Office of the City Manager

CONSENT CALENDAR
July 11, 2023

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Revisions to the Unrepresented Employee Manual

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute changes to the Unrepresented Employee Manual that (1) effectuates merit raises for employees on salary ranges on their anniversary date in their current classification; (2) aligns vacation accrual, longevity pay rates, vacation sell-back policies, and a certification differential for the Fire Chief, the Police Chief, and their deputies with the corresponding provisions of the Memoranda of Understanding with the Berkeley Fire Fighters Association and the Berkeley Police Association; and (3) includes Accounting Office Specialists III among the classifications that qualify for the City Manager Department Differential.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impacts of these revisions will be borne by the affected departments.

CURRENT SITUATION AND ITS EFFECTS

Current policy provides a mechanism for employees on salary ranges to receive merit raises but indicates no effective date.

Current vacation accrual and vacation sell-back policies for the Fire Chief, the Police Chief, and their deputies, as well as longevity pay provisions for the Police Chief and Emergency Medical Technician certification differentials for the Fire Chief and Deputy Fire Chief, do not reflect the benefits afforded to members of the Berkeley Fire Fighters Association and the Berkeley Police Association, meaning that members of those employee groups who promote to the chief or deputy positions actually suffer losses in benefits that can lead to a reduction in total compensation.

Current classifications that qualify for the City Manager Department Differential do not include Accounting Office Specialists III.

BACKGROUND
The Unrepresented Employee Manual periodically undergoes revision so that its provisions are brought up-to-date and aligned with City practices. (The Manual was most recently revised in July 2020.) The newly proposed changes were triggered by inconsistent timing of merit raises, as well as unintended reduction of benefits for the Fire Chief, the Police Chief, and their deputies due to lack of alignment between Manual provisions and the terms of the City's Memoranda of Understanding with the Berkeley Fire Fighters Association and the Berkeley Police Association.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS
There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION
Revisions are necessary to the Unrepresented Employee Manual to eliminate inconsistencies in effectuation dates of merit raises for employees on salary ranges and to ensure alignment of vacation and longevity benefits, as well as a certification differential, for the Fire Chief, the Police Chief, and their deputies with those of sworn officers and firefighters, respectively.

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSON
Aram Kouyoumdjian, Director of Human Resources, (510) 981-6807.

Attachments:
1: Resolution
Exhibit A: Unrepresented Employee Manual (Revised – July 2023)
2: Unrepresented Employee Manual – Proposed Revisions (Tracked Changes)

RESOLUTION NO. ##,###-N.S.

REVISIONS TO UNREPRESENTED EMPLOYEE MANUAL

WHEREAS, the Human Resources Department periodically revises the Unrepresented Employee Manual, most recently in July 2020;

WHEREAS, changes to the Manual are warranted in order to clarify City procedures, and to ensure consistency and internal alignment;

WHEREAS, current policy provides a mechanism for employees on salary ranges to receive merit raises but indicates no effective date;

WHEREAS, current vacation accrual and vacation sell-back policies for the Fire Chief, the Police Chief, and their deputies, as well as longevity pay provisions for the Police Chief (and Deputy Police Chief) and Emergency Medical Technician certification differentials for the Fire Chief (and Deputy Fire Chief), do not reflect the benefits afforded to members of the Berkeley Fire Fighters Association and the Berkeley Police Association, meaning that members of those employee groups who promote to the chief or deputy positions actually suffer losses in benefits that can lead to a reduction in total compensation; and

WHEREAS, current classifications that qualify for the City Manager Department Differential do not include Accounting Office Specialists III;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute changes to the Unrepresented Employee Manual (set forth in Exhibit A) that (1) effectuates merit raises for employees on salary ranges on their anniversary date in their current classification; (2) aligns vacation accrual, longevity pay rates, vacation sell-back policies, and a certification differential for the Fire Chief, the Police Chief, and their deputies with the corresponding provisions of the Memorandum of Understanding with the Berkeley Fire Fighters Association and the Berkeley Police Association; and (3) includes Accounting Office Specialists III among the classifications that qualify for the City Manager Department Differential.

Exhibit A: Unrepresented Employee Manual (Revised – July 2023)

Internal

City of Berkeley

Unrepresented Employee Manual

July 11, 2023

Internal

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RESOLUTION NO. 69,968-N.S.

UNREPRESENTED EMPLOYEES MANUAL

WHEREAS, on July 30, 2020, the City Council adopted Resolution No. 69,538-N.S., the Unrepresented Employee Manual, that establishes rules governing working conditions, benefits and compensation for unrepresented career benefited and regular at-will employees; and

WHEREAS, in a separate agenda item on July 20, 2021, the City Council will consider a new Memoranda Agreement with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters that provides for an additional three-years and modifies its members' benefits; and

WHEREAS, the City Manager is recommending similar changes in terms and conditions for the unrepresented employees in Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); Z-6 (Legislative Analysts); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program); and

WHEREAS, the Unrepresented Employee Manual is amended as a result of the attached Agreement July 20, 2021.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley rescind Resolution No. 69, 538-N.S. (Unrepresented Employee Manual) and all other resolutions amendatory thereto and that the Unrepresented Employee Manual that includes the executed Memoranda Agreement as shown in Exhibit A attached hereto and made a part hereof, is hereby adopted as the City of Berkeley Unrepresented Employee Manual.

The foregoing Resolution was adopted by the Berkeley City Council on July 20, 2021 by the following vote:

The foregoing Resolution was adopted by the Berkeley City Council on July 20, 2021 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Jesse Arreguin, Mayor

Attest:

Mark Numainville, City Clerk

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UNREPRESENTED EMPLOYEE MANUAL

This document establishes the rules governing benefits and working conditions, which are in effect for Unrepresented employees which have been approved by the City Council of the City of Berkeley.

This Unrepresented Employment Manual provides the personnel policies and procedures that affect the working conditions and benefits of unrepresented employees in the City of Berkeley. For purpose of categorization, all classifications are designated by a representation unit. Unrepresented employees are in classifications included in representation units Z-1; Z-2; Z-3; Z-9; X; and X-1, as noted in the City's Classification/Salary Resolution. The working conditions and benefits for represented employees are contained in their respective memoranda agreements. Rules, which describe general policies of the City's personnel system, are found in the City of Berkeley Personnel Rules and Regulations.

ARTICLE 1 - SALARY, OTHER PAY AND OVERTIME

1.1 Intent

This Section (Salary, Other Pay and Overtime) is intended only to define the normal hours of work and the time for which salary shall be paid, and to provide the basis for the calculation of overtime pay. Nothing in these rules shall be construed as a guarantee of hours of work per day or per week, or of days of work per week. The City's pay records, practices and procedures shall govern the payment of all wages.

1.2 Hours and Days of Work

Hours and days of work shall be governed by rules established by the City.

1.3 Workweek

The workweek shall consist of seven days beginning at 12:01 a.m. on Sunday to and including 12:00 midnight the following Saturday.

1.4 Regular Workweek

The regular workweek shall consist of forty hours of work within the workweek.

1.5 Payment of Salaries

Payment of salaries shall be bi-weekly and shall cover a pay period of two (2) consecutive workweeks. Each payment shall be made not later than Friday following the ending of each payroll period and shall include payment for all earnings reported during the previous payroll period.

1.6 Salary Ranges without Salary Steps

In those classes of positions for which a salary range is established without a designation of salary steps, the City Manager is authorized to fix the salary rate at any point within the established salary range. Subsequent increases, if approved by the City Manager, shall be effectuated at the start of the pay period closest to the employee’s anniversary date (defined as the date of hire into the employee’s current classification).

1.7 Automobile Allowances

In addition to the salaries provided in the salary resolution, employees may be reimbursed for the use of automobiles owned by employees of the City of Berkeley and used on City business, as authorized by the City. Current automobile allowances are appended to this Manual, as shown in the Appendix, Section 13.27 (Automobile Allowance).

1.8 Mandatory Professional Fees and Licenses

The City will assume full payment of the mandatory professional fees and licenses required by employees in the following unrepresented classes in order to maintain their continued employment with the City of Berkeley:

Director of Public Works	City Attorney
Deputy Director of Public Works (Registered)	The Attorney Class Series
Rent Stabilization Board Staff Attorney Class Series	Audit Manager
Classes requiring a license to practice medicine	

1.9 Bilingual Pay

Employees appointed to positions requiring bilingual abilities, including Braille and sign language shall receive additional compensation as established by the City Council. Only those employees who possess second language competency, can demonstrate second language competency, and are serving in a position requiring competency in that particular language are entitled to receive the bilingual premium pay. The current level of approved compensation and procedures for qualifying and receiving bilingual pay are appended to these Rules, as shown in Appendix, Section 13.3 (Bilingual Premium Pay).

