the efficiency of government operations; determine the methods, means and numbers of kinds of personnel by which government operations are to be conducted; determine the content

and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology to be used; determine and/or change the facilities, methods, technology, means, organizational structure and size and composition of the work force and allocate and assign work by which the City operations are to be conducted; determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to the right to contract for or sub-contract any works operations of the City; to assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments upon reasonable notice; establish and modify productivity and performance programs and standards; discharge, suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline employees in accordance with applicable law; establish employee performance standards including, but not limited to, quality and quantity standards, and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and technology of performing its work. Management rights shall be exercised in a manner consistent with applicable Federal and State laws, and Personnel rules and the MOU. Nothing in this Article is intended to alter the post-agreement rights of the respective parties as established by law to meet and confer or to lawfully refuse to meet and confer on changes which would affect the wages, hours and other terms and conditions of employment.

## **VI. COMPENSATION**

### **A. Salaries**

Effective the first full pay period after adoption of this successor MOU by the City Council on its regular agenda, but no sooner than July 1, 2016 each step of the salary range for each classification in this unit shall be increased by one percent (1.0%).

Effective the first full pay period in January 2017, each step of the salary range for each classification in this unit shall be increased by one percent (1.0%).

Effective the first full pay period in July 2017, each step of the salary range for each classification in this unit shall be increased by two and three quarter percent (2.75%).

Effective the first full pay period in July 2018, each step of the salary range for each classification in this unit shall be increased by two and

three quarter percent (2.75%).

Effective July 1, 2006 the following agencies have been used for the purposes of salary surveys for benchmarked positions:

City of Davis	City of Napa	City of San Pablo
City of Brentwood	City of Pinole	Contra Costa Fire District
City of Fairfield	City of Richmond	Contra Costa Water District
City of Folsom	City of Vacaville	City of El Cerrito
City of Pleasant Hill		City of Vallejo
East Bay Municipal Utility District		
Central Contra Costa Sanitary District		

#### **B. Deferred Compensation**

Employees covered by this MOU may elect a monthly payroll deduction to be placed in the City administered deferred compensation program. Any monies so deposited would become tax deferred and would be subject to income taxation in the year they are withdrawn from the deferred compensation program.

#### **C. Longevity Pay**

All employees employed in regular full-time positions shall be entitled to a 2 1/2% increase in compensation upon completion of ten (10) years of full-time service. Additionally, for each additional ten (10) year increment, i.e., twenty (20), thirty (30), forty (40) years, of full-time consecutive service, employees shall be entitled to an additional 2 1/2% increase in compensation over the rate for the class in which employed. Upon completion of ten (10) consecutive years of service and receiving longevity compensation, any further pay increase shall be in addition thereto, and not restricted or reduced by reason of the longevity increase.

The current incumbent in the Accounting Systems Supervisor position shall retain her annual single longevity day. This provision sunsets on October 31, 2016.

#### **D. Acting Pay**

Any employee requested to perform the essential duties of a classification at a higher salary range due to a vacancy or the temporary absence of an employee in the higher classification shall receive at least a 5% differential but no less than the first step and no

more than the top step of the salary range for the higher classification for all hours that they perform the duties of the higher classification.

Employees assigned in accordance with the foregoing to perform the duties of a higher classification on an acting basis for a period exceeding five (5) consecutive work days shall receive "acting pay" commencing with the sixth (6<sup>th</sup>) consecutive work day retroactive to the first day of assignment and continuing with each consecutive day of work in the higher classification thereafter.

An employee qualifying for "acting pay" shall receive an additional five percent (5%) over his/her then current salary range while working in the higher classification.

