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DISPATCHERS MEMORANDUM OF UNDERSTANDING
JULY 1, 2010 – JUNE 30, 2012

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Section 1. Preamble

This Agreement is entered into by the City of Benicia, hereinafter referred to as the “City” and the Benicia Dispatchers Association hereinafter referred to as the “Association” for the purpose of promoting harmonious relations between the City and the Association, to establish an orderly and peaceful procedure to settle differences which might arise and to set for 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.

Section 2. Recognition

The Association is hereby recognized by the City as the exclusive representative and sole bargaining agent for the bargaining unit composed of Public Safety Dispatchers, Public Safety Dispatch Supervisors, Community Service Officer I/II (referred to as CSO throughout the remainder of this document), Animal Control Officers, and Records Clerk, established by the City on or about March 1, 2005 and for said bargaining unit, under conditions of State law.

Section 3. Non-Discrimination

The City shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association or authorized activity as required in this agreement on behalf of the members of the Association. The Association shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association. Neither party shall discriminate against any employee because of race, color, creed, sex, age, or national origin.

Section 4. Employee Rights

Employees shall have the right to fair and equal treatment in all aspects of employment conditions. Neither management nor its representatives shall exercise their rights and authority in relationship to conditions of employment in a capricious, arbitrary, or unreasonable manner. Any punitive personnel action taken which will result in any loss of pay or benefits shall be taken in a manner consistent with Civil Service Rules and Regulations and Laws of the State. An employee’s salary shall not be directly deposited in the bank by the City without the employee’s consent.

Section 5. Association Business

- 5.1 The City agrees to provide space on bulletin boards to the Association for the announcement of meetings, election of officers of the Association and any other material related to the Association business. Furthermore, the Association shall not post material detrimental to the labor-management relationship nor of a political or controversial nature.
- 5.2 No Association member or representative shall solicit members, engage in organizational work, or participate in other Association activities during working hours on the City's premises except as provided for in the processing of grievances, or during periods of negotiations to update the membership on the progress of said negotiations.
- 5.3 Association members or representatives may be permitted to use suitable facilities on the City's premises to conduct Association business during non-work hours upon obtaining permission from the City's Personnel Officer or his designated representative. Any additional costs involved in such use must be paid by the Association.
- 5.4 Association representatives shall be permitted to investigate and discuss grievances during working hours on the City's premises if notification is given to the Personnel Officer or his designated representative. If the Association representative is an employee of the City, he/she shall request from his immediate supervisor, reasonable time off from his/her regular duties to process such grievances. The City will provide a reasonable number of employees with time off, if required, to attend negotiating meetings.
- 5.5 Upon official and reasonable notification by the Association, employees may be released from work without pay for the purpose of participating in authorized Association activities. Such release time without pay shall not exceed an aggregate of forty (40) hours per calendar year for all members of the unit. Under extraordinary circumstances the City Manager may grant an exception to the forty (40) hour aggregate limit. Employees released under this section shall have no reduction in accrual of vacation, sick leave, holiday time or other benefits provided in the Memorandum of Understanding.

Section 6. Overtime Work, Recall

6.1 Overtime Work

All work performed in excess of an employee's normal work day or in excess of an employee's normal workweek shall be considered overtime work. For the purpose of this Section, an employee's "normal work day" shall be defined as the hours they are normally scheduled in a 24-hour period. An employee's "normal work week" shall be defined as 40 hours in a 7 day period. The parties agree that assignments of overtime work shall rest solely with the department head or designated representative, taking seniority into consideration whenever possible. The parties agree that the assignment of overtime work is on an involuntary basis and any employee refusing assignment of such work is subject to disciplinary action deemed appropriate by the department head.

6.2 Compensation for Overtime Work

Any authorized time worked in excess of the employee's regular work week shall be compensated at the rate of one and one-half (1 ½) times the employee's straight time hourly rate of pay.

The Chief of Police may post overtime which will be compensated in time off (CTO) at the one and one-half (1 ½) time rate.

Employees who wish to work overtime for CTO may do so by volunteering for such offered hours.

No employee shall be required to work overtime for CTO. If an employee is required to work overtime, such overtime shall be paid in cash, or CTO, at the employee's discretion..

No employee may exceed sixty (60) hours of accrued CTO at any time. Any hours of overtime worked which exceed the sixty (60) hours of accrued time shall be paid in cash.

Employees may request to cash out any accrued CTO. Requests to cash out CTO must be submitted to the Chief of Police by May 30th. Such requests will be acted upon prior to conclusion of the June pay period [6/20] of each calendar year. The Chief of Police may approve or deny such requests based on the availability of funds.

6.3 Call Out

If an employee is called to work at a time other than his/her scheduled work shift, he/she shall be credited with a minimum of four (4) hours at one and one-half times his/her straight-time hourly rate; provided, however, that this provision shall not apply if the employee is called to work immediately preceding his/her scheduled work shift or is held over for work immediately following the scheduled work shift.

6.4 Daylight Savings Time

On any weekend during which there is a change to or from Standard Time to Daylight Savings time, the Chief of Police may adjust work schedules so that those assigned to work do actually work the regular number of hours normally assigned to the shift.

The "time change hour" for Daylight Savings shall not be included in the definition of actual hours worked or be considered for pay purposes, and no employee assigned to a shift who works during the transition to or from Standard Time to Daylight Savings Time shall be paid any sum except for actual hours worked during said shift.

6.5 Overtime for Dispatchers

Public Safety Dispatchers and Public Safety Supervisors ("dispatchers") who work a schedule consisting of six 12-hour shifts and one 8-hour shift every two weeks do so under agreements that designate their workweeks such that their normal schedule consists of no more than 40 hours in a seven-day work period.

The parties have requested NLRB certification of a 26-week/1040-hours work period under the FLSA, pursuant to 29 U.S.C. section 207(b) ("section 7(b) work period"). Should the parties decide, upon receipt of NLRB certification, to formally implement the section 7(b) work period, dispatchers will be eligible to be paid FLSA overtime for hours worked in excess of 12 hours in a day or 56 hours in a seven-day period.

Under the current designated workweeks or under the section 7(b) work period, dispatchers will continue to be eligible for and will receive overtime for all hours worked outside of their regular assigned schedule, pursuant to MOU section 6.1.

Employees will continue to receive straight time pay during the week of their schedule change or rotation for all hours worked, unless they work hours outside of their assigned schedules (MOU overtime) or work in excess of their designated work period (FLSA overtime).

When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's work schedule.

Section 7. Dues Check off

The City Finance Director shall commence and continue to withhold from the payroll warrants of those employees who are members of the Association such amounts of dues and at such time as it is certified to the city by the Association. The Association shall be responsible for certifying current withholding lists to the City so the same may be submitted with the payrolls, and no employee's name shall be included on such certified list unless she/he is a member of the Association and unless she/he has given to the City a written authorization for such withholding.

The Association shall indemnify, defend, and save harmless the City of Benicia, its officers, employees and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In addition, the Association shall refund to the City of Benicia any amounts paid to it in error upon presentation of supporting evidence.

Section 8. Maintenance of Membership

Employees covered by this Memorandum of Understanding who are members of the Association, upon final ratification of the MOU, or who become members after the effective date of this Memorandum of Understanding, shall remain members in good standing with the Association for the full term of this MOU and all successive MOU's provided, however, that any member of the Association shall have the right to withdraw from and discontinue dues deduction, provided said member communicates the employee's intent in writing to withdraw from the Association to the City Finance Department between May 1 and May 30 of the contract year. A withdrawal submitted to the City Finance Department outside of the thirty (30) day period shall be returned to the employee.

Section 9. Agency Shop

9.1 Agency Shop Definition

As a condition of continuing employment, employees shall become and remain members of the Association or shall pay to the Association a service fee in lieu thereof. Such service fee shall be established by the Association and shall not exceed that portion of the Association's dues paid by members of the Association as are expended by the Association in fulfilling its responsibilities for representing members of the Representation Unit in the negotiation and administration of the Memorandum of Understanding. The Association shall comply with the rules governing the establishment of agency shop fees as set forth in the U.S. Supreme Court's decision in March 1986 in Chicago Teachers Association v. Hudson.

9.2 Implementation

Any employee hired by the City subject to this Memorandum of Understanding shall be provided, through the employee's department, a notice advising that the City has entered into an Agency Shop Agreement with the Association and that all employees subject to the Memorandum of Understanding must either join the Association, pay a service fee to the Association, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Association dues or a service fee, or a non-religious charitable contribution equal to the service fee.

Said employee shall have five (5) working days following the initial date of employment to fully execute the authorization form indicating his/her choice and return said form to the Finance Department.

If the form is not completed properly and returned within five (5) working days, the City Finance Director shall commence and continue a payroll deduction of service fees from the regular monthly pay warrants of such employee. The effective date of Association dues, service fee deductions or charitable contributions for such employees shall be the beginning of the first pay period of employment. The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no

withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over Association dues and service fees.

9.3 Religious Exemption

Any employee of the City subject to this Memorandum of Understanding who is a member of a bonafide religion, body or sect which has historically held conscientious objections to joining or financially supporting a Association and which is recognized as such by the National Labor Relations Board, shall, upon presentation of verification of active membership in such religion, body or sect be permitted to make a non-religious charitable contribution equal to the service fee in lieu of Association membership or service fee payment. Declarations of or applications for religious exemption and any other supporting documentation shall be forwarded to the appropriate local Association within fifteen (15) days of receipt by the City. The Association shall have fifteen (15) days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the non-religious charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge. Non-religious charitable contributions shall be by regular payroll deduction only.

9.4 Financial Reports

The Association shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the City Manager once annually.

Copies of such reports shall be available to employees subject to the Agency Shop requirements of this agreement at the office of the Association. Failure to file such a report within one hundred (100) days of the close of the Association's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to the employee, until said report is filed.

9.5 Payroll Deductions

The City shall deduct Association dues or service fees and premiums for approved insurance programs from employee's pay

in conformity with State and City regulations. The City shall promptly pay over to the designated payee all sums so deducted. The City shall also periodically provide the Association with a list of all persons making charitable deductions pursuant to the religious exemption granted herein.

9.6 Hold Harmless

The Association shall indemnify, defend, and hold harmless the City, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the City be required to pay from its own funds Association dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.

9.7 Election

Promptly upon approval of this Memorandum of Understanding by the City Council of the City of Benicia, the parties shall schedule an election to implement the provisions of this Section 9. Eligible voters shall be all employees assigned to job classifications in the representation unit regardless of Association membership or non-membership. A simple majority of those eligible voters voting shall determine whether or not this Section 9 is implemented. In the event it is not implemented, the provisions of Sections 7 and 8, Dues Deduction and Maintenance of Membership, shall remain in full force and effect.

An election to implement the provisions of this agreement shall not prohibit or restrict an election to rescind this Section as provided for by Section 3502.5 of the Government Code.

9.8 Waiver of Election for Newly-Represented Employees and New Representation Units

The accreditation of classifications and/or employees to representation units set forth in this Memorandum of Understanding shall not require an election pursuant to subsection 7 herein for the application of this Agency Shop provisions to such classifications and/or employees. The recognition of newly-established bargaining units and inclusion of same within this Memorandum of Understanding shall also not

require an election pursuant to subsection 7 herein for the application of this Agency Shop to such units.

Section 10. No Strike – No Lockout

- 10.1 The Association agrees that participation in a strike shall subject an employee to disciplinary action, up to and including discharge.
- 10.2 The Association, its representatives, or members, shall not engage or cause, instigate, encourage, sanction, or condone a strike of any kind. No employee shall refuse to cross any picket line in the conduct of official City business, nor shall the Association, its representatives, or members, discriminate in any way toward anyone who refuses to participate in a strike. Strike, means the concerted failure to perform or report to duty, for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges, or obligations of employment.
- 10.3 The City shall not institute, authorize, cause, aid, ratify, or condone any action to provoke interruption of or prevent the continuity of work normally and usually performed by employees for the purpose of coercing the employees into relinquishing rights guaranteed under the law. The City shall not, during the terms of this Memorandum, engage in any lockout of employees represented by the Association.

Section 11. Management Rights

The Association agrees that the City retains all its remaining rights and authority under law and expressly and exclusively retains its management rights not affected by this Agreement 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; establish and enforce dress and grooming standards; determine the methods and means to relieve its employees from duty because of lack of work or other lawful reasons; maintain the efficiency of government operations; determine the methods, means and number and 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 subcontract any work operations of the City; to assign work to and schedule employees in accordance with requirement 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 the technology of performing its work.

Management rights shall be exercised in a manner consistent with applicable laws and the Personnel Rules.

Section 12. Vacation Leave and Annual Personal Leave

12.1 Vacation Leave

The authorized annual vacation leave granted employees after one (1) continuous year of City Service shall be as follows:

One (1) through three (3) years of continuous service – ten (10) work days.

Four (4) through nine (9) years of continuous service – fifteen (15) work days.

