

MEMORANDUM OF UNDERSTANDING

Between

CITY OF OAKLAND

And

OAKLAND POLICE MANAGEMENT ASSOCIATION

Effective December 12, 2018 through June 30, 2024

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PREAMBLE

We, the undersigned, duly appointed representatives of the City of Oakland and of the Oakland Police Management Association, a recognized employee organization, hereinafter referred to as "City" and "Association," do hereby jointly prepare and execute on the 22nd day of March, 2016, the following written Memorandum of Understanding. It is understood that the provisions set forth apply to City of Oakland employees officially designated to be members of Police Management Unit.

IT IS THEREFORE AGREED as follows:

ARTICLE I GENERAL PROVISIONS

A. Recognition

City agrees to recognize the Oakland Police Management Association as the exclusive recognized bargaining representative, within the scope of representation as described in the Meyers-Milias-Brown Act, as amended, for City employees officially designated to be members of the Police Management Unit.

B. Discrimination Prohibited

City and Association agree that they shall not discriminate in any way on account of race, creed, religion, gender, national origin, political affiliation, age, sexual orientation, disability of a member legally qualified to perform the job. City agrees that no employee shall be discriminated against because of Association membership or activity.

C. City-Association Relationship

City and Association hereby restate their joint commitment to the achievement and maintenance of a relationship built on open communication, which fosters the equitable resolution of the concerns of each party regarding wages, hours, and other terms and conditions of employment.

1. Association Security

An employee covered by this agreement and employed during the term of this Agreement shall have the opportunity to execute a Deduction Authorization Form to become and/or remain a member in good standing in the Association

The Association will be the custodian of records of the Deduction Authorization Form and will provide the City with a certification that it has and will maintain a Deduction Authorization Form signed by each individual from whose salary or wages the deduction is made.

The City will provide an opportunity for Association to address new hires during a City/Department orientation program for new employees. The Police Department will notify the Association at least then (10) days' in advance of a scheduled orientation.

The City will provide the Association with the employee information it has on file in compliance with AB 119 for all new hires in the bargaining unit within thirty (30) days of hire, as well as all employees represented by the Association when requested by the Association.

The City will provide an opportunity for Association to address new hires during a City/Department orientation program for new employees. The Police Department will notify the Association at least then (10) days' in advance of a scheduled orientation.

Subject to applicable state law, the City will begin deductions on behalf of the Association the first full payroll period after receipt of either (1) a valid payroll deduction form or (2) a written certification from the Association that it has and will maintain an authorization, signed by the individual from whose salary or wages the deduction or reduction is to be made. The City will transfer those funds to the Association within forth five (45) days of the date of collection.

The Association shall indemnify and hold harmless the City, its officers and employees, from and against any and all loss, damages, costs, expenses, claims, attorney fees, demands, actions, suits, judgments, and other proceedings arising out of any discharge action resulting from this provision.

2. Dues Deduction

Upon receipt of a written voluntary authorization from the employee, the City shall deduct, at least monthly, the amount of Association regular and periodic dues and insurance premiums as may be specified by the Association. Said deduction, together with a written statement of names and amounts deducted, shall be forwarded promptly to the Association office.

The City shall stop dues or benefit premiums, or both, upon receipt of notice only from the Association that authorization has been provided to the Association by members in the Unit.

3. Use of City Facilities

City shall reasonably make available conference rooms and other meeting areas for the purpose of holding Association meetings during off-duty time periods.

Association shall provide timely advance notice of such meetings, and agrees to pay any additional costs of security, supervision, damage, and cleanup, and shall comply with City regulations for assignment and use of such facilities.

ARTICLE II MANAGEMENT RIGHTS

A. General

The City retains and reserves all the rights, power, authority, duty, responsibility, and obligations conferred on and vested in it by its Charter and by the laws and Constitutions of the State of California and the United States of America.

The City reserves its right to determine matters outside the scope of representation.

The City reserves its right to propose changes in wages, hours, and other terms and conditions of employment not covered by this MOU, in accordance with the provisions of Charter Section 910 and this MOU.

Except as limited by Charter Section 910 and by the specific provisions of this MOU, the City retains all rights, powers, and authority granted to it by law or the Charter, including, but not limited to, the exclusive right to determine the merits, necessity, and organization of any service or activity the City may now or hereafter provide; to determine the City's mission and the mission of the Police Department and its employees and to assign work to, direct, and schedule employees; to set standards of service; to determine the methods, means, and personnel by which the City will conduct its operations; to finance City operations and to determine financing methods; to establish and enforce reasonable dress and grooming standards and to determine the style or type of City-issued apparel, equipment, and technology; and to take all actions necessary to carry out its mission and these reserved rights.

Except as expressly provided in this MOU, neither the City nor the Union concede or relinquish its rights under Charter Section 910.

ARTICLE III DIRECT PAY FOR SERVICE

A. Salary

Effective July 1, 2015, the base salary for represented employees shall be increased by four percent (4%).

Effective January 1, 2016, in recognition of an agreed upon equity adjustment, the base salary for represented employees shall be increased by two and a half percent (2.5%).

Effective January 1, 2017, in recognition of an agreed upon equity adjustment, the base salary for represented employees shall be increased by one percent (1%).

Effective May 1, 2017, the base salary for represented employees shall be increased by four percent (4%).

Effective January 1, 2018, the base salary for represented employees shall be increased by two and a half percent (2.5%).

Effective January 1, 2018, in recognition of an agreed upon equity adjustment, the base salary for represented employees shall be increased by one percent (1%).

Effective July 1, 2018, in recognition of an agreed upon equity adjustment, the base salary for represented employees shall be increased by two percent (2%).

Effective January 1, 2019, the base salary for represented employees shall be increased by two and a half percent (2.5%).

Effective 1st full pay period of July 2020, (11 July 2020) the base salary for represented employees shall be increased by two and a half percent (2.5%).

Effective 1st full pay period of July 2021 (20 July 2021) the base salary for represented employees shall be increased by three percent (3%).

Effective 1st full pay period of July 2022, (9 July 2022) the base salary for represented employees shall be increased by three and a half percent (3.5%).

Effective 1st full pay period of July 2023 (8 July 2023) the base salary for represented employees shall be increased by three and a half percent (3.5%).

B. Step Adjustment

Payment for first step classification only will be reduced by ten percent (10%) for those sworn employees hired on or after July 1, 2011.

C. Adjustments for Overpayments

In the event the City erroneously overpays a unit member, regardless of fault, the City shall recover any overpayment as follows:

The City will provide written notice to each employee when he/she receives a wage overpayment. The notice will advise the employee of the amount of overpayment and request that the employee either reimburse the City for the full amount of overpayment or consent to deduct the overpayment from the employee's paychecks. The notice shall also advise employees of the right not to consent, provided however, the City may pursue appropriate legal action.

D. Court Ordered Salary Deductions

If the City is ordered by a court of competent jurisdiction to garnish the wages of any employee or if a court of competent jurisdiction orders the City to make payroll deductions from the wages of any employee in favor of the City or a third party, the City shall assess and collect against the employee's regular salary one dollar (\$1.00) per deduction per pay period to compensate the City for the costs of making such court-mandated payroll adjustments.

E. Overtime

All bargaining unit members are exempt from overtime under the Fair Labor Standards Act. No employee shall be entitled to receive overtime compensation or compensatory time for work performed under this Memorandum of Understanding. Assignments that are reimbursable by third parties may, at the Chief's discretion, be paid at time and one-half. Bargaining unit members shall not be entitled to compensatory time for such work.

ARTICLE IV PERFORMANCE INCENTIVES

Longevity Premium Pay

At the beginning of each fiscal year during the term of this Memorandum, eligible represented employees shall receive longevity premium pay in accordance with the rates enumerated below:

	PERS	P&F
a. 7 through 9 years of service	\$2550	
b. 10 through 14 years of service	\$2950	
c. 15 through 19 years of service	\$3350	
d. 20 or more years of service	\$3750	\$1168.30

Payment shall be in a lump sum, included and paid at the same time as the uniform allowance, and added to the second payroll in July each year. Payments to be reported to CalPERS when earned to conform to CalPERS Regulations. Eligibility for receipt of special premium pay under this provision shall be determined as of the beginning of each fiscal year.

ARTICLE V RETIREMENT

A. Retirement Benefits

The City agrees to continue to contract with the Public Employees' Retirement System (CalPERS) to provide retirement benefits for eligible bargaining unit members in accordance with the Public Employees' Retirement Law and related regulations.

1. Tier One: Safety 3.0% at 50 Retirement Plan – Unit Prior to July 1, 2011

Section A.1. (including subsections) shall apply to bargaining unit members hired prior to July 1, 2011

a. 3% at 50 Retirement Plan

The 3% at 50 retirement plan will be available for each bargaining unit member covered by Section A.1.

b. Required Bargaining Unit Member Contribution

Each bargaining unit member covered by Section A.1 shall pay the full member contribution of nine percent (9%).

c. Final Compensation Based on Twelve Month Period

For the purposes of determining a retirement benefit, final compensation for bargaining unit members covered by Section A.1 shall mean the highest twelve (12) consecutive month period of compensation earnable.

2. Tier Two: Safety 3% @ 55 Retirement Plan – Unit Members Hired On or After July 1, 2011 But Before January 1, 2013 and Classic Unit Members, as Determined by CalPERS.

Section A. 2 (including subsections) shall apply to bargaining unit members hired on or after July 1, 2011 but before January 1, 2013. In addition, this Section A.2 shall apply to bargaining unit members hired on or after January 1, 2013, who are qualified for pension reciprocity as stated in Government Code Section 7522.02 (c) and related CalPERS reciprocity (Classic Members).

a. 3.0% at 55 Retirement Plan

The plan will be available for each bargaining unit member covered by Section A. 2

b. Required Bargaining Unit Member Contribution

Each bargaining unit member covered by Section A.2 shall pay the full member contribution of nine percent (9%).

c. Final Compensation Based on Three Year Average

For the purpose of determining a retirement benefit, final compensation for bargaining unit members covered by Section A.2 shall mean the highest three (3) consecutive year period of compensation earnable, as specified in Government Code 20037

3. Tier Three: Safety 2.7% At 57 Retirement Plan – Unit Members Hired On or After January 1, 2013.

Section A.3 (including subsections) shall apply to bargaining unit members who were hired on or after January 1, 2013 and who do not qualify for pension reciprocity as a Classic Member, as stated in Government Code Section 7522.02 (c)

a. 2.7% at 57 Retirement Plan

The 2.7% at 57 retirement plan will be available for each bargaining unit member covered by Section A. 3.

b. Required Bargaining Unit Member Contribution

As required by Government Code Section 7522.30, bargaining unit members covered by Section A.3 shall pay, through payroll deductions, fifty percent (50%) of normal cost.

c. Final Compensation Based on Three-Year Average

As required by Government Code Section 7522.30, for the purpose of determining a retirement benefit, final compensation for bargaining unit members covered by Section A.3 shall be based on the highest average annual pensionable compensation earned by the member during the thirty-six (36) consecutive months of service.

Employee Contribution to Employer Share

Effective January 1, 2013, all represented members shall pay the full, normal employee retirement contribution of nine percent (9%)

Effective January 1, 2016, all represented "Classic" members (as defined as Tier One and Tier Two members in Section A of this Article) shall pay two percent (2%) of the employer's share of the CalPERS pension cost. Such contributions shall be made on a pre-tax basis pursuant to section 414(h)(2) of the Internal Revenue Code and will be attributed to the employee's CalPERS account to the extent permissible by the California Public Employee Retirement Law. An additional one percent (1%) shall be effective January 1, 2017.

B. Optional Benefits

For members in all three tiers, the City will continue to maintain the current agreement with CalPERS for optional benefits in accordance with the Public Employees Retirement Law and the Public Employees Pension Reform Act of 2013.

C. Military Service Credited as Public Service

Members may elect to purchase Military Service Credit in accordance with applicable CalPERS Service Credit Purchase Options requirements.

D. Deferred Compensation Plan

Represented employees may participate in the City's established deferred compensation plan.

E. PORAC Retiree Medical Trust (RMT)

The Association will establish participation in a retiree medical trust administered by the PORAC Retiree Medical Trust (RMT), and the cost of establishing the Trust shall be at no cost to the City. The City is not a party to the Trust, aside from transferring funds, and has no obligations to the management, regulatory compliance or performance of the trust. In the event the Trust becomes insolvent or unable to pay, the City has no financial obligation to the Trust, the members or the Association.

The City will transfer a monthly pre-tax employee contribution as set by the Association for each Association member, on an ongoing biweekly basis. As each member will contribute the same predetermined dollar amount, no member election forms designating the amount will be needed, allowed or requested; and there shall be no member election available to take the member contribution amount in cash, or to determine the member contribution amount. These

contributions shall be included as salary for purpose of calculating retirement benefits.

City will contribute \$1,000.00 per Association member into an RMT in the first pay period in July of 2020. To be eligible for this payment, an OPOA member must be employed with the City on July 1, 2020.

City will contribute \$1,000.00 per Association member into an RMT in the first pay period in July of 2021. To be eligible for this payment, an OPOA member must be employed with the City on July 1, 2021

The City will comply with reasonable rules set by the PORAC RMT Trust with regard to reporting and depositing the required contributions set forth above, typically involving providing the PORAC RMT with the name, social security number and amount paid for each Association member. In the event the reporting requirement of the Trust requires reporting beyond that which the City typically provides, the City may require the Association to pay for any costs related to programing or producing such reports. Prior to engaging in any activity that could result in such an expense, the City will secure the Association's authorization.

The Association agrees to indemnify and hold the City harmless from any liabilities of any nature which may arise as a result of the operating of the PORAC RMT except for the obligation of the City to make and report the non-elective transfer of Association member contributions as described above.

The monies contributed to the Trust fund shall only be used for retiree health insurance premiums or health care expenses, as allowed by law. There shall be no Association member election/option available to take such amount in unrestricted cash.

The purpose of this trust shall be to provide for retiree health care expense reimbursement benefits. The Trust shall be and remain separate and apart from any City health insurance funding program, unless changed by mutual written agreement of the parties. The employee contributions set forth above, unless otherwise dictated by law or rules set forward by the Public Employees Retirement System (PERS), shall be included as salary for purpose of calculating pension benefits.

The City hereby acknowledges receipt of the Trust Agreement governing the Trust. The City will cooperate with the Trust in allowing a payroll audit only for the purpose of ascertaining if the proper amount of contributions have been made, and will meet with the Association within three (3) calendar days should the City make a late contribution.