#### **E. Uniform Pay**

1. Uniform Allowance for Public Safety Members shall be \$40 per month.
2. When required by the City to wear City designated uniforms, employees in the following classifications shall be provided with five (5) shirts per fiscal year and one (1) jacket replaced as needed and approved by department but not more than once per fiscal year; a boot allowance reimbursement of up to \$190.00 per fiscal year and pants allowance of \$200.00 reimbursement per fiscal year:
  - Community Preservation Officer
  - Fields Utilities and Streets Supervisor
  - Parks Landscape and Building Maintenance Supervisor
  - Plant Supervisor in Water/Waste Water only
  - Water Quality Supervisor

### **VII. HOURS OF WORK**

#### **A. 9/80 Work Schedules**

Alternate schedules may be provided pursuant to City Policy 25.

#### **B. Reduced Work Schedules**

Reduced work schedules may be made available pursuant to City Policy #14.

#### **C. On Call/Call Back**

Employees within this bargaining unit are not on call and therefore not required to restrict their personal activities outside of their normal work hours.

## **VIII. LEAVE**

### **A. Vacation**

Employees covered under this agreement shall accumulate vacation time in accordance with the following vacation entitlement schedule:

<b>Years of Service</b>	<b>Weeks of Vacation</b>
0 through 3 years	2 weeks
4 through 7 years	3 weeks
8 through 15 years	4 weeks
16 and over	5 weeks

An employee may take vacation at times approved by the department head. It is the policy of the City that employees take their normal vacation each year. However, an employee may take less than a normal vacation in one year and carry the balance over to the next year. Such carry-over accumulation shall not exceed 320 hours, and any accrual over 320 hours shall be used by December 31st of each year. In December of each calendar year, the City will allow employees who have in excess of 320 hours of accrued vacation leave to convert forty (40) hours of vacation leave to sick leave.

### **B. Administrative Leave**

1. In recognition of the extended hours required of unit employees, including attendance at meetings outside of normal working hours, the following leave policy shall be implemented:

Each FLSA exempt employee shall receive nine (9) days Administrative Leave.

2. On June 1st of each year, employees may elect to convert unused Administrative Leave for cash for an amount up to one half his/her authorized Administrative Leave allowance. Payment for cash conversion shall be made by June 30th. Administrative Leave must be converted to cash payment or used by June 30th of each year.

Upon termination of employment an employee will be entitled to a prorated payout of the current fiscal year's earned Administrative Leave.

For example, if an employee separates service on November 30, they will have worked 5 months into the fiscal year (July – Nov). Employees are credited with 6 hours of admin leave each month. If an employee leaves in November, they will have earned 30 hours of admin leave, and can therefore cash out a maximum of 15 hours upon separation.

In extraordinary circumstances such as emergencies, storms etc. Department Heads may authorize the flexing of work schedules for unit employees working excessive hours beyond that compensated for through Administrative Leave.

## **B. Sick Leave**

Employees covered by this agreement shall accrue sick leave beginning the first day of the month following the employee's completion of one month of service. An employee earns leave with pay at the rate of 8 hours for each calendar month of service. Full sick leave is earned by each full-time employee on paid leave of absence, including sick leave and jury leave. It is not earned by an employee on unpaid leave of absence or paid industrial leave (PIL).

The City allows the unlimited accumulation of sick leave.

The City will, at the request of the individual employee, reimburse each employee in this bargaining unit, 25% of their annually accrued, but unused, sick leave during December of each year. The employee's sick leave balance will be reduced by the hours that are cashed out.

## **D. Supplemental Sick Leave Benefit**

A supplemental sick leave benefit is provided pursuant to City Policy #5.

## **E. Paid Industrial Accident Leave**

Each full-time employee shall be granted paid industrial leave (PIL) if the claim is approved by the State Workers' Compensation, with the City paying full, basic salary during such leave. "PIL" shall begin on the first day of said industrial accident and shall extend for a maximum of one year. During such leave, the City shall receive all State Compensation benefits. When an employee is on "PIL", he/she is charged neither vacation nor sick leave but during this time, he/she does not accrue vacation or sick leave. He/she is not eligible for a step increase while on "PIL", and his/her anniversary date will be adjusted so that he/she will observe the normal working period between steps.