Ten (10) through nineteen (19) years of continuous service – twenty (20) work days.

Twenty (20) years or more of continuous service – twenty-five (25) work days.

12.2 Earning Vacation Leave

Full vacation leave as set forth in Section 12.1 shall be earned by:

1. An employee on sick leave with pay.

2. An employee while on a leave of absence covered by California Worker's Compensation law (Paid Industrial Leave).
3. An employee on jury leave.

Vacation leave as set forth in Section 12.1 shall not be earned by:

1. An employee on an unpaid leave of absence.

12.3 Scheduling Vacation Leave

The scheduling of vacation leave shall be determined by the department head based on the wishes of the employee and with particular regard for the needs of the City.

Employees are encouraged to take vacation leave in increments of one (1) week at a time.

12.4 Sick Leave During Vacation Leave

An employee may change vacation leave to sick leave upon submission of a doctor's certificate that the employee is ill and unable to work.

12.5 Annual Personal Leave Allowance

Employees covered by this Agreement will earn one (1) day of personal leave per year. For this section, a "day" is defined as 8 hours. The employee may use such leave for any purpose subject to advance approval of his absence. The personal Leave Day must be used and cannot be carried over from one fiscal year to the next.

12.6 Vacation Accrual Limits

Employees covered by this Agreement may exceed vacation accrual limits during a calendar year, however, the accrual limit ceiling of 360 hours will be imposed on December 31st of each year.

If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the accrual limit shall be reduced to 320 hours. 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.

12.7 Vacation Accrual Upon Hire

In order to recruit qualified lateral dispatch candidates, the Police Chief may approve a new lateral dispatcher to begin accruing at a higher vacation level commensurate with their years of comparable public safety dispatching experience. These years of experience will carry forward, and will be considered for eligibility for advancement in vacation accrual levels in Benicia. This section applies to employees hired after January 1, 2008 and will not be applied retroactively.

The enhanced accrual level will be negotiated between the Police Chief and employee, based upon the total number of years experience the employee has working as a Public Safety Dispatcher. The accrual rate at hire shall be at the one to three year level; at the point the employee successfully completes probation, the accrual rate shall be adjusted to reflect the enhanced accrual level, up to the twenty year level, retroactive to the date of hire. In accordance with Benicia Police Department's Core Values, unless extenuating circumstances arise, vacation leave use is strongly discouraged until the employee has successfully completed the training program.

Public Safety Dispatching experience shall only be recognized for the purposes of establishing a vacation accrual, and will not be used to calculate any other benefits (such as seniority.)

Section 13. Leave of Absence

13.1 Definition

A leave of absence is a privilege which may be granted to an employee wishing to leave the City service without pay and in good standing for a limited period of time.

13.2 Procedure

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.

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.

An employee shall be entitled to payment for any earned vacation and accumulated overtime at the beginning of an approved leave of absence.

13.3 Unauthorized Leave of Absence

The failure of an employee to return to duty upon the termination of an authorized leave of absence is an unauthorized leave of absence. An unauthorized leave of absence is grounds for disciplinary action, including dismissal, unless upon the employee's return, the employee furnishes reasons satisfactory to the department head and the City Manager for not having obtained an authorized leave of absence. The unauthorized leave of absence shall be treated as time not worked. The City shall deduct from the employee's pay, an amount equal to time absent from City service.

13.4 Jury Leave

When an employee is summoned for jury duty, the employee shall be granted a leave for jury duty, upon presentation of the summons to the employee's department head.

An employee shall receive full pay while on leave for jury duty; provided, however, the employee must remit compensation received for jury duty, except compensation for mileage. An employee who elects to retain compensation received for jury duty shall not receive salary while on jury duty.

An employee's hours will be changed to day shift to coincide with jury duty. When an employee is released from jury duty, he/she will report to work to complete the remainder of the day shift, if any time remains in the shift. When an employee is released from jury duty and no time remains in the day shift, he/she shall report to their regularly scheduled shift the following day, providing it is to begin ten (10) or more hours after being released from jury duty. The only exception is under emergency conditions.

The City will not permit an employee who is summoned for jury duty on a day off to alter their work schedule so that their jury duty summons becomes a work day.

13.5 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.

A department head may allow an employee a leave of absence up to three (3) days to attend the funeral of a member of the employee's immediate family.

A department head may allow an employee leave of absence up to one (1) day 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. Additional time may be charged to compensatory time or vacation leave.

For the purpose 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 member of the employee's household.

13.6 Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. An employee taking military leave shall give the employee's department head a copy of the employee's orders to report to military duty.

13.7 Parental Leave

A pregnant employee (and father of the baby) shall be entitled to a maternity leave of absence without pay in accordance with State and Federal laws. An employee may opt to use accumulated vacation or sick leave as defined in Section 14.2 for this purpose.

Section 14. Sick Leave

14.1 Eligibility and Accrual

Employees shall accrue sick leave beginning the first day of the month following the employee's completion of one month of service. Employees shall earn sick leave at the rate of 8 hours per month for each calendar month of service. Full sick leave is earned by each full-time employee while on paid leave of absence,

including sick leave and jury leave. Sick leave shall not be earned by employees on unpaid leave of absence. Employees shall continue to earn sick leave while on Paid Industrial Accident (PIA) leave.

The Police Chief may allow Public Safety Dispatchers hired after January 1, 2008 who meet the eligibility threshold for higher vacation accrual as set forth in Section 12.7 to use sick leave in advance of accrual during the first year of employment, up to the maximum first year accrual level of ninety-six (96) hours. Should the employee be terminated or leave the City prior to the completion of one year of employment, any sick leave used beyond that which would have been accrued based on months of service will taken out of accrued vacation, compensatory time off, or final wages. The accrual rate for sick leave remains at eight (8) hours per month.

14.2 Usage of Sick Leave

(1) Permissible Usage of Sick Leave for Employee.

Employees eligible for sick leave may use paid sick leave following the completion of six months of employment with the City. The City Manager shall maintain records of sick leave for all City employees.

With the prior approval of an employee's department head, an employee may use accumulated sick leave for medical or dental appointments.

(2) Family Member Illness / Medical Appointment: Family Care (Labor Code Section 233). Employees may use one half of their annual accrual worth of sick leave to care for an ill family member. Under this section, family member includes Child, Parent, Spouse, and Domestic Partner. Mothers-in-law, fathers-in-law, and grandparents are not considered "parents" for purposes of this law. The illness does not have to be serious in nature and includes doctors appointments. These days may not be carried over from year to year. Conditions and restrictions contained in this Memorandum of Understanding for an employee's use of sick leave also apply to sick leave used under this section.

Any employee on authorized leave under Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), or other federal or state law shall be governed by the provisions of said regulations.

(3) Non-permissible Usage of Sick Leave

No employee shall be entitled to use sick leave with pay while absent from duty under any of the following conditions:

Disability arising from sickness or injury purposely self-inflicted or caused by employee's willful misconduct;

Disability arising from sickness or injury sustained while on unpaid leave of absence;

Disability arising from sickness or injury related to compensated employment other than with the City;

Disability arising from sickness or injury while receiving compensation from the City for an industrial accident pursuant to Section 15.

For absence caused by intoxication or excessive use of alcoholic beverages.

14.3 Accumulation

Accumulation of sick leave by all employees shall be unlimited.

14.4 Notification

To receive sick leave, an employee must notify the department at least two (2) hours prior to the commencement of the employee's scheduled shift.

14.5 Sick Leave Incentive

The City agrees to reimburse each employee 25% of their annually accrued, but unused, sick leave during November of each year. If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the provisions of this section shall be eliminated. The annual 25% Sick Leave Incentive shall be suspended for 2010.

14.6 Sick Leave Conversion

The City agrees to convert 25% of accrued sick leave upon retirement (service or disability) to cash, payable to the retiring employee, provided he/she has at least twelve (12)

years service. In no case shall such payment exceed one months' salary for the incumbent position in effect at the time of retirement.

14.7 Return to Employment Following Sick Leave

When an employee returns to duty following an absence chargeable to sick leave, the employee's department head or the City's personnel officer may require an affidavit showing the nature of the cause of sickness or injury.

When an employee returns to duty following an absence of three (3) days or longer, the department head or personnel officer may require a signed statement from a doctor or dentist that the employee was incapacitated and unable to perform the employee's duties throughout the entire period of sick leave.

The failure of the employee to file the personnel affidavit or the statement from the doctor or dentist shall result in the employee's ineligibility for sick leave benefits, unless a waiver is granted by the City Manager.

In the case of frequent use of sick leave, the employee's department head or the personnel officer may request that the employee file a doctor's statement for each such illness regardless of duration. An employee may be required to take an examination by a doctor mutually agreed to by the City and the employee. If requested by the City, the employee shall authorize consultation with the employee's doctor concerning the illness.

On the basis of such medical advice, the City Manager shall determine whether an employee is incapacitated for the duties of the employee's position and may take the action the City Manager considers appropriate.

Sick Leave Usage Policy:

The city agrees to form a committee made up of members from the association, management, and a representative from Human Resources to review the current sick leave issues within the association, such as the sick leave contract. The committee will begin meeting no later than July 1, 2007. The current policy will remain in effect until such time a mutually agreed upon change is made.

14.8 Supplemental Sick Leave

Employees are entitled to Supplemental Sick Leave benefits in accordance with Policy #05 which was updated and issued in February 2007 named Supplemental Sick Leave Benefit.

Section 15. Paid Industrial Accident Leave

15.1 Eligibility

Employees shall be eligible for paid industrial accident leave (“PIA”) provided, however, that the employee’s claim for State Workers’ Compensation must be approved and further provided that the injured employee shall immediately report the accident to the employee’s supervisor or if the supervisor cannot be contacted, the employee must notify the Police Communication Center immediately.

15.2 PIA Benefits

The City agrees that each employee shall be granted paid industrial leave (“PIA”) if the claim is approved by the State Workers’ Compensation, with the City paying full, basic salary during such leave. “PIA” shall begin on the first day of said industrial accident and shall extend for a maximum of one year. When an employee is on “PIA,” the employee is charged neither vacation nor sick leave but during this time, the employee does accrue vacation or sick leave. The employee is not eligible for a step increase while on “PIA,” and the employee’s anniversary date will be adjusted so that the employee will observe the normal working period between steps.

Section 16. Holidays

16.1 Authorized Holidays

Employee’s shall be entitled to the following paid holidays:

New Year’s Day, Martin Luther King, Jr. Birthday, Lincoln’s Birthday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving Day, and the Friday following Thanksgiving Day and Christmas.

The City shall 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. For employees on seven (7) day per week assignments, the holiday shall be celebrated on the day on which it falls.

16.2 Work Performed on Holidays

The City and the Association agree that Public Safety Dispatchers and Public Safety Dispatch Supervisors are scheduled to work on the aforementioned holidays as a matter of health and safety of the Community. In lieu of the aforementioned holidays, the City agrees to pay Public Safety Dispatchers and Public Safety Dispatch Supervisors one and one-twelfth (1-1/12) days straight-time pay per month in lieu of having the holiday off. Employees required to work on a holiday they were not scheduled for according to the shift they bid or regularly work, he/she will be compensated at one and one-half (1 ½) times his/her hourly rate of pay for each hour so worked. Additionally, shall receive time off equivalent to the number of hours worked on the non-scheduled holiday. This time to be scheduled by the department head based on the wishes of the employee and the needs of the City.

Employees who actually work on an aforementioned holiday shall receive an additional ½ time pay or compensatory time off (CTO). This section applies to employees previously scheduled to work this day, not employees who sign up for overtime. However, if an employee is working this shift due to a shift trade, the employee who actually works the hours is the employee who receives the additional time off or pay. Non-dispatch employees (Records Clerk, and Community Service Officer) are not eligible for this additional time unless the holiday falls on a day they are routinely scheduled to work in dispatch, or they are working a shift trade, and they do not qualify for the additional ½ time pay or CTO hours if they signed up to work voluntary overtime on this day.

Section 17. Salary Plan

17.1 Salaries

- (1) Effective July 1, 1994, the City converted the employer-paid employee 7% P.E.R.S. contribution to salary and allowed all employees in the bargaining unit to begin paying their own P.E.R.S. contribution. In 2001, the employee P.E.R.S. contribution increased to 8% when the City implemented the 2.7% at 55 plan.

- (2) Additionally, the City implemented Internal Revenue Code Section 414 (h) (2) which will allow all employees in the bargaining unit to defer paying taxes on their contribution to P.E.R.S. (8%) until retirement or receipt of a lump sum payment (refund).
- (3) There shall be no Cost of Living Adjustments, and the remainder of section 17.1 shall be suspended, through the term of this contract
- (4) Effective November 1, 2010 through June 30, 2011, employees enrolled in City-offered medical plans shall contribute 5.01% of base salary on a pre-tax basis towards health insurance premiums. Effective July 1, 2011, employees enrolled in City-offered medical plans shall contribute 3.91% of base salary on a pre-tax basis towards health insurance premiums. For employees not enrolled in City-offered medical plans who receive cash in lieu of City contributions towards health insurance premiums, the cash in lieu shall be reduced by amounts equal to the percentages above.