1.10 Overtime for FLSA Non-Exempt Employees

All employees who are covered by the overtime provisions of the Fair Labor Standards Act are designated as "FLSA non-exempt employees." Unless otherwise required by the Fair Labor Standards Act, all FLSA non-exempt employees, and employees in the classification of Battalion Chief, who are required to work in excess of their regular workweek shall be paid overtime compensation at the rate of one and one-half times the straight time rate based upon the regular monthly salaries or shall be given compensatory time off in lieu of payment at the rate of one and one-half hours off with pay for each overtime hour worked. The following provisions regarding overtime apply only to FLSA non-exempt employees and do not apply to FLSA exempt employees. FLSA non-exempt employees, temporarily promoted to FLSA exempt classifications, will be ineligible for overtime compensation for the duration of the appointment.

1.10.1 **Manner of Compensation:** An employee may be compensated for overtime by either compensatory time off or by payment; the method of overtime compensation shall be agreed upon by the employee and the supervisor at the time of obtaining approval to work overtime.

1.10.2 **Pre-Authorization:** No employee may work overtime without the express prior approval of his or her department head.

1.10.3 **Accrual Limit on Compensatory Time:** Compensatory time shall not accumulate in excess of sixty (60) overtime hours worked which is the equivalent of ninety (90) hours of compensatory time. Overtime accumulation in excess of sixty (60) hours shall be paid as compensation.

1.10.4 **Use of Compensatory Time:** All use of compensatory time off must be approved, in advance, by the employee's department head, on forms provided by the City.

1.10.5 **Effect of Termination on Compensatory Time:** An employee is entitled to compensation for any accumulated overtime upon resignation or termination.

1.11 Emergency Overtime

All FLSA non-exempt employees who are called to duty from their living quarters outside of their regular work hours and work days shall be paid emergency overtime compensation for the actual time worked provided, however, that each employee shall be paid a minimum of two (2) hours pay for emergency overtime unless such emergency overtime work is performed prior to the beginning of his or her work regularly scheduled work period without a break in service in which case, compensation shall be paid only for the actual time worked.

1.12 Shift Differential

All unrepresented FLSA non-exempt employees (except for Police Aides) who regularly work a shift of eight hours or more, which includes more than four hours between the hours of 5:00 p.m. and 12:00 a.m., or between 12:00 a.m. and 7:00 a.m., are paid a shift differential in addition to their regular base rate of pay in an amount established by the City Council. The current shift differential rate paid to unrepresented employees is in the Appendix to this Manual.

1.13 Fifty-Six (56) Hour per Week Work Schedule Leave Conversion Factor

The conversion factor for Fire Management employees accruing and using vacation leave, sick leave or sick leave bonus bank of hours is as shown below. The intent of the parties is to have the dollar value of the vacation leave, sick leave or sick leave bonus bank of hours accrued be the same whether an employee is assigned to a fifty-six (56) hour per week schedule or a forty (40) hour per week schedule.

1.13.1 **Leave Accrual for 56 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a fifty-six (56) hour per week scheduled is converted to a forty (40) hour per week schedule by multiplying number of hours of vacation leave or sick leave accrued by the conversion factor of 0.7143.

1.13.2 **Leave Accrual for 40 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a forty (40) hour per week scheduled is converted to a fifty-six (56) hour per week schedule by multiplying number of hours of vacation leave accrued by the conversion factor of 1.4.

1.14 One-Time Allocation

Employees in Units Z-1, Z-2, Z-3, Z-6, and Z-9 who are in paid status as of July 29, 2018 will receive a one-time allocation of $2,000.00 (prorated for part-time employees) on August 17, 2018, minus applicable local, state and/or federal taxes.

1.15 Payroll Specialty Pay

City shall provide ("payroll clerks") identified by the City in Unrepresented Employees a one-time lump sum payment of $500.00 effective the first full pay period after Council adoption of this successor agreement and a second $500.00 one-time lump sum payment the first full pay period in January 2022 for only those employees in the Accounting Office Specialist III classification. Such payments are subject to applicable payroll taxes and will not be considered pensionable salary. At the time of each payment, employee must be still employed by the City and must still be in the Accounting Office Specialist III classification. Employees working less than full-time (40 hours per week, 2,080 hours per year) shall receive a pro rata share of the one-time lump sum payment based on the number of hours they are assigned to work. For example, an employee working 30 hours per week, shall receive 75% of the one-time lump sum payment ($375 effective the first full pay period after Union ratification and Council adoption of this successor agreement and $375.00 the first full pay period in January 2022).

1.15.1 Salary Resolution

Effective the first full pay period in July 2021 after Council adoption on its regular agenda, the salary ranges for those classifications covered by this Manual shall receive a salary increase of four percent (4.0%).

Effective the first full pay period in July 2022, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by three percent (3.0%)

Effective the first full pay period in July 2023, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by one percent (1%).

Effective the first full pay period after City Council adoption on its regular agenda, a onetime non-pensionable lump sum payment of $1,000.00 for each career bargaining unit employee shall be conferred. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice.

ARTICLE 2 - PROBATIONARY PERIOD

2.1 Length of Probationary Period

All original and promotional appointments to positions in the career service shall be tentative and subject to a probationary period. The length of the probationary period shall be determined for each class by the City Council. However, the length of the probationary period shall not be less than six months of actual service (1040 hours) or more than two years of actual service (4160 hours). A six (6) month probationary period must be completed in no more than one (1) year. A one (1) year probationary period (2080 hours) must be completed in no more than two (2) years. A two (2) year probationary period must be completed in no more than three (3) years. A current schedule of probationary periods for unrepresented classes is appended to this Manual, as shown in Appendix, Section 13.16 (Probationary Periods for Unrepresented Classifications).

2.2 Objectives of Probationary Period

The probationary period shall be regarded as a part of the selection process and shall be used to closely observe and evaluate the employee's work, to secure the most effective adjustment of a new employee to his or her position, and to eliminate any probationary employee whose performance does not meet the required standards of work.

2.3 Rejection of Probationers

During the probationary period, an employee may be rejected from employment at any time by the City Manager without cause and without the right of appeal.

2.4 Rejection during Probationary Promotion

An employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he or she was promoted unless charges are filed and he or she is discharged in the manner provided in the Personnel Ordinance and these rules.

ARTICLE 3 - VACATION

3.1 Vacation Leave

All benefitted employees shall be entitled to annual vacation leave subject to the provisions in this chapter.

3.2 Vacation Approval

All vacations must be approved, in advance, by the employee's department head, on forms provided by the City.

3.3 Vacation Accrual

3.3.1 **Full Time Benefitted Employees:** During the first two (2) calendar years of employment, all full time benefitted employees shall be entitled to take only such annual vacation leave as the employees earn based on their continuous length of service measured from the date of hire. After two (2) years of service, employees may request, and upon approval, take up to a maximum of two (2) weeks of their annual vacation, in advance of actual earning. Approval of requests for advance vacation shall be solely at the discretion of management.

Vacation accrues according to schedules established by the City Council and can vary for different groups of employees. The current vacation schedules for full time unrepresented employees are in the Appendix to this Manual.

3.3.2 **Part Time and Temporary Employees**: Benefitted part-time employees working a minimum of twenty (20) hours per week accrue vacation benefits on a pro rata basis. Employees who work less than twenty (20) hours per week and temporary employees, unless otherwise authorized, do not accrue leave benefits

3.3.3 **Accrual of Vacation Credits**: Vacation leave credits are only accrued for each straight time hour for which the employee is paid.

3.3.4 **Effect of Extended Leave on Vacation Accrual**: An employee who has returned from extended military leave or an extended authorized leave of absence without pay of six (6) months or more or who has been re-employed or reinstated shall be entitled, during the calendar year in which the employee returns to the City service, to earn vacation according to a schedule based upon the total years in the career service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, the employee's vacation leave shall accrue as provided in this Manual.

3.3.5 **New Hire Vacation Accrual**: For new hires, the City Manager may authorize vacation accrual at a higher rate, up to the maximum accrual rate, depending upon the paid leave accrual of the potential employee at his or her present employer. The new hire must be able to document his or her current paid leave accrual, which has been earned for general use, such as vacation. The waiting period to advance to the next accrual rate would be the actual number of years between the respective accrual levels.