Safety employees shall be governed by Section 4850 of the Workers' Compensation Act.

**F. Bereavement Leave**

Any employee shall obtain the approval of the employee's department head in advance of an absence due to a death in the employee's family. Failure to obtain the department head's approval shall result in ineligibility for benefits under this section.

In the event of a death in the immediate family of an employee, he/she shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed three (3) regularly scheduled working days. However, up to an additional two (2) days may be granted for out-of-state funerals. This provision does not apply if the death occurs during the employee's paid vacation, or while the employee is on leave of absence, layoff, or sick leave. For the purposes of this section immediate family shall be defined as follows: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, grandchildren and members of the employee's household.

Additional Bereavement Leave may be granted to an employee to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave.

**G. Leave of Absence**

1. Employees covered by this MOU shall be granted a leave of absence with full pay for jury service, and appearances or attendance in court proceedings resulting from the employee's official duties. Any compensation received by the employee for such service shall be remitted to the City.
2. A request for a leave of absence without pay must be made to the department head in writing by the employee stating the dates of leave of absence requested and the reason for the request.
3. A department head may grant an employee a leave of absence without pay for not more than ten (10) working days when it is in the best interest of the City. The City Manager must approve a leave of absence without pay exceeding ten (10) working days.

**H. Donation of Leave**

With City approval, employees may voluntarily donate annual leave or administrative leave hours to an employee who has exhausted their own leave time.

## **IX. EDUCATIONAL REIMBURSEMENT**

An Educational Reimbursement Program is hereby established to encourage employees to continue their self-development and career development by enrolling in job related classroom courses during off duty time. The City agrees to pay up to an amount of \$1,200 in any one twelve (12) month period toward the cost of tuition, books and materials for courses of study undertaken by employees pursuant to this Program and provided such courses and institutions have been approved by the employee's Department Head.

## **X. HOLIDAYS**

1. New Year's Day (January 1st)
2. Martin Luther King Jr.'s Birthday
3. Lincoln's Birthday
4. Presidents' Day (3rd Monday in February)
5. Memorial Day (last Monday in May)
6. Independence Day (July 4th)
7. Labor Day (1st Monday in September)
8. Columbus Day
9. Veterans' Day
10. Thanksgiving Day
11. Friday after Thanksgiving
12. Christmas Day (December 25)
13. Personal Leave Day (at the employee's option)

The City will observe the Friday preceding a legal holiday falling on Saturday as a legal holiday and the Monday following a legal holiday falling on a Sunday as a legal holiday.

Personal Leave may be taken at any time during the fiscal year with the approval of the employees' supervisor and/or department head. Personal Leave may not be accumulated and carried forward to the next fiscal year.

## **XI. HEALTH AND MEDICAL INSURANCE**

A. The City shall continue to offer hospital-medical-dental and vision plans as those plans are currently structured or as the plans may be amended from time to time by the plan providers. The City may substitute plans currently offered with plans of substantially similar benefits.

Effective the first full pay period after the ratification by the Union the City's maximum contribution towards medical premiums shall be a maximum up to the following monthly contributions for any plan:

Employee:	\$682.00/month
Employee plus One:	\$1,394.00/month
Employee plus Family:	\$1,880.00/month

Effective July 1, 2017 the City's monthly contribution towards medical shall be up to the following maximum contributions for any plan:

Employee:	\$702.00/month
Employee plus One:	\$1,444.00/month
Employee plus Family:	\$1,955.00/month

Effective July 1, 2018 the City's monthly contribution towards medical shall be up to the following maximum contributions for any plan:

Employee:	\$722.00/month
Employee plus One:	\$1,494.00/month
Employee plus Family:	\$2,030.00/month

- B. City Medical Plan OPT Out Stipend: Upon written documentation from the employee of proof of alternative group medical coverage, the City shall allow employees who have dual coverage on their health plan to receive a City medical plan opt out stipend in the amount the city contributes towards the single rate listed above.
- C. Retirees may voluntarily continue to participate at their own expense in the City's health plans at the same premium as active employees. Retirees that are Medicare eligible must be enrolled in Medicare to be eligible to continue to participate in the City's health plans.

