

**LETTER OF UNDERSTANDING (LOU) BETWEEN  
THE CITY OF OAKLAND  
AND  
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1245  
CONSTRUCTIVE RECEIPT**

The City of Oakland (“The City”) and International Brotherhood of Electrical Workers, Local 1245 (“IBEW Local 1245”) (collectively “The Parties”) agree to this Letter of Understanding modifying portions of the Memorandum of Understanding between the parties (“MOU”) to address issues of constructive receipt.

1. The City has identified concerns involving issues of constructive receipt with regard to certain leave payout provisions of the MOU.
2. The parties have met and conferred and agreed to address this issue through modification of the MOU.

Therefore, the Parties agree as follows:

- A. Section 5.4.2 “Compensatory Leave” will be modified as follows (underscore and ~~strikeout~~ indicate changes to existing text):

5.4.2 Compensatory Leave

City agrees to credit each unit member with sixteen (16) hours compensatory leave at the beginning of the pay period that includes July 1 during each year of this agreement. Said compensatory leave shall be used within the fiscal year in which it is credited.

Unit members may elect to receive overtime compensation in the form of compensatory leave. Limits on compensatory leave accrual shall be seventy-two (72) hour for all unit members. Any compensatory leave accrued in excess of the above stated amount shall be automatically paid to the unit member.

**The City makes no representation as to the tax consequences of an employee carrying compensatory time off between tax years. It is the employee’s sole responsibility to address the tax consequences.**

**LOU (Constructive Receipt)  
City of Oakland and IBEW Local 1245**

- B. Section 7.1.1.4 “Annual Sick Leave Sell-Back/Conversion” will be modified as follows (underline and ~~strikeout~~ indicate changes to existing text):

7.1.1.4 Annual Sick Leave Sell-Back/Conversion

- a) Unit members may sell back a portion of their unused sick leave or convert it to additional days of vacation, provided that the unit member must have a minimum of ~~sixty (60) days~~ **four-hundred and eighty (480) hours** of accumulated sick leave at the ~~beginning~~ end of the calendar year (**December 15**)(~~January 1~~). The unit member may exercise one of the following options during the month of January:
- 1) Accumulate sick leave credits to the ~~one hundred and fifty (150) day~~ **one-thousand two hundred (1200) hour** maximum; or,
  - 2) Convert sick leave earned in excess of the basic requirement of ~~sixty (60) days~~ **four-hundred and eighty (480) hours** to vacation **at a** ratio of two (2) **hours of** sick leave ~~days~~ to one (1) day **hour** of vacation up to a maximum of ~~six (6)~~ **forty-eight (48) hours of** vacation **(96 hours of sick leave)** ~~days~~.
  - 3) Sell back sick leave earned in excess of the basic requirement of ~~sixty (60) days~~ **four-hundred and eighty (480) hours**, at the ratio of two (2) **hours of** sick leave ~~days~~ to one (1) day **hour** of pay, up to maximum of ~~seven (7) days~~ **fifty-six (56) hours of** pay.
- b) **Unit members who wish to sell back Sick Leave must file an irrevocable election identifying the number of Sick Leave hours they will sell back in December of the tax year preceding the sell back. The election will apply only to Sick Leave hours accrued in the following tax year.**
- c) **Employees who do not pre-designate a sell back amount by the annual deadline will be deemed to have waived the right to sell back any Sick Leave in the following tax year and will not be eligible to sell back Sick Leave in that year.**
- d) **In the event of financial hardship, an employee may, at any time, sell back unused Sick Leave, even if they have not filed a timely irrevocable election. Financial hardship will be determined in accordance with nondiscriminatory and objective standards, and is defined as a situation where (1) the sellback is needed to address an immediate and heavy financial need, and (2) the sellback is limited to the amount necessary to satisfy that financial need. Financial hardship includes, but is not limited to: medical or other expenses related to the illness, injury or death of the employee or the employee’s immediate family; loss of the employee’s property due to casualty, or repair expenses for damage to the employee’s principal residence; or payments necessary to prevent eviction of the employee from the employee’s principal residence or**



LOU (Constructive Receipt)  
City of Oakland and IBEW Local 1245

foreclosure of the mortgage of that residence. The sell-back shall be limited to the amount necessary to meet the financial hardship, including any amounts necessary to pay federal, state, or local income taxes reasonably anticipated to result from the sell-back. However, the total amount of Sick Leave sold back (including both pre-election and hardship withdrawal) shall not exceed one-hundred and twelve (112) hours of Sick Leave (56 hours of pay) per year.