F. CalPERS OPEB Trust

The reductions in retiree medical benefits for OPOA members and retirees negotiated as part of the 2018 contract extension are intended to reduce the City's retiree medical costs. Beginning in 2019 and continuing for the life of the contract, the City will contribute the difference between each year's Pay-As-You-Go retiree medical cost and the 2018 Pay-As-You-Go retiree medical cost (i.e., 2018 PayGo minus current year PayGo) to a Section 115 Trust for the payment of retiree medical benefits for OPOA members.

There will be no payment if the current year Pay-As-You-Go cost exceed the 2018 Pay-As-You-Go cost. Moreover, in the event the Actuarially Required Contribution (ARC) is less than the difference in Pay-Go amounts, the City will contribute the ARC.

[Example 1: Assume the 2018 Pay-Go amount is \$8.0 Million and the Y-1 Pay-Go amount is \$7.5 Million; the City will contribute \$500,000 into a Section 115 Trust in Y-1.]

[Example 2: Assume the 2018 Pay-Go amount is \$8.0 Million and the Y-2 Pay-Go amount is \$8.5 Million; the City is not obligated to make a contribution into the Section 115 Trust in Y-2.]

[Example 3: Assume the 2018 Pay-Go amount is \$8.0 Million and the Y-3 Pay-Go amount is \$7.5 Million, but the ARC is \$250,000; the City will contribute \$250,000 into a Section 115 Trust in Y-3.]

ARTICLE VI INSURANCE PROGRAMS

A. Insurance Programs

1. Health Insurance

The City shall make a direct contribution equal to the minimum employer contribution for agencies participating in the Public Employees' Medical and Hospital Care Act (PEMHCA) on behalf of each active employee and qualified retiree. In addition, the City shall make monthly non-elective employer contribution to the flexible benefits plan on behalf of each active employee in an amount which, together with the minimum PEMHCA equals contribution shall be an amount equal to one-hundred percent (100%) of the premium cost of employee and dependent health insurance coverage in the applicable Bay Area Kaiser (PEMHCA) plan.

An eligible unit member will be enrolled in the CalPERS PEMHCA Bay Area Kaiser Plan with employee-only coverage, unless the unit member submits an

G. CalPERS OPEB Trust

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There will be no payment if the current year Pay-As-You-Go cost exceed the 2018 Pay-As-You-Go cost. Moreover, in the event the Actuarially Required Contribution (ARC) is less than the difference in Pay-Go amounts, the City will contribute the ARC.

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[Example 2: Assume the 2018 Pay-Go amount is \$8.0 Million and the Y-2 Pay-Go amount is \$8.5 Million; the City is not obligated to make a contribution into the Section 115 Trust in Y-2.]

[Example 3: Assume the 2018 Pay-Go amount is \$8.0 Million and the Y-3 Pay-Go amount is \$7.5 Million, but the ARC is \$250,000; the City will contribute \$250,000 into a Section 115 Trust in Y-3.]

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A. Insurance Programs

1. Health Insurance

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An eligible unit member will be enrolled in the CalPERS PEMHCA Bay Area Kaiser Plan with employee-only coverage, unless the unit member submits an

Employee Benefits Enrollment form for a different PEMHCA health plan for enrollment of self and dependents, if any. The exception is if a unit member is enrolled in PEMHCA under another CalPERS member's health plan, as CalPERS does not permit dual enrollment.

Any new member, graduating from a City-sponsored police academy, who does not submit enrollment forms within thirty (30) days of eligibility, will be enrolled in the CalPERS Bay Area Kaiser Employee Only plan ("1-party") by default. During the period pending the eligible member's submittal of PEMHCA enrollment forms, the City will maintain the member's coverage through available non-CalPERS PEMHCA medical coverage for up to 30 days, after which, member will be enrolled in the default plan. If dependent information is on file, the new member will be enrolled in the default CalPERS Bay Area Kaiser for member and spouse or family coverage for member, spouse or family coverage for member, spouse, and dependent children.

Any member requesting to change from the default CalPERS Bay Area Kaiser plan, absent a qualifying life event, will be subject to the CalPERS PEMHCA enrollment waiting period of ninety (90) days, unless the plan change has been approved by CalPERS as a result of their Appeals process

Health Insurance Reopener

The parties agree that the City may request that the OPOA reopen the MOU, specifically this section A, for purposes of engaging in discussions concerning modification of the health insurance identified in section 1 hereinabove. Such reopener shall be limited and subject to the following:

- a. The reopener shall be exercised in years three or four.
- b. The reopener can only be exercised between January 1st and March 1st of each year.
- c. Any modification of section 1 hereinabove, specifically health plans, providers, premiums, or benefits are subject to mutual agreement of the parties.

2. Retiree Health Benefit – "Retention 21 Plan"

(Retiree Medical Benefit Applicable to Existing Retirees (as of 12/31/18) and Active Employees Hired on or Before December 31, 2018)

- a. Eligibility. This Section applies only to
 - i. Individuals already retired from the bargaining unit represented by OPOA and receiving City-paid retiree

medical benefits under the PEMHCA as of December 31, 2018; and

- ii. Active employees who
 - 1. were employed by the City of Oakland in the bargaining unit represented by OPOA on December 31, 2018 (i.e., with a hire date on or before December 31, 2018),
 - 2. remain employed by the City with no break in service from December 31, 2018 until retirement,
 - 3. retire directly from the City, and
 - 4. participate in the PEMHCA as retiree-annuitants.

b. Retiree Medical Benefit. For retiree-annuitants who meet the eligibility requirements of subsection (a), above, the City shall reimburse the retiree for retiree medical premiums up to the following:

- i. Effective January 1, 2019, the City will reimburse eligible retiree annuitants up to a maximum of the City's 2019 contribution towards the PEMHCA Kaiser Bay Area Two-Party Premium (inclusive of the City's direct PEMHCA contribution), as set forth below:

Pre-Medicare Eligible [Neither Annuitant or Dependent are Medicare Eligible]	1,536.50 (including City's direct PEMHCA contribution)
Medicare Eligible [Both Annuitant and Dependent are Medicare Eligible]	647.48 (including City's direct PEMHCA contribution)
Combination Eligible [Either Annuitant or Dependent (but not both) is Medicare Eligible]	1,091.99 (including City's direct PEMHCA contribution)

- ii. Beginning January 1, 2020 and thereafter, the City will reimburse a maximum of the City's 2020 contribution towards the PEMHCA Kaiser Bay Area Two-Party Premium

(inclusive of the City's direct PEMHCA contribution), as set forth below:

Pre-Medicare Eligible [Neither Annuitant or Dependent are Medicare Eligible]	Employee + 1 Monthly 2020 retiree medical contribution for Kaiser Bay Area Basic Premium.
Medicare Eligible [Both Annuitant and Dependent are Medicare Eligible]	Employee + 1 Monthly 2020 retiree medical contribution for Kaiser Senior Advantage Supplemental Plan.
Combination Eligible [Either Annuitant or Dependent (but not both) is Medicare Eligible]	Employee + 1 Monthly 2020 retiree medical contribution for Kaiser/Kaiser Senior Advantage at the "Combination Monthly Rate".

Vesting: The retiree health benefit negotiated by the parties and described in this section for existing retirees and for employees with a hire date on or before December 31, 2018 shall be fully vested in the qualified individuals and their eligible surviving beneficiaries. In consideration for the modification of the existing retiree health benefit, the parties intend to and hereby do grant a vested contractual right to a lifetime retiree medical benefit for qualified employees, retirees, and their beneficiaries. This right is independent of any statutory right pursuant to the Government Code via the City's contract for medical benefits with CalPERS.

Continuous Service Requirement. This benefit requires continuous service from December 31, 2018 until retirement. If an employee separates from employment and is rehired by the City as an employee in a bargaining unit represented by the OPOA, the employee's "hire date" for purposes of determining retiree health benefit eligibility, including the vesting described above, shall be the date of rehire (i.e., the employee shall be treated as a new hire with a hire date after December 31, 2018 and shall not be eligible for retiree medical benefits pursuant to this section).

3. Retiree Medical Benefit Applicable to Employees Hired As Oakland Police Officers After December 31, 2018

For active employees in the bargaining unit represented by OPOA with a hire date on or after January 1, 2019 (including eligible employees who separate from employment and are rehired on or after January 1, 2019) and who retire directly from the City, the City shall provide the statutory minimum PEMHCA retiree medical benefit.

In addition, the City shall reimburse retirees who meet the following requirements an additional \$425.40 for the purchase of medical coverage:

- employed by the City of Oakland in the bargaining unit represented by OPOA with a hire date on or after January 1, 2019,
- retire directly from the City of Oakland with ten (10) or more years of service as an employee in a bargaining unit represented by the OPOA, and
- participate in the PEMHCA as retiree-annuitants.

The ten (10) year vesting service requirement shall not apply to any member that is granted a service- connected disability retirement.

4. Opt in/out.

Eligible retirees, or qualified beneficiaries may elect to participate in or drop out of retiree medical coverage during any Open Enrollment period; however the employer contribution only applies for the period(s) of time that the eligible retiree or beneficiary is participating in retiree medical coverage through the City. Should a retiree or beneficiary choose not to participate in one or more years, they may opt in during subsequent Open Enrollment periods.

5. PEMHCA Participation.

The City shall maintain its contract with CalPERS to provide medical benefits for active and retired members.

B. Dental Insurance

For Department employees, OPOA will continue to provide dental insurance. Upon verification by Delta Dental the City shall contribute the amount the City would be required to pay to obtain the current benefit level under a plan covering active employees administered by the City through Delta Dental Until such time as verification is provided, the City shall continue to pay one hundred thirty six dollars and eighty-seven cents (\$136.87) per month per employee to OPOA.

Both parties agree to provide all waivers necessary to determine and verify the appropriate amount of the City's contribution. The City agrees to provide the OPOA with Delta Dental's written estimate of premiums.

The parties agree that for the purposes of establishing the dental benefit / premium obligation for the term of the MOU (2015 – 2019), that they will continue to negotiate and if no agreement is reached within 120 days, the matter will be submitted to binding arbitration.

C. Life Insurance

The City agrees to contribute the amount of twelve dollars (\$12.00) per month per represented employee toward the cost of employee life insurance coverage.

Article VII LEAVES AND HOLIDAYS

A. Management Leave

Management Leave may be granted pursuant to AI 516 (Appendix A for informational purposes).

B. Vacation Leave

1. Benefit

- a. Employee shall be credited with vacation leave from the date of his/her appointment by the City as a member of the Police Department, at the rates enumerated in subsections (i) through (iv) below. Such leave shall be at his/her base rate of pay, plus any applicable premium rate of pay and/or self-improvement incentive pay.
 - (i) One hundred twenty hours (120 hours) per year through the first ten (10) continuous years of service.
 - (ii) One hundred forty-four hours (144 hours) per year beginning with the eleventh (11th) year of service, up to and including the thirteenth (13th) continuous full year of service.
 - (iii) One hundred sixty hours (160 hours) per year beginning with the fourteenth (14th) year of service, up to and including the twentieth (20th) continuous full year of service.
 - (iv) Two hundred hours (200 hours) beginning with the twenty first (21st) year of continuous service.

b. In January of each year, vacation leave banks will be credited with an employee's entire vacation in accordance with section VI(A)(1) above, for the calendar year ahead, in January of each year. Though credited in advance for the subsequent calendar year, the vacation leave is earned and accrued on a pro rata basis throughout the year.

c. In the event that an employee separates from City service, for whatever cause (except in the case of death resulting from on-the-job injury), during the calendar year for which the annual vacation banks have been credited, such vacation bank shall be adjusted on a pro rata basis in relationship to the period of service in the final year of employment.

2. Usage

Vacation leave may be taken only upon the approval of the Chief of Police or his/her designated representative.

3. Vacation Buy Back

Employees may sell back to the City up to one hundred twenty (120) hours of accrued vacation leave each calendar year provided that:

- a. The employee has taken at least forty (40) hours of vacation leave during the preceding calendar year;
- b. The employee's remaining balance, after buy-back has occurred, is at least one (1) year's accrual at the accrual rate applicable at the time of buy-back.

C. Sick Leave

1. Definition

Sick leave is defined as a period of time taken by a bargaining unit member for the purpose of recuperation from a non-industrial injury or illness. Sick leave is a non-vested benefit and may not be cashed out or used for any purpose, except in accordance with this MOU.

2. Accrual

Effective July 1, 2008, a bargaining unit member shall earn sick leave at the rate of 3.692 hours per pay period up to a maximum of ninety-six (96) hours per calendar year. Sick leave credits may be accumulated not to exceed four hundred eighty (480) hours.

a. Transition Credit

In recognition of the transition from the sick leave program in existence prior to the implementation of this MOU, bargaining unit members will be credited with ninety-six (96) hours per year of service.

b. Sick Leave Incentive Program

Effective [July 1, 2011], fifty percent (50%) of all accrued sick leave time in members' secondary/"virtual" sick time banks shall be converted to vacation time. Once the conversion occurs, the secondary/"virtual" sick time banks shall be eliminated. Thereafter, members' sick leave bank accruals in excess of four-hundred and eighty (480) hours shall be converted annually. Such conversion shall occur no later than the first pay period in January of each calendar year. Fifty percent (50%) of the excess sick leave hours shall be converted into vacation time. Upon final separation from service, members' sick leave bank accrued balances shall be cashed out on a fifty percent (50%) basis.

3. Pregnancy Disability Leave

Pregnancy Disability Leave will be determined by an appropriate Departmental policy. In the absence of a revised Departmental policy, City Administrative Instruction No. 657 (Appendix B for informational purposes), as it may be amended from time to time, will apply. If either policy is in conflict with any provision of this MOU, the MOU shall prevail. This provision is not subject to the MOU grievance procedure.

D. Leave of Absence Without Pay

At the discretion of the Chief of Police, a permanent employee may be granted a leave of absence without pay for up to one hundred and twenty (120) calendar days.

E. Family Death Leave

1. Definition of Immediate Family

For purposes of this provision, immediate family shall be defined as mother, father, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, and mother-in-law, grandchildren in the custody of grandparents who are unit members, and domestic partners of unit members who have filed a Declaration of Domestic Partnership, in accordance with established City policy.

2. Benefit

Upon approval of the department head or his designated representative, an employee may be granted family death leave up to an amount not to exceed five (5) working days. Such leave shall not be charged against vacation or sick leave.

In order to be eligible for family death leave, an employee must have worked full time for the City for a period of three (3) consecutive months.

F. Military Leave

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA) (38 U.S.C. section 4301 *et. seq.*), an employee taking a leave of absence to perform military service is entitled to be reemployed, with reinstatement of benefits, on completion of the service, as long as the following prerequisites are satisfied:

1. With certain exceptions, the cumulative leave must not have exceeded five years;
2. The employee must have provided proper advance notice to the City of the employee's military service;
3. The employee must report back to work or submit an application for reemployment in a timely manner after conclusion of military service; and
4. The employee must not have been separated from military service with a disqualifying discharge or under other than honorable conditions.