## **XII. RETIREE HEALTH SAVINGS PLAN**

Employees covered by the MOU may contribute funds to their Vantage Care accounts in accordance with program rules.

## **XIII. LIFE INSURANCE**

The City shall pay the entire cost of providing each insurable regular, full-time employee with \$50,000 group term life insurance with said policy to include \$100,000 accidental death and dismemberment coverage.

## **XIV. MILEAGE REIMBURSEMENT**

Mileage reimbursement shall be in accordance with City Policy #23. Remaining auto allowances will be rolled into salary.

## **XV. PROFESSIONAL AND COMMUNITY ORGANIZATIONS**

Employees required to maintain membership in professional and/or community organizations will be reimbursed for all membership fees and approved expenses.

## **XVI. RETIREMENT**

1. Local One Non Safety Sworn Miscellaneous Employees Only
  - A. Employees in this unit hired on or before September 30, 2012: 2.7% at 55 CalPERS Pension Formula:
    1. For non-sworn miscellaneous employees hired on or before September 30, 2012, the City shall provide the 2.7% at 55 Local Miscellaneous Members Retirement Program. The City's contract with the Public Employees' Retirement System (PERS) for the 2.7% @ 55 formula also provides the following additional benefits:
      - One year highest compensation benefit as outlined in Government Code.
      - The City implemented the Third Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS

contract.

- Credit for unused Sick Leave as provided for in Government Code.

2. Contributions:

- a. Employees shall pay 4% of pensionable compensation towards the member rate of PERS via a pre-tax payroll contribution. Such contributions shall be treated as pre-tax as long as allowable by the IRS.
- b. Employer contribution towards EPMC: The City is paying the 4% portion of the PERS member Retirement contribution and reporting the value of the 4% Employer Paid Member Contribution (EPMC) as special compensation.

B. Employees in this unit hired on or after October 1, 2012 and considered a classic member as defined by PERS: 2% at 60 CalPERS Pension Formula:

1. For non-sworn miscellaneous employees hired on or after October 1, 2012 and on or before December 31, 2012, the City shall provide the 2.0% at 60 Local Miscellaneous Members Retirement Program. The City's contract with the Public Employees' Retirement System (PERS) for the 2.0% @ 60 formula also provides the following additional benefits:

- Three year highest compensation benefit as outlined in Government Code.
- The City implemented the Third Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.
- Credit for unused Sick Leave as provided for in Government Code.

2. Contributions:

- a. Employees shall pay 3% of pensionable compensation towards the member rate of PERS via a pre-tax payroll

contribution. Such contributions shall be treated as pre-tax as long as allowable by the IRS.

- b. Employer contribution towards EPMC: The City is paying the 4% portion of the PERS member Retirement contribution and reporting the value of the 4% Employer Paid Member Contribution (EPMC) as special compensation.

- C. PEPRA Employees in this unit hired on or after January 1, 2013: 2.0% at 62 CalPERS Pension Formula:

1. 2.0% at 62 CalPERS Pension Formula/ PEPRA: Pursuant to changes mandated by PEPRA, all non-sworn miscellaneous employees who are not considered classic members as defined by CalPERS are under the CalPERS 2.0% @ 62 pension formula. The City shall comply with all PEPRA laws for new hires after January 1, 2013 or non-classic members as defined by CalPERS.
2. Contributions: Employee Contribution:-Employees are required by CalPERS per PEPRA regulations to contribute 50% of the normal cost rate as determined annually by CalPERS via pay roll deduction.