It is the intent of the City to remain competitive in the labor market and provide equitable salaries for its employees.

The basic salary for Public Safety Dispatcher shall be a benchmark position and based on market survey.

The basic salary for Public Safety Dispatch Supervisor shall be set at an amount equal to twenty percent (20%) above that of Public Safety Dispatcher.

The basic salary for CSO II shall be set at an amount equal to five percent (5%) below that of Public Safety Dispatcher.

The salary for CSO I shall be set at an amount equal to ten percent (10%) below that of CSO II.

The salary for Animal Control Officer shall be set at an amount equal to the salary of CSO I.

The salary for Records Clerk shall currently be set at an amount equal to the salary of CSO I. A classification study will be conducted on this position and will begin no later than December 31, 2007.

Salary surveys for market adjustments are calculated at the mean and based on:

- Top Step base salary
- PERS Pick-up
- Uniform Allowance
- Insurance (health, dental, vision, life)

Survey cities are cities of: Brentwood, Davis, El Cerrito, Fairfield, Folsom, Napa, Pleasant Hill, Pinole, Richmond, San Pablo, Vacaville, and Vallejo.

In the event a position is above the mean after conducting a market survey, the position shall not lose pay, but instead shall remain at the current range for that market adjustment period.

17.2 Salaries – New Employees

A new employee shall be appointed to the first step of the salary range to which the employee is assigned, provided, however, that a new employee may be appointed at a salary in excess of the first step when it is difficult for the City to locate qualified personnel. In this event, no incumbent employee in the same classification shall be paid less than the salary paid to the new employee. Exceptions to the foregoing may occur if a prospective employee has education, training or experience substantially superior to the minimum qualifications required for the position. In exceptional cases, at the discretion of the City Manager, an employee may be hired at an advanced step without regard to salaries of existing employees.

17.3 Anniversary Date

The employee's anniversary date is the first day of the month if employment occurs during the first fifteen (15) days of the month; otherwise, the anniversary date is the first day of the next pay period.

The anniversary date of an employee on leave without pay for one (1) month or longer, shall be extended by the period of the leave.

17.4 Advancement Within Salary Range

Advancement within the salary range for a classification shall not be automatic. All increases shall be based on merit as established by a record of the employee's performance and shall require the written recommendation of the Department Head and approval by the City Manager.

An employee who does not receive an in-grade salary advancement shall be notified in writing by the employee's department head as to the reason for denial.

The City Manager may adjust the salary rate of an employee to any step in the employee's existing salary range to correct gross inequities in salary or to reward outstanding achievement and performance.

17.5 Salary after Promotion or Demotion

When an employee is promoted, the employee's compensation shall be set at Step A or one step higher than the employee's current salary whichever is higher, provided however, the employee's salary shall increase by at least 5%. If an employee is promoted within ninety (90) days prior to their anniversary date, they may be granted an additional salary increase beyond that provided above. Such additional step may be denied for reasonable cause; including the employee being hired, promoted or receiving extraordinary step increases within the last twelve (12) months.

When an employee is demoted to a class with a lower maximum salary, the employee shall be assigned to the applicable salary step in the new class, provided however, that there shall be at least a 5% decrease in salary assuming that the employee's service has been continuous in the new class. The employee shall retain the employee's previous anniversary date.

17.6 Salary after Transfer

When an employee is transferred from one position to another position in the same class or to another class with the same pay range, the employee shall retain the same step and the same anniversary date.

17.7 Acting Pay

- A. Acting Supervisor – One Shift: Whenever a bargaining unit employee is required to serve as an acting supervisor for a minimum of one (1) shift, the employee shall be compensated for each shift in that capacity by an increase of \$10.00 per shift.

All such acting assignments shall be offered on the basis of qualifications for such assignment according to the judgment of the department head or the department head's authorized representative and shall be consistent with the Personnel Rules.

- B. Acting Dispatch Supervisor: An employee shall be assigned to perform the duties of the Dispatch Supervisor on an "acting" basis when it is necessary to provide coverage during vacation or leave periods of the Dispatch Supervisor in excess of five (5) consecutive working days. An "acting" assignment shall only be made by the Department Head and employees shall be provided with a written notice assigning them to the higher classification on an acting basis. Employees so assigned shall receive "acting" pay only after performing in the higher classification for a period of five (5) consecutive workdays.

Employees assigned by the Department Head to perform the duties of a higher classification on an "acting" basis, shall receive "acting" pay for each full day of assignment in such higher classification at the completion of the fifth day retroactive to the first day of assignment. Acting pay shall be at least five percent (5%) more than the employee's salary in his/her present classification; provided, however, in no event shall acting pay exceed the top salary step of the classification in which the employee is serving in an acting capacity.

17.8 Pay Period

The pay day for each employee shall be the last day of the month or as authorized by the City Council.

17.9 Terminal Pay

An employee who is terminated is entitled to terminal pay for:

1. That portion of the final pay period from the first day of the final pay period to the effective date of separation. The day of separation is either the working day specified for the separation or the last day of the pay period if no date is specified;
2. Accrued vacation actually earned but not taken, provided the employee has been in the continuous service of the City for at least six (6) months prior to the effective date of his termination.
3. Accrued overtime: In the case of an employee's death, the City shall pay the employee's beneficiary the sums set forth in items 1 through 2 above provided, however, that the employee must have designated a beneficiary on a form specified by the City Manager. If the form specified by the City Manager has not been completed and returned to the finance director, terminal pay shall be paid to the estate of the employee.

17.10 CSO I/II / Records Clerk

CSO I/II's shall be provided on-the-job training in the performance of Public Safety Dispatcher duties for a period of one hundred sixty (160) hours, such training to be completed during the first twelve (12) months of employment. Records Clerks may be offered the on-the-job training based on department needs. Upon successful completion of this training period, the CSO I/II , and Records Clerk (if applicable) shall receive the salary step in the dispatch salary range which equated to the step they are normally paid in their regular position. For example, an employee at Step C of the CSO range, shall be paid Step C rate of pay in the dispatch range when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers. In no event shall an employee receive "acting pay" at a rate which is in excess of the maximum rate of the classification of Public Safety Dispatcher. The provisions of this Section 17.10 shall not be used by the City to circumvent the requirement to fill vacant Public Safety Dispatcher positions in an expeditious manner.

17.11 Training Pay

Personnel who are assigned to train shall receive additional compensation of five percent (5%) of their basic salary during the period of time while actually assigned training responsibilities.

Assignment, length of service, and termination of assignment will be made in accordance to procedures as approved by the Department Head or his/her designee. It is understood and agreed that qualifying to be able to train does not guarantee assignment to train. Training pay will only be paid for actual hours worked in that capacity, and not paid time off.

17.12 Longevity Pay Program

The City agrees to the implementation of a Longevity Pay Program. This Program applies to all regular full-time employees and those employees in positions covered under the Job-Sharing/Reduction in Hours of Employment Policy #14. Authorized employees shall be entitled to a 2 ½% increase in compensation upon completion of ten (10) consecutive years of full-time (or full-time equivalent) service.

Additionally, for each additional ten (10) consecutive year increment, i.e., twenty (20), thirty (30), forty (40) years, of full-time consecutive service, employees shall be entitled to an additional 2-½% increase in compensation over the rate for the class in which the employee is employed.

Prior City service shall not count toward this Program.

17.13 Retirement Plan

1. The City shall continue in effect its contract with the Public Employees' Retirement System (PERS) for the term of this Memorandum of Understanding. The City amended its contract with P.E.R.S. to include the 2.7% @ 55 benefit.
2. New Retirement Tier for New Hires

BDA agrees to the implementation of a new, less costly, CalPERS second tier pension formula for new hires contingent on agreement with all other Miscellaneous employees to the same, and effective thereafter as soon as administratively possible, consistent with CalPERS contract amendment requirements.

Section 18. Deferred Compensation

The City agrees that employees represented by the Association may participate, at their own expense, in the City's deferred compensation plan.

Section 19. Uniform Allowance

The City agrees to provide a monthly uniform allowance to the employees to cover the costs of purchasing, maintaining and cleaning their uniforms. Effective 7/1/05, said allowance was as follows: Public Safety Dispatchers, Public Safety Dispatch Supervisor, CSO's and Animal Control Officers \$70.00 per month. Effective July 1, 2007, uniform allowance increased to \$75.00 per month. Effective July 1, 2008, uniform allowance will also be provided to Records Clerks. Such uniform allowance will not be reduced as a result of job-share or reduced schedule arrangements under City Policy #14. Said allowance will be paid annually in November and will be included in the same paycheck which contains Sick Leave Incentive pay where applicable. Employees who leave City employment any time prior to November shall have \$75.00 for each month of the twelve (12) months previous to November in which she/he is not a City employee, deducted from their final City paycheck. While uniform allowance is advanced and paid to all BDA members listed above on an annual basis, it is reported to PERS on a monthly basis, as it is earned.

Section 20. Educational Reimbursement

The Educational Reimbursement Program is designed to encourage employees to continue their self-development and career development by enrolling in classroom courses which will prepare them in new concepts and methods needed to meet the changing demand of City service. Effective 7/1/00, the City agrees to pay the cost of books and tuition up to a maximum of \$ \$1,000 per employee per fiscal year for courses of study completed during that fiscal year and related to the member's current employment or to obtain a two or four year degree in Administration of Justice, Criminal Justice Administration or Criminology. Courses submitted for reimbursement which do not fall in the major must be certified by the college as requisite for attaining a two or four year degree. All courses must have been approved in advance by the employee's Department head. Employees will be reimbursed for expenses upon completion of the course(s) with a passing grade.

Section 21. Shift Differential

All qualified employees who work in a Public Safety Dispatcher position and who work a swing or relief shift will receive a five percent (5%) premium in addition to their regular rate of pay; those who work a graveyard shift will receive a seven percent (7%)

premium in addition to their regular rate of pay. For employees whose shift on a particular day overlap the two differential rates, the rate paid will be paid for the entire shift based on the shift that the majority of the hours were worked.

21.1 Solo Graveyard Shift

The City will make every effort to avoid the scheduling of dispatchers to work solo on the graveyard shift. Employees shall receive an additional \$25.00 per solo graveyard shift for the period of 7/1/06 – 12/31/06. Effective 1/1/07, this amount increased to \$40.00 per shift. Employees must work a minimum of four (4) hours of their assigned shift on graveyard in order to receive Solo Graveyard Pay.

Section 22. Alternate Work Schedule (inserted from November 14, 2000 side letter):

The City implemented a 9/80 or 4/10 work schedule for CSO, Records Clerk, and Public Safety Dispatch Supervisor. Dispatchers are eligible to participate in the 4/10 work schedule. The Department Head has the authority to modify or discontinue this work schedule at any time with thirty (30) days notice to the Associate and the opportunity to meet and confer on the impact of the change. With the approval of the Department Head, there may be variations in employees' work hours keeping in mind the City's need to provide maximum service to the citizens while granting employees a work schedule that best fits their needs as well. The following parameters apply to employees participating in the 9/80 or 4/10 work schedule:

- A. The exact schedule (i.e., every other Monday off, Friday off, hours of work, etc.) must first be approved by the Department Head.
- B. This schedule will not preclude the City from implementing a different schedule (such as 5/8's) for training purposes, particularly for new employees. It is the City's intent to have the employee move into the flex schedule as soon as feasible.
- C. CSOs and Records Clerks working a 9/80 or 4/10 work schedule will not have to dock an hour of annual leave or administrative leave when they are off on a holiday. The holiday will be equivalent to a nine (9) hour day for employees working a 9/80 work schedule and ten (10) hour

day for employees working a 4/10 work schedule. If the holiday falls on a regularly scheduled day off, then the employee will receive eight (8) hours of administrative leave which will need to be taken before the end of each fiscal year.

- D. When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's 9/80 or 4/10 work schedule.
- E. Temporary changes in an employee's 9/80 work schedule must be approved by the employee's Department Head (i.e., employee hardship).
- F. The Department Head may determine that not all employees in the bargaining unit may participate in the 9/80 or 4/10 work schedule in order to maintain the efficiency of government operations.

Section 23 Meal Period

Dispatchers get a paid lunch; Records Clerk, Community Service Officers, and Animal Control Officers get an unpaid lunch period.

Section 24 Seniority Rights

Seniority is herein defined to be an employee's length of continuous service with the City of Benicia in the representation unit covered by this Memorandum of Understanding. An individual employee's seniority shall be effective from the date of first employment in a position within the representation unit. The Department will consider seniority in vacation scheduling and shift assignment. For the purposes of vacation scheduling and/or shift assignment for employees holding a promoted position, the effective date of the employee's promotion shall be controlling.