If an employee is eligible to be reemployed, the employee must be restored to the job and benefits the employee would have attained if the employee had not been absent due to military service. An employee taking military leave retains all of his/her seniority-based benefits as if continuously employed. The employee returning from military leave is also entitled to pension benefits as if continuously employed throughout the leave period.

During a leave for military service, an employee has the right to elect to continue his/her existing health insurance plan for up to 24 months. If the employee does not elect to continue coverage during military leave, the employee retains the right to be reinstated to the City's health insurance plan when the employee is reemployed.

Although the USERRA does not require that the City pay an employee during a military leave of absence, pursuant to state law, the City will compensate employees for up to thirty (30) calendar days of paid military leave, at the normal base rate of pay for the employee's assigned classification, for each fiscal year the employee is formally ordered to active military service, so long as the employee has completed a minimum of one year of service with the City or one full year of combined active military service and City service at the time the leave is granted. (Cal. Mil. & Vet. Code section 389 *et. seq.*) An employee may elect to use accrued vacation time or personal time off in lieu of unpaid leave for the portion of military leave which is unpaid. The period of city compensation for

military may be extended by resolution of the city council. This provision shall be governed by Oakland City Council Resolution #77044, Attachment 1, in the absence of specific provisions set forth in this section.

G. Family Care and Medical Leave

The City's Family and Medical Leave policy is set forth in the City's Administrative Instruction No. 567 as may be amended from time to time. This provision is not subject to the MOU grievance procedure.

H. Holidays

1. Designated Holidays

The following days are designated as holidays:

January 1st.

The third Monday in January, known as "Martin Luther King Day."

February 12th, known as "Lincoln Day".

The third Monday in February.

March 31st, known as "Cesar Chavez Day"

The last Monday in May.

July 4th.

The first Monday in September known as "Labor Day"

November 11th, known as "Veterans Day".

The Thursday in November appointed as "Thanksgiving Day".

The Friday after Thanksgiving.

December 25th

2. Floating Holiday

The City agrees to credit each employee with eight (8) hours of compensatory leave at the beginning of each year this MOU is in effect.

3. Holiday Pay

All bargaining unit members will be paid eight (8) hours of straight time for each holiday as defined in Article VII Section H.

In addition to the straight-time holiday pay, if the member works on the holiday, the employee shall accrue one hour of extra vacation for every hour worked on a holiday.

ARTICLE VII ALLOWANCES

A. Annual Uniform Allowance

Effective the second pay roll in July 2019, the City shall provide an annual uniform allowance of one thousand two hundred dollars (\$1200.00) to represented employees covered by this Memorandum.

In the event that an employee separates from City service, for whatever cause (except in the case of death resulting from on-the-job injury), during the fiscal year for which the annual uniform allowance has been paid, such payment shall be adjusted on a pro rata basis in relationship to the period of service in the final fiscal year of employment.

The annual Uniform Allowance shall be paid in combination with Longevity Premium Pay, as a separate check.

B. Uniform Boots

An employee who becomes regularly assigned as a motorcycle officer after the effective date of this MOU shall receive one pair of approved boots which shall meet specifications set forth in the pertinent Police Department General Order.

C. Body Armor

Employees who elect to purchase body armor in-lieu-of standard City issued body armor shall receive a voucher for the cost of standard City issued body armor provided however that all body armor worn by employees and eligible for reimbursement under this provision must meet minimum safety requirements set by the City. Further, employees shall be entitled to a voucher only in accordance with the normal schedule for replacement of body armor, unless otherwise approved by the Chief of Police or his/her designee.

ARTICLE VIII SELF IMPROVEMENT INCENTIVES

City and Association recognize the importance and the desirability of creating self-improvement incentives to motivate employees to upgrade their skills and develop their careers throughout the department, resulting in mutual benefits to

the employee and to the City. It is agreed by the parties that these objectives can best be met through special training and continuing higher education. To this end, the following incentives are established. Effective July 1, 2008, these incentives will be treated as separate incentives.

A. Education Incentives

1. P.O.S.T. Management Certificate

Effective July 1, 2008, a bargaining unit member covered by this MOU who has obtained the Post Management Certificate shall receive five percent (5%) of his/her regular base salary. Employees who qualify shall be eligible beginning with the first full pay period after submission of verification of eligibility.

2. Advanced Post Certificate

Effective December 12, 2018, a permanent employee covered by this Memorandum who has obtained the Advanced Post Certificate shall receive two and one-half percent (2.5%) of his/her regular base salary. Permanent employees who qualify shall be eligible beginning with the first full pay period after submission of verification of eligibility.

3. Bachelor's Degree

Effective July 1, 2008, a bargaining unit member covered by this MOU who has obtained a Bachelor's degree from an accredited college or university shall receive an additional five percent (5%) of his/her regular base salary. Employees who qualify shall be eligible beginning with the first full pay period after submission of verification of eligibility.

4. Masters Degree

Effective July 1, 2008, a bargaining unit member covered by this MOU who has obtained a Master's degree from an accredited college or university shall receive an additional five percent (5%) of his/her regular base salary. Employees who qualify shall be eligible beginning with the first full pay period after submission of verification of eligibility.

B. Tuition Reimbursement

The City shall reimburse, upon notice of completion, an employee for the cost of a job-related academic course, approved in advance by the Chief of Police or his/her designated representative, in accordance with the following table:

GRADE REIMBURSEMENT:

- A - 100% of the cost of a course.
- B - 75% of the cost of a course.
- C - 50% of the cost of a course.

An employee failing or not completing a course, or receiving a grade lower than C, shall not be reimbursed. In the event that the course is graded on a Pass/Fail basis, reimbursement shall be made at fifty percent (50%) of the cost of the course. An employee shall be allowed to take up to two (2) courses eligible for reimbursement at any one time. The combined cost of the courses shall not exceed the cost of part-time enrollment (0-6 units) in the California State University System at the current tuition rate (semester and quarter). The employee shall be required to provide proof of registration costs at the time they seek reimbursement.

Tuition Reimbursement will be paid through regular payroll check or in a manner specified by the City.

C. Bilingual Pay

An employee who has been certified as a bilingual speaker by the Office of Personnel shall receive an additional Fifty Dollars (\$50.00) per pay period. Bilingual pay may be discontinued if and when the Chief of Police or his/her designee determines that an employee receiving bilingual pay is in an assignment that does not have significant public contact with speakers of the qualifying languages. Determinations made by the Chief of Police and his/her designee under this provision shall not be subject to the grievance procedure.

ARTICLE IX SPECIAL PROVISIONS

A. Employee Health Assistance Programs

1. Psychological Counseling

The City agrees to provide the services outlined and detailed in the attached exhibit Appendix C, for the term of this agreement. The City agrees to maintain confidentiality of medical records as provided by law. No data concerning this information or participation in any approved employee assistance program will be made part of the bargaining unit member's personnel file or will be provided to any party without the written consent of the bargaining group member.

2. Substance Abuse Treatment Program

a. Substance Abuse Counseling

The City agrees to provide the services outlined and detailed in the attached exhibit Appendix C, for the term of this agreement.

b. Confidentiality Agreement

All information obtained in the course of examination, rehabilitation and treatment of bargaining unit members with chemical dependency program shall be protected as confidential medical information. No data concerning this information or participation in any approved rehabilitation program will be made part of the bargaining unit member's personnel file or will be provided to any party without the written consent of the bargaining unit member.

c. Modification of Service Agreements

In the event that the provider(s) are unable to deliver the specific and detailed services currently identified in the contracts with the City, or the services are no longer available through any provider, the parties will meet to either modify the existing agreements or secure a new provider.

B. Physical Fitness/Exercise Physiology Program

City agrees to provide a Physical Fitness/Exercise Program for more than one-half (1/2) of all employees per year.

C. Reduction in Force

The City agrees that there will be no layoffs of members for the duration of this MOU. This provision does not apply to termination based on disciplinary proceedings.

Subject to other provisions in this section, in the event that a reduction in force is required, it shall be accomplished in accordance with the provisions of Section 9.02, Layoff Procedure of the Personnel Manual, as same existed on June 1, 1981, except with respect to paragraph (a) which is amended as follows:

a. Seniority Credit

Credit in the class of layoff shall be granted at the rate of one point for each month of service in that class or in any class higher in the Police Department in a promotional line of progression. Credit in a class that has been abolished, combined, divided or otherwise altered shall be granted at the same rate when the Personnel Director determines that such class was equal to or higher in level than the class of layoff; otherwise credit for service in such class shall be computed at the rate of one-half point per month. Service that is less than full-time shall receive seniority credit on a pro-rata basis.

In the event of a reduction in force of Deputy Chiefs, seniority shall not prevail

D. Rank Reversion

There shall be no involuntary reversions or demotions of members for the duration of this MOU. This provision does not apply to rank reversions or demotions based on disciplinary proceedings.

E. Furloughs

There shall be no involuntary furloughs of members for the duration of this MOU.

F. Annuitant Employees

Except as provided in this Section, there shall be no annuitants, per diem or hourly contract employees employed at the Oakland Police Department in positions that have traditionally been performed by sworn members for the duration of this MOU. During the term of the MOU, and expiring 24 hours prior to the term of the MOU, the Department may employ a number of retired annuitants (hereafter "RA's") for the limited and specific purpose of performing Background Investigations for Police Personnel applicants, subject to the following provisions:

1. In choosing the RA's, the Department will establish a committee to evaluate, reach out to, and hire RA's. The OPOA will have a seat on the committee.
2. The OPOA and the City will work together, even beyond the activities of the above committee, to reach out to prospective RA's to perform Background Investigations.
3. The RA's will be limited to performing Background Investigations and will not engage in any recruitment activities.

G. Patrol Schedule

For the duration of this MOU, the current 4/10 shift schedule shall be the core shift in patrol. As such, there shall be no other shift schedule considered for the duration of this MOU.

H. Personnel Files

Members of the Association shall be afforded access to their personnel files, including but not limited to supervisory notes files, pursuant to the provisions of the Public Safety Officers' Procedural Bill of Rights (Gov. Code Section 3300 *et seq.*).

I. Worker's Compensation

1. An employee that sustains an injury must notify the Medical Office within eight (8) hours of the injury. The employee must complete either an Initial Injury Packet or Declination Packet within 24 hours of injury, or as soon as reasonably possible.
2. To the extent permitted by applicable law, the City shall advise the OPMA of members who are receiving workers compensation benefits. The City shall provide such notice at a minimum of once each month.
3. The City agrees to honor the presumptives specified in and required by the California Labor Code sections 3200 through 3219 as amended and any other presumptives in the Code that apply to police officers. An individual medically diagnosed with a presumptive condition shall be placed in the ICF pay code. Provided, however, the City reserves the right to challenge such presumptive diagnosis as provided for by law. Further, the City reserves the right, as permitted by law, to recover the ICF pay code and other costs resulting from a presumptive diagnosis of an injury/illness that is subsequently determined to be non-work related. Pending the outcome of a disputed presumptive diagnosis, the affected individual shall remain in the ICF pay code.

J. Notification of Critical Incidents

Pursuant to existing Department notification procedures regarding critical incidents, the Oakland Police Department shall notify the president of the Oakland Police Officers' Association; or his/her designee of any critical incident involving a member. The notification shall not be delayed and can be made in conjunction with notifications made to the City's elected officials. For purposes of this section, a "critical incident" is one where the member has been involved in a reported level one use of force regardless of injury; a member has been in a vehicle collision that caused injury to any party, or a member required immediate hospitalization. Such notification shall occur via telephone call to the president or his/her designee.

ARTICLE X GRIEVANCE PROCEDURE

A. Definition

A grievance is hereby defined as any dispute which involves the interpretation or application of this MOU, or disciplinary action taken against an employee, or controversy concerning the application of Departmental rules or general orders which are within the scope of bargaining.

It is the expressed intent of the parties that employees shall receive fair treatment and shall be disciplined only for just cause. The Department/City shall thoroughly and adequately investigate all allegations and comply with the members' due process rights. Grievances shall be resolved expeditiously and at the lowest possible administrative level. No grievance filed by an employee, pursuant to the provisions of this Article, may be resolved inconsistent with the terms of this MOU.

Members holding the rank of Deputy Chief shall be allowed to avail themselves of the grievance procedure except in the reduction of rank to prior rank.

B. Election of Grievance Appeal Process

Disciplinary action, defined as written reprimand, suspension or termination, imposed upon an employee may be appealed through the Grievance Procedure as set forth in Section C of this Article. Alternatively, and only in the case of a suspension, fine, demotion, or disciplinary discharge, the affected employee may submit his/her appeal directly to the Civil Service Board in accordance with Section 3, Subsection 6, of the Personnel Ordinance (Ordinance No. 8979 C.M.S. as amended). This provision does not preclude an appeal of a written reprimand to arbitration pursuant to Section C of this Article. Nothing in this MOU is intended to limit individual employee rights and alternate appeal processes under the PSOBR.

C. Procedure

1. Step 1 -- Submission

The employee or Association representative may submit the grievance, in writing to the Chief of Police. The grievance shall state the specific section of the Memorandum of Understanding or departmental rules or general orders alleged to be violated, or the disciplinary action taken, and the proposed solution. The Chief shall render a decision in writing to the employee and/or Association within seven (7) calendar days of receipt of the formal submission of the grievance. Copies of all written grievances filed by employees shall be provided to the Association within a period not to exceed five (5) calendar days.

2. Step 2 -- Appeal to Director of Personnel

Should the grievance remain unresolved, the employee or Association representative may, within seven (7) calendar days after receipt of the Chief's response, submit the grievance in writing to the Director of Personnel. The Director of Personnel, or a designated representative shall contact the employee or representative within seven (7) calendar days of receipt of the grievance to schedule a meeting to attempt to resolve the dispute. The Employee Relations

Officer or designee shall respond in writing to the grievance within fifteen (15) days after any attempt to resolve the dispute is complete.

3. Step 3 -- Civil Service Board/Arbitration

Should the grievance remain unresolved, either the City or the Association may, within fourteen (14) calendar days of the second step response, submit the grievance to an impartial arbitrator who shall be selected by mutual agreement or, if such agreement is not reached, by alternately striking names from a list of seven (7) arbitrators, the parties will request a list from the California State mediation and Conciliation Service.

In accordance with Civil Service Rules, the employee or Association may elect to submit a grievance concerning a suspension, fine, demotion or discharge to the Civil Service Board in lieu of arbitration. Such election is irrevocable.