## 2. Local One Safety Sworn Employees in the Assistant Fire Marshall Classification Only

- A. Safety employees in this unit hired on or after November 18, 2000 and on or before May 31, 2011: 3% at 50 CalPERS Pension Formula

1. 3% at 50 CalPERS Pension Formula. The City agreed to amend its contract with the Public Employees' Retirement System [PERS] to include the retirement benefit option of 3% @ 50 in accordance with Government Code § 21362.3. This benefit became effective on November 18, 2000 following the final amendment process and approval by PERS. The City's contract with the Public Employees' Retirement System (PERS) has been amended and shall provide the following additional benefits:

- One year highest compensation benefit as outlined in Government Code.
- The City implemented the Fourth Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.
- Credit for unused Sick Leave as provided for in Government Code.

2. Contributions:

- a. Employee Contribution: Employees pay 5% of pensionable compensation towards the member rate of PERS via a pre-tax payroll contribution. Such contributions shall be treated as pre-tax as long as allowable by the IRS.
- b. Employer Contribution towards EPMC: The City is paying the 4% portion of the PERS member contribution and reporting the value of the 4% Employer Paid Member Contribution (EPMC) as special compensation.

B. Safety Employees in this unit hired on or after June 1, 2011 and are considered a classic member as defined by PERS: 3% at 55 CalPERS Pension Formula:

1. 3% at 55 CalPERS Pension Formula

- The City's contract with Public Employees Retirement System (PERS) implemented a second tier retirement benefit option of 3% @ 55. The City's contract with the Public Employees' Retirement System (PERS) for the 3% @ 55 formula also provides the following additional benefits:
  - One year highest compensation benefit as outlined in Government Code.
  - The City implemented the Fourth Tier of the 59 Survivor Benefit with CalPERS upon amendment of the PERS contract.
  - Credit for unused Sick Leave as provided for in Government Code.

2. Contributions:

- a. Employee Contribution: Employees shall pay 5% of pensionable compensation towards the member rate of PERS via a pre-tax payroll contribution. Such contributions shall be treated as pre-tax as long as allowable by the IRS.
- b. Employer Contribution towards EPMC: The City is paying the 4% portion of the members PERS Retirement contribution and reporting the value of the 4% Employer Paid Member Contribution (EPMC) as special compensation.

C. PEPRA Safety Employees in this unit hired on or after January 1, 2013: 2.7% at 57 CalPERS Pension Formula:

1. 2.7% at 57 CalPERS Pension Formula/ PEPRA: Pursuant to changes mandated by PEPRA, all safety employees who are not considered classic members as defined by CalPERS are under the CalPERS 2.7% @ 57 pension formula. The City shall comply with all PEPRA laws for new hires after January 1, 2013 or non-classic members as defined by CalPERS.
2. Contributions: Employees are required by CalPERS per PEPRA regulations to contribute 50% of the normal cost rate as determined annually by CalPERS via pay roll deduction.

## **XVII. GRIEVANCES/DISCIPLINARY APPEALS**

### **A. Definitions**

#### **1) Grievance:**

A grievance is any dispute which involves the interpretation or application of any provisions of this Memorandum of Understanding, or rules, regulations, resolutions, ordinances and existing practices which specifically govern personnel practices and working conditions of unit members.

#### **2) Discipline:**

A disciplinary appeal is an appeal by an employee of a discharge, demotion, and reduction in pay or suspension without pay. The process will be determined by the

employee's selection as set forth in Section 9.11 of the City of Benicia Personnel Rules.

**B. Procedure**

Grievances/Appeals filed pursuant to this Memorandum of Understanding shall be processed in the following manner:

For the purposes of this Section, the term "working days" shall mean those days the City is normally open for business.