24.1 Seniority Rights for employees in a Job Share or Reduced Hour position

Any employee who has signed a Job-Sharing Request agreement, or a Voluntary Reduced Work Hours Program agreement, pursuant to the City's Job-Sharing / Reduction in Hours Employment Policy #14, may only exercise the right to resume full-time status in the

event of a full-time, budgeted and funded, vacancy within their position.

Section 25. Court Appearance

25.1 If any court appearance scheduled for the employee's day off is cancelled with less than six (6) hours notice provided to the subpoenaed employee, then the employee shall be compensated for a minimum of four (4) hours overtime at the overtime rate that applies to the employee's classification for no more than one such occurrence during the employee's normally scheduled weekend (days off).

25.2 Employees subpoenaed to appear in court on a regularly scheduled work day shall be compensated in the following manner:

When the court appearance is scheduled for a time prior to the employee's regularly scheduled work hours and the employee appears in court, the employee shall be compensated at an overtime rate of one and one-half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time that employee is regularly scheduled to work and extends beyond those regularly scheduled hours, the employee shall be compensated at a rate of one and one half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time after the employee's regularly scheduled work hours, the employee shall be compensated for a minimum of four hours at a rate of pay one and one-half (1 ½) times their regular rate of pay.

Employees with multiple subpoenas for the same day for appearance times prior to their regularly scheduled work hours may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court until the beginning time of their regularly scheduled work shift or for a minimum of four (4) hours, whichever is shorter.

Employees with multiple subpoenas for the same day for appearance times after their regularly scheduled work hours may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court or a minimum of four (4) hours, whichever is longer.

An employee with multiple subpoenas for appearances in the morning as well as the afternoon may only claim one four (4) hour minimum for the morning court appearance and one four (4) hour minimum for the afternoon appearance. An employee is precluded from collecting more than eight (8) hours of guaranteed minimums (four (4) in the morning and four (4) in the afternoon).

Section 26. Insurance

26.1 Health and Welfare

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.. The City shall contribute the full premium required by the providers of the dental and vision care plans provided herein through the end of this MOU. The City shall allow employees who have dual coverage on their health plan to receive in cash the amount the City contributes towards the single rate if they decline enrolling in the City's plan.

Effective the first full pay period after ratification of this agreement by the City Council the City's contribution towards medical premiums for fiscal year 2010 – 2011 shall be a maximum up to the following contributions for any plan:

Employee: \$592.37
Employee plus One: \$1,184.75
Employee plus Family: \$1,575.71

For Fiscal year 2011 – 2012 the parties agree to the following cost sharing approach to premium increases in 2011 and 2012 only. Specifically, the City will share evenly any amount that exceeds the current FY 2010-2011 Kaiser contribution levels, up to a capped maximum City contribution amount of \$29.63/month for single, \$59.25 for employee +1 and \$79.49 for employee + family.

In order to allow employees in Health Net time to transition to the City's new capped contribution to any plan, the City agrees to continue the existing City dollar contributions for Health Net participants in effect on September 30, 2010 until June 30, 2011 only. At that time this extra contribution shall expire and the City's contribution for participants for both Kaiser and Health Net shall be as described above.

During the term of the MOU, the parties agree to participate with the other bargaining units to determine whether or not any medical plan design changes would assist in reduction of costs to the city and/or reduction of premiums for employees. The parties recognize that any such changes in plan design require agreement by all city bargaining units.

26.2 Life Insurance

The City shall provide regular, full-time employees with \$30,000 group term life insurance with said policy to include accidental death and dismemberment coverage.

26.3 Retiree Medical

Should employees in this unit agree to participate in the City's ICMA VantageCare retiree medical program, provisions for the Sick Leave Incentive in Section 14 shall be eliminated. Under the retiree medical program, the City will contribute to the individual employee's savings account an amount equivalent to:

5-10 years	-	25% of Annual Unused Sick Leave Accrual
11-15 years	-	40% of Annual Unused Sick Leave Accrual
16-19 years	-	60% of Annual Unused Sick Leave Accrual
20-24 years	-	80% of Annual Unused Sick Leave Accrual
25 years or more	-	100% of Annual Unused Sick Leave Accrual

Section 27. Grievances/Disciplinary Appeals

27.1 Definition

- (1) A grievance is any dispute which involves the interpretation or application of any provisions of this

Memorandum of Understanding. A disciplinary appeal is an appeal by an employee of a discharge, demotion, reduction in pay or suspension without pay. If the employee selects use of the grievance procedure as set forth in Section 9.11 of the City of Benicia Personnel Rules then this procedure shall apply.

- (2) A work day is defined as a day on which administrative offices of the City of Benicia are open for business.

27.2 Procedure

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

The grievance shall be presented in writing either by the employee or by an authorized Association representative to the designated supervisor of the employee within ten (10) working days after the occurrence of the cause of such grievance.

The designated supervisor shall have ten (10) working days from 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 Association representative within ten (10) working days to the Department Head or to such representative as the employee may designate.

Disciplinary appeals must be presented in writing 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.

The Department Head or a designated representative shall have ten (10) working days from date of receipt of the grievance in which to respond. If the grievance/appeal is not satisfactorily adjusted/resolved within this period, the grievance/appeal may be presented in writing either by the employee or by an authorized Association representative to the City Manager or to such representative (grievances only) as the City Manager may designate within ten (10) days.

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, a request for hearing such grievance before an Adjustment Board shall be submitted in writing to the Personnel Officer. The Adjustment Board shall be comprised of two (2) Association representatives, no more than one (1) of whom shall be either an employee of the City or an elected or appointed official of the Association; 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 a least three (3) members of the Board.

If an Adjustment Board is unable to arrive at a majority decision, either the Association or the City may require that the grievance/appeal be referred to an impartial arbitrator who shall be designated by mutual agreement between the Association and the City Manager. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation including, but not limited to, preparation and post hearing briefs, if any.

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

27.3 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 Association and unless such dispute falls within the definition of a grievance or disciplinary appeal as set forth in subsection 25.1 (1).

27.4 Change to Memorandum

Proposals to add to or change this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum

of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. Neither any Adjustment Board nor 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.

27.5 Disciplinary Action

No appeal involving disciplinary action taken against an employee will be entertained unless it is filed in writing with the City Manager within ten (10) working days of the time at which the affected employee was notified of such action.

27.6 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Chief of Police. 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.

27.7 Civil Service Personnel Rules and Regulations

The provisions of this Section shall not abridge any rights to which an employee may be entitled under the City of Benicia Personnel Rules.

All grievances/appeals of employees represented by the Association shall be processed under this Section. If the Personnel Rules require that a differing option be available to the employee, no action under paragraph (4) of Section 25.2(4) above shall be taken unless it is determined that the employee is not availing himself or herself of such option.

No action under paragraph (2) or (3) of Section 25.2 above shall be taken if action on the complaint or

grievance/appeal has been taken by the Civil Service Commission, or if the complaint or grievance/appeal is pending before the Civil Service Commission.

Section 28. Legal Defense

The City will provide legal defense for employees within the definitions and limitations set forth in all applicable sections of the State of California Government Code.

Section 29. Closing Clause

29.1 The effective date of this agreement shall be July 1, 2010, and the agreement shall remain in effect through June 30, 2012.

29.2 During the term of the agreement, if the Council, after a noticed public hearing, deems additional reductions are necessary to balance the City's budget, the parties agree to reopen the contract for the narrow and specific purpose of meeting and conferring over concessions identified by the City as needed to prevent layoffs of BDA members.

29.3 This agreement shall remain in force after its expiration where negotiations between the employer and the Association have not resulted in a new agreement, until such time as a new agreement is reached by both parties.

29.4 Any provisions in this agreement pertaining to work hours, shifts, or personnel assignments may be suspended temporarily by the City where a declared emergency exists as defined by the Civil Disaster Emergency Plan. The City shall have sole power to determine the existence of an emergency and shall meet with the Association at the earliest possible time to discuss the suspension of provisions during the declared emergency.

29.5 If any section of this Agreement 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 agreement shall remain in full force and effect for the duration of this Agreement. In the event of invalidation of any Section, the City and the Association agree to meet within thirty (30) days for the purpose of renegotiating said Section.

29.6 This Memorandum of Understanding shall be submitted to the City Council for its adoption at its regular meeting.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
this _____ this day of _____, 2010.

Benicia Dispatchers Association/

City of Benicia

Need to update this page with current names:

By

by

James Erickson
City Manager

By

by

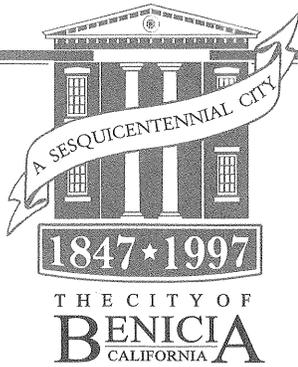
Anne Cardwell
Administrative Svcs Dir

By

Approved as to form:

By

Heather Mc Laughlin
City Attorney



September 19, 2007

Benicia Dispatch Association
C/O Tiffany Paulin, President

RE: SIDE LETTER FOR BDA MOU 7/1/06 – 6/30/10

Dear Tiffany,

The City and BDA recently concluded negotiations for the MOU covering July 1, 2006 – June 30, 2010. The Association ratified the new MOU and it was approved by City Council on June 5, 2007.

In the previous 7/1/05 – 6/30/06 MOU Section 17.10 wording was as follows:

Upon successful completion of this training period, the Police Aide shall receive an additional five percent (5%) over his/her then current salary range when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers. In no event shall an employee receive “acting pay” at a rate which is in excess of the maximum rate of the classification of Public Safety Dispatcher.

The current MOU (7/1/06 – 6/30/10) 17.10 wording is currently follows:

Upon successful completion of this training period, the CSO I/II , and Records Clerk (if applicable) shall receive the salary step in the dispatch salary range which provides a minimum of 5% increase over the CSO’s current step when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers. In no event shall an employee receive “acting pay” at a rate which is in excess of the maximum rate of the classification of Public Safety Dispatcher.

Issues have arisen regarding the implementation of this language. Accordingly, the City of Benicia has agreed to implement the following language changes for the period the 7/1/06 – 6/30/2010 MOU is in effect.

Upon successful completion of this training period, the CSO I/II, and Records Clerk (if applicable) shall receive the salary step in the dispatch salary range

which equates to the step they are normally paid in their regular position. For example, an employee at Step C of the CSO range, shall be paid Step C rate of pay in the dispatch range when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers. In no event shall an employee receive "acting pay" at a rate which is in excess of the maximum rate of the classification of Public Safety Dispatcher.

Please indicate your agreement with this change by returning a signed copy of this side letter to my attention.

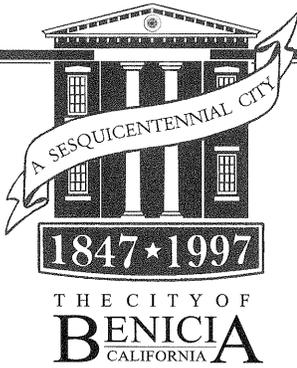
Benicia Dispatch Association

Tiffany L Paulin
Suzanne Kaluza

City of Benicia

James A. Brown
City Manager
Kim Imboden

cc: Suzanne Kaluza, BDA Secretary



February 9, 2009

Michelle Irwin
President Benicia Dispatchers' Association

**RE: SIDE LETTER #2 TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF BENICIA AND THE BENICIA DISPATCHERS'
ASSOCIATION FOR THE PERIOD 7/1/06 – 6/30/10**

Dear Michelle:

Consistent with our discussions, this letter is to confirm and memorialize the agreements between the City and the Benicia Dispatchers' Association (BDA) regarding vacation accrual upon hire, sick leave eligibility and accrual, uniform allowance, and eligibility for solo graveyard shift differential.

Specific provisions of the current Memorandum of Understanding between the City and the BDA will be amended as outlined below:

12.7 Vacation Accrual Upon Hire

In order to recruit qualified lateral dispatch candidates, the Police Chief may approve a new lateral dispatcher to begin accruing at a higher vacation level commensurate with their years of comparable public safety dispatching experience. These years of experience will carry forward, and will be considered for eligibility for advancement in vacation accrual levels in Benicia. This section applies to employees hired after January 1, 2008 and will not be applied retroactively.

The enhanced accrual level will be negotiated between the Police Chief and employee, based upon the total number of years experience the employee has working as a Public Safety Dispatcher. The accrual rate at hire shall be at the one to three year level; at the point the employee successfully completes probation, the accrual rate shall be adjusted to reflect the enhanced accrual level, up to the twenty year level, retroactive to the date of hire. In accordance with Benicia Police Department's Core Values, unless extenuating circumstances arise, vacation leave

use is strongly discouraged until the employee has successfully completed the training program.

Public Safety Dispatching experience shall only be recognized for the purposes of establishing a vacation accrual, and will not be used to calculate any other benefits (such as seniority.)