3.3.6 **Vacation Accrual for Unit Z1 Police Chief and Deputy Police Chief**: The vacation accrual rate for the Police Chief and Deputy Police Chief classifications will provide the same benefits as the vacation accrual for represented sworn police employees under the Berkeley Police Association (Units E & F) Memorandum of Understanding.

3.3.7 **Vacation Accrual for Unit Z1 Fire Chief and Deputy Fire Chief**: The vacation accrual rate for the Fire Chief and Deputy Police Chief classifications will provide the same benefits as the vacation accrual for represented sworn fire employees under the Berkeley Fire Fighters Association (Units B) Memorandum of Understanding.

3.3.8 The classifications identified within Sections 3.3.6 and 3.3.7 shall be allowed to participate in the annual vacation leave sell back to the extent such rights are afforded to the bargaining units they supervise in their respective memoranda of understanding.

3.4 Vacation Scheduling

The times during the calendar year at which an employee shall take his or her vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head cannot permit the employee to take an annual vacation leave or any part of such leave within a particular calendar year, the employee may accrue vacation according to Section 3.3 (Vacation Accrual) of this Manual.

3.5 Maximum Vacation Accumulation

Employees may defer vacation earned up to a maximum cumulative total of eight (8) weeks. An employee who has attained maximum accumulation may be required to take all excess earned vacation at the option of the City. Not later than October 1 of each year, the City will advise employees who have attained a maximum accumulation of vacation whether such excess earned vacation must be scheduled as time off prior to March 31. Such time off shall be scheduled in accordance with the provisions of Section 3.2 (Vacation Approval).

The City shall require all employees to reduce their accrued vacation balances to no more than 320 hours, as of the last pay period in February of each year. To effectuate the requirement that employees not accrue more than 320 hours vacation leave, no later than November 15 of each year the City will provide Department Heads with a report identifying all employees who have accrued two hundred and eighty (280) hours of vacation leave and appear in danger of exceeding the 320 hour limit.

Employees who have accrued 280 hours of vacation leave, as of that date, will be advised by their supervisor that they must take vacation leave to reduce their vacation leave accrual by February of the following year.

Supervisors should be flexible in granting employee vacation requests to those employees above, or approaching the 320 hours limit, and further, that with regard to employees who are in danger of exceeding the 320 hour limit, no vacation request by such an employee shall be unreasonably denied. If an employee who is in danger of exceeding the 320 hour limit fails by December 31 to schedule a vacation to be taken before the last pay period in February, the City has the

authority to direct the employee to go on vacation leave to reduce the employee's accrued vacation.

If, due to operational necessity, a department head denies an employee vacation leave and does not provide the employee with an alternate vacation date, and as a result causes the employee to exceeds the 320 vacation leave limit, said employee shall nonetheless be entitled to use that vacation leave in the next calendar year to the extent necessary to reduce their accrued vacation to not more than 320 hours. Under no circumstances will the City liquidate any vacation leave balances for any employee during employment.

3.6 Vacation Leave before Retirement

Accumulated vacation shall not be used immediately prior to retirement, which has the effect of extending the date of retirement, but shall be paid out in full upon retirement.

3.7 Vacation Leave in Lieu of Sick Leave

Except for absences that qualify for benefits under Administrative Regulation 2.4 (Family Care Leave) Vacation leave shall not be used in lieu of accrued sick leave for absences due to illness. If accrued sick leave is exhausted, vacation leave may be used for absences due to illness, only if such leave is approved by the employee's department head.

3.8 Payout upon Termination or Extended Unpaid Leave

Upon termination, including death, extended military leave or other extended leave without pay, an employee or his or her estate shall be paid for all accrued unused vacation leave at the employee's base rate at the time of his or her termination, and such employee or his or her estate shall reimburse the City for any vacation leave taken before it had accrued, in accordance with provisions established by the City Manager.

3.9 Holidays Occurring during Vacation

If an observed City holiday occurs during an employee's scheduled vacation, no deduction from accrued vacation will be made for the holiday period.

ARTICLE 4 - SICK LEAVE

4.1 Eligibility

All full-time benefitted employees are eligible for one (1) sick leave day (eight [8] hours) per month of service, except that the Police Chief hired before September 11, 2012 is eligible for two (2) sick leave days for each month of service during the twenty-first (21) year of employment and thereafter. Employees in the classifications of Fire Chief and Deputy Fire Chief shall be credited with two (2) sick leave days for each month of service during the seventeenth (17th) year of employment and thereafter. Part time benefitted employees are eligible to accrue sick leave on a pro rata basis.

4.2 Sick Leave Not a Privilege

Sick leave shall not be considered a privilege, which an employee may use at his or her discretion, but shall be allowed only in the case of his or her sickness or disability or in the case of illness within the defined family of the employee.

4.3 Family Sick Leave

As of January 1, 1999, employees may use up to fifteen (15) working days of accrued sick leave in a calendar year to care for a family member, limited to one of the following: a legal dependent, parent, spouse, son, daughter or domestic partner.

4.4 Notice to Department Head

In order to qualify for sick leave benefits, the employee shall notify his or her department head or designee prior to or within two (2) hours after the time set for the beginning of the employee's daily duties, or as otherwise required by the department head. Leave for non-emergency medical appointments shall be requested in advance of the workday.

4.5 Medical Verification

The City of Berkeley retains the right to request a verification from a licensed medical practitioner under appropriate circumstances which include (1) showing that an employee's illness or disability has started or ended, before the City will allow an employee to take a leave or to return from leave, (2) showing regular updates during a medical leave of absence regarding the employee's medical status and the date the employee expects to return to work, (3) where reasonable cause exists to believe that the employee is not medically fit to perform the essential functions of the job or that the employee cannot perform the job without endangering the health and safety of the employee or others, and (4) where reasonable cause exists to believe that the employee is abusing sick leave or family sick leave. Sick leave pay may be withheld if a satisfactory verification is not received.

4.6 Injury Incurred in Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that the injury is covered by California's workers' compensation law or by provisions of the other employer granting payment for time off because of the injury. In the event the injury is not covered either by the workers' compensation law or by the other employer's provisions, sick leave will be granted in accordance with this chapter only if the outside employment had been authorized by the City before the injury occurred

4.7 Bonus for Unused Sick Leave

For every six (6) months of perfect attendance, the employee will receive eight (8) hours of bonus time. "Perfect attendance" means the employee has not received sick leave or salary continuation benefits and has not taken or been placed on leave without pay. Benefitted part time employees will receive sick leave bonus time on a pro rata basis. Sick leave bonus can be used for any leave purpose authorized by this Manual.

4.8 Accumulation of Sick Leave

Employees may accumulate sick leave up to a maximum of two hundred (200) days (1600 hours) except for the classifications named below.

The Police Chief and Fire Chief may accumulate sick leave in excess of the 1600-hour limit by 100 hours per year.

4.9 Payout for Excessive Sick Leave for Employees Hired on or Before June 30, 2013

All employees, except employees in the classification of Deputy Fire Chief hired on or before June 30, 2013 in the career service who regularly work one-half time or more who have attained the two hundred (200) day maximum sick leave accumulation shall be entitled to receive payment for one-third (1/3) of the first twelve (12) days of sick leave days (or if earning sick leave at the rate of two (2) working days each month of service, one-third (1/3) of the first twenty-four (24) days of sick leave days), for which sick leave days they become eligible, they do not use and they would otherwise forfeit because of the two hundred (200) day maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar year basis, and payment for such sick leave for any calendar year shall be made not later than the first full pay period in January. Such payment shall be at the employee's salary rate in effect on the preceding December 31, and shall be made only in units of whole days and will not be made for any fraction of a day.

4.9.1 **Deputy Fire Chief:** For employees in the classification of Deputy Fire Chief, the following provisions shall apply. In each year following that 1200 hour base year, the employee may, on a form provided by the City, elect to receive pay for excess sick leave or may elect to increase his or her sick leave accumulated base by the 96 hours and take any additional

excess sick leave in pay at the following prescribed rate: employees who choose to increase their sick leave accumulated base by the 96 hours will receive 50% pay off rate in March; employees who choose to receive pay out for excess sick leave over the base, and do not exercise the option of increasing their accumulated sick leave base by 96 hours in any particular year, will be paid for excess sick leave at the 38% pay off rate in March.

Forms, provided by the City along with projected excess sick leave balances, shall be distributed to affected employees by February of each year and shall be returned to the City by February 15th. If an employee uses part of an established "sick leave maximum accumulation level", the employee may replenish the used portion at the applicable rate.