- 1) The grievance shall be presented in writing either by the employee or by an authorized union representative to the designated supervisor of the employee within ten (10) working days after the cause of such grievance occurs. Disciplinary appeals must be presented to the department head within ten (10) working days from date of receipt of the Notice of Intent to Discipline. Appeals which are not presented within this time limit shall be deemed waived and abandoned.
- 2) The designated supervisor shall have ten (10) working days from the date of receipt of the grievance in which to investigate and 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 union representative within ten (10) working days to the department head or to such representative as the employee may designate.
- 3) The department head or a designated representative shall have ten (10) working days from date of receipt of grievance/appeal in which to respond. If the grievance is not satisfactorily adjusted/resolved within this period, the grievance/appeal may be presented in writing either by the employee or by an authorized Union representative to the City manager or to such representative as the City Manager may designate.
- 4) If the parties are unable, within ten (10) working days, to reach a mutually satisfactory accord on any grievance/appeal which arises and is presented during the term of this Memorandum of Understanding, such grievance/appeal shall be submitted to an Adjustment Board comprised of two (2) Union representatives, no more than one (1) of whom shall be either an employee of the City or an elected or appointed official of the Union; and two (2) representatives of the City, no more than one (1) of whom shall be either an employee of the City or a member of the

staff of any organization employed to represent the City in the meeting and conferring process. No decision of the Adjustment Board shall be final and binding without receiving the affirmative votes of at least three (3) members of the Board.

- 5) If an Adjustment Board is unable to arrive at a majority decision, either the Union or City may require that the grievance/appeal be referred to an impartial arbitrator who shall be designated by mutual agreement between the Union and the City Manager. The fees and expenses of the arbitrator and a court reporter shall be shared equally by the Union and the City. Each party, however, shall bear the cost of its own presentation including, but not limited to, preparation and posting hearing briefs, if any. If the Union and the City Manager are unable to agree on an impartial arbitrator a list will be requested from the State Mediation & Conciliation Service and an impartial arbitrator selected by alternately striking names until only one name remains on the list, that person shall be the impartial arbitrator.
- 6) Decisions of Adjustment Boards and arbitrators on matters properly before them shall be final and binding on the parties hereto.

**C. Scope of Procedure**

No Adjustment Board and no arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union and unless such dispute falls within the definition of a grievance/appeal as set forth above.

**D. Change to Memorandum**

Proposals to add to or change this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be arbitrated 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. Neither any Adjustment Board or any arbitrator shall have the power 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.

**E. Compensation Complaints**

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the City Manager. Only complaints which allege that employees are not being compensated in accordance with the provisions of the Memorandum of Understanding shall be considered as grievances. Any other matters of compensation are to be resolved in the meeting and conferring process and if not detailed in the Memorandum of Understanding which results from such meeting and conferring process shall be deemed withdrawn until the meeting and conferring process is next opened for such discussion. No adjustment shall be retroactive for more than thirty (30) days from the date upon which the complaint was filed.

### **XVIII. Transfers and Promotional Opportunities**

Whenever a City authorized permanent position becomes vacant, the City shall offer qualified, and interested, regular employees covered by Local One the opportunity to be considered for transfer into the vacant position(s) prior to considering the appointment of an employee not covered by Local One for five business days before initiating an outside recruitment.

#### Lateral Transfer Between Departments:

A lateral transfer between departments is defined by Personnel Rules Section 6.4b and such definition is not changed by this section. When a vacancy occurs for a position that is also held by other current regular Local One members (i.e. Administrative Secretary, Management Analyst, etc.), Human Resources will contact employees who hold the same classification to inquire if they are interested in a lateral transfer. This notice will be made at least 5 business days prior to opening the position in any other manner. The notice shall include the job location, department, and final filing date.

Employees interested may be interviewed by the hiring manager, and will not be subject to any minimum qualifications or outside panel interview screening as employee has previously participated in a recruitment process for the current classification employee is seeking to transfer within the City.