13.4 Sick Leave – Eligibility and Accrual

The Police Chief may allow Public Safety Dispatchers hired after January 1, 2008 who meet the eligibility threshold for higher vacation accrual as set forth in Section 12.7 to use sick leave in advance of accrual during the first year of employment, up to the maximum first year accrual level of ninety-six (96) hours. Should the employee be terminated or leave the City prior to the completion of one year of employment, any sick leave used beyond that which would have been accrued based on months of service will taken out of accrued vacation, compensatory time off, or final wages. The accrual rate for sick leave remains at eight (8) hours per month.

The language of Section 19 will be amended as follows:

Section 19 Uniform Allowance

The City agrees to provide a monthly uniform allowance to the employees to cover the cost of purchasing, maintaining and cleaning their uniforms. Effective 7/1/05, said allowance is to be as follows: Public Safety Dispatchers, Public Safety Dispatch Supervisors, CSO's, and Animal Control Officers will receive \$70.00 per month. Effective July 1, 2007, uniform allowance will increase to \$75.00 per month. Effective July 1, 2008, uniform allowance will also be provided to Records Clerks. Such uniform allowance will not be reduced as a result of job-share or reduced schedule arrangements under City Policy #14. Uniform allowance will be paid annually in November and will be included in the same paycheck that contains Sick Leave Incentive pay where applicable. Employees who leave City employment any time prior to November shall have \$75 deducted from their final City paycheck for each month prior to November in which he/she was not a City employee. While uniform allowance is advanced and paid to all BDA members listed above on an annual basis, it is reported to PERS on a monthly basis, as it is earned.

Section 21.1 of the MOU will be amended to incorporate the following new language:

Section 21.1 Solo Graveyard Shift

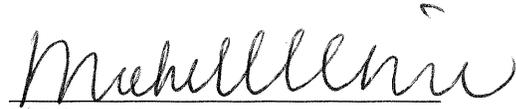
Employees must work a minimum of four (4) hours of their assigned shift on graveyard to be eligible to receive Solo Graveyard Shift pay.

All other terms and conditions set forth in the MOU remain unchanged.

By signature below, the parties confirm agreement on the preceding provisions.

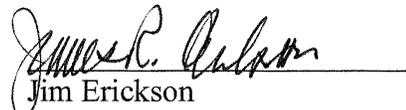
Dated: 2/11/09

BENICIA DISPATCH ASSOCIATION



Michelle Irwin
President

CITY OF BENICIA



Jim Erickson
City Manager

Approved as to form:



CITY ATTORNEY

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DISPATCHERS MEMORANDUM OF UNDERSTANDING
JULY 1, 2010 – JUNE 30, 20~~12~~¹³
[\(amendments to MOU via Council Resolutions 11-118; Resolution 12-90/Ordinance 12-04\) – these amendments have been incorporated into MOU \(MOU extended to June 30, 2013 via Council Reso 12-54\)](#)

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Section 1. Preamble

This Agreement is entered into by the City of Benicia, hereinafter referred to as the “City” and the Benicia Dispatchers Association hereinafter referred to as the “Association” for the purpose of promoting harmonious relations between the City and the Association, to establish an orderly and peaceful procedure to settle differences which might arise and to set for 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.

Section 2. Recognition

The Association is hereby recognized by the City as the exclusive representative and sole bargaining agent for the bargaining unit composed of Public Safety Dispatchers, Public Safety Dispatch Supervisors, Community Service Officer I/II (referred to as CSO throughout the remainder of this document), Animal Control Officers, and Records Clerk, established by the City on or about March 1, 2005 and for said bargaining unit, under conditions of State law.

Section 3. Non-Discrimination

The City shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association or authorized activity as required in this agreement on behalf of the members of the Association. The Association shall not discriminate against any employee covered by this agreement because of membership or non-membership in the Association. Neither party shall discriminate against any employee because of race, color, creed, sex, age, or national origin.

Section 4. Employee Rights

Employees shall have the right to fair and equal treatment in all aspects of employment conditions. Neither management nor its representatives shall exercise their rights and authority in relationship to conditions of employment in a capricious, arbitrary, or unreasonable manner. Any punitive personnel action taken which will result in any loss of pay or benefits shall be taken in a manner consistent with Civil Service Rules and Regulations and Laws of the State. An employee’s salary shall not be directly deposited in the bank by the City without the employee’s consent.

Section 5. Association Business

- 5.1 The City agrees to provide space on bulletin boards to the Association for the announcement of meetings, election of officers of the Association and any other material related to the Association business. Furthermore, the Association shall not post material detrimental to the labor-management relationship nor of a political or controversial nature.
- 5.2 No Association member or representative shall solicit members, engage in organizational work, or participate in other Association activities during working hours on the City's premises except as provided for in the processing of grievances, or during periods of negotiations to update the membership on the progress of said negotiations.
- 5.3 Association members or representatives may be permitted to use suitable facilities on the City's premises to conduct Association business during non-work hours upon obtaining permission from the City's Personnel Officer or his designated representative. Any additional costs involved in such use must be paid by the Association.
- 5.4 Association representatives shall be permitted to investigate and discuss grievances during working hours on the City's premises if notification is given to the Personnel Officer or his designated representative. If the Association representative is an employee of the City, he/she shall request from his immediate supervisor, reasonable time off from his/her regular duties to process such grievances. The City will provide a reasonable number of employees with time off, if required, to attend negotiating meetings.
- 5.5 Upon official and reasonable notification by the Association, employees may be released from work without pay for the purpose of participating in authorized Association activities. Such release time without pay shall not exceed an aggregate of forty (40) hours per calendar year for all members of the unit. Under extraordinary circumstances the City Manager may grant an exception to the forty (40) hour aggregate limit. Employees released under this section shall have no reduction in accrual of vacation, sick leave, holiday time or other benefits provided in the Memorandum of Understanding.

Section 6. Overtime Work, Recall

6.1 Overtime Work

All work performed in excess of an employee's normal work day or in excess of an employee's normal workweek shall be considered overtime work. For the purpose of this Section, an employee's "normal work day" shall be defined as the hours they are normally scheduled in a 24-hour period. An employee's "normal work week" shall be defined as 40 hours in a 7 day period. The parties agree that assignments of overtime work shall rest solely with the department head or designated representative, taking seniority into consideration whenever possible. The parties agree that the assignment of overtime work is on an involuntary basis and any employee refusing assignment of such work is subject to disciplinary action deemed appropriate by the department head.

6.2 Compensation for Overtime Work

Any authorized time worked in excess of the employee's regular work week shall be compensated at the rate of one and one-half (1 ½) times the employee's straight time hourly rate of pay.

The Chief of Police may post overtime which will be compensated in time off (CTO) at the one and one-half (1 ½) time rate. Employees who wish to work overtime for CTO may do so by volunteering for such offered hours.

No employee shall be required to work overtime for CTO. If an employee is required to work overtime, such overtime shall be paid in cash, or CTO, at the employee's discretion..

No employee may exceed sixty (60) hours of accrued CTO at any time. Any hours of overtime worked which exceed the sixty (60) hours of accrued time shall be paid in cash.

Employees may request to cash out any accrued CTO. Requests to cash out CTO must be submitted to the Chief of Police by May 30th. Such requests will be acted upon prior to conclusion of the June pay period [6/20] of each calendar year. The Chief of Police may approve or deny such requests based on the availability of funds.

6.3 Call Out

If an employee is called to work at a time other than his/her scheduled work shift, he/she shall be credited with a minimum of four (4) hours at one and one-half times his/her straight-time hourly rate; provided, however, that this provision shall not apply if the employee is called to work immediately preceding his/her scheduled work shift or is held over for work immediately following the scheduled work shift.

6.4 Daylight Savings Time

On any weekend during which there is a change to or from Standard Time to Daylight Savings time, the Chief of Police may adjust work schedules so that those assigned to work do actually work the regular number of hours normally assigned to the shift.

The "time change hour" for Daylight Savings shall not be included in the definition of actual hours worked or be considered for pay purposes, and no employee assigned to a shift who works during the transition to or from Standard Time to Daylight Savings Time shall be paid any sum except for actual hours worked during said shift.

6.5 Overtime for Dispatchers

Public Safety Dispatchers and Public Safety Supervisors ("dispatchers") who work a schedule consisting of six 12-hour shifts and one 8-hour shift every two weeks do so under agreements that designate their workweeks such that their normal schedule consists of no more than 40 hours in a seven-day work period.

The parties have requested NLRB certification of a 26-week/ 1040-hours work period under the FLSA, pursuant to 29 U.S.C. section 207(b) ("section 7(b) work period"). Should the parties decide, upon receipt of NLRB certification, to formally implement the section 7(b) work period, dispatchers will be eligible to be paid FLSA overtime for hours worked in excess of 12 hours in a day or 56 hours in a seven-day period.

Under the current designated workweeks or under the section 7(b) work period, dispatchers will continue to be eligible for and will receive overtime for all hours worked outside of their regular assigned schedule, pursuant to MOU section 6.1.

Employees will continue to receive straight time pay during the week of their schedule change or rotation for all hours worked, unless they work hours outside of their assigned schedules (MOU overtime) or work in excess of their designated work period (FLSA overtime).

When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's work schedule.

Section 7. Dues Check off

The City Finance Director shall commence and continue to withhold from the payroll warrants of those employees who are members of the Association such amounts of dues and at such time as it is certified to the city by the Association. The Association shall be responsible for certifying current withholding lists to the City so the same may be submitted with the payrolls, and no employee's name shall be included on such certified list unless she/he is a member of the Association and unless she/he has given to the City a written authorization for such withholding.

The Association shall indemnify, defend, and save harmless the City of Benicia, its officers, employees and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In addition, the Association shall refund to the City of Benicia any amounts paid to it in error upon presentation of supporting evidence.

Section 8. Maintenance of Membership

Employees covered by this Memorandum of Understanding who are members of the Association, upon final ratification of the MOU, or who become members after the effective date of this Memorandum of Understanding, shall remain members in good standing with the Association for the full term of this MOU and all successive MOU's provided, however, that any member of the Association shall have the right to withdraw from and discontinue dues deduction, provided said member communicates the employee's intent in writing to withdraw from the Association to the City Finance Department between May 1 and May 30 of the contract year. A withdrawal submitted to the City Finance Department outside of the thirty (30) day period shall be returned to the employee.

Section 9. Agency Shop

9.1 Agency Shop Definition

As a condition of continuing employment, employees shall become and remain members of the Association or shall pay to the Association a service fee in lieu thereof. Such service fee shall be established by the Association and shall not exceed that portion of the Association's dues paid by members of the Association as are expended by the Association in fulfilling its responsibilities for representing members of the Representation Unit in the negotiation and administration of the Memorandum of Understanding. The Association shall comply with the rules governing the establishment of agency shop fees as set forth in the U.S. Supreme Court's decision in March 1986 in Chicago Teachers Association v. Hudson.

9.2 Implementation

Any employee hired by the City subject to this Memorandum of Understanding shall be provided, through the employee's department, a notice advising that the City has entered into an Agency Shop Agreement with the Association and that all employees subject to the Memorandum of Understanding must either join the Association, pay a service fee to the Association, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Association dues or a service fee, or a non-religious charitable contribution equal to the service fee.

Said employee shall have five (5) working days following the initial date of employment to fully execute the authorization form indicating his/her choice and return said form to the Finance Department.

If the form is not completed properly and returned within five (5) working days, the City Finance Director shall commence and continue a payroll deduction of service fees from the regular monthly pay warrants of such employee. The effective date of Association dues, service fee deductions or charitable contributions for such employees shall be the beginning of the first pay period of employment. The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no

withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over Association dues and service fees.

9.3 Religious Exemption

Any employee of the City subject to this Memorandum of Understanding who is a member of a bonafide religion, body or sect which has historically held conscientious objections to joining or financially supporting a Association and which is recognized as such by the National Labor Relations Board, shall, upon presentation of verification of active membership in such religion, body or sect be permitted to make a non-religious charitable contribution equal to the service fee in lieu of Association membership or service fee payment. Declarations of or applications for religious exemption and any other supporting documentation shall be forwarded to the appropriate local Association within fifteen (15) days of receipt by the City. The Association shall have fifteen (15) days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the non-religious charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge. Non-religious charitable contributions shall be by regular payroll deduction only.

9.4 Financial Reports

The Association shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the City Manager once annually.

Copies of such reports shall be available to employees subject to the Agency Shop requirements of this agreement at the office of the Association. Failure to file such a report within one hundred (100) days of the close of the Association's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to the employee, until said report is filed.

9.5 Payroll Deductions

The City shall deduct Association dues or service fees and premiums for approved insurance programs from employee's pay

in conformity with State and City regulations. The City shall promptly pay over to the designated payee all sums so deducted. The City shall also periodically provide the Association with a list of all persons making charitable deductions pursuant to the religious exemption granted herein.