Determination of eligibility for such payment shall be made on an annual basis, and payment for such sick leave for any calendar year shall be made during the month of March each year. Such payment shall be made at the employee's regular monthly salary rate in effect on the last day of the first pay period to end in March. An employee shall be eligible for this provision whether or not the employee is on the payroll as of the last day of the first pay period to begin and end in March.

4.9.2 **Police Chief and Fire Chief Hired on or before June 30, 2013:** For the Police Chief and Fire Chief hired on or before June 30, 2013, the maximum sick leave accrual allowed shall be adjusted at the rate of 100 additional hours per year above the 1600-hour limit. The employee may elect to receive pay for the excess sick leave or may elect to increase the base by 100 hours, in each subsequent year. Payment for excess sick leave is prescribed at 1/3 of the excess leave balance.

4.10 Effect of Leave without Pay on Sick Leave Accrual

Sick leave will not accrue during any period of absence without pay. Sick leave credits are accrued on the basis of actual straight time hours worked or paid, based on a forty-hour workweek.

4.11 Accrued Sick Leave Canceled Upon Termination

Except as otherwise provided under the CalPERS conversion of sick leave retirement credit benefit (California Government Code Section 20965) and the other exceptions set forth below, all accrued sick leave shall be canceled upon termination of an employee. Such leave shall be credited back to the employee if the employee returns to City employment within two (2) years of termination except as otherwise provided by the City Council, or within three (3) years of termination if re-employed under the City's Layoff Policy provided in this Manual.

4.11.1 **CalPERS Miscellaneous Members, Chief of Police Hired on or before June 30, 2013 Sick Leave Payout**: For CalPERS

Miscellaneous members and Chief of Police hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty (20) years of benefitted City of Berkeley service or to employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City shall be entitled to liquidate a portion of their accrued but unused sick leave as follows: Upon termination, employees with between twenty (20) years and twenty-eight (28) years of benefitted City of Berkeley service shall be entitled to receive payment in an amount equal to 38% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days.

All employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

Employees hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty-eight (28) years of benefitted City of Berkeley service or employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City, with at least twenty-eight years of benefitted City of Berkeley service, shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days. Employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

4.11.2 **Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout:** For employees hired on or before June 30, 2014 in the classification of Fire Chief and Deputy Fire Chief who retire or voluntarily terminate with twenty (20) years of service or who retire on permanent disability arising out of and incurred in the course and scope of their employment with the City, shall be entitled to receive payment at retirement or termination of unused sick leave days, based on the following schedule:

Number of Days	% of Payment
0-75 Days	38%
75-99 Days	41%
100-124 Days	44%
125-149 Days	47%
150 Days and over	50%

Employees in classifications identified in this Section 4.11.2 (Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout) hired on or after July 1, 2014 shall not be eligible for payment of any unused sick leave days.

4.12 City of Berkeley Supplemental Retirement Plan [Termination 401(a)]

Employees who retire on a vested pension shall be eligible to participate in the City of Berkeley Supplemental Retirement Plan. The Supplemental Retirement Plan provides for negotiated required roll-forwards of accrued but unused leave, and also permits the City to do a “tax pick-up” of employee contributions under Section 414(h)(2) of the Internal Revenue Code. A tax pick-up works through an irrevocable payroll deduction authorization, on an individual by individual elective basis, to contribute accrued but unused sick leave, vacation leave, compensatory time, floating holiday and bonus sick leave into an Internal Revenue Code 401(a) defined contribution plan. The Supplemental Retirement Plan Document shall govern administration of the Plan.

4.13 Accrued Sick Leave Applied to CalPERS Retirement Credit

The conversion of unused sick leave to retirement credit benefit under Government Code Section 20965 offered by CalPERS as an optional benefit to contracting agencies shall be made available to employees who retire with a vested pension.

4.14 Sick Leave Benefits and State Disability Insurance

Employees may use their accrued sick leave benefits during the normal seven day period before the eligible employees are paid benefits from State Disability Insurance. Following the seven day period, an employee will continue to receive accrued sick pay until exhausted and then, upon approval by the department head, accrued vacation or compensatory pay, less the disability benefits actually received.

4.15 Workers’ Compensation and Salary Continuation

Workers' compensation payments shall commence in accordance with State law, on the fourth day following an industrial injury, unless the employee is hospitalized in which case payment commences on the first day of injury. For the purpose of this Section (Workers’ Compensation and Salary Continuation), "hospitalized" means confinement.

For all career and regular at-will employees who are receiving or shall receive workers' compensation benefits for an industrial injury, the City will pay retroactive compensation benefits to the eligible employee for the normal three day waiting period before the employee is paid workers' compensation benefits for temporary disability pursuant to California law governing the industrial injury or illness.

Payments under the workers' compensation law for temporary disability or a recurrence thereof arising out of and in the course of employment shall be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability pay, but shall not exclude any salary adjustments to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under State law and the City shall cease to pay the difference.

4.15.1 Salary Continuation Benefit

1. New Accepted Claim with Overlapping Previously Accepted Injury - Where an Employee sustains a subsequent industrial injury as part of a new accepted workers' compensation claim that includes a previously accepted body part in the same five (5) year period, Employee shall be entitled to a period of time not to exceed 183 days of Salary Continuation Benefits.
2. New Accepted Claim with No Overlapping Previously Accepted Injury - Where an Employee sustains another industrial injury resulting in a new accepted workers' compensation claim within the same five (5) year period that does not include a previously accepted body part, the Employee's new accepted claim shall be entitled to a period of time not to exceed 365 days of the Salary Continuation Benefit.
3. New Accepted Claim for Same Previously Accepted Injury after Five (5) Years - Where an Employee sustains an industrial injury to a previously claimed body part after five (5) years from the initial Date of Injury, the Employee shall be entitled to a new period of time not to exceed 365 days of the Salary Continuation Benefit. In effect, after five (5) years from the initial Date of Injury, the benefit resets with respect to a previously claimed body part.
4. Workers' Compensation Medical Appointments and Salary Continuation - For the purposes of the Salary Continuation Benefit, effective January 1, 2019, the City shall calculate absences from work to attend medical appointments for the treatment of an accepted industrial injury in one (1) hour increments for the purposes of running against the maximum 365 days of Salary Continuation.

4.16 Sick Leave Accrual for Department Heads and Deputy City Managers

At the time of appointment of new hires in regular at-will department head classifications and Deputy City Managers, the City Manager may authorize credit for accrual of sick leave based on sick leave accrual with a prior employer in an amount that does not exceed four weeks of sick leave credit.

ARTICLE 5 - HOLIDAYS

5.1 Holidays

The City observes the following holidays and provides all full time regular, at-will and career employees. Contingent upon agreement by all Employee Bargaining Units, the parties agree that the Lincoln Holiday shall be eliminated and that Cesar Chavez Day – observed on March 31, or on the Monday or Friday closest to March 31 if it falls on a Saturday or Sunday would be added instead.

Holiday	Day Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	Third Monday in February
Malcolm X's Birthday	Monday or Friday nearest May 19
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	First Monday in September
Indigenous People's Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	Fourth Friday in November
Christmas	December 25

5.2 Floating Holidays

Full time, regular at-will, and career employees who have worked for the City six (6) months or more shall be granted three (3) floating holidays each calendar year. Employees may take floating holidays in one (1) hour increments. Employees who terminate employment within the first six (6) months of initial employment shall not be eligible for payout of any accrued but unused floating holiday.

In the first calendar year of employment, employees shall be granted prorated floating holidays as follows:

Date of Hire	Number of Floating Holidays
Hired January 1 - April 30	3 days
Hired May 1 - August 31	2 days
Hired September 1- December 31	1 day

All use of floating holidays must be approved, in advance, by the employee's department head, on forms approved by the City. The days on which the employee shall take his or her floating holiday(s) shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head

cannot permit the employee to take the floating holiday(s) within a particular calendar year, the employee shall add the unused floating holiday(s) to the employee's accrued vacation according to Section 3.5 (Maximum Vacation Accumulation).

5.3 Eligibility

In order to be eligible for holiday pay, an employee must be on paid leave status on his or her regularly scheduled workdays before the holiday.

5.4 Part-Time Employee Eligibility

Benefitted part time employees are eligible for holiday benefits on a pro rata basis.

5.5 No Work on the Holiday

Employees in the career service who are not scheduled to work on the day observed as a holiday will be granted an alternative scheduled holiday. The alternative holiday must be scheduled, by the department head, during the same workweek.

5.6 Work on the Holiday

FLSA non-exempt benefitted employees who work on a scheduled holiday shall be paid at one and one-half times their normal base rate for all hours worked or shall be granted the equivalent amount of compensatory time off. In either event, the holiday pay shall be in addition to the employees' regular salary.