If arbitration is selected, it is agreed that the decision of the arbitrator shall be final and binding on all parties and that the arbitrator's fees shall be borne equally by the parties. It is expressly understood that the arbitrator shall have no power or authority to add to or subtract from the provisions of this MOU or departmental rules or general orders; provided that, if any inconsistency between this MOU and any of the foregoing rules or orders exists, this MOU shall prevail.

Unless otherwise agreed to by the employee, in writing, all meetings and hearings for any disciplinary matter shall be private and confidential, and shall include only the parties and exclusive representatives.

D. Time Limits

Time limits prescribed in Section C above may be modified by mutual agreement of the City and Association. Failure by the employee or Union to follow time limits, unless so extended, shall nullify the grievance. Failure by the City to follow the limits, unless so modified, shall cause the grievance to advance to the next step.

Steps One and Two may be waived by mutual agreement between the Association and the Department.

ARTICLE XI RESOLUTION – FULL UNDERSTANDING NON-NULIFICATION AND DURATION

A. Resolution

It is understood that this Memorandum or any part thereof is not binding upon the City until and unless adopted by ordinances or resolutions of the City Council. This Memorandum of Understanding resolves in full, for its duration, all issues between the parties concerning wages, hours, and other terms and conditions of employment.

B. Full Understanding

The terms and conditions contained in this MOU represent the full, complete, and entire understanding of the parties of matters within the scope of representation. In addition, this MOU terminates and supersedes all practices, agreements, procedures, traditions, and rules and regulations inconsistent with any matters specifically covered in this MOU.

C. Waiver

The City and the Union expressly waive the right to meet and negotiate with respect to any subject covered in this MOU. Although nothing in this MOU precludes the parties from mutually agreeing to meet and confer or negotiate on any subject within the scope of representation during the term of this MOU, neither party may require the other party to meet and confer or negotiate on the subject matter covered by this MOU. This provision shall not apply to matters covered by the provision entitled "Modification" in Section D below.

D. Modification

The parties to this MOU intend that ordinances, resolutions, rules, and regulations enacted or revised by this MOU shall be administered and observed in good faith. When the Department proposes to change any subject within the scope of representation but not covered or waived in this MOU, the Department will provide the Union with notice of the proposed change at least seven (7) days prior to implementation of the proposed change. If the proposed change materially impacts any matter within the scope of representation, the parties agree to meet and confer or negotiate over the impact. If no agreement is reached within thirty (30) calendar days after the request to meet and confer, either party may declare impasse. In the event of impasse, the parties will resolve the matter pursuant to the impasse procedures of the City Charter.

Either party, in its sole discretion, shall notify the other if it desires expedited arbitration within fifteen (15) days after declaration of impasse. An arbitrator to hear such case shall be selected by the parties from a panel of four professional

neutral arbitrators to be determined by the parties. The arbitrator must conclude a single day arbitration hearing and issue a decision within sixty (60) calendar days of the date of selection. The timelines or length of hearing may be shortened or extended by mutual agreement or upon an arbitrator's ruling on a request for an order shortening or extending time.

E. Non-Nullification Clause

If any provision of this MOU should be held invalid or restrained by operation of law or by any court of competent jurisdiction, the remainder of this MOU shall not be affected thereby.

F. Duration

The provisions of this MOU shall become effective July 1, 2015 and shall remain in effect until the expiration date of June 30, 2024. Provisions of this MOU shall not be retroactive, unless expressly provided herein.

G. Equitable Concessions

Concessions in this MOU made by the Association in July of 2011 were, and continue to be, contingent upon all other bargaining units in the City of Oakland making concessions of equal or greater value.

H. 2011 Concessions


Concessions in this MOU shall be non-precedential and shall not be introduced in any future collective bargaining or interest arbitration for any purpose by either party. The provisions of this MOU shall not be subject to change in the event the City declares a fiscal emergency.

Should the City Council or any other council committee support, endorse, sponsor, calendar or vote to place on the ballot any measure to eliminate or modify existing provisions of the City Charter Section 910 as it applies to the Association, the economic concessions made in 2011 and identified in this MOU will be null and void for the term of this MOU. In such case, the terms and conditions of the MOU in existence in May of 2011 will control.

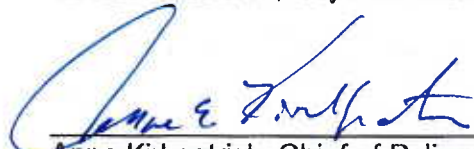
The Oakland City Council approved this Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association per Resolution No. 87430 on November 27, 2018

FOR THE CITY OF OAKLAND

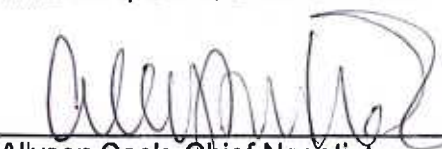
FOR THE OAKLAND POLICE
MANAGEMENT ASSOCIATION





Sabrina Landreth, City Administrator


Barry Donelan, President

Anne Kirkpatrick, Chief of Police

Daren Allison, PMA Representative

Allyson Cook, Chief Negotiator
Director of Employee Relations

Rockne A. Lucia, Jr. Chief Negotiator

Ryan Richardson, Deputy City Attorney
(Approved as to Form Only)

7/8/2019

APPENDIX A

CITY OF OAKLAND ADMINISTRATIVE INSTRUCTION



SUBJECT	Management, Professional/Special & Executive Leave	NUMBER	516
REFERENCE	Ordinance No. 12903 C.M.S. and Ordinance No. 12918 C.M.S.	EFFECTIVE	June 1, 2016
SUPERSEDE	AI 516 Dated June 1, 2010		

I. PURPOSE

This Administrative Instruction sets forth the policies and procedures for awarding Management/ Special Leave and Executive Leave to eligible employees, in accordance with the Memoranda of Understanding (MOU) between the City and the respective bargaining units; and City Council Ordinances No. 12903 C.M.S. and No. 12918 C.M.S.

II. POLICY

MANAGEMENT OR PROFESSIONAL/SPECIAL LEAVE. In accordance with the respective MOU's and the relative "unrepresented" units UK1, UK2, UP1, UN1, UN2, UR1, UU1, and U51, Management or Special Leave is a paid leave, fringe benefit that may be awarded to employees. Management or Special Leave, unless otherwise noted, is granted on the first pay period of the fiscal year, based upon the employee's work/performance during the prior fiscal year. This award may be granted to an individual for two reasons: (a) leave in lieu of overtime hours worked and/or (b) leave for superior performance. A total of ten (10) days maximum may be granted each fiscal year (this amount is prorated for employees hired after the start of the preceding fiscal year).

CASH OUT. Up to ten (10) days of Management Leave can be cashed out for unrepresented units (UK1, UK2, UP1, UN1, UN2, UR1, UU1, and U51) each fiscal year. Represented units Management Leave can be cashed out each fiscal year in accordance with the respective MOU's. Management Leave not used or cashed out will be carried forward to the next fiscal year, subject to limitations per employees respective MOU.

EXECUTIVE LEAVE. Per Ordinance No. 12903 C.M.S. Executive Leave is a paid leave, fringe benefit that the City Administrator may award as a hiring incentive to new agency or department heads. Executive Leave may be awarded for up to ten (10) days and must be documented in a hiring agreement, a copy of which shall be kept in the employee's personnel file.

Executive Leave must be used in the year in which it is awarded, although the provisions of Ordinance No. 12903 C.M.S. and Ordinance No. 12918 C.M.S. allow the City Administrator to permit an employee to carry over Executive Leave for up to two years from their date of hire if the employee is not able to use the leave because the employee's services are or were needed on a time-sensitive or urgent project.

*Exempt Limited Duration employees assigned to the respective MOU or listed unrepresented units will be eligible to receive Management, Professional/Special or Executive Leave.

APPENDIX A

Management, Special & Executive Leave

AI 516

III. TERMS & DEFINITIONS

A. MANAGEMENT OR SPECIAL LEAVE

- Management or Special Leave Eligibility Period

The eligibility period for Management or Special Leave is July 1st through June 30th. An employee's award is based on overtime worked and superior performance during the eligibility period and is awarded every first pay period of the following fiscal year.

- Management or Special Leave in Lieu of Overtime

May be granted based upon the respective MOU or this section as follows: on the first pay period of the fiscal year from zero (0) to five (5) days based upon the prior year's work schedule, and upon the recommendation of the Department/Agency Head, with final approval from the City Administrator.

If the employee was hired after July during the fiscal year, the following proration schedule applies to Management or Special Leave awards:

<u>Date of Hire between:</u>	<u>Days Awarded:</u>
July 1 and Sept. 12	3
Sept. 13 and Nov. 24	4
Nov. 25 and Feb. 7	3
Feb. 8 and Apr. 19	2
Apr. 20 and Jun. 30	1

If an employee resigns during the fiscal year for any reason, he/she will receive any prorated Management or Special Leave based on the following proration schedule:

<u>Date of Resignation between:</u>	<u>Days Awarded:</u>
July 1 and Aug. 15	1
Aug. 16 and Nov. 15	2
Nov. 16 and Feb. 15	3
Feb. 16 and Apr. 30	4
May 1 and Jun. 30	5

If an individual's employment is terminated (excluding layoff/reduction in workforce) prior to July 1st and during the fiscal year for any reason, he/she will not be awarded any Management or Special Leave for that fiscal year.

- Management or Special Leave for Superior Performance

May be granted based upon the respective MOU or this section as follows: If the employee has sustained performance at a superior level the prior fiscal year and the employee's performance appraisal of April 30th of that year supports it, an additional zero (0) to five (5) days of Management or Special Leave may be granted on the first pay period of the fiscal year at the discretion of the Department/Agency Head and with approval of the City Administrator.

APPENDIX A

Management, Special & Executive Leave

AI 516

If the employee was hired during the fiscal year, the award for **Superior Performance** should not exceed the following proration schedule (awarded retroactively on the first pay period of the fiscal year):

<u>Date of Hire between:</u>	<u>Days Awarded:</u>
July 1 and Sept. 12	5
Sept. 13 and Nov. 24	4
Nov. 25 and Feb. 7	3
Feb. 8 and Apr. 19	2
Apr. 20 and Jun. 30	1

If an employee resigns during the fiscal year for any reason, he/she will receive any prorated Management or Special Leave based on the following proration schedule:

<u>Date of Resignation between:</u>	<u>Days Awarded:</u>
July 1 and Aug. 15	1
Aug. 16 and Nov. 15	2
Nov. 16 and Feb. 1	3
Feb. 2 and Apr. 30	4
May 1 and Jun. 30	5

If an individual's employment is terminated (excluding layoff/reduction in workforce) prior to July 1st and during the fiscal year for any reason, he/she will not be awarded any Management Leave for that fiscal year.

B. EXECUTIVE LEAVE

- Executive Leave as a Hiring Incentive

Per Ordinance No. 12903 CMS, may be awarded to new agency or department heads at the time of hire and memorialized in a written hiring agreement maintained in the employee's personnel file. Leave may be awarded for zero (0) to ten (10) days as an incentive for new executive management employees. Executive Leave is awarded at the sole discretion of the City Administrator.

- Use of Executive Leave

Executive Leave must be used in the year in which it is awarded or it will be forfeited unless the City Administrator allows an employee to carry over Executive Leave for a maximum of two years from the employee's date of hire if the employee is not able to use Executive Leave because the employee's services are or were needed on a time-sensitive or urgent project. The determination must be in writing and a copy of the determinations must be placed in the employee's personnel file. A separate determination must be made for each employee and for each fiscal year for which the leave balance is being carried forward.

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IV. PROCEDURES

Responsible Party

Payroll Unit

Action

1. Enters Management or Special Leave award of Zero (0) to five (5) days (or prorated amount based on the date of hire) into Oracle Payroll system for all employees during the first pay period of the fiscal year.

2. Each year, distributes a report to each Department Head that provides (a) the current Management or Special Leave balances for its employees; (b) a Management or Special Leave Worksheet displaying all employees within the organization who are eligible for Management or Special Leave and the maximum possible award days for each eligible employee; and (c) the prior year's Management or Special Leave award for eligible employees.

3. Instructs Department Heads to indicate their recommendation for awarding eligible employees leave (a) in lieu of overtime, and/or (b) for superior performance, and to forward recommendations to the City Treasurer for review.

4. Upon receipt of the City Administrator's approval of employees to whom Management or Special Leave is to be granted, enters Management and Special Leave awards into the Oracle Payroll system. Awards will be available during the first pay period in the fiscal year.

5. Enters Executive Leave award into the Oracle Payroll system upon receipt of written hiring agreements that specify the Executive Leave awarded.

Department Head

1. Review reports provided by Payroll Unit of outstanding Management or Special Leave balances and informs employees of amounts remaining to be taken or cashed out.

2. Reviews Payroll reports of department employees eligible to receive Management or Special Leave. Makes recommendation for current year award for the two types of Management or Special Leave, provides copies of current year performance appraisals to support "Superior Performance" leave awards, and submits to the Treasury Bureau for review.

Treasury Bureau/
Payroll Unit

1. Review Department Heads' recommendations for Management or Special Leave awards.

- a) Ensures compliance with MOUs, City Ordinances, and this Administrative Instruction;

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- b) Ensures that eligible employees' current year performance appraisals support "Superior Performance" Management or Special Leave awards;
- c) Annotates any concerns on the form provided by Department Heads; and
- d) Forwards reviewed forms to the City Administrator's Office.

City Administrator

1. Approval of all Management or Special Leave awards, based on Department Heads' recommendations and City Treasurer review; forwards lists to Payroll Unit for processing.

2. Provides written authorization if it is determined that an employee may carry over Executive Leave in accordance with the provisions of Ordinances No. 12903 C.M.S. and No. 12918 C.M.S.

V. ADDITIONAL INFORMATION

Any leave that an eligible employee takes without pay for more than a month is deducted from the total Management or Special Leave eligibility period, and may result in prorating.

Additional information available in employee's respective Memorandum of Understanding.



SABRINA LANDRETH
City Administrator

APPENDIX B



CITY OF OAKLAND ADMINISTRATIVE INSTRUCTION

SUBJECT: Family Care and Medical Leave, Pregnancy
Disability Leave, and Paid Family Leave

NUMBER: 567

REFERENCE:

**EFFECTIVE
DATE:** August 3, 2004

SUPERSEDES: AI 567 dated February 5, 1994

I. POLICY

Employees may take unpaid family care and medical leave as prescribed in the federal Family and Medical Leave Act of 1993 ("FMLA") and the California Family Rights Act of 1991, as amended ("CFRA"). Implementation of this Article is governed by the FMLA and the federal regulations adopted at 29 C.F.R. Part 825 and by the CFRA and the state regulations adopted at California Code of Regulations, Title 2, division 4, sections 7297.0-7297.11.