9.6 Hold Harmless

The Association shall indemnify, defend, and hold harmless the City, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the City be required to pay from its own funds Association dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.

9.7 Election

Promptly upon approval of this Memorandum of Understanding by the City Council of the City of Benicia, the parties shall schedule an election to implement the provisions of this Section 9. Eligible voters shall be all employees assigned to job classifications in the representation unit regardless of Association membership or non-membership. A simple majority of those eligible voters voting shall determine whether or not this Section 9 is implemented. In the event it is not implemented, the provisions of Sections 7 and 8, Dues Deduction and Maintenance of Membership, shall remain in full force and effect.

An election to implement the provisions of this agreement shall not prohibit or restrict an election to rescind this Section as provided for by Section 3502.5 of the Government Code.

9.8 Waiver of Election for Newly-Represented Employees and New Representation Units

The accreditation of classifications and/or employees to representation units set forth in this Memorandum of Understanding shall not require an election pursuant to subsection 7 herein for the application of this Agency Shop provisions to such classifications and/or employees. The recognition of newly-established bargaining units and inclusion of same within this Memorandum of Understanding shall also not

require an election pursuant to subsection 7 herein for the application of this Agency Shop to such units.

Section 10. No Strike – No Lockout

- 10.1 The Association agrees that participation in a strike shall subject an employee to disciplinary action, up to and including discharge.
- 10.2 The Association, its representatives, or members, shall not engage or cause, instigate, encourage, sanction, or condone a strike of any kind. No employee shall refuse to cross any picket line in the conduct of official City business, nor shall the Association, its representatives, or members, discriminate in any way toward anyone who refuses to participate in a strike. Strike, means the concerted failure to perform or report to duty, for the purpose of inducing, influencing, or coercing a change in the conditions of compensation, or the rights, privileges, or obligations of employment.
- 10.3 The City shall not institute, authorize, cause, aid, ratify, or condone any action to provoke interruption of or prevent the continuity of work normally and usually performed by employees for the purpose of coercing the employees into relinquishing rights guaranteed under the law. The City shall not, during the terms of this Memorandum, engage in any lockout of employees represented by the Association.

Section 11. Management Rights

The Association agrees that the City retains all its remaining rights and authority under law and expressly and exclusively retains its management rights not affected by this Agreement 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; establish and enforce dress and grooming standards; determine the methods and means to relieve its employees from duty because of lack of work or other lawful reasons; maintain the efficiency of government operations; determine the methods, means and number and 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 subcontract any work operations of the City; to assign work to and schedule employees in accordance with requirement 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 the technology of performing its work.

Management rights shall be exercised in a manner consistent with applicable laws and the Personnel Rules.

Section 12. Vacation Leave and Annual Personal Leave

12.1 Vacation Leave

The authorized annual vacation leave granted employees after one (1) continuous year of City Service shall be as follows:

One (1) through three (3) years of continuous service – ten (10) work days.

Four (4) through nine (9) years of continuous service – fifteen (15) work days.

Ten (10) through nineteen (19) years of continuous service – twenty (20) work days.

Twenty (20) years or more of continuous service – twenty-five (25) work days.

12.2 Earning Vacation Leave

Full vacation leave as set forth in Section 12.1 shall be earned by:

1. An employee on sick leave with pay.

2. An employee while on a leave of absence covered by California Worker's Compensation law (Paid Industrial Leave).
3. An employee on jury leave.

Vacation leave as set forth in Section 12.1 shall not be earned by:

1. An employee on an unpaid leave of absence.

12.3 Scheduling Vacation Leave

The scheduling of vacation leave shall be determined by the department head based on the wishes of the employee and with particular regard for the needs of the City.

Employees are encouraged to take vacation leave in increments of one (1) week at a time.

12.4 Sick Leave During Vacation Leave

An employee may change vacation leave to sick leave upon submission of a doctor's certificate that the employee is ill and unable to work.

12.5 Annual Personal Leave Allowance

Employees covered by this Agreement will earn one (1) day of personal leave per year. For this section, a "day" is defined as 8 hours. The employee may use such leave for any purpose subject to advance approval of his absence. The personal Leave Day must be used and cannot be carried over from one fiscal year to the next.

12.6 Vacation Accrual Limits

Employees covered by this Agreement may exceed vacation accrual limits during a calendar year, however, the accrual limit ceiling of 360 hours will be imposed on December 31st of each year.

If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the accrual limit shall be reduced to 320 hours. 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.

12.7 Vacation Accrual Upon Hire

In order to recruit qualified lateral dispatch candidates, the Police Chief may approve a new lateral dispatcher to begin accruing at a higher vacation level commensurate with their years of comparable public safety dispatching experience. These years of experience will carry forward, and will be considered for eligibility for advancement in vacation accrual levels in Benicia. This section applies to employees hired after January 1, 2008 and will not be applied retroactively.

The enhanced accrual level will be negotiated between the Police Chief and employee, based upon the total number of years experience the employee has working as a Public Safety Dispatcher. The accrual rate at hire shall be at the one to three year level; at the point the employee successfully completes probation, the accrual rate shall be adjusted to reflect the enhanced accrual level, up to the twenty year level, retroactive to the date of hire. In accordance with Benicia Police Department's Core Values, unless extenuating circumstances arise, vacation leave use is strongly discouraged until the employee has successfully completed the training program.

Public Safety Dispatching experience shall only be recognized for the purposes of establishing a vacation accrual, and will not be used to calculate any other benefits (such as seniority.)

Section 13. Leave of Absence

13.1 Definition

A leave of absence is a privilege which may be granted to an employee wishing to leave the City service without pay and in good standing for a limited period of time.

13.2 Procedure

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.

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.

An employee shall be entitled to payment for any earned vacation and accumulated overtime at the beginning of an approved leave of absence.

13.3 Unauthorized Leave of Absence

The failure of an employee to return to duty upon the termination of an authorized leave of absence is an unauthorized leave of absence. An unauthorized leave of absence is grounds for disciplinary action, including dismissal, unless upon the employee's return, the employee furnishes reasons satisfactory to the department head and the City Manager for not having obtained an authorized leave of absence. The unauthorized leave of absence shall be treated as time not worked. The City shall deduct from the employee's pay, an amount equal to time absent from City service.

13.4 Jury Leave

When an employee is summoned for jury duty, the employee shall be granted a leave for jury duty, upon presentation of the summons to the employee's department head.

An employee shall receive full pay while on leave for jury duty; provided, however, the employee must remit compensation received for jury duty, except compensation for mileage. An employee who elects to retain compensation received for jury duty shall not receive salary while on jury duty.

An employee's hours will be changed to day shift to coincide with jury duty. When an employee is released from jury duty, he/she will report to work to complete the remainder of the day shift, if any time remains in the shift. When an employee is released from jury duty and no time remains in the day shift, he/she shall report to their regularly scheduled shift the following day, providing it is to begin ten (10) or more hours after being released from jury duty. The only exception is under emergency conditions.

The City will not permit an employee who is summoned for jury duty on a day off to alter their work schedule so that their jury duty summons becomes a work day.

13.5 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.

A department head may allow an employee a leave of absence up to three (3) days to attend the funeral of a member of the employee's immediate family.

A department head may allow an employee leave of absence up to one (1) day 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. Additional time may be charged to compensatory time or vacation leave.

For the purpose 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 member of the employee's household.

13.6 Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. An employee taking military leave shall give the employee's department head a copy of the employee's orders to report to military duty.

13.7 Parental Leave

A pregnant employee (and father of the baby) shall be entitled to a maternity leave of absence without pay in accordance with State and Federal laws. An employee may opt to use accumulated vacation or sick leave as defined in Section 14.2 for this purpose.

Section 14. Sick Leave

14.1 Eligibility and Accrual

Employees shall accrue sick leave beginning the first day of the month following the employee's completion of one month of service. Employees shall earn sick leave at the rate of 8 hours per month for each calendar month of service. Full sick leave is earned by each full-time employee while on paid leave of absence,

including sick leave and jury leave. Sick leave shall not be earned by employees on unpaid leave of absence. Employees shall continue to earn sick leave while on Paid Industrial Accident (PIA) leave.

The Police Chief may allow Public Safety Dispatchers hired after January 1, 2008 who meet the eligibility threshold for higher vacation accrual as set forth in Section 12.7 to use sick leave in advance of accrual during the first year of employment, up to the maximum first year accrual level of ninety-six (96) hours. Should the employee be terminated or leave the City prior to the completion of one year of employment, any sick leave used beyond that which would have been accrued based on months of service will taken out of accrued vacation, compensatory time off, or final wages. The accrual rate for sick leave remains at eight (8) hours per month.

14.2 Usage of Sick Leave

(1) Permissible Usage of Sick Leave for Employee.

Employees eligible for sick leave may use paid sick leave following the completion of six months of employment with the City. The City Manager shall maintain records of sick leave for all City employees.

With the prior approval of an employee's department head, an employee may use accumulated sick leave for medical or dental appointments.

(2) Family Member Illness / Medical Appointment: Family Care (Labor Code Section 233). Employees may use one half of their annual accrual worth of sick leave to care for an ill family member. Under this section, family member includes Child, Parent, Spouse, and Domestic Partner. Mothers-in-law, fathers-in-law, and grandparents are not considered "parents" for purposes of this law. The illness does not have to be serious in nature and includes doctors appointments. These days may not be carried over from year to year. Conditions and restrictions contained in this Memorandum of Understanding for an employee's use of sick leave also apply to sick leave used under this section.

Any employee on authorized leave under Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), or other federal or state law shall be governed by the provisions of said regulations.

(3) Non-permissible Usage of Sick Leave

No employee shall be entitled to use sick leave with pay while absent from duty under any of the following conditions:

Disability arising from sickness or injury purposely self-inflicted or caused by employee's willful misconduct;

Disability arising from sickness or injury sustained while on unpaid leave of absence;

Disability arising from sickness or injury related to compensated employment other than with the City;

Disability arising from sickness or injury while receiving compensation from the City for an industrial accident pursuant to Section 15.

For absence caused by intoxication or excessive use of alcoholic beverages.

14.3 Accumulation

Accumulation of sick leave by all employees shall be unlimited.

14.4 Notification

To receive sick leave, an employee must notify the department at least two (2) hours prior to the commencement of the employee's scheduled shift.

14.5 Sick Leave Incentive

~~The City agrees to reimburse each employee 25% of their annually accrued, but unused, sick leave during November of each year. If employees in this unit agree to participate in the ICMA VantageCare retiree medical program, the provisions of this section shall be eliminated. The annual 25% Sick Leave Incentive shall be suspended for 2010.~~

Effective September 2011, annual sick leave incentive cash-out was eliminated.

14.6 Sick Leave Conversion

The City agrees to convert 25% of accrued sick leave upon retirement (service or disability) to cash, payable to the retiring employee, provided he/she has at least twelve (12) years service. In no case shall such payment exceed one months' salary for the incumbent position in effect at the time of retirement.

14.7 Return to Employment Following Sick Leave

When an employee returns to duty following an absence chargeable to sick leave, the employee's department head or the City's personnel officer may require an affidavit showing the nature of the cause of sickness or injury.

When an employee returns to duty following an absence of three (3) days or longer, the department head or personnel officer may require a signed statement from a doctor or dentist that the employee was incapacitated and unable to perform the employee's duties throughout the entire period of sick leave.

The failure of the employee to file the personnel affidavit or the statement from the doctor or dentist shall result in the employee's ineligibility for sick leave benefits, unless a waiver is granted by the City Manager.

In the case of frequent use of sick leave, the employee's department head or the personnel officer may request that the employee file a doctor's statement for each such illness regardless of duration. An employee may be required to take an examination by a doctor mutually agreed to by the City and the employee. If requested by the City, the employee shall authorize consultation with the employee's doctor concerning the illness.

On the basis of such medical advice, the City Manager shall determine whether an employee is incapacitated for the duties of the employee's position and may take the action the City Manager considers appropriate.

Sick Leave Usage Policy:

The city agrees to form a committee made up of members from the association, management, and a representative from Human Resources to review the current sick leave issues within the association, such as the sick leave

contract. The committee will begin meeting no later than July 1, 2007. The current policy will remain in effect until such time a mutually agreed upon change is made.

14.8 Supplemental Sick Leave

Employees are entitled to Supplemental Sick Leave benefits in accordance with Policy #05 which was updated and issued in February 2007 named Supplemental Sick Leave Benefit.

Section 15. Paid Industrial Accident Leave

15.1 Eligibility

Employees shall be eligible for paid industrial accident leave ("PIA") provided, however, that the employee's claim for State Workers' Compensation must be approved and further provided that the injured employee shall immediately report the accident to the employee's supervisor or if the supervisor cannot be contacted, the employee must notify the Police Communication Center immediately.

15.2 PIA Benefits

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

Section 16. Holidays

16.1 Authorized Holidays

Employee's shall be entitled to the following paid holidays:

New Year's Day, Martin Luther King, Jr. Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and the Friday following Thanksgiving Day and Christmas.