ARTICLE 6 - OTHER PAID LEAVES OF ABSENCE

6.1 Family Bereavement Leave

Any benefitted employee who experiences a death in the immediate family is granted death leave of up to three (3) working days for the purpose of attending the funeral or memorial service in the State of California, or up to five (5) working days for the purpose of attending the funeral or memorial service outside the State of California. Employees in the classification of Fire Chief and Deputy Fire Chief shall be granted one week (five (5) consecutive calendar days) for a death in the immediate family whether in state or out of state for the purpose of attending the funeral or memorial service.

For all employees except those employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren, dependent or domestic partner. For employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, domestic partner mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren or dependent residing within the household.

Bereavement leave will be paid at the employee's normal base rate of pay for the actual time lost and is allowed solely for the purpose of attending funeral or memorial services. The department head may, within his or her discretion, grant the employee additional time off provided that all accrued vacation and/or sick leave shall be used prior to taking a leave of absence without pay for this purpose.

In special cases, with the approval of the department head, the City Manager may grant death leave within his or her discretion to allow an employee to attend a funeral or memorial services because of the death of persons not included within the definition of immediate family.

6.2 Jury Duty Leave

Any benefitted employee who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his or her department head, shall be entitled to be absent with pay from his or her duties with the City during the period of such service and while necessarily being present in court as a result of such call. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any requirements (on-call status) made by the court that may affect the employee’s ability to simultaneously fulfill his or her jury duty service and employment obligations. The employee will keep any payment received for jury service including mileage reimbursement.

6.3 Continuing Education Leave

The City will grant a continuing education leave of absence with pay up to forty hours per year to benefitted employees who are required by their employment or continuing employment with the City of Berkeley to pursue course work in order to:

(a) renew a license issued by the State of California; or

(b) obtain a license issued by the State of California provided that employees verify to the City that the course work for the initial license was not offered as a part of their basic curriculum.

Upon prior approval of the department head, FLSA non-exempt employees who take required course work during non-scheduled work hours in order to obtain or renew a job-required license shall be allowed time off from work on an hour-for-hour basis without loss of compensation or other benefits.

6.4 Administrative Leave Program

The City Manager provides for paid administrative leave to eligible employees as set forth in the Appendix to this Manual. Administrative leave is not charged against other accrued leave balances.

6.5 Temporary Employees – Earned Leave

A temporary employee who works one thousand forty (1040) hours or more in a calendar year and is in active employment during December of such year, shall be credited with forty (40) hours of paid time off to be used by such employee in the subsequent calendar year for either paid vacation or paid sick leave. The following conditions shall apply to the use of this earned leave as paid time off:

a. To qualify for earned leave as vacation, the employee must apply, in writing, to the employee's supervisor at least thirty calendar days in advance of the desired time off. The granting or denial of the requested time off shall be in writing and shall be controlled by program considerations as established by the City.

b. To qualify for earned as sick leave, the employee must notify the employee's supervisor of an inability to report to work by reason of illness or injury in advance of the scheduled work.

c. An employee who has any unused earned leave credit shall receive payment for such time upon termination of temporary employment. All credited earned leave not utilized by employees at the end of the calendar year in which the employees are eligible to take such leave will be paid at the end of such year as wages and this earned leave shall not be accumulated from year to year.

6.6 Abolishment of Temporary Employees – Earned Leave

Effective July 1, 2015, Section 6.5 (Temporary Employees – Earned Leave) is abolished in its entirety and replaced with the following Section 6.7 (Temporary Employees Sick Leave).

6.7 Temporary Employees Sick Leave

Effective January 1, 2015, Temporary Employees who have been employed for at least 90 days on July 1, 2015 are eligible to accrue and use sick leave based on hours worked after July 1, 2015 as provided in Section 6.8 (Sick Leave Accrual) below.

6.8 Sick Leave Accrual

Effective July 1, 2015, once a temporary employee works for 30 days within a calendar year, the employee shall be eligible to accrue one (1) hour of sick leave for every 30 hours worked thereafter, to a maximum accumulation of 48 hours. Once an employee accrues 48 hours sick leave, the employee shall not accrue any additional sick leave hours until his or her sick leave balance is below the maximum of 48 hours. Under no circumstances will an employee be allowed to accrue more than 48 hours sick leave.

6.9 Sick Leave Use

Temporary Employees shall be eligible to use sick leave beginning on the 90th day of work. Sick leave shall be used in a minimum of two (2) hours increments, and limited to a maximum of 24 hours use each calendar year. Unused accrued sick leave hours shall carry over to the following calendar year. The following conditions shall apply to the use of this sick leave as paid time off:

a. Sick Leave may be used for the following purposes: Diagnosis, care, or treatment, of an existing health condition or, preventive care for, an employee or an employee's family member; for an employee who is a victim of domestic violence, sexual assault, or stalking. To qualify for earned as sick leave and if the need for sick leave is foreseeable, the employee must notify the employee's supervisor of an inability to report to work in advance of the scheduled work. If the need for sick leave is unforeseeable, the employee shall provide notice to the immediate supervisor of the need for the leave as soon as practicable.

b. All accrued and unused sick leave shall be cancelled upon separation/termination of employment. Such previously accrued and unused sick leave shall be credited back to the employee if the employee returns to City employment within one (1) year from the date of separation.

ARTICLE 7 - LEAVES OF ABSENCE WITHOUT PAY

7.1 Power to Grant Leave

The City Manager shall have the power within his or her sole discretion to grant leaves of absence, with and without pay.

7.2 Authorized Leave Without Pay

Upon request of the employee, a department head may grant or deny a leave of absence to an employee within his or her department without pay for a period not to exceed thirty working days. No leave without pay shall be granted for more than thirty working days except upon written request of the employee and written approval of the City Manager.

7.2.1 **Required Exhaustion of Accrued Leave:** In the event of an authorized absence due to illness, the employee must use all accrued sick, compensatory and vacation leave prior to receiving authorization for leave without pay. In the event of personal leaves not related to sickness, the employee must use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay. However, employees in the classifications of Legislative Assistant and Assistant to the Mayor are not required to use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay for the employee's respective appointing Councilmember or the Mayor. This subsection does not apply to parental leave or to the exhaustion of sick leave by employees in the classification of Deputy Fire Chief as referenced in Section 7.2.2 (Fire Chief and Deputy Fire Chief Use of Sick Leave), below.

7.2.2 **Fire Chief and Deputy Fire Chief Use of Sick Leave**: In the event of illness or injury of an employee in the classification of Fire Chief and Deputy Fire Chief requiring the use of sick leave, the employee has the option to notify the City in writing that he/she wishes to freeze the use of sick leave after thirty (30) days, prior to receiving authorization for leave without pay, in order to utilize the International Association of Fire Fighters sponsored Long Term Disability benefit.

7.2.3 **Grounds for Discharge:** Failure on the part of an employee to report to work promptly at the expiration of the authorized leave without pay will result in discipline up to and including termination.

7.3 Unauthorized Leave of Absence

All paid and unpaid leaves of absence must be approved in accordance with the applicable sections of this Manual. Any absence on the part of the employee who has failed to obtain such approval or failure of an employee to report for duty without appropriate authorization as required by each department will result in the employee being placed on unauthorized leave of absence without pay.

7.3.1 **Grounds for Discharge:** Unauthorized leave of absence without pay shall be cause for disciplinary action up to and including termination.

7.4 Parental Leave

Any employee with one or more years of benefitted employment with the City of Berkeley shall be entitled to up to one year of parental leave upon the birth of a child or the adoption of a child who is five years or younger as provided in Administrative Regulation 2.4 (Family Care Leave).

7.5 Family Care Leave

The City will fully comply with the requirements of the state and federal law regarding pregnancy disability leave and medical/family illness/child care leave where their provisions are more generous than those provided elsewhere in this Manual or Administrative Regulation 2.4 (Family Care Leave). Leaves under this Section 7.5 (Family Care Leave) and Section 7.4 (Parental Leave) and as provided in Administrative Regulation 2.4 may not be combined to yield a larger amount of leave than the state or federal maximums and may not be combined to exceed the maximum one year period of parental leave provided by the City of Berkeley.

7.6 Military Leave

Employees will be granted a leave of absence without pay with appropriate seniority, pay, status and vacation as required by law for the purpose of fulfilling any required military obligation.

ARTICLE 8 - EMPLOYEE FRINGE BENEFITS

8.1 Group Medical-Dental Insurance Benefits

Benefitted employees and their dependents may participate in the City's group medical and dental benefits, which are summarized in the Appendix.