II. PURPOSE

The purpose of this Administrative Instruction is to establish City of Oakland policy, procedures and responsibilities regarding Family Care and Medical Leave, Pregnancy Disability Leave and Paid Family Leave.

III. DEFINITIONS

A. Eligibility

To be eligible for family care and medical leave, on the date on which leave is to begin, an employee must have been employed by the City for at least 12 months, and have been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. (29 C.F.R. §825.110, Government Code §12945.2[a])

1. For the purposes of meeting the 1,250 hours of service eligibility test of this Article, the determining factor is the number of hours an employee has worked for the City within the meaning of the Fair Labor Standards Act of 1938 [FLSA] (29 U.S.C. 297), (29 C.F.R. §825.110[c]; [see 29 C.F.R. §785 for FLSA])

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B. Family Care and Medical Leave Entitlement

Subject to the provisions of these administrative regulations and state and federal law, an eligible employee is entitled to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

1. The birth of a child and to care for the newborn child;
2. The placement with the employee of a child for adoption or foster care by the employee. (29 C.F.R. §825.200[a], §825.112[a]; Government Code §12945.2[c][3]);
3. To care for the employee's child, parent, or spouse who has a serious health condition; (See 29 C.F.R. §825.113 and 2 C.C.R. §7297.0 for definitions; Government Code §12945.2[c][1]);
4. To care for the employee's domestic partner who has a serious health condition and the employee has filed a Declaration of Domestic Partnership in accordance with established City policy;
5. Because of an employee's own serious health condition that makes the employee unable to perform the functions of the employee's position, except for disability on account of pregnancy, childbirth, or related medical conditions, which are covered by pregnancy disability leave. (Government Code §12945.2[c][3][c]; see 29 C.F.R. §825.114-115 for definitions of "serious health condition" and "unable to perform the functions of the employee's position" and Government Code §12945.2[c][8])
 - a. For family care and medical leave purposes, the "12-month period" in which the 12 weeks of leave entitlement occurs shall be defined as a "rolling" 12-month period measured backward from the date the employee uses any family care and medical leave.
 - b. "Twelve workweeks" means the equivalent of 12 of the employee's normally scheduled workweeks. For eligible employees who work more or less than five days a week, or who work on alternative work schedules, the number of working days that constitutes "12 workweeks" is calculated on a pro rata or proportional basis.
 - c. "Serious health condition" means an illness, injury (including on-the-job injuries), impairment, or physical or mental condition of the employee or a child, parent, spouse, or domestic partner of the employee, which involves either:

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- i. inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential health care facility; or
- ii. continuing treatment or continuing supervision by a health care provider, as described in detail in the FMLA and its implementing regulations.

C. Minimum Duration of Leave

1. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason, rather than for one continuous period of time. (29 C.F.R. §825.203[a])
2. Reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. (29 C.F.R. §825.203[a])
3. Minimum Duration of Leave Taken for Serious Health Condition of a Parent, Child, Spouse, or Domestic Partner or for the Serious Health Condition of the Employee

Subject to the provisions of this Article, an employee may take family care and medical leave intermittently or on a reduced leave schedule to care for a sick spouse, parent, child, or domestic partner when medically necessary or for the employee's own serious health condition when medically necessary. (2 C.C.R. §7297.3[d], [e])

- a. The following conditions must be met for an employee to take family care and medical leave on an intermittent or a reduced leave schedule under this section:
 - i. there must be a medical need for leave (as distinguished from voluntary treatments and procedures);
 - ii. the medical need can be best accommodated through an intermittent or reduced leave schedule; and
 - iii. the employee must provide certification of the medical necessity of intermittent leave or leave on a reduced schedule. The certification of a serious health condition required below meets this requirement. (29 C.F.R. §825.117)
4. Minimum Duration for Leave Taken for the Birth, Adoption, or Foster Care Placement of a Child

Family care and medical leave taken because of the birth, adoption, or foster care placement of a child of the employee does not have to be taken in one continuous period of time. Any leave(s) taken shall be concluded within one year of the birth or adoption or foster care placement of the child with the employee. The

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basic minimum duration of the leave shall be two weeks. However, the City shall grant a request for a leave of less than two weeks duration on any two occasions. (2 C.C.R. §7297.3[d])

5. Leaves shall be taken in increments of at least one hour. Only the amount of leave actually taken will be counted toward the 12 weeks of leave to which an employee is entitled. (29 C.F.R. §825.203[d], 29 C.F.R. §825.205, see also 2 C.C.R. §7297.3[c][2] and [e])
6. Employees needing intermittent leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the City's operations. (29 C.F.R. §825.117)
7. The City may, at its discretion, assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule, as determined by the City. (29 C.F.R. §825.117, 29 C.F.R. §825.204)

IV. PAY STATUS AND BENEFITS

A. Except as provided in this section, the family care and medical leave will be unpaid. The City will continue to provide and pay for group health benefits during the period of leave on the same basis as coverage would have been provided had the employee been continuously employed during the entire leave period. (29 C.F.R. §825.207, 29 C.F.R. §825.209; Government Code §12945.2[d], [e], [f]; 2 C.C.R. §7297.5[c])

1. The employee will be required to continue to pay the employee's share of premium payments, if any. An employee's premium payment for the entire period of the unpaid leave is due before the leave begins. (29 C.F.R. §825.210, 29 C.F.R. §825.210[a] and [e])
2. The City's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than 30 days late. (29 C.F.R. §825.212[a] and [c]; Government Code §12935[a], 12945.2), 2 C.C.R. §7297.5[f])
3. As permitted by law, the City will recover from an employee its share of health plan premiums during a period of unpaid family care and medical leave if the employee fails to return to work after the employee's family care and medical leave entitlement has expired, if the employee's failure to return to work is not due to the employee's own serious health condition or to circumstances beyond the employee's control. (Government Code §12945.2[f], 2 C.C.R. §7297.5; §825.212 and 29 C.F.R. §825.213)

B. Other Benefits

While on unpaid family care and medical leave, an employee will not accrue seniority, sick leave, vacation leave, or retirement credit. (2 C.C.R. §7297.5[d]; Government Code §12945.2[f][2])

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C. Relationship of Unpaid Family Care and Medical Leave to Other Leaves

1. Use of Paid Leave

When an employee takes family care and medical leave because of the employee's own serious health condition, he/she shall be required to use all but 10 days of his/her accrued sick leave.

An employee may choose to use any accrued sick leave, vacation or other accrued paid personal time off that the employee is otherwise eligible to use during the otherwise unpaid family care and medical leave.

2. Concurrent Use of Leave

Any leave of absence that qualifies as family care and medical leave, and is designated by the City as family care and medical leave, will be counted as running concurrently with any other paid or unpaid leave to which the employee may be entitled or required to use for the same qualifying reason under a memorandum of understanding, City policy, or state law. (Government Code §12945.2[e]; 29 C.F.R. §825.207, §825.208; 29 C.C.R. §7297.5)

3. Workers' Compensation Leave

The City may count any time off for an employee's on-the-job injury against the employee's family care and medical leave entitlement when the employee's injury meets the criteria for a serious health condition; however, an employee's accrued paid leave may not be substituted for any part of an FMLA leave that is also a workers' compensation leave. (29 C.F.R. §825.207[d][2], also, §825.210[f], §825.216[d], §825.2209[d], §825.307[a][1])

4. Relationship to Pregnancy Disability Leave

The family care and medical leave provided under this section is in addition to any leave taken on account of pregnancy, childbirth, or related medical conditions for which an employee may be qualified under state law and described in City policy or relevant memorandum of understanding. (Government Code §12945.2, §12935[a]; 2 C.C.R. §7297.6)

5. California Paid Family Leave ("PFL")

Beginning on July 1, 2004, employees on FML in order to care for a family member or bond with a child, and who are eligible for State Disability Insurance (SDI), may apply for Paid Family Leave benefits (six weeks of partial wage replacement) through the Family Temporary Disability Insurance program, which is administered by the State Disability Insurance program.

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- a. PFL must be taken concurrently with Family Medical Leave. PFL does not entitle employees to job protection, beyond that provided under FML.
- b. Employees must be off work for seven calendar days and use two weeks of vacation leave, if it has been accrued, before PFL benefits begin. (Employees need not have worked any minimum amount of time to qualify for PFL.)
- c. PFL does not give an employee any additional rights under CFRA or FMLA. Employees whose employment is governed by a collective bargaining agreement that addresses Family Medical Leave may have additional entitlements and rights pursuant to that Agreement.

V. NOTICES TO CITY

- A. An employee should request a family care and medical leave by submitting a completed Family Care and Medical Leave application and a Health Care Provider Certification form to the employee's department personnel representative.
 1. The employee must provide written notice to the City as far in advance of the leave as possible and as soon as the employee reasonably knows of the need for the leave. If the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the notice must be provided at least 30 calendar days in advance of the leave. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.
 2. The written notice must inform the City of the reasons for the leave, the anticipated duration of the leave, and the anticipated start of the leave. The employee should use the City's Family Care and Medical Leave application whenever possible. (29 C.F.R. §825.302; 2 C.C.R. §7297.4)
 3. If an employee fails to give 30 calendar days notice for foreseeable leave with no reasonable excuse for the delay, the City may deny the family care and medical leave request until at least 30 calendar days after the date the employee provides notice to the City of the need for family care and medical leave. (29 C.F.R. §825.304[b])
 4. The employee shall consult with the City and make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruption to the City's operations. Scheduling, however, shall be subject to the approval of the health care provider of the employee or the employee's child, parent, spouse, or domestic partner. (2 C.C.R. §7297.4 [a][2])

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B. Medical Certification

1. An employee's request for family care and medical leave to care for a child, a spouse, a domestic partner, or a parent who has a serious health condition shall be supported by a certification issued by the health care provider of the individual requiring care. If additional leave is required after the expiration of the time originally estimated by the health care provider, the employee shall provide the City with recertification by the health care provider. (Government Code §12945.2[j]; 29 C.F.R. §825.305-306; 2 C.C.R. §7297.11, §7297.0[a])
2. An employee's request for family care and medical leave because of the employee's own serious health condition shall be supported by a certification issued by the employee's health care provider. (Government Code §12945.2[k])
3. As a condition of an employee's return from leave taken because of the employee's own serious health condition, the employee is required to obtain certification from his/her health care provider that the employee is able to resume work. (29 C.F.R. §825.310)
4. Employees are required to use the "Certification of Health Care Provider or Practitioner" form available from the City to meet the certification and recertification requirements of this policy. In addition, for the "fitness for duty" certification required under Article V B-3 above, the City may provide the health care provider with the City's customary "fitness for duty" forms, which may include a job position description and a list of the job position's essential functions.
5. If the City has reason to doubt the validity of the certification provided by an employee for the employee's own serious health condition, at the City's discretion and expense the City may require that the employee obtain the opinion of a second health care provider designated or approved by the City in accordance with the appropriate statutory provisions. At the City's discretion and expense, the City may also require the opinion of a third health care provider, in accordance with the appropriate statutory provisions, in the event that the second opinion differs from the opinion in the original certification. At the employee's request, the City shall provide the employee with copies of any second and third medical opinions. (Government Code §12945.2[k]; 29 C.F.R. §825.307-308; 2 C.C.R. §7297.4[b][2])
6. Under this Article, "health care provider" means a health care provider as defined in federal and state regulations implementing the FMLA and the CFRA. (29 C.F.R. §825.11; 2 C.C.R. §7297.1[j])
7. In cases of adoption or foster care placement, the employee must provide written verification, such as an adoptive home study, an adoption placement agreement, or a juvenile court order.

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8. An employee shall provide any health care certification or recertification or adoption/foster care verification required by the City under this AI within 15 calendar days of the City's request, unless it is not practicable for the employee to do so despite the employee's good faith efforts. An employee's failure to submit a required certification, recertification, or verification can result in a denial or delay of leave approval.

VI. CITY RESPONSE TO LEAVE REQUEST

It is the City's responsibility to designate leave, paid or unpaid, as family and medical leave-qualifying and to notify the employee of the designation. The City shall respond to the leave request as soon as practicable and no later than 10 calendar days after receiving the request. (2 C.C.R. §7297.4[a][6])

A. Parents' Dual Employment

Where both parents are entitled to family care and medical leave and both are City employees, allowable leave for the birth, adoption, or foster care placement of their child is limited to a total of 12 workweeks in a 12-month period between the two employees. Their family care and medical leave entitlement is not limited or combined for any other qualifying purpose. (2 C.C.R. §7297.1[c])

B. Employee's Status on Returning from Leave

Except as provided by law, on a timely return from family care and medical leave an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee has no right to return to the same position. An employee has no greater right to reinstatement than if the employee had been continuously employed during the leave period. The leave shall not constitute a break in service for purposes of longevity or seniority under any memorandum of understanding, City policy, or any employee benefit plan. (Government Code §12945.2[g]; 29 C.F.R. §825.214-219; 2 C.C.R. §7297.5[f])

VII. PREGNANCY DISABILITY LEAVE AND BONDING LEAVE

- A. Pregnancy disability means that, in the opinion of her health care provider, an employee is unable because of pregnancy to work at all or is unable to perform any one or more of the essential functions of her job or to perform those functions without undue risk to herself, the successful completion of her pregnancy, or to other persons. Pregnancy disability also includes severe "morning sickness" and time off needed for prenatal care.

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1. Duration of Leave

- a. An employee is entitled to up to four months of leave for the period(s) of time the employee is actually disabled by pregnancy, childbirth, or related medical conditions.
- b. Pregnancy disability leave may be taken as needed intermittently or on a reduced work schedule when medically advisable, as determined by the employee's health care provider. Only the amount of leave actually taken may be counted toward the four months of leave to which the employee is entitled.

2. Eligibility for Leave

There is no length-of-service requirement before an employee disabled by pregnancy is entitled to a pregnancy disability leave.

B. Transfer

The City will grant the transfer request of an employee affected by pregnancy to a less strenuous or hazardous position or to less strenuous or hazardous duties if both of the following conditions are met:

1. The employee's request is based on her health care provider's certification that a transfer is medically advisable; and
2. The City can reasonably accommodate a transfer. Any duty assignments resulting from an approved transfer request under this section will be determined by the City Manager or the City Manager's designee.

C. Eligibility for Transfer

There is no length of service requirement before an employee affected by pregnancy is eligible for a transfer under this section.