The City shall 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. For employees on seven (7) day per week assignments, the holiday shall be celebrated on the day on which it falls.

16.2 Work Performed on Holidays

The City and the Association agree that Public Safety Dispatchers and Public Safety Dispatch Supervisors are scheduled to work on the aforementioned holidays as a matter of health and safety of the Community. In lieu of the aforementioned holidays, the City agrees to pay Public Safety Dispatchers and Public Safety Dispatch Supervisors one and one-twelfth (1-1/12) days straight-time pay per month in lieu of having the holiday off. Employees required to work on a holiday they were not scheduled for according to the shift they bid or regularly work, he/she will be compensated at one and one-half (1 ½) times his/her hourly rate of pay for each hour so worked. Additionally, shall receive time off equivalent to the number of hours worked on the non-scheduled holiday. This time to be scheduled by the department head based on the wishes of the employee and the needs of the City.

Employees who actually work on an aforementioned holiday shall receive an additional ½ time pay or compensatory time off (CTO). This section applies to employees previously scheduled to work this day, not employees who sign up for overtime. However, if an employee is working this shift due to a shift trade, the employee who actually works the hours is the employee who receives the additional time off or pay. Non-dispatch employees (Records Clerk, and Community Service Officer) are not eligible for this additional time unless the holiday falls on a day they are routinely scheduled to work in dispatch, or they are working a shift trade, and they do not qualify for the additional ½ time pay or CTO hours if they signed up to work voluntary overtime on this day.

Section 17. Salary Plan

17.1 Salaries

- (1) Effective July 1, 1994, the City converted the employer-paid employee 7% P.E.R.S. contribution to salary and allowed all employees in the bargaining unit to begin paying their own P.E.R.S. contribution. In 2001, the employee

P.E.R.S. contribution increased to 8% when the City implemented the 2.7% at 55 plan.

- (2) Additionally, the City implemented Internal Revenue Code Section 414 (h) (2) which will allow all employees in the bargaining unit to defer paying taxes on their contribution to P.E.R.S. (8%) until retirement or receipt of a lump sum payment (refund).
- (3) There shall be no Cost of Living Adjustments, and the remainder of section 17.1 shall be suspended, through the term of this contract
- (4) Effective November 1, 2010 through June 30, 2011, employees enrolled in City-offered medical plans ~~shall~~ contributed 5.01% of base salary on a pre-tax basis towards health insurance premiums. Effective July 1, 2011, employees enrolled in City-offered medical plans shall contributed 3.91% of base salary on a pre-tax basis towards health insurance premiums. For employees not enrolled in City-offered medical plans who receive cash in lieu of City contributions towards health insurance premiums, the cash in lieu shall be reduced by amounts equal to the percentages above. Effective September 2011, the 3.91% was increased by 4.92% to a new ongoing amount of 8.83%. Note: in addition, for the period of September 2011 through June 2012, an additional .55% was contributed to capture the retro-active monies for the months of July and August 2011.

It is the intent of the City to remain competitive in the labor market and provide equitable salaries for its employees.

The basic salary for Public Safety Dispatcher shall be a benchmark position and based on market survey.

The basic salary for Public Safety Dispatch Supervisor shall be set at an amount equal to twenty percent (20%) above that of Public Safety Dispatcher.

The basic salary for CSO II shall be set at an amount equal to five percent (5%) below that of Public Safety Dispatcher.

The salary for CSO I shall be set at an amount equal to ten percent (10%) below that of CSO II.

The salary for Animal Control Officer shall be set at an amount equal to the salary of CSO I.

The salary for Records Clerk shall currently be set at an amount equal to the salary of CSO I. A classification study will be conducted on this position and will begin no later than December 31, 2007.

Salary surveys for market adjustments are calculated at the mean and based on:

Top Step base salary
PERS Pick-up
~~Uniform Allowance~~
Insurance (health, dental, vision, life)

[\(note: uniform allowance was removed effective September 2011\)](#)

Survey cities are cities of: Brentwood, Davis, El Cerrito, Fairfield, Folsom, Napa, Pleasant Hill, Pinole, Richmond, San Pablo, Vacaville, and Vallejo.

In the event a position is above the mean after conducting a market survey, the position shall not lose pay, but instead shall remain at the current range for that market adjustment period.

17.2 Salaries – New Employees

A new employee shall be appointed to the first step of the salary range to which the employee is assigned, provided, however, that a new employee may be appointed at a salary in excess of the first step when it is difficult for the City to locate qualified personnel. In this event, no incumbent employee in the same classification shall be paid less than the salary paid to the new employee. Exceptions to the foregoing may occur if a prospective employee has education, training or experience substantially superior to the minimum qualifications required for the position. In exceptional cases, at the discretion of the City Manager, an employee may be hired at an advanced step without regard to salaries of existing employees.

17.3 Anniversary Date

The employee's anniversary date is the first day of the month if employment occurs during the first fifteen (15) days of the month; otherwise, the anniversary date is the first day of the next pay period.

The anniversary date of an employee on leave without pay for one (1) month or longer, shall be extended by the period of the leave.

17.4 Advancement Within Salary Range

Advancement within the salary range for a classification shall not be automatic. All increases shall be based on merit as established by a record of the employee's performance and shall require the written recommendation of the Department Head and approval by the City Manager.

An employee who does not receive an in-grade salary advancement shall be notified in writing by the employee's department head as to the reason for denial.

The City Manager may adjust the salary rate of an employee to any step in the employee's existing salary range to correct gross inequities in salary or to reward outstanding achievement and performance.

17.5 Salary after Promotion or Demotion

When an employee is promoted, the employee's compensation shall be set at Step A or one step higher than the employee's current salary whichever is higher, provided however, the employee's salary shall increase by at least 5%. If an employee is promoted within ninety (90) days prior to their anniversary date, they may be granted an additional salary increase beyond that provided above. Such additional step may be denied for reasonable cause; including the employee being hired, promoted or receiving extraordinary step increases within the last twelve (12) months.

When an employee is demoted to a class with a lower maximum salary, the employee shall be assigned to the applicable salary step in the new class, provided however, that there shall be at least a 5% decrease in salary assuming that the employee's service

has been continuous in the new class. The employee shall retain the employee's previous anniversary date.

17.6 Salary after Transfer

When an employee is transferred from one position to another position in the same class or to another class with the same pay range, the employee shall retain the same step and the same anniversary date.

17.7 Acting Pay

- A. Acting Supervisor – One Shift: Whenever a bargaining unit employee is required to serve as an acting supervisor for a minimum of one (1) shift, the employee shall be compensated for each shift in that capacity by an increase of \$10.00 per shift.

All such acting assignments shall be offered on the basis of qualifications for such assignment according to the judgment of the department head or the department head's authorized representative and shall be consistent with the Personnel Rules.

- B. Acting Dispatch Supervisor: An employee shall be assigned to perform the duties of the Dispatch Supervisor on an "acting" basis when it is necessary to provide coverage during vacation or leave periods of the Dispatch Supervisor in excess of five (5) consecutive working days. An "acting" assignment shall only be made by the Department Head and employees shall be provided with a written notice assigning them to the higher classification on an acting basis. Employees so assigned shall receive "acting" pay only after performing in the higher classification for a period of five (5) consecutive workdays.

Employees assigned by the Department Head to perform the duties of a higher classification on an "acting" basis, shall receive "acting" pay for each full day of assignment in such higher classification at the completion of the fifth day retroactive to the first day of assignment. Acting pay shall be at least five percent (5%) more than the employee's salary in his/her present classification; provided, however, in no event shall acting pay exceed the top salary step of the classification in which the employee is serving in an acting capacity.

17.8 Pay Period

The pay day for each employee shall be the last day of the month or as authorized by the City Council.

17.9 Terminal Pay

An employee who is terminated is entitled to terminal pay for:

- 1.** That portion of the final pay period from the first day of the final pay period to the effective date of separation. The day of separation is either the working day specified for the separation or the last day of the pay period if no date is specified;
- 2.** Accrued vacation actually earned but not taken, provided the employee has been in the continuous service of the City for at least six (6) months prior to the effective date of his termination.
- 3.** Accrued overtime: In the case of an employee's death, the City shall pay the employee's beneficiary the sums set forth in items 1 through 2 above provided, however, that the employee must have designated a beneficiary on a form specified by the City Manager. If the form specified by the City Manager has not been completed and returned to the finance director, terminal pay shall be paid to the estate of the employee.

17.10 CSO I/II / Records Clerk

CSO I/II's shall be provided on-the-job training in the performance of Public Safety Dispatcher duties for a period of one hundred sixty (160) hours, such training to be completed during the first twelve (12) months of employment. Records Clerks may be offered the on-the-job training based on department needs. Upon successful completion of this training period, the CSO I/II , and Records Clerk (if applicable) shall receive the salary step in the dispatch salary range which equated to the step they are normally paid in their regular position. For example, an employee at Step C of the CSO range, shall be paid Step C rate of pay in the dispatch range when assigned to perform dispatcher duties except for time worked temporarily relieving on-duty Public Safety Dispatchers. In no event shall an employee receive "acting pay" at a rate which is

in excess of the maximum rate of the classification of Public Safety Dispatcher. The provisions of this Section 17.10 shall not be used by the City to circumvent the requirement to fill vacant Public Safety Dispatcher positions in an expeditious manner.

17.11 Training Pay

Personnel who are assigned to train shall receive additional compensation of five percent (5%) of their basic salary during the period of time while actually assigned training responsibilities. Assignment, length of service, and termination of assignment will be made in accordance to procedures as approved by the Department Head or his/her designee. It is understood and agreed that qualifying to be able to train does not guarantee assignment to train. Training pay will only be paid for actual hours worked in that capacity, and not paid time off.

17.12 Longevity Pay Program

The City agrees to the implementation of a Longevity Pay Program. This Program applies to all regular full-time employees and those employees in positions covered under the Job-Sharing/Reduction in Hours of Employment Policy #14. Authorized employees shall be entitled to a 2 ½% increase in compensation upon completion of ten (10) consecutive years of full-time (or full-time equivalent) service.

Additionally, for each additional ten (10) consecutive year increment, i.e., twenty (20), thirty (30), forty (40) years, of full-time consecutive service, employees shall be entitled to an additional 2-½% increase in compensation over the rate for the class in which the employee is employed.

Prior City service shall not count toward this Program.

17.13 Retirement Plan

1. The City shall continue in effect its contract with the Public Employees' Retirement System (PERS) for the term of this Memorandum of Understanding. The City amended its contract with P.E.R.S. to include the 2.7% @ 55 benefit.
2. New Retirement Tier for New Hires

BDA agrees to the implementation of a new, less costly, CalPERS second tier pension formula for new hires contingent on agreement

with all other Miscellaneous employees to the same, and effective thereafter as soon as administratively possible, consistent with CalPERS contract amendment requirements.

Section 18. Deferred Compensation

The City agrees that employees represented by the Association may participate, at their own expense, in the City's deferred compensation plan.

Section 19. Uniform Allowance

~~The City agrees to provide a monthly uniform allowance to the employees to cover the costs of purchasing, maintaining and cleaning their uniforms. Effective 7/1/05, said allowance was as follows: Public Safety Dispatchers, Public Safety Dispatch Supervisor, CSO's and Animal Control Officers \$70.00 per month. Effective July 1, 2007, uniform allowance increased to \$75.00 per month. Effective July 1, 2008, uniform allowance will also be provided to Records Clerks. Such uniform allowance will not be reduced as a result of job share or reduced schedule arrangements under City Policy #14. Said allowance will be paid annually in November and will be included in the same paycheck which contains Sick Leave Incentive pay where applicable. Employees who leave City employment any time prior to November shall have \$75.00 for each month of the twelve (12) months previous to November in which she/he is not a City employee, deducted from their final City paycheck. While uniform allowance is advanced and paid to all BDA members listed above on an annual basis, it is reported to PERS on a monthly basis, as it is earned.~~

[Uniform allowance was eliminated effective September 2011.](#)

Section 20. Educational Reimbursement

The Educational Reimbursement Program is designed to encourage employees to continue their self-development and career development by enrolling in classroom courses which will prepare them in new concepts and methods needed to meet the changing demand of City service. Effective 7/1/00, the City agrees to pay the cost of books and tuition up to a maximum of \$ \$1,000 per employee per fiscal year for courses of study completed during that fiscal year and related to the member's current employment or to obtain a two or four year degree in Administration of Justice, Criminal Justice Administration or Criminology. Courses submitted for reimbursement which do not fall in the major must

be certified by the college as requisite for attaining a two or four year degree. All courses must have been approved in advance by the employee's Department head. Employees will be reimbursed for expenses upon completion of the course(s) with a passing grade.