8.1.1 **Part Time Employment:** All benefitted employees who work a minimum of twenty hours, but less than forty hours per week, qualify to receive prorated health and dental benefits and shall pay a pro rata portion of the health and dental insurance premiums. Full time career employees who accept part time employment in lieu of layoff shall continue to receive full health and dental benefits paid by the City.

8.1.2 **Medical Plan for Part-Time Employees:** Effective November 1, 2016, the City will pay 75% of the cost of the medical plan which is fully paid for full-time employees for those benefitted part-time employees who work twenty (20) to twenty-nine (29) hours per week. The City will pay 100% of the cost of the medical plan which is fully paid for benefitted full-time employees for those part-time employees who work thirty (30) or more hours per week.

8.1.3 **Medical Contribution Executive Managers**: Effective July 1, 2019, the City Manager, Deputy City Manager, and all department heads shall pay fifty dollars ($50.00) per month via pre-tax payroll deduction toward their health premium, and the City will pay an amount equal to the balance of the Kaiser monthly premium rate for the employee's applicable single, two-party, or family employee category.

8.2 Life Insurance

The City provides basic group life insurance coverage by a carrier of the City's choice to all benefitted employees and pays the full amount of the life insurance coverage. The City also provides the option to benefitted employees to purchase additional coverage, at their own expense. A summary of the terms of the life insurance coverage is in the Appendix.

8.3 Hourly Rated Employees in Lieu of Benefits

Except for employees in the Aquatics Specialist II and Senior Aquatics Specialist classifications, the Salary Resolution shall provide that hourly-rated employees working in career benefitted classifications will receive an additional seven percent (7.0%) in lieu of benefits.

8.4 Public Employees Retirement System:

8.4.1 **Participation**: The City shall continue to participate in the Miscellaneous Employees Plan, the Safety Fire Plan and the Safety

Police Plan of the California Public Employees Retirement System ("CalPERS"). All benefitted employees shall participate in one of these plans.

8.4.2 **"Classic Employees" Definition:** Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

8.4.3 **CalPERS Retirement Formula for Miscellaneous Employees "New Members" as Defined under PEPRA:** Miscellaneous Employees "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2% at age 62 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.4 **CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees:** Effective January 1, 2003, the City amended its Miscellaneous Employees Plan contract with CalPERS to provide the 2.7% at age 55-retirement formula benefit improvement and the City's contribution to CalPERS on behalf of Miscellaneous employees increased from 7% to 8%. Effective July 3, 1994, contributions made pursuant to this Section shall be reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The contributions in Section 8.4.4 (CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees) shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked or for other differentials; nor shall such contributions be taken into account in determining the level of any other benefit which is a function of or percentage of salary.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this Section or any penalty that may be imposed therefore.

8.4.5 **Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment**

8.4.5.1 **June 4, 2017:** Effective June 4, 2017, Miscellaneous employees will contribute one percent (1%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

8.4.5.2 **December 31, 2017:** Effective December 31, 2017, Miscellaneous employees will contribute an additional seven percent (7%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions on a pre-tax basis, for a total of eight percent (8.0%), via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions. The parties recognize that the Employer Paid Member Contributions (EPMC) shall remain in effect as long as the CalPERS amendment stays in effect.

8.4.5.3 If legislation is enacted requiring employers under the CalPERS retirement system to pay all of the employee's share of retirement, thus eliminating the Employer Paid Member Contribution, the City may convert the employee's contribution to the employer's share under this Section 20516 CalPERS contract amendment to the employee's share toward retirement and may continue to pay the 5.58% wage increase provided on December 31, 2017 associated with the CalPERS swap for Miscellaneous Classic Employees.

8.4.6 **Miscellaneous New Members' Pension Contribution**

8.4.6.1 Miscellaneous New Members as defined in the California Public Employees' Pension Reform Act of 2013 (PEPRA), shall continue to pay 50% of the Normal Cost required under PEPRA.

8.4.6.2 **June 4, 2017**: Effective June 4, 2017, in addition to the contribution in Section 8.4.6.1, Miscellaneous New Members shall contribute one percent (1.0%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allow such contributions as pre-tax via automatic payroll deduction. Such employee deductions by the City shall be used toward the City's CalPERS required contributions.

8.4.6.3 **December 31, 2017:** Effective December 31, 2017, in addition to the contributions in Sections 8.4.6.1 and 8.4.6.2 above,

Miscellaneous New Members shall contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions as pre-tax, for a total of eight percent (8.0%) via automatic payroll deduction. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

8.4.6.4 Miscellaneous New Member contributions in Sections 8.4.6.2 and 8.4.6.3 to the CalPERS 20516 employee contributions towards the employer rate are in addition to the required 50% of the normal share of cost of "New Members" (required pursuant to PEPRA)benefits and made in consideration of additional salary increases effective June 4, 2017 and December 31, 2017 and set forth in the Salary Resolution (a total of 5.58% in exchange for employees paying an additional eight percent (8.0%) towards CalPERS pension costs).

8.4.6.5 Miscellaneous New Member contributions in Sections 8.4.6.2, 8.4.6.3, and 8.4.6.4 to the CalPERS 20516 employee contributions towards the employer rate will be amended and reduced as follows:

8.4.6.5.a

- FY2021-22: 1% (Effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% effective July 1, 2022
- FY2023-24: 1% effective July 1, 2023
- FY2024-25: 2% effective July 1, 2024
- FY2025-26: 2% effective July 1, 2025
- FY 2026-27: 1% effective July 1, 2026

8.4.6.5.b No change to Classic members' contributions during the contract term.

8.4.7 **Public Safety CalPERS Retirement Formula for "New Members" as Defined Under PEPRA**: Public Safety "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2.7% at age 57 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.8 **Public Safety Classic Employees CalPERS Retirement Formula:** The City agrees to provide the 3% at age 50-retirement formula benefit

improvement (December 22, 2000 for Classic Fire Safety; and July 7, 2002 for Classic Police Safety hired prior to December 28, 2011).

For Classic Police Safety Employees hired on or after December 28, 2011, the City provides the 3% at age 55-retirement formula benefit.

8.4.9 **Public Safety Fire Classic Employees' CalPERS Pension Contribution**: On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Fire Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Cost Share: Effective November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Public Safety Fire Classic Employees shall contribute two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

8.4.10 **Public Safety Police Classic Employees' CalPERS Pension Contribution**: On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Police Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Effective January 3, 2016, Police Public Safety Classic Employees shall contribute one percent (1%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety Classic employees shall contribute an additional one percent (1%), for a total of two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

8.4.11 **Public Safety Fire New Members CalPERS Pension Contribution**: Public Safety Fire New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost as required pursuant to PEPRA.

Cost Share: **Effective** November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Fire New

Members shall also contribute an additional two percent (2%) of pensionable compensation, in addition to the PEPRA mandated 50% of the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis

8.4.12 **Public Safety Police New Members CalPERS Pension Contribution**: Public Safety Police New Members New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost required by PEPRA.

Cost Share: Effective January 3, 2016, Public Safety Police New Members shall also contribute one percent (1%) of pensionable compensation (in addition to contributing 50% of the normal share of cost) towards the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety New Members shall contribute an additional one percent (1%), for a total of two percent (2%), in addition to the PEPRA mandated 50% of the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis.

8.4.13 **CalPERS Options Available to Berkeley Employees**: The City's contract with CalPERS includes the following optional benefits:

a) Classic Employees Only - One-Year Final Compensation as provided in Section 20042 (July 9, 1978 for Miscellaneous; July 22, 1976 for Fire and Police).

b) Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).

c) Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).

d) Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).

e) 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).

f) Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

g) Fourth Level of 1959 Survivor Benefits as provided in Section 21574 for Police Safety only (October 15, 1998).

h) Military Service Credit as Public Service as provided in Section 21024 (April 9, 1999 for Miscellaneous; July 14, 2000 for Fire; November 6, 1998 for Police).

i) Public Service Credit for Peace Corps or America Corps: Vista Service as provided in Section 21023.5. (April 14, 2000).

j) Classic Fire - 3% @ 50 for Local Safety Members as provided in Section 21362.2 for Fire members only, (December 22, 2000); and for Police members only (July 7, 2002.).

k) Classic Police Hired Prior to December 28, 2012: 3% @ 50 for Local Safety Classic Members as provided in Section 21362.2 for Police members only (July 7, 2002).

l) Classic Police: 3% @ 55 for Local Safety Classic Members as provided in Section 21363.1 for Police members only (December 28, 2012).

m) Classic Miscellaneous: 2.7% at age 55 for miscellaneous members as provided in Section 21354.2 on January 5, 2003.

n) New Members Miscellaneous: 2% at age 62 for Miscellaneous New Members as defined by PEPRA on January 1, 2013.

o) New Members Police and Fire: 2.7% @ 57 for Local Safety New Members as defined by PEPRA (January 1, 2013).

p) Indexed Level of 1959 Survivor Benefits as provided in Section 21574.5 for Fire Safety only (June 13, 2003).