1. Transfer to Accommodate Intermittent Leave or a Reduced Work Schedule

If it is medically advisable for an employee to take intermittent leave or leave on a reduced work schedule and it is foreseeable based on planned medical treatment because of pregnancy, the City may require the employee to transfer temporarily to an available alternative position. This alternative position must have the equivalent rate of pay and benefits, the employee must be qualified for the position, and it must better accommodate recurring periods of leave than the employee's regular assignment. The temporary assignment does not have to have equivalent duties. Transfer to an alternative position may include altering an existing job to accommodate better the employee's need for intermittent leave or reduced work schedule.

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2. Right to Reinstatement After Transfer

When the employee's health care provider certifies that there is no further medical need for the transfer, intermittent leave, or leave on a reduced work schedule, the employee must be reinstated to her same or comparable position in accordance with Article VII F.

3. Requesting Leave or Transfer

- a. An employee shall provide at least verbal notice sufficient to inform the City of the employee's need for pregnancy disability leave or transfer, and the leave's/transfer's anticipated timing and duration.
- b. An employee must provide at least 30 days advance notice before the leave/transfer is needed if the need for the leave or transfer is foreseeable. If 30 days advance notice is not practicable, for example because the employee does not know approximately when the leave/transfer will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.
- c. The employee shall consult with the City and make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruptions to the City's operations. Scheduling, however, shall be subject to the employee's health care provider's approval.
- d. The City shall respond to the request as soon as practicable and in any event no later than 10 calendar days after receiving the request. The City will try to respond to the leave request before the date the leave is due to begin. Once given, approval shall be deemed retroactive to the date of the first day of the leave.

D. Medical Certification

1. A request for a pregnancy disability leave or transfer must be supported by medical certification.
2. A medical certification for a pregnancy disability leave is sufficient if it contains:
 - a. The date the employee became disabled due to pregnancy;
 - b. The probable duration of the period(s) of disability; and
 - c. An explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.

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3. A medical certification indicating that it is medically advisable for the employee to be transferred to a less strenuous or hazardous position or to less strenuous or hazardous duties is sufficient if it contains:
 - a. The date the need to transfer became medically advisable;
 - b. The probable duration of the period(s) of the need for the transfer; and
 - c. An explanatory statement that, due to the employee's pregnancy, the transfer is medically advisable.

E. Terms of Pregnancy Disability Leave

1. A pregnancy disability leave is unpaid except that an employee shall be required to use all but 10 days of her accrued and accumulated sick leave during the otherwise unpaid pregnancy disability leave. An employee may choose to use any accrued sick leave, vacation, or other accrued paid personal time off that the employee is otherwise eligible to use during the otherwise unpaid pregnancy disability leave.
2. During unpaid pregnancy disability leave, the employee is entitled to accrue seniority and to participate in all employee benefit plans to the same extent and under the same conditions as would apply to any other unpaid disability leave under established City policy or memorandum of understanding.
3. During any portion of a pregnancy disability leave that an employee is using other accrued paid leave, the employee is entitled to accrue seniority and to participate in all employee benefit plans to the same extent and under the same conditions as apply to any paid sick leave, vacation, or other paid time off under established City policy or memorandum of understanding.
4. During any portion of a pregnancy disability leave that is also an FMLA leave, the City will continue to provide and pay for group health benefits on the same basis as coverage would have been provided had the employee been in paid status. When the employee has exhausted any FMLA portion of the leave and the employee continues on unpaid pregnancy disability leave only, the employee's entitlement to continued health benefit coverage will be the same as any other employee on an unpaid disability leave of absence.
5. An employee returning from pregnancy disability leave shall return with no less seniority than the employee had when the leave began for purposes of layoff, recall, promotion, job assignment, and seniority-related benefits.

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6. The employee shall retain employee status while on pregnancy disability leave. The leave shall not constitute a break in service for purposes of longevity and/or seniority under any memorandum of understanding or under any employee benefit plan. Benefits must be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualifying conditions.
7. As a condition of the employee's return to work from pregnancy disability leave or transfer, the employee must obtain a release to return to work from her health care provider stating that she is able to resume her original job duties.

F. Right to Reinstatement from Pregnancy Disability Leave/Transfer

1. Subject to state law and regulations, an employee returning from a pregnancy disability leave or transfer is usually entitled to reinstatement to the same position. If the City is excused by law from reinstating her to the same position, the employee is usually entitled to reinstatement to a comparable position.

2. Reinstatement to the Same Position

An employee has no greater right to reinstatement to the same position or to other benefits and conditions of employment than if the employee had been continuously employed in her position during the leave or transfer period. The City may refuse to reinstate the employee to her same position or duties for either of the following reasons:

- a. At the time she requests reinstatement, the employee would not otherwise have been employed in her same position for legitimate business reasons unrelated to the employee's pregnancy disability leave or transfer, such as a layoff.
- b. Each means of preserving the job or duties for the employee, such as leaving it unfilled or filling it with a temporary employee, would substantially undermine the City's ability to operate safely and efficiently.

3. Reinstatement to a Comparable Position

An employee has no greater right to reinstatement to a comparable position or to other benefits and conditions of employment than an employee who has been continuously employed in another position that is being eliminated. If the City is excused from reinstating an employee to her same position, or to the same duties, under Article VII F-2 then the City will reinstate the employee to a comparable position unless either of the following occurs:

- a. No comparable position is available; or

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- b. If the employee is returning from a pregnancy disability leave that does not qualify as an FMLA leave, a comparable position is available, but filling the available position with the returning employee would substantially undermine the City's ability to operate safely and efficiently.
4. If an employee exhausts all available leaves and is still disabled by pregnancy and unable to return to work, the employee's reinstatement rights are the same as the reinstatement rights of any other similarly situated employee.

G. Relationship of Pregnancy Disability Leave to FMLA, CFRA, and Other Leaves

1. Any period of incapacity or treatment due to pregnancy, including prenatal care, is a "serious health condition" under the FMLA. An employee's unpaid pregnancy disability leave will run concurrently with unpaid FMLA leave, up to a maximum of 12 workweeks, and will also run concurrently with any accrued paid leave the employee is required to use or elects to use under Article VII E above.

2. Bonding/CFRA Leave

- a. An employee's own disability due to pregnancy, childbirth, or related medical conditions is not included as a "serious health condition" under the CFRA. At the end of the employee's period(s) of pregnancy disability, or at the end of four months pregnancy disability leave, whichever occurs first, a CFRA-eligible employee may request to take unpaid CFRA leave of up to 12 workweeks for reason of the birth of her child, if the child has been born by this date.
- b. CFRA leave for bonding with the child does not require that either the employee or the child have a serious health condition. There is also no requirement that the employee no longer be disabled by her pregnancy before taking CFRA leave for reason of the birth of her child.
- c. The City may, but is not required to, grant unpaid CFRA leave if an employee continues to be disabled after exhaustion of pregnancy disability leave and prior to the birth of her child.

3. Maximum Entitlement

The maximum possible entitlement for qualified and eligible employees for both pregnancy disability leave under FMLA, state law, and this AI and CFRA leave for the reason of the birth of the child is four months and 12 workweeks.

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VIII. INTEGRATION OF DISABILITY INSURANCE COVERAGE AND PAID LEAVES

An employee may supplement any disability insurance benefits paid under a City provided plan or SDI with accumulated sick leave and vacation to the extent necessary to make up the difference between the amount of insurance benefits paid and the normal weekly base pay for each week of disability.



DEBORAH EDGERLY
City Administrator

APPENDIX C

PROFESSIONAL OR SPECIALIZED SERVICE AGREEMENT
BETWEEN THE CITY OF OAKLAND
AND
MANAGED HEALTH NETWORK (MHN) ^{RF}
~~AND~~
~~MHN SERVICES~~

Whereas, the City Council has authorized the City Administrator to enter into contracts for professional or specialized services if the mandates of Oakland City Charter Section 902(e) have been met.

Now therefore the parties to this Agreement covenant as follows:

1. Parties and Effective Date

This Agreement is made and entered into as of July 1, 2014, between the City of Oakland, a municipal corporation, ("City"), One Frank H. Ogawa Plaza, Oakland, California 94612, and Managed Health Network and MHN Services ("Contractor").

2. Scope of Services

Contractor agrees to perform the services specified in Schedule A, Scope of Services attached to this Agreement and incorporated herein by reference. Contractor shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement. Schedule A includes the manner of payment. The Project Manager for the City shall be Jennie Lim.

3. Time of Performance

Contractor's services for the employee assistance program shall begin on July 1, 2014, and shall end on June 30, 2017 with an option to renew for two additional years. For the Substance Abuse Benefit, the Contractor's services shall begin on January 1, 2015, and shall end on June 30, 2017 with an option to renew for two additional years.

4. Compensation and Method of Payment

Contractor will be paid for performance of the scope of services an amount that will be based upon actual costs but that will be "Capped" so as not to exceed \$ 525,000, based upon the scope of services in Schedule A and the budget by deliverable task and billing rates in Schedule B. The maximum that will be charged for the entire scope of work will not exceed the Capped amount, even if the Contractor's actual costs exceed the Capped amount. Invoices shall state a description of the deliverable completed and the amount due. Payment will be due upon completion and acceptance of the deliverables as specified in the Schedule A - Scope of Services.

In the aggregate, progress payments will not exceed ninety percent (90%) of the total amount of the contract, with the balance to be paid upon satisfactory completion of the contract.

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Progress, or other payments, will be based on at least equivalent services rendered, and will not be made in advance of services rendered.

In computing the amount of any progress payment (this includes any partial payment of the contract price during the progress of the work, even though the work is broken down into clearly identifiable stages, or separate tasks), the City will determine the amount that the contractor has earned during the period for which payment is being made, on the basis of the contract terms. The City will retain out of such earnings an amount at least equal to ten percent (10%), pending satisfactory completion of the entire contract.

5. Independent Contractor

a. Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is, an independent contractor, and is not an employee of the City. Contractor has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and those of Contractor's subordinates and employees. Contractor will determine the method, details and means of performing the services described in Schedule A.

b. Contractor's Qualifications

Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of The City. The Contractor warrants that the Contractor, and the Contractor's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Contractor's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Contractor will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. This means Contractor is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Contractor shall complete Schedule M, Independent Contractor Questionnaire, attached hereto.

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c. Payment of Income Taxes

Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Contractor's failure to comply with this provision.

d. Non-Exclusive Relationship

Contractor may perform services for, and contract with, as many additional clients, persons or companies as Contractor, in his or her sole discretion, sees fit.

e. Tools, Materials and Equipment

Contractor will supply all tools, materials and equipment required to perform the services under this Agreement.

f. Cooperation of the City

The City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

g. Extra Work

Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

6. Proprietary or Confidential Information of the City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information disclosed by the City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

7. Ownership of Results

Any interest of Contractor or its Subcontractors, in specifications, studies, reports, memoranda, computation documents prepared by Contractor or its Subcontractors in

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drawings, plans, sheets or other connection with services to be performed under this Agreement shall be assigned and transmitted to the City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

8. Copyright

Contractor shall execute appropriate documents to assign to the City the copyright to works created pursuant to this Agreement.

9. Audit

Contractor shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

Contractor shall (a) permit the City to have access to those records for the purpose of making an audit, examination or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Contractor under this Agreement.

In addition to the above, Contractor agrees to comply with all audit, inspection, recordkeeping and fiscal reporting requirements incorporated by reference.

10. Agents/Brokers

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

11. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer with 60 day notice to City.

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12. Publicity

Any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

13. Title of Property

Title to all property, real and personal, acquired by the Contractor from City funds shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records. Contractor acknowledges it is responsible for the protection, maintenance and preservation of all such property held in custody for the City during the term of the Agreement. The Contractor shall, upon expiration or termination of this Agreement, deliver to the City all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, the Contractor shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with "Notice" section of this Agreement.

Contractor shall provide to the City Auditor all property-related audit and other reports required under this Agreement. In the case of lost or stolen items or equipment, the Contractor shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with the "Notice" section of this Agreement.

Prior to the disposition or sale of any real or personal property acquired with City funds, Contractor shall obtain approval by the City Council and City Administrator in accord with the requirements for disposal or sale of real or personal surplus property set forth in the Oakland City Charter and/or Oakland Municipal Code Title 2.04, Chapter 2.04.120. Surplus supplies and equipment – Disposal or Destruction.

14. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Contractor must provide the insurance listed in Schedule Q, Insurance Requirements. Schedule Q is attached at the end of this sample agreement and incorporated herein by reference.

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15. Indemnification

- a. Notwithstanding any other provision of this Agreement, Contractor shall indemnify and hold harmless (and at City's request, defend) City, and each of their respective Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnatee") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any:
 - (i) Breach of Contractor's obligations, representations or warranties under this Agreement;
 - (ii) Act or failure to act in the course of performance by Contractor under this Agreement;
 - (iii) Negligent or willful acts or omissions in the course of performance by Contractor under this Agreement;
 - (iv) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Contractor;
 - (v) Unauthorized use or disclosure by Contractor of Confidential Information as provided in Section 6 Proprietary of Confidential Information of the City above; and
 - (vi) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party.
- b. For purposes of the preceding Subsections (i) through (vi), the term "Contractor" includes Contractor, its officers, directors, employees, representatives, agents, servants, sub-consultants and subcontractors.
- c. City shall give Contractor prompt written notice of any such claim of loss or damage and shall cooperate with Contractor, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.
- d. Notwithstanding the foregoing, City shall have the right if Contractor fails or refuses to defend City with Counsel acceptable to City to engage its own counsel for the purposes of participating in the defense. In addition, City shall have the right to withhold any payments due Contractor in the amount of anticipated defense costs plus additional reasonable amounts as security for Contractor's obligations under this Section 15. In no

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event shall Contractor agree to the settlement of any claim described herein without the prior written consent of City.

- e. Contractor acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnites from any action or claim which potentially falls within this indemnification provision, which obligation shall arise at the time any action or claim is tendered to Contractor by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Contractor's liability under this Agreement shall not apply to any action or claim arising from the sole negligence, active negligence or willful misconduct of an Indemnitee.
- f. All of Contractor's obligations under this Section 15 are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.
- g. The indemnity set forth in this Section 15 shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement. City's liability under this Agreement shall be limited to payment of Contractor in accord to the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

16. Right to Offset Claims for Money

All claims for money due or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of: i) this Agreement, or ii) any purchase order, or iii) any other transaction with Contractor.

17. Prompt Payment Ordinance

This contract is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06 (Ordinance 12857 C.M.S, passed January 15, 2008 and effective February 1, 2008). The Ordinance requires that, unless specific exemptions apply, the Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless the Contractor or its subcontractors notify the Liaison in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Liaison, Division of Contracts and Compliance upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the

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claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractor is required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment Prompt Payment ordinance may not seek further interest penalties on the same late payment in law or equity.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

Prompt Payment invoice and claim forms are available at the following City of Oakland website:

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm> or at Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandnet.com.