#### Transfer Between Classifications at the same, comparable or lower classification

A transfer between classifications is defined by Personnel Rules Section 6.4a. Employees interested in being considered for a transfer between

classifications will notify Human Resources of their interest to be placed on a transfer list. Employees may notify Human Resources at anytime of their interest and Human Resources will maintain the transfer list. In addition, at least once per calendar year, Human Resources will notify Local One members of the availability of this transfer between classifications list. City email will be used for this notification. It is the employees' responsibility to notify Human Resources if they want to be on a transfer list for consideration of a lateral transfer. Any persons transferred between classifications at the same, comparable or lower classification shall possess the minimum qualifications for the position without exception. Transfers to a higher classification shall not be permitted.

The Personnel Officer may authorize the transfer of an employee from one position to another of the same or comparable class of work and where the same general type of examination is given for entrance to such a position.

#### Promotional Opportunities:

Promotions shall be competitive examinations pursuant to Personnel Rules, and nothing in this section modifies the requirement of the Personnel Rules.

If an examination for one of the classes represented by the Union is proposed to be announced on an open to the public (i.e. not open internally first) basis, the Human Resources Department shall give five (5) days prior notice of such proposed announcement and shall meet at the request of the Union, within those 5 days, unless mutually agreed to waive the timeline, to discuss the reasons for such open announcement. The reasons for opening such recruitment is a management right and nothing in this section confers any rights to any party to appeal or grieve in any forum the City's decision to open a recruitment.

### **XIX. HOLIDAY LEAVE**

The City agrees to the December holiday leave for 2016 equivalent to four (4) days. This holiday leave will be non-precedent setting, with the purpose of recognizing the cooperation of Local One in negotiating this agreement. The City will determine whether to institute a holiday closure for 2016. If instituted, the holiday leave hours for Local One will correspond with the days of the City's holiday closure. For those employees who are scheduled to work during the holiday closure, if instituted, the City will provide them with the equivalent leave hours to be taken any time during the remainder of the fiscal year for which the leave was allotted. If the city does not close city hall during December,

employees will be permitted to use the 4 days at another time during the remainder of the fiscal year.

**XX. SEPARABILITY CLAUSE**

If any section of this Memorandum of Understanding should be found invalid, unlawful, or unenforceable by reason of any existing or subsequent enacted legislation or by judicial authority, all other Sections of this Memorandum of Understanding shall remain in full force and effect for the duration of this Memorandum of Understanding. In the event of invalidation of any Section, the City and Local One agree to meet within thirty (30) days for the purpose of renegotiating said Section.

**XXI. TERM**

The terms of this agreement shall remain in effect through June 30, 2019.

This Agreement shall become effective upon ratification by Local One and adoption by the City Council on its regular agenda, in conformance with the Brown Act.

**IN WITNESS WHEREOF**, the parties hereto have executed this Memorandum of Understanding this 17 day of November, 2016.

**PUBLIC EMPLOYEES  
UNION, LOCAL ONE**

**CITY OF BENICIA**

APPROVED AS TO FORM BY  
City Attorney:

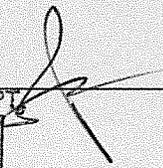


Heather Mc Laughlin

Date: \_\_\_\_\_

Date: 11-17-16

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HUMAN RESOURCES DEPT.



NOV 16 2016

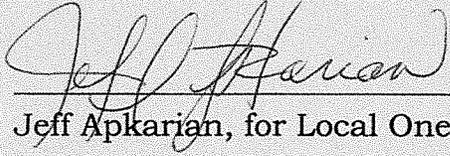
CITY OF BENICIA

*Approved by Council  
Reso 16-93*

Theron Jones, President Local One

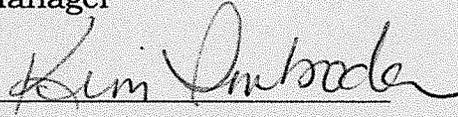


Theresa Olson, Vice President

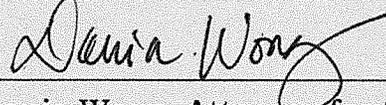


Jeff Apkarian, for Local One

Anne Cardwell, Assistant City  
Manager



Kim Imboden, Interim HR  
Manager



Dania Wong, Attorney for the  
City

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