Section 21. Shift Differential

All qualified employees who work in a Public Safety Dispatcher position and who work a swing or relief shift will receive a five percent (5%) premium in addition to their regular rate of pay; those who work a graveyard shift will receive a seven percent (7%) premium in addition to their regular rate of pay. For employees whose shift on a particular day overlap the two differential rates, the rate paid will be paid for the entire shift based on the shift that the majority of the hours were worked.

21.1 Solo Graveyard Shift

The City will make every effort to avoid the scheduling of dispatchers to work solo on the graveyard shift. Employees shall receive an additional \$25.00 per solo graveyard shift for the period of 7/1/06 – 12/31/06. Effective 1/1/07, this amount increased to \$40.00 per shift. Employees must work a minimum of four (4) hours of their assigned shift on graveyard in order to receive Solo Graveyard Pay.

Section 22. Alternate Work Schedule (inserted from November 14, 2000 side letter):

The City implemented a 9/80 or 4/10 work schedule for CSO, Records Clerk, and Public Safety Dispatch Supervisor. Dispatchers are eligible to participate in the 4/10 work schedule. The Department Head has the authority to modify or discontinue this work schedule at any time with thirty (30) days notice to the Associate and the opportunity to meet and confer on the impact of the change. With the approval of the Department Head, there may be variations in employees' work hours keeping in mind the City's need to provide maximum service to the citizens while granting employees a work schedule that best fits their needs as well. The following parameters apply to employees participating in the 9/80 or 4/10 work schedule:

- A. The exact schedule (i.e., every other Monday off, Friday off, hours of work, etc.) must first be approved by the Department Head.
- B. This schedule will not preclude the City from implementing a different schedule (such as 5/8's) for training purposes, particularly for new employees. It is the City's intent to have the employee move into the flex schedule as soon as feasible.
- C. CSOs and Records Clerks working a 9/80 or 4/10 work schedule will not have to dock an hour of annual leave or administrative leave when they are off on a holiday. The holiday will be equivalent to a nine (9) hour day for employees working a 9/80 work schedule and ten (10) hour day for employees working a 4/10 work schedule. If the holiday falls on a regularly scheduled day off, then the employee will receive eight (8) hours of administrative leave which will need to be taken before the end of each fiscal year.
- D. When an employee takes a day of annual leave, sick leave, administrative leave or other leave benefit, the employee must use the number of hours which correspond to the employee's 9/80 or 4/10 work schedule.
- E. Temporary changes in an employee's 9/80 work schedule must be approved by the employee's Department Head (i.e., employee hardship).
- F. The Department Head may determine that not all employees in the bargaining unit may participate in the 9/80 or 4/10 work schedule in order to maintain the efficiency of government operations.

Section 23 Meal Period

Dispatchers get a paid lunch; Records Clerk, Community Service Officers, and Animal Control Officers get an unpaid lunch period.

Section 24 Seniority Rights

Seniority is herein defined to be an employee's length of continuous service with the City of Benicia in the representation unit covered by this Memorandum of Understanding. An individual employee's seniority shall be effective from the date of first employment in a position within the

representation unit. The Department will consider seniority in vacation scheduling and shift assignment. For the purposes of vacation scheduling and/or shift assignment for employees holding a promoted position, the effective date of the employee's promotion shall be controlling.

24.1 Seniority Rights for employees in a Job Share or Reduced Hour position

Any employee who has signed a Job-Sharing Request agreement, or a Voluntary Reduced Work Hours Program agreement, pursuant to the City's Job-Sharing / Reduction in Hours Employment Policy #14, may only exercise the right to resume full-time status in the event of a full-time, budgeted and funded, vacancy within their position.

Section 25. Court Appearance

25.1 If any court appearance scheduled for the employee's day off is cancelled with less than six (6) hours notice provided to the subpoenaed employee, then the employee shall be compensated for a minimum of four (4) hours overtime at the overtime rate that applies to the employee's classification for no more than one such occurrence during the employee's normally scheduled weekend (days off).

25.2 Employees subpoenaed to appear in court on a regularly scheduled work day shall be compensated in the following manner:

When the court appearance is scheduled for a time prior to the employee's regularly scheduled work hours and the employee appears in court, the employee shall be compensated at an overtime rate of one and one-half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time that employee is regularly scheduled to work and extends beyond those regularly scheduled hours, the employee shall be compensated at a rate of one and one half (1 ½) times the employee's regular rate of pay for the period of time the employee is in court beyond the normally scheduled work hours.

When the court appearance is scheduled for a time after the employee's regularly scheduled work hours, the employee shall be compensated for a minimum of four hours at a rate of pay one and one-half (1 ½) times their regular rate of pay.

Employees with multiple subpoenas for the same day for appearance times prior to their regularly scheduled work hours may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court until the beginning time of their regularly scheduled work shift or for a minimum of four (4) hours, whichever is shorter.

Employees with multiple subpoenas for the same day for appearance times after their regularly scheduled work hours may only be compensated at the overtime rate of one and one-half (1 ½) times their regular rate of pay for the actual time spent in court or a minimum of four (4) hours, whichever is longer.

An employee with multiple subpoenas for appearances in the morning as well as the afternoon may only claim one four (4) hour minimum for the morning court appearance and one four (4) hour minimum for the afternoon appearance. An employee is precluded from collecting more than eight (8) hours of guaranteed minimums (four (4) in the morning and four (4) in the afternoon).

Section 26. Insurance

26.1 Health and Welfare

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.. The City shall contribute the full premium required by the providers of the dental and vision care plans provided herein through the end of this MOU. The City shall allow employees who have dual coverage on their health plan to receive in cash the amount the City contributes towards the single rate if they decline enrolling in the City's plan.

Effective the first full pay period after ratification of this agreement by the City Council the City's contribution towards medical

premiums for fiscal year 2010 – 2011 shall be a maximum up to the following contributions for any plan:

Employee: \$592.37
Employee plus One: \$1,184.75
Employee plus Family: \$1,575.71

For Fiscal year 2011 – 2012 the parties agree to the following cost sharing approach to premium increases in 2011 and 2012 only. Specifically, the City will share evenly any amount that exceeds the current FY 2010-2011 Kaiser contribution levels, up to a capped maximum City contribution amount of \$29.63/month for single, \$59.25 for employee +1 and \$79.49 for employee + family.

In order to allow employees in Health Net time to transition to the City's new capped contribution to any plan, the City agrees to continue the existing City dollar contributions for Health Net participants in effect on September 30, 2010 until June 30, 2011 only. At that time this extra contribution shall expire and the City's contribution for participants for both Kaiser and Health Net shall be as described above.

During the term of the MOU, the parties agree to participate with the other bargaining units to determine whether or not any medical plan design changes would assist in reduction of costs to the city and/or reduction of premiums for employees. The parties recognize that any such changes in plan design require agreement by all city bargaining units.

For fiscal year 2012-13, the parties agree that the City will continue to contribute the following amounts toward medical premiums:

<u>Employee:</u>	<u>\$622/month</u>
<u>Employee plus One:</u>	<u>\$1,244/month</u>
<u>Employee plus Family:</u>	<u>\$1,655.20/month</u>

Additional Medical Contribution and Plan Design Changes: Effective September, 2011, a pre-tax deduction equivalent to the anticipated reduction of costs for this unit to move from a zero co pay plan to a \$ 15.00 co-pay plan for the 2011-12 plan year. That deduction is:

<u>In lieu or Employee:</u>	<u>\$19.54/month</u>
<u>Employee + 1:</u>	<u>\$39.07/month</u>
<u>Employee plus Family:</u>	<u>\$52.64/month</u>

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Given that health care plan design change did not occur in 2011-12 to achieve the savings of the \$15 co-pay plan, employees continue to make a pre-tax deduction toward health in order to achieve the equivalent amount of savings.

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26.2 Life Insurance

The City shall provide regular, full-time employees with \$30,000 group term life insurance with said policy to include accidental death and dismemberment coverage.

26.3 Retiree Medical

Should employees in this unit agree to participate in the City's ICMA VantageCare retiree medical program, provisions for the Sick Leave Incentive in Section 14 shall be eliminated. Under the retiree medical program, the City will contribute to the individual employee's savings account an amount equivalent to:

- 5-10 years - 25% of Annual Unused Sick Leave Accrual
- 11-15 years - 40% of Annual Unused Sick Leave Accrual
- 16-19 years - 60% of Annual Unused Sick Leave Accrual
- 20-24 years - 80% of Annual Unused Sick Leave Accrual
- 25 years or more - 100% of Annual Unused Sick Leave Accrual

Section 27. Grievances/Disciplinary Appeals

27.1 Definition

- (1) A grievance is any dispute which involves the interpretation or application of any provisions of this Memorandum of Understanding. A disciplinary appeal is an appeal by an employee of a discharge, demotion, reduction in pay or suspension without pay. If the employee selects use of the grievance procedure as set forth in Section 9.11 of the City of Benicia Personnel Rules then this procedure shall apply.

(2) A work day is defined as a day on which administrative offices of the City of Benicia are open for business.

27.2 Procedure

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

The grievance shall be presented in writing either by the employee or by an authorized Association representative to the designated supervisor of the employee within ten (10) working days after the occurrence of the cause of such grievance.

The designated supervisor shall have ten (10) working days from 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 Association representative within ten (10) working days to the Department Head or to such representative as the employee may designate.

Disciplinary appeals must be presented in writing 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.

The Department Head or a designated representative shall have ten (10) working days from date of receipt of the grievance in which to respond. If the grievance/appeal is not satisfactorily adjusted/resolved within this period, the grievance/appeal may be presented in writing either by the employee or by an authorized Association representative to the City Manager or to such representative (grievances only) as the City Manager may designate within ten (10) days.

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, a request for hearing such grievance before an Adjustment Board shall be submitted in writing to the Personnel Officer. The Adjustment Board shall be comprised of two (2) Association representatives, no more than one (1) of whom shall be

either an employee of the City or an elected or appointed official of the Association; 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 a least three (3) members of the Board.

If an Adjustment Board is unable to arrive at a majority decision, either the Association or the City may require that the grievance/appeal be referred to an impartial arbitrator who shall be designated by mutual agreement between the Association and the City Manager. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentation including, but not limited to, preparation and post hearing briefs, if any.

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

27.3 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 Association and unless such dispute falls within the definition of a grievance or disciplinary appeal as set forth in subsection 25.1 (1).

27.4 Change to Memorandum

Proposals to add to or change this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. Neither any Adjustment Board nor 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.

27.5 Disciplinary Action

No appeal involving disciplinary action taken against an employee will be entertained unless it is filed in writing with the City Manager within ten (10) working days of the time at which the affected employee was notified of such action.

27.6 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Chief of Police. 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.

27.7 Civil Service Personnel Rules and Regulations

The provisions of this Section shall not abridge any rights to which an employee may be entitled under the City of Benicia Personnel Rules.

All grievances/appeals of employees represented by the Association shall be processed under this Section. If the Personnel Rules require that a differing option be available to the employee, no action under paragraph (4) of Section 25.2(4) above shall be taken unless it is determined that the employee is not availing himself or herself of such option.

No action under paragraph (2) or (3) of Section 25.2 above shall be taken if action on the complaint or grievance/appeal has been taken by the Civil Service Commission, or if the complaint or grievance/appeal is pending before the Civil Service Commission.

Section 28. Legal Defense

The City will provide legal defense for employees within the definitions and limitations set forth in all applicable sections of the State of California Government Code.

Section 29. Closing Clause

29.1 The effective date of this agreement shall be July 1, 2010, and the agreement shall remain in effect through June 30, 2013. All other provisions of the MOU, including side letters, remain the same unless otherwise modified by the provisions of this agreement.

~~29.2 During the term of the agreement, if the Council, after a noticed public hearing, deems additional reductions are necessary to balance the City's budget, the parties agree to reopen the contract for the narrow and specific purpose of meeting and conferring over concessions identified by the City as needed to prevent layoffs of BDA members.~~

29.3 This agreement shall remain in force after its expiration where negotiations between the employer and the Association have not resulted in a new agreement, until such time as a new agreement is reached by both parties.

29.4 Any provisions in this agreement pertaining to work hours, shifts, or personnel assignments may be suspended temporarily by the City where a declared emergency exists as defined by the Civil Disaster Emergency Plan. The City shall have sole power to determine the existence of an emergency and shall meet with the Association at the earliest possible time to discuss the suspension of provisions during the declared emergency.

29.5 If any section of this Agreement 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 agreement shall remain in full force and effect for the duration of this Agreement. In the event of invalidation of any Section, the City and the Association agree to meet within thirty (30) days for the purpose of renegotiating said Section.

29.6 This Memorandum of Understanding shall be submitted to the City Council for its adoption at its regular meeting.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
| this _____ this day of _____, 20~~10~~12.

Benicia Dispatchers Association/

City of Benicia

Need to update this page with current names:

By

|

Kilger

by

~~James Erickson~~Brad

City Manager

By

by

Anne Cardwell
Administrative Svcs Dir

By

Approved as to form:

By

Heather Mc Laughlin
City Attorney