8.4.14 **Unused Sick Leave Conversion**: The conversion of unused sick leave to CalPERS Retirement Credit for Unused Sick Leave under Government Section 20965 shall be made available to qualified retiring employees. This allows employees to convert unused accumulated sick leave at time of retirement, for which the employee receives no compensation, to additional service credit at the rate of 0.004 year of service credit for each day. This credit applies to qualified employees

whose effective date of retirement is within four months of separation from employment. The CalPERS sick leave conversion applies to accumulated sick leave, exclusive of the amount of accumulated sick leave paid out to the employee pursuant to Section 4.11 (Accrued Sick Leave Cancellation Upon Termination), of this Manual.

8.4.15 **Retirement Benefit Allowance**: CalPERS retirement benefits are calculated on a formula based on the participating employee's years of service, age at retirement, and percentage of highest year compensation. For employees participating in the Local Miscellaneous Employees Plan, the percentage is 2.7% at age 55 effective January 5, 2003. For Classic Employees participating in the Fire Safety Employees Plan, the percentage is three percent (3%) at age 50 effective December 22, 2000. For Classic Employees participating in the Police Safety Employees Plan, the percentage is three percent (3%) at age 50 effective July 7, 2002. For Classic Employees participating in the Police Safety Employee Plan effective December 28, 2012, the percentage is three percent (3%) at age 55.

8.5 Supplementary Retirement and Income Plans

In lieu of participating in the Federal Social Security Program, the City provides a supplemental retirement and income plan to most benefitted employees. There are three supplementary retirement and income plans: Supplementary Retirement and Income Plans I, II and III ("SRIP I, II and III"). The City's contributions to these plans on behalf of participating employees is not subject to income tax until it is paid out to the employees upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.5.1 **SRIP I:** In SRIP I, the City contributes 5.7% of the participating employee's salary (up to a maximum annual salary of $32,400) into an investment account and 1% into a long term permanent disability plan. SRIP I was closed to new participants on July 22, 1988.

8.5.2 **SRIP II:** In SRIP II, the City contributes 6.7% of the participating employee's salary (up to a maximum annual salary of $32,400) into an investment account and pays into a disability insurance benefit plan on the employee's behalf; and employees may also borrow up to 50% of the balance in their SRIP II investment accounts, subject to certain limitations. All employees, including the Fire Chief, hired (or who are subsequently enrolled by resolution of the City Council) after July 22, 1988 are automatically enrolled in SRIP II.

The Deputy Fire Chief is enrolled, effective July 1, 1993.

8.5.3 **SRIP III**: For eligible Police Safety employees, the City contributes 2% of the employee’s salary (up to a maximum annual salary of $32,400) into the investment account, SRIP III.

8.6 Deferred Compensation

Benefitted City employees are eligible to participate in the City's Deferred Compensation Plan through voluntary payroll deductions from the employee's salary. The Deferred Compensation Plan allows employees to defer part of their salaries, in accordance with Internal Revenue Service limits, to a separate fund, which is not subject to income tax until it is paid out to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.7 PARS

At-will employees who are not eligible to receive fringe benefits under this chapter are automatically enrolled in the Public Agency Retirement System ("PARS"). Each pay period, such employee shall contribute 3.75% of his or her salary into the employee's PARS account on a tax deferred basis and the City shall contribute a matching amount equaling 3.75 % of the employee's salary. The employee's PARS account balance will be distributed to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.8 Public Safety Uniform Allowance

Due to the requirement for sworn fire and police department management personnel to wear standard and dress uniforms in the performance of their duties, the City Manager may provide for the payment of uniform allowance, in keeping with the allowance provided to other fire and police personnel, as shown in the Appendix. The uniform allowance is intended to cover uniform expenses incurred during active service prior to the payment and shall be paid semi-annually, in installments of equal amounts. To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

8.9 Supplemental Retirement Plan and Trust Agreement

Effective July 1, 2001, the City adopted a Supplemental Retirement Plan and Trust Agreement to provide supplemental retirement income and other benefits for eligible unrepresented career benefited and regular at-will employees through the liquidation of termination pay. Termination pay means pay due to an eligible unrepresented career benefited and regular at-will employee from the City on account of termination of his or her employment, but only including the commuted value of the following such accumulated pay: vacation, sick leave, sick leave bonus, compensatory time and floating holidays. The Supplemental Retirement Plan includes both mandatory contributions of termination pay and voluntary contributions for employees who provide the City with an irrevocable payroll deduction authorization at least 90 days in advance of the date of termination.

ARTICLE 9 - EMPLOYMENT AT-WILL

9.1 Employment At-Will

An employee who is employed in a position that is excluded from the career service by Berkeley Municipal Code Section 4.04.120 of the Personnel Ordinance is employed by the City in an "at-will" status. This means that both the at-will employee and the City have the right to terminate employment at any time, with or without advance notice, and with or without cause. No employee or officer of the City of Berkeley has the authority to alter the employee's at-will status or to enter into an oral or written agreement for employment for a specified period of time, or to make any promises, assurances or agreements contrary to this the provisions of this Section.

9.2 No Right to Appeal Discharge

An at-will employee who is discharged has no right of appeal or hearing in any manner provided by this Manual.

9.3 Benefits

Those offices, positions and employments named in the Berkeley Municipal Code, Sections 4.04.120 (A), (B) and (C) who regularly work twenty or more hours per week are classified as regular at-will employees and shall be entitled to those benefits as specified for benefitted employees by this. A list of regular at-will positions entitled to receive such benefits is in the Appendix.

All other offices, positions and employments named in the Berkeley Municipal Code, Section 4.04.120, are not eligible for any benefits provided under these Rules, except those expressly specified for temporary employees, such as the Earned Leave benefit or those required by State or Federal law such as Family Care Leave and enrollment in the City's PARS retirement plan, as provided in this Manual.

9.4 Standards of Conduct

At-will employees are subject to the same standards of conduct that prevail over employees in the career service. Any evaluations, warnings or disciplinary action provided to at-will employees regarding their conduct or job performance does not create any obligation or duty on the City's part to provide a warning or evaluation or corrective progressive discipline prior to discharge and in no way negates or otherwise abrogates the City's right to discharge at-will employees for any reason without notice at any time during their employment and without right of appeal.

9.5 Transfer or Appointment of Career Employee to an At-Will Position

Any employee in the career service who accepts a transfer or appointment to an at-will position shall be reinstated to the career position from which he or she was transferred or appointed if within six months after such transfer or appointment, action is taken to dismiss the employee, unless charges are filed and the employee

is discharged in accordance with these Rules. After expiration of the six month period, the employee is excluded from the career service and from any retreat rights to former career positions and is subject to termination at any time, with or without advance notice, with or without cause, and without the right of appeal.

ARTICLE 10 - LAYOFF POLICY AND PROCEDURE

10.1 Statement of Intent

This layoff policy is intended to provide the maximum employment protection to employees in the career service and to minimize the impact on the City's affirmative action accomplishments should a layoff become necessary.

10.2 Announcement of Layoff

The City Council, City Manager and department heads shall make every reasonable effort to manage and budget the City's resources effectively, and to plan for the delivery of City services in a manner which will avoid the necessity to lay off career City employees. A reduction in the workforce for more than thirty calendar days is necessitated by, but not limited to, the following a material change in duties and organization, adverse working conditions, return of employee from leave of absence, or shortage of work or fund. In the event of a layoff, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

10.3 Vacancy Freeze

Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the career service in similar and related classes to those likely to be targeted for layoff. The City Manager shall notify the department heads of a freeze of vacancies in their departments and shall require that requisitions continue to be submitted for any budgeted positions which the department head intends to fill and for which funding is available.

10.4 Seniority Service Date

All service in the employ of the City shall be counted toward the establishment of an employee's Seniority Service Date, including permanent, probationary, provisional, temporary, part time (on a prorated basis), seasonal, regular at-will employment, and approved military and parental leaves of absence. All other leaves without pay, including time off as a result of formal disciplinary action will be subtracted from the Seniority Service Date.