18. Arizona and Arizona-Based Businesses

Contractor agrees that in accordance with Resolution No. 82727 C.M.S., neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business

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headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

Contractor acknowledges its duty to notify the Purchasing Department if its Business Entity or any of its subsidiaries affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

19. Dispute Disclosure

Contractors are required to disclose pending disputes with the City of Oakland when they are involved in submitting bids, proposals or applications for a City or Agency contract or transaction involving professional services. This includes contract amendments. Contractor agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Contractor's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

20. Termination on Notice

The City may terminate this Agreement immediately for cause or without cause upon giving (30) calendar days' written notice to Contractor. Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on June 30, 2017.

21. Conflict of Interest

a. Contractor

The following protections against conflict of interest will be upheld:

- i. Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising there from.
- ii. Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- iii. Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor.
- iv. Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has

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been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Contractor shall exercise due diligence to ensure that no such official will receive such an interest.

- v. Contractor further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Contractor to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Contractor agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).
- vi. Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- vii. Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

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b. No Waiver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation

c. Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation. 22. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act, attached hereto and incorporated herein.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments

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under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

23. Local and Small Local Business Enterprise Program (L/SLBE)

- a. **Requirement – For Professional Services, 50% Local and Small Local Business Enterprise Program (L/SLBE):** there is a 50% minimum participation requirement for all professional services contracts over \$50,000. Consultant status as an Oakland certified local or small local firm and subcontractor/subconsultant status as an Oakland certified local or small local firm are taken into account in the calculation. The requirement may be satisfied by a certified prime consultant and/or sub-consultant(s). A business must be certified by the City of Oakland in order to earn credit toward meeting the fifty percent requirement. The City has waived small local business enterprise (SLBE) subcontracting requirements for Oakland certified local businesses that apply for professional services contracts as the prime consultant with the City. The SLBE requirements still applies for non-certified LBEs and non-local business enterprises.
- b. **Good Faith Effort -** In light of the fifty percent requirement, good faith effort documentation is not necessary.
- c. **Preference Points –** Preference points are earned based on the level of participation proposed prior to the award of a contract. Upon satisfying the minimum fifty percent requirement, a consultant will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to eighty percent participation of the total contract dollars spent with local Oakland certified firms.
- d. A firm may earn up to five (5) preference points for local Oakland business participation and additional preference points for being a long term certified business in Oakland regardless of size and for having an Oakland workforce.
- e. In those instances where VSLBE participation is evident, the level of participation will be double-counted towards meeting the requirement.
- f. **Additional Preference Points.** For Request for Proposal (RFP) and Request for Qualifications (RFQ), additional Preference Points may be earned for having an Oakland workforce on Non-Construction Contracts
- g. Earning extra preference points for having an existing work force that includes Oakland residents is considered added value. The Request for Proposal "evaluation" process allows for additional preference points over and above the number of points earned for technical expertise. Typically 100 points may be earned for the technical elements of the RFP. Preference points are awarded over and above the potential 100 points.
- h. **The Exit Report and Affidavit (ERA) –** This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must

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complete the **Schedule F, Exit Report and Affidavit** for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a *copy* of the final progress payment application.

- i. Joint Venture and Mentor Protégé Agreements. If a prime contractor or prime consultant is able to develop a Joint Venture or "Mentor-Protégé" relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Office of the City Administrator, Contracts and Compliance Unit, prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.
 - j. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing **Schedule D, Ownership, Ethnicity, and Gender Questionnaire**, and **Schedule E, Project Consultant Team**, attached and incorporated herein and made a part of this Agreement.
 - k. All affirmative action efforts of Contractor are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
 - l. In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
 - m. In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.
24. **Living Wage Ordinance**

If the contract amount of this Agreement is equal to or greater than \$25,000 annually, then Contractor must comply with the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service contractors (consultants) of the City and employees of CFARs (Ord. 12050 § 1, 1998). The Ordinance also requires submission of the

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Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the consultant must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial hourly wage rate of **\$12.27 with health benefits or \$14.10 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. Effective July 1st of each year, Contractor shall pay adjusted wage rates.
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.79 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) - To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist you. Web sites include but are not limited to: (1) <http://www.irs.gov> for current guidelines as prescribed by the Internal Revenue Service.
- e. Contractor shall provide to all employees and to the Division of Contracts and Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.

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- g. Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Division of Contracts and Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Contractor shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Division of Contracts and Compliance.

25. Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.32 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City contractors (consultants) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001)

The following contractors are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a contractor's operations that occur (1) within the city; (2) on real property outside the city if the property is owned by the city or if the city has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the city; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1, Equal Benefits-Declaration of Nondiscrimination**.

APPENDIX C

26. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

27. Nuclear Free Zone Disclosure

Contractor represents, pursuant to **Schedule P, Nuclear Free Zone Disclosure Form**, that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Contractor shall complete **Schedule P**, attached hereto.

28. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

29. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

30. Business Tax Certificate

Contractor shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement.

31. Abandonment of Project

The City may abandon or indefinitely postpone the project or the services for any or all of the project at any time. In such event, the City shall give thirty (30) days written notice of such abandonment. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, Contractor shall have the right to expend a reasonable amount

APPENDIX C

of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Contractor shall present to the City a complete report of said proposed job closure and its costs, and the City may approve all or any part of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other charges outstanding at the time of termination, shall be payable by the City within thirty (30) days following submission of a final statement by Contractor

Should the project or any portion thereof be abandoned, the City shall pay the Contractor for all services performed thereto in accordance with the terms of this Agreement.

32. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is: i) approved by resolution of the City Council as required by the Oakland City Charter, Oakland Municipal Code Title 2.04 and Oakland City Council Rules of Procedure, ii) approved for form and legality by the Office of the City Attorney, and iii) signed by the City Administrator or his or her designee.

33. Governing Law

This Agreement shall be governed by the laws of the State of California.

34. Notice

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

City of Oakland
Oakland Police Department / Personnel
455 Seventh Street, 7th Floor
Oakland, CA 94607
Attn: Jennie Lim

Managed Health Network
2370 Kerner Blvd.
San Rafael, CA 94901
Attn: Joy Bellomo

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties ten (10) business days before the change is effective.

APPENDIX C

35. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

36. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

37. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

38. Time of the Essence

Time is of the essence in the performance of this Agreement.

39. Commencement, Completion and Close out

It shall be the responsibility of the Contractor to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Contractor to enable Contractor to complete the work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement.

APPENDIX C

Should the Contractor not complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, the Contractor shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of the Contractor to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Contractor.

40. Approval

If the terms of this Agreement are acceptable to Contractor and the City, sign and date below.

41. Inconsistency

If there is any inconsistency between the main agreement and the attachments/exhibits, the text of the main agreement shall prevail.

City of Oakland,
a municipal corporation

Deborah Barrow 1/14/15
(City Administrator's Office) (Date)

Se Cwh 1-9-15
(Agency Director's Signature) (Date)

Name of Contractor
Managed Health Network
MHN Services

L. T. Hillman 10-24-14
(Signature) (Date)

3252558
Business Tax Certificate No.

12/31/14
Date of Expiration

N/A

Resolution Number

Accounting Number

Approved as to form and legality:
 * Conditional approval pending updated insurance certificates. Signing off based on risk. Not approved.
 [Signature] 1/8/15
 (City Attorney's Office Signature) (Date)

APPENDIX C

SCHEDULE A

CITY OF OAKLAND AND MANAGED HEALTH NETWORK AND MHN SERVICES

CONSULTING AND PROFESSIONAL SERVICES CONTRACTORS' SCOPE OF WORK/OUTLINE OF SERVICES TO BE PERFORMED

The services to be performed by Contractor shall consist of services requested by the Project Manager or a designated representative, including (but not limited to) the following.

FOR EMPLOYEE ASSISTANCE PROGRAM (EAP) AND CRITICAL INCIDENT STRESS MANAGEMENT SERVICES

CONTRACTOR NAME: Managed Health Network

CONTRACT PERIOD: July 1, 2014 through June 30, 2017

CONTRACT AMOUNT: \$105,000 per year for EAP (Not to exceed \$315,000 for the contract period)

The Contractor referenced above will assist the Oakland Police Department (hereinafter the "Department") in providing psychological services as mentioned in Article IX, Section E – Employee Health Assistance Programs, Psychological Counseling and Substance Abuse Treatment Program, of the Memorandum of Understanding between City of Oakland and Oakland Police Officers' Association effective July 1, 2006 through June 30, 2015.

1. Scope of Services

The service provider's scope of services shall include but is not limited to the following.

For Employee Assistance Program, Contractor agrees to perform the services of a licensed professional staff (defined as a State licensed Psychologist, Psychiatrist, Clinical Social Worker, or Marriage-Family-Child Counselor) to:

- A. Conduct one-to-one direct counseling for the purpose of identifying and evaluating personal problems and concerns of members and their dependents. Assess and provide options, recommendations, and alternatives for resolution of such problems. "Dependent" is defined as follows: The lawful spouse or registered domestic partner and unmarried dependent children of a member of the Oakland Police Department. Unmarried, dependent children must be either 18 years or less, or 22 years of age or

APPENDIX C

less if full-time student, or over the age of 19 and incapable of self-sustaining employment by reason of mental retardation or physical handicap. The term "children" as used herein includes stepchildren, children of registered domestic partner, adopted children, foster children, and natural children provided such children are dependent upon the member for support and maintenance. Children of a member are not considered dependents if they are in the military service. Telephonic and web/video consultations are also available.

- B. Provide up to ten (10) sixty-minute, face-to-face direct counseling sessions per incident to any sworn member and his/her dependents who voluntarily seeks such services as it relates to marriage, family and relationship problems, alcohol and/or drug-related problems, emotional (depression, grief and loss), personal, and/or stress-related concerns and other non-clinical services to include finance-related problems, etc. Contractor shall provide the same service to referrals made by any of the Police Executive Management staff. Fees for any session in excess of the authorized 10 will be charged to the participant unless otherwise arranged and authorized in writing by the City.

Contractor shall respond to Critical Incident Stress Debriefings (CISD) relating to distressing and traumatic events occurring at the workplace on an unlimited basis, except in the case of catastrophic events. A "catastrophic event" is defined as an incident requiring more than twenty (20) hours of counseling. Said catastrophic event counseling shall be provided pursuant to a separate, supplemental agreement, upon the direct request of the Chief of Police or Deputy Chief. Under the terms of the supplemental agreement, Contractor shall bill the City at the rate of \$250 per hour, or the rate in effect at the time of services, as well as for any travel expenses incurred by Contractor, including without limitation, practitioner professional fees incurred by Contractor.

It is expressly understood by the parties to the Agreement that the only services to be performed by Contractor under Section B are Critical Incident Stress Debriefing, Early Intervention System, and the sixty-minute counseling sessions for marriage, family and relationship problems; for alcohol and drug abuse; and for emotional, personal and stress-related concerns. Such services are to be performed by a licensed professional staff person as described in paragraph A above. Any other services that are provided will not be billed to the City and are done outside the scope of this Agreement.

- C. Counseling Sessions for members referred to Contractor by the Deputy Chief of the Bureau of Services will be provided to identify and clarify medical-behavioral or personal problems of members who have been identified and referred as evidencing performance problems in their work or occupation. It is expressly understood by both parties that the purpose of such referrals from the Deputy Chief is to establish a basis for corrective action. It is further understood that referral strictly for the purpose of psychiatric or psychological evaluation to determine suitability as a police officer

APPENDIX C

(commonly referred to as a "fitness for duty" evaluation) is beyond the scope of this Agreement.

- D. Each party shall maintain the confidentiality of information in its possession contained in the records of members in accordance with applicable state and federal laws and regulations or other applicable law, and shall not release such information, either to each other or to any other person or entity, except as permitted by law or in accordance with a validly executed release.
- E. If a subpoena is served upon the Contractor for the records or files of any member of the Department requesting testimony about such member, Contractor shall follow procedures in accordance with applicable state and federal laws and regulations or other applicable law, and shall not release such information to any other person or entity, except as permitted by law and in accordance with a validly executed subpoena.
- F. Contractor agrees to comply at all times with all statutory, regulatory and constitutional limitations on the disclosure of medical information.
- G. As requested by the Deputy Chief of the Bureau of Services, Contractor will provide electronic material, electronic slides or a PowerPoint presentation, and briefings/training sessions for orientation of members and dependents to inform them of the purpose, nature, scope, and utilization of the Counseling Program. All such materials shall be submitted to the Deputy Chief of the Bureau of Services prior to use in this program.
 - 1) Contractor shall conduct a combined maximum of six (6) EAP and Substance Abuse group seminars/orientations/ presentations per year and at times scheduled by the Police Department Training Section for recruit classes, and for members and dependents to inform them of the purpose, nature and scope of services offered by the service provider.
 - 2) A combined maximum of six 2-3 hour EAP and Substance Abuse presentations to supervisory/command staff of the Police Department to acquaint management with their role and responsibilities in recognition and analysis of performance problems of members appropriate for referral of counseling services.
- H. Provide electronic material in English and Spanish of services offered by Contractor for distribution by the Police Department.
- I. Provide comprehensive quarterly and annual utilization reports to the City as well as ad hoc reports when requested.

APPENDIX C

- J. Assign an Account Manager handling both the EAP and Substance Abuse Program to meet with client on a quarterly basis to discuss and review program implementation and utilization.
- K. Provide 24/7 (24 hours a day, 7 days a week) live in-take capability throughout Northern California.
- L. COMPLIANCE WITH THE 1979 KNOX-KEENE HEALTH CARE SERVICE PLAN ACT

All EAP services as described above in this Agreement will be rendered in compliance with the 1975 Knox-Keene Health Care Service Plan Act.

Contractor shall be responsible for performing or securing the performance of all specified services in their entirety.

Contractor is subject to regulation by the California Department of Managed Health Care and this Agreement is subject to the requirements of the Knox-Keene Health Care Service Plan Act of 1975 (the "Act," commencing with Section 1340 of the California Health and Safety Code) and the regulations promulgated thereunder (found at Chapter 3 of Title 10 of the California Code of Regulations). Any provision required to be in this Agreement by either of these sources of law shall bind the parties whether or not provided hereunder. City acknowledges that any provisions required by the Knox Keene Act apply to this Agreement

FOR SUBSTANCE ABUSE SERVICES

CONTRACTOR NAME: MHN Services

CONTRACT PERIOD: January 1, 2015 through June 30, 2017 for Substance Abuse Benefit

CONTRACT AMOUNT: \$84,000 per year (Not to exceed \$378,000 for the contract period)

The Contractor referenced above will assist the Oakland Police Department (hereinafter the "Department") in providing substance abuse counseling services as mentioned in Article IX, Section E – Employee Health Assistance Programs, Psychological Counseling and Substance Abuse Treatment Program of the Memorandum of Understanding between City of Oakland and Oakland Police Officers' Association effective July 1, 2006 through June 30, 2015.