To sell back unused Sick Leave in the event of financial hardship, the employee must provide a signed affidavit describing the type of hardship and the amount of the requested sell-back. The employee shall not be required to produce financial or other private information to support the affidavit. The City shall develop a form which shall be used and which will contain the following statement: "I declare under penalty of perjury of the laws of the state of California that the foregoing is true and correct and that the amount of Sick Leave I am requesting to sell-back is limited to the amount necessary to meet the financial hardship, including any amounts necessary to pay federal, state, or local income taxes reasonably anticipated to result from the sell-back. By signing below, I accept full liability for all tax or other financial consequences in the event that a taxing authority later finds any of the information provided in this affidavit to be inaccurate."

- C. Section 8.4 "Vacation Sell-Back" will be modified as follows (underscore and ~~strikeout~~ indicate changes to existing text):

8.4 Vacation Sell-Back

- a) Unit members may sell-back to the City up to ~~twenty (20) days~~ one-hundred and sixty (160) hours of accrued vacation each calendar year.
- b) Unit members who wish to sell back vacation must file an irrevocable election identifying the number of Vacation Leave hours they will sell back in December of the tax year preceding the sell back. The election will apply only to Vacation Leave hours accrued in the following tax year.
- c) Employees who do not pre-designate a sell back amount by the annual deadline will be deemed to have waived the right to sell back any Vacation Leave in the following tax year and will not be eligible to sell back Vacation Leave in that year.
- d) In the event of financial hardship, an employee may, at any time, sell back unused Vacation Leave, even if they have not filed a timely irrevocable election. Financial hardship will be determined in accordance with nondiscriminatory and objective standards, and is defined as a situation where (1) the sellback is needed to address an immediate and heavy financial need, and (2) the sellback is limited to the amount necessary to satisfy that financial need. Financial hardship includes, but is not limited to: medical or other expenses related to the illness, injury


LOU (Constructive Receipt)  
City of Oakland and IBEW Local 1245

or death of the employee or the employee's immediate family; loss of the employee's property due to casualty, or repair expenses for damage to the employee's principal residence; or payments necessary to prevent eviction of the employee from the employee's principal residence or foreclosure of the mortgage of that residence. The sell-back shall be limited to the amount necessary to meet the financial hardship, including any amounts necessary to pay federal, state, or local income taxes reasonably anticipated to result from the sell-back. However, the total amount of Vacation Leave sold back (including both pre-election and hardship withdrawal) shall not exceed one-hundred and sixty (160) hours per year.

To sell back unused Vacation Leave in the event of financial hardship, the employee must provide a signed affidavit describing the type of hardship and the amount of the requested sell-back. The employee shall not be required to produce financial or other private information to support the affidavit. The City shall develop a form which shall be used and which will contain the following statement: "I declare under penalty of perjury of the laws of the state of California that the foregoing is true and correct and that the amount of Vacation Leave I am requesting to sell-back is limited to the amount necessary to meet the *financial hardship*, including any amounts necessary to pay federal, state, or local income taxes reasonably anticipated to result from the sell-back. By signing below, I accept full liability for all tax or other financial consequences in the event that a taxing authority later finds any of the information provided in this affidavit to be inaccurate."

This LOU is not intended to modify any provision of the MOU not referenced herein.

For IBEW Local 1245:

  
\_\_\_\_\_  
Charley Souders,  
Business Representative

Date: 1/15/21

For City of Oakland:

\_\_\_\_\_  
Allyson Cook,  
Assistant Human Resources Director

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