APPENDIX C

1. Scope of Services

The service provider's scope of services shall include but is not limited to the following:

For Substance Abuse Benefits, Contractor agrees to provide Substance Abuse Treatment (the processes of medical or psychotherapeutic treatment for dependency on psychoactive substances) to:

- A. Active Sworn and Civilian employees and Sworn Officer's Spouse and Dependent Children. "Dependent" is defined as Oakland Police Department's Sworn Officers' lawful spouse and dependent children who must be twenty-six (26) years of age or less if full-time student. Children of a Sworn Officer are not considered dependents if they are in the military service. Telephonic and web/video consultations are also available.
- B. Provide up to ten (10) sixty-minute, face-to-face direct counseling sessions per incident to any sworn member and his/her dependents who voluntarily seeks such services as it relates to alcohol and/or drug-related problems. Contractor shall provide the same service to referrals made by any of the Police Executive Management staff. Fees for any session in excess of the authorized 10 will be charged to the participant unless otherwise arranged and authorized in writing by the City.

It is expressly understood by the parties to the Agreement that the only services to be performed by Contractor under Section B are the sixty-minute counseling sessions for alcohol and drug abuse. Such services are to be performed by a licensed professional staff. Any other services that are provided will not be billed to the City and are done outside the scope of this Agreement.

- C. Counseling Sessions for members referred to Contractor by the Deputy Chief of the Bureau of Services will be provided to identify and clarify medical-behavioral or personal problems of members who have been identified and referred as evidencing performance problems in their work or occupation. It is expressly understood by both parties that the purpose of such referrals from the Deputy Chief is to establish a basis for corrective action. It is further understood that referral strictly for the purpose of psychiatric or psychological evaluation to determine suitability as a police officer (commonly referred to as a "fitness for duty" evaluation) is beyond the scope of this Agreement.
- D. Each party shall maintain the confidentiality of information in its possession contained in the records of members in accordance with applicable state and federal laws and regulations or other applicable law, and shall not release such information, either to each other or to any other person or entity, except as permitted by law or in accordance with a validly executed release.

APPENDIX C

- E. If a subpoena is served upon the Contractor for the records or files of any member of the Department requesting testimony about such member, Contractor shall follow procedures in accordance with applicable state and federal laws and regulations or other applicable law, and shall not release such information to any other person or entity, except as permitted by law and in accordance with a validly executed subpoena.
- F. Contractor agrees to comply at all times with all statutory, regulatory and constitutional limitations on the disclosure of medical information.
- G. As requested by the Deputy Chief of the Bureau of Services, Contractor will provide electronic material, electronic slides or an electronic PowerPoint presentation, and briefings/training sessions for orientation of members and dependents to inform them of the purpose, nature, scope, and utilization of the Substance Abuse Program. All such materials shall be submitted to the Deputy Chief of the Bureau of Services prior to use in this program.
 - 1) Contractor shall conduct a combined maximum of six (6) EAP and Substance Abuse group seminars/orientations/presentations per year and at times scheduled by the Police Department Training Section for recruit classes, and for members and dependents to inform them of the purpose, nature and scope of services offered by the service provider.
 - 2) A combined maximum of six (6) 2-3 hour EAP and Substance Abuse presentations to supervisory/command staff of the Police Department to acquaint management with role and responsibilities in recognition and analysis of performance problems of members appropriate for referral of counseling services.
- H. Provide electronic material in English and Spanish of services offered by contractor for distribution by the Police Department.
- I. Provide comprehensive quarterly and annual utilization reports to the City as well as ad hoc reports when requested.
- J. Assign an Account Manager handling both the EAP and Substance Abuse Program to meet with client on a quarterly basis to discuss and review program implementation and utilization.
- K. Provide 24/7 (24 hours a day, 7 days a week) live in-take capability throughout Northern California.

APPENDIX C

- L. For Substance Abuse Program, provide a 30-day inpatient treatment program to determine appropriate treatment, length of stay, and appropriate step down to lower levels fo outpatient care.

2. Reports and Invoices Submission

Reports from the Contractor to the Department shall be forwarded as follows:

Jennie Lim
Medical Unit Supervisor
Bureau of Services
Oakland Police Department
455 Seventh Street, 7th Floor

3. Oakland, CA 94607 Payment Schedule

Contractor will be paid for performance of the scope of services in an amount that will be based upon actual costs but will be "capped" so as not to exceed \$189,000 per year based upon the scope of services referenced herein. The maximum that will be charged for the entire scope of work will not exceed the capped amount, even if the Contractor's actual costs exceed the capped amount. Invoices shall state a description of the deliverable completed and the amount due. Payment will be due upon completion and acceptance of the deliverables as specified above. Contractor shall submit an invoice for payment, forwarded to the Project Manager listed in Item 2 above.

4. Approval

If the terms of the Agreement are acceptable to Contractor and the City, sign and date below.

Contractor:

Larry S. Tallman

(Please print name.)

J. Tallman

(Signature)

10-24-14

(Date)

APPENDIX C

City Representative:

JENNIE LIM
(Please print name.)

Jennie Lim
(Signature)

11/12/14
(Date)

City of Oakland - Oakland Police Department
Managed Health Network Contract

Page 8 of 8
Period from 7/1/14 to 6/30/17

ATTACHMENT 1

ATTACHMENT 4
OAKLAND CITY COUNCIL
RESOLUTION NO. 77044 C.M.S.

AM Ramsey

**RESOLUTION EXTENDING CERTAIN PAY AND BENEFITS
TO CITY EMPLOYEE MEMBERS OF THE MILITARY
RESERVE RECALLED TO ACTIVE DUTY IN RESPONSE TO
THE EVENTS OF SEPTEMBER 11, 2001**

FILED
OFFICE OF THE CITY CLERK
02 MAR 14 PM 1:20

WHEREAS, the President of the United States has signed an order to recall persons in the military reserve to active duty in order to combat the terrorist threat to our nation; and

WHEREAS, some of those reservists are City employees; and

WHEREAS, the City of Oakland currently provides military leave continuance of certain pay and benefits for a maximum of 30 calendar days per fiscal year to employees who have been in City service for at least one (1) year and have been ordered to report to active duty; and

WHEREAS, the City Council believes it to be in the public interest to ensure that those employees recalled to active duty during this crisis are able to continue providing for their families while in the service of their country without undue hardship or loss; and

WHEREAS, several City employees have been recalled to active military duty and have or are near to exhausting the 30 calendar days of military leave pay and benefits currently provided for; now, therefore, be it

RESOLVED: That any full-time employee of the City of Oakland who has a least one year of service or one year of combined active military service and City service and is involuntarily ordered to active duty shall continue to receive military leave pay and benefits for a period of up to 90 additional calendar days; and be it

FURTHER RESOLVED: That the military leave pay provided for by this resolution shall be discounted by the amount of active duty military pay and allowances received by the employee such that the employee does not receive more than the employee's City base pay; and be it

FURTHER RESOLVED: That the City Council does hereby delegate to the City Manager the authority to consult and confer with the City's employee organizations as to the practical details of calculating the appropriate amount of military leave pay provided for by this resolution such that the employee does not receive more in combined military leave pay and active duty military pay than the employee's City base pay, and to resolve any disputes that arise with regard to same; and be it

ATTACHMENT 1

ATTACHMENT 4

Recall to Active Duty

Page 2

FURTHER RESOLVED: That the military leave benefits (as distinguished from military leave pay) provided by this resolution shall be the same as those currently provided during the initial 30 days of military leave; and be it

FURTHER RESOLVED: That the City Manager may at his discretion extend the additional period of military leave pay and benefits provided by this resolution, but in no case beyond a total period of one year for any employee; and be it

FURTHER RESOLVED: That the City Council will consider further recommendations on this matter that are deemed appropriate by the City Manager after consultation with City staff and employee organizations; and be it

FURTHER RESOLVED: That this resolution is intended to address a specific, limited need, and is not intended to create a permanent increased military leave benefit or beneficial past practice.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 26 2002, 20

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, ~~CHANG~~, MAYNE, NADEL, SPEES, REID, ~~WATSON~~ and PRESIDENT DE LA FUENTE — 6


NOES-

ABSENT-

ABSTENTION-

Excused - Chang, Watson - 2

ATTEST


CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2018 DEC 12 PM 2:16

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION No. 87431 C.M.S.

RESOLUTION APPROVING THE TENTATIVE AGREEMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OAKLAND AND THE OAKLAND POLICE MANAGEMENT ASSOCIATION FOR REPRESENTED EMPLOYEES IN CLASSIFICATIONS IN UNIT UN2, AND APPROVE THE SAME SALARY INCREASES AND TERMS AND CONDITIONS OF EMPLOYMENT FOR THE UNREPRESENTED UNIT UN1 CLASSIFICATION CHIEF OF POLICE, ASSISTANT, AND THE SAME SALARY INCREASES FOR THE SALARY RANGE OF THE UNREPRESENTED UNIT UN1 CLASSIFICATION CHIEF OF POLICE EFFECTIVE UPON RATIFICATION THROUGH JUNE 30, 2024

WHEREAS, the Tentative Agreement and Memorandum of Understanding to be entered into between the City of Oakland and the Oakland Police Management Association ("OPMA") has been presented to the City Council for determination pursuant to Section 3505.1 of the Government Code of the State of California; and

WHEREAS, the key provisions of the Memorandum of Understanding are described in the Report from the City Administrator dated November 20, 2018; and

WHEREAS, the same salary increases and terms and conditions of the Memorandum of Understanding shall apply to the unrepresented Unit UN1 classification, Assistant Chief of Police; and

WHEREAS, the same salary increases of the Memorandum of Understanding shall apply to the salary range of the unrepresented Unit UN1 classification, Chief of Police; and

WHEREAS, the terms and conditions contained in said Memorandum of Understanding are in the best interests of the City; now, therefore, be it

ATTACHMENT 3

RESOLVED: That said agreement be, and is, hereby approved; and be it

FURTHER RESOLVED: That the provisions of said Memorandum of Understanding are effective upon ratification and/or as set forth in the Report from the City Administrator dated November 20, 2018.

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 27 2018

PASSED BY THE FOLLOWING VOTE:

AYES - ~~WILLIAMS~~, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, ~~REID~~,
and PRESIDENT REID - 6

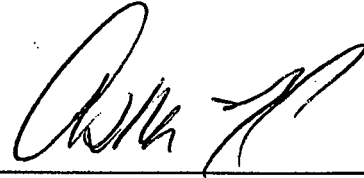
NOES - Kaplan - 1

ABSENT - 0

ABSTENTION 0

Excused - Brooks - 1

ATTEST:



LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OF INTRODUCTION BY COUNCIL MEMBER

Ryan S. S.
CITY ATTORNEY

2018 NOV 20 PM 12:31

OAKLAND CITY COUNCIL

ORDINANCE NO. ~~13512~~ **13512** S.M.S.

ORDINANCE AMENDING THE SALARY SCHEDULE OF ORDINANCE NO. 12187 C.M.S. ("SALARY ORDINANCE") TO PROVIDE WAGE INCREASES TO THE SALARIES OF CERTAIN SWORN EMPLOYEES PURSUANT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OAKLAND AND THE OAKLAND POLICE MANAGEMENT ASSOCIATION AND THE UNREPRESENTED CHIEF OF POLICE, ASSISTANT, AND THE UNREPRESENTED SALARY RANGE OF THE CHIEF OF POLICE; THE WAGE INCREASES SHALL BE AS FOLLOWS: INCREASE OF 0% EFFECTIVE JULY 2019; INCREASE OF 2.5% EFFECTIVE THE FIRST PAY PERIOD IN JULY 2020; INCREASE OF 3% EFFECTIVE THE FIRST PAY PERIOD IN JULY 2021; INCREASE OF 3.5% EFFECTIVE THE FIRST PAY PERIOD IN JULY 2022; AND INCREASE OF 3.5% EFFECTIVE THE FIRST PAY PERIOD IN JULY 2023.

WHEREAS, the Tentative Agreement and Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association has been approved by the Parties pursuant to Section 3505.1 of the Government Code of the State of California; and

WHEREAS, said Agreement is approved and includes increases to salaries of 0% effective July 1, 2019, increase of 2.5% effective the first pay period in July 2020, increase of 3% effective the first pay period in July 2021; increase of 3.5% effective the first pay period in July 2022; and an increase of 3.5% effective the first pay period in July 2023; and

WHEREAS, Oakland City Charter Section 207 requires that the Council shall fix the compensation of all City employees; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Effective July 1, 2019, the classifications and associated salaries listed in the current Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association, and the unrepresented Assistant Chief of Police, and the unrepresented salary range of the classification of Chief of Police are increased by 0%;

Section 2. Effective the first pay period in July 2020, the classifications and associated salaries listed in the current Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association, and the unrepresented Assistant Chief of Police, and the unrepresented salary range of the classification of Chief of Police, will receive a salary increase of 2.5%;

Section 3. Effective the first pay period in July 2021, the classifications and associated salaries listed in the current Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association, and the unrepresented Assistant Chief of Police, and the unrepresented salary range of the classification of Chief of Police, will receive a salary increase of 3%

Section 4. Effective the first pay period in July 2022, the classifications and associated salaries listed in the current Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association, and the unrepresented Assistant Chief of Police, and the unrepresented salary range of the classification of Chief of Police, will receive a salary increase of 3.5%.

Section 5. Effective the first pay period in July 2023, the classifications and associated salaries listed in the current Memorandum of Understanding between the City of Oakland and the Oakland Police Management Association, and the unrepresented Assistant Chief of Police, and the unrepresented salary range of the classification of Chief of Police, will receive a salary increase of 3.5%

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more others section, subsection, clauses or phrases may be declared invalid or unconstitutional.

Section 7. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 11 2018

PASSED BY THE FOLLOWING VOTE:

AYES- ~~WILLIAMS~~, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, ~~KAPLAN~~, REID and PRESIDENT GIBSON
MCELHANEY *✓ 6*

NOES- *1 Kaplan*

ABSENT- *0*

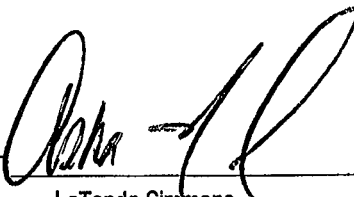
ABSTENTION- *0*

Excused - 1 Brooks

Introduction Date

NOV 27 2018

ATTEST



LaTonda Simmons

City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: December 17, 2018