10.5 Establishment of Seniority Lists

Layoffs shall be made according to City-wide class Seniority Lists which the Human Resources Department will immediately establish for probationary and permanent employees in each class targeted for layoff. The names of all City employees holding permanent and probationary appointments in a given class will be listed on the appropriate list in descending order by Seniority Service Date.

Probationary or permanent employees temporarily acting out of class and holding a provisional appointment in another class will be listed on the Seniority List of the class in which they hold permanent or probationary status.

10.6 Order of Layoff

Employees within a specific class shall be laid off on the basis of their Seniority Service Date; i.e., employees with the least amount of total service shall be laid off first. All emergency, temporary and provisional employees working in classes similar to those identified for layoff must be terminated prior to the layoff of probationary and permanent employees. Probationary employees will be laid off prior to permanent employees for a specific class.

10.6.1 **Tie:** If two or more employees on a Seniority List have an identical Seniority Service Date, the tie shall be broken in the following order: (1) time in class--the employee having least time in the class shall be laid off first, and (2) by lot.

10.6.2 **Administrative & Fiscal Services Manager Position in the Berkeley Public Library:** This is a specialty designated position within the Administrative & Fiscal Services Manager classification, and will be treated as a separate classification for the purpose of administering the Layoff Policy and Procedure.

10.7 Notification

Permanent and probationary employees should be notified individually, in writing, of pending layoffs as soon as possible, with no less than thirty calendar days notification if targeted for termination or retreat to a lower class.

All other employees to be laid off shall be given, whenever possible, at least a fourteen (14) calendar day prior notice.

10.8 Employee Retreat Rights

A probationary or permanent employee affected by layoff shall have the right to displace an employee in a lower level class in which the affected employee once had permanent status or in a subsequently created intermediate level career class which provides normal progression through the class series. Retreat rights shall also extend to employees who have not previously been promoted through a class but for whom the class is a natural progression or beginning in the class series. Retreat rights into a lower class will be granted in order of the highest seniority date on the Seniority List for employees in that class.

10.8.1 **Qualified to Retreat into More than One Classification:** When an employee is qualified to retreat into more than one class, the options shall be discussed with the employee and due consideration given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee

10.8.2 **Salary Step:** Employees retreating to a lower class or being flexibly placed in a similar class shall be placed at the salary step representing

the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

10.8.3 **Reinstatement after Transfer**: An employee whose position is abolished and is transferred in lieu of layoff shall have the right to return to the position if it is restored within one year of the date of the transfer.

10.9 Flexible Placement Program

After all frozen vacant positions have been filled by employees entitled to retreat rights under Section 10.8 (Employee Retreat Rights) of this chapter, the Human Resources Department will review and identify the remaining frozen vacant classes into which career employees targeted for layoff who have not retreated into a lower class may be placed on the basis of total experience and education.

10.9.1 **Failure to Meet Minimum Requirements**: Where the targeted employee does not meet the minimum qualifications of a frozen vacant position, the City Manager has the discretion to either waive the minimum qualifications and/or substitute the targeted employee's job-related experience and education for the minimum qualifications, but under no circumstances is the City Manager required to do so. Where the employee does not meet the minimum qualifications, flexible placement can occur only if the City Manager determines that management and supervisory personnel are able to provide adequate supervised on-the-job training to the employee to meet the requirements of the job. The employee must successfully complete the training within six months as determined by the Director of Human Resources or the employee shall be again subject to the layoff procedures.

10.9.2 **Salary Range**: Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off.

10.9.3 **Order of Assignment**: Offers to positions under the Flexible Placement Program shall be made according to the employee's standing on the Seniority List.

10.10 Failure to Accept Offer under Layoff

Failure on the part of an employee to accept a written bona fide offer to retreat to a lower class or be flexibly placed in an alternative job within ten calendar days after the offer is made shall result in forfeiture of any further right to employment retention. Acceptance of a reassignment to a lower class does not remove the employee's right of appeal under Section 10.12 (Appeal Procedures) nor does acceptance of an alternative job under the Flexible Placement Program jeopardize an employee's standing on the re-employment lists as further provided in this Section 10.10 (Failure to Accept Offer under Layoff).

10.11 Re-Employment List

The names of probationary and permanent employees laid off in accordance with this chapter shall be entered on a re-employment list for both those classes from which they were separated as well as other classes to which they have retreat rights.

10.11.1 **Duration of List:** Re-employment lists for laid off employees who are separated from City service shall remain in effect for three years. Re-employment lists for laid off employees who are demoted shall remain in effect indefinitely.

10.11.2 **Use of List:** Re-employment lists shall be used by each department when a vacancy arises in the same or lower class of position before certification is made from an eligible list.

10.11.3 **Order of Appointment:** Employees on the re-employment list shall be certified and appointed to a vacancy in the appropriate class according to their standing on the Seniority List.

10.11.4 **Failure to Appoint from Re-Employment List:** If a vacancy is filled from an eligible list in a class for which a re-employment list exists which is a violation of this Section, the employee on the re-employment list who should have been appointed shall be appointed to the vacancy and paid retroactively from the date the vacancy occurred.

10.11.5 **Failure to Accept Bona Fide Offer:** Failure on the part of the employee on the re-employment list to accept a bona fide written offer of re-employment within fifteen calendar days will result in removal of the employee's name from the re-employment list from which the offer was made. Failure to accept an offer of re-employment to the class with the highest salary range for which the employee is eligible for re-employment will result in automatic removal of the employee's name from all re-employment lists. The employee may, however, accept or decline temporary re-employment without jeopardizing his or her standing the re-employment list for the class from which he or she was originally terminated.

10.11.6 **Salary Step:** Upon reappointment to the class from which the employee was originally separated or demoted, the employee shall be placed at the salary step that the employee held at the time of the separation or demotion.

10.11.7 **Reinstatement List:** Any former employee on a re-employment list shall be included as an eligible on the reinstatement list for a specific class at or below the class from which layoff occurred, upon written request by the employee for reinstatement which is submitted with a current, completed City of Berkeley application and upon meeting the

minimum qualifications of the specific class unless waived by the City Manager as provided under flexible placement.

10.12 Appeal Procedures

The decision of the City Manager to implement a layoff is not appealable. Any unrepresented career employee who believes that the layoff procedure, as defined herein, has been improperly administered as to the employee may appeal the action under the Complaints, Appeals and Hearing Procedure of this Manual. Employees are entitled to review all records pertaining to their class and their rights under the provisions of the layoff policy.

10.13 Audit

In the event of a dispute between an employee and the City over the application of the re-employment list and if either party so requests, the City Manager's Office shall order an audit by an outside auditor of all vacant positions filled in each department to determine whether vacancies were filled in compliance with the procedures for appointments from re-employment lists set forth in Section 10.11 (Re-Employment List) of this Manual. In the event vacancies for which re-employment lists were in existence remain unfilled, the auditor shall offer an opinion as to whether or not the reasons for leaving the positions vacant appear to be legitimate. A report of the audit shall be transmitted to the City Manager and the City Council.

ARTICLE 11 - DISCIPLINARY ACTION

11.1 Policy

Prior to the suspension, disciplinary demotion or discharge of an employee in the career service for disciplinary purposes, the procedure set forth in this Article 11 (Disciplinary Action) shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to the notice, rights and procedures provided under Section 11.3 (Disciplinary Actions).

11.2 Final Decision Maker for Disciplinary Action

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

11.3 Disciplinary Actions

The department head shall initiate disciplinary procedures, as set forth here. The department head may suspend a subordinate employee for not more than three working days at any one time. For suspensions of more than three days, disciplinary demotions and discharge, the department head shall make a recommendation to the final decision-maker. The final decision-maker may suspend an employee from a position at any time for cause. Suspension without pay shall not exceed thirty working days, nor shall any employee be penalized by suspension for more than thirty working days in any continuous twelve month period. However, FLSA exempt employees shall not be suspended in less than regular workweek increments except for safety or security violations. A "regular workweek" is defined elsewhere by this Manual.

11.4 Written Reprimands for Fire Safety Employees

Consistent with the Firefighter Bill of Rights Act, the Deputy Fire Chief receiving a written reprimand shall have the right to a non-evidentiary administrative appeal to the Fire Chief or Fire Chief's designee. The employee must request an administrative appeal in writing to the Fire Chief within ten (10) working days of receipt of the written reprimand. Failure to do so shall be deemed a waiver of the employee's right to appeal. The Fire Chief or Fire Chief's designee shall have discretion regarding how the appeal meeting is conducted, including whether and the extent to which witnesses other than the employee and employee's representative are required and may participate. The Fire Chief or Fire Chief's designee shall notify the employee of his or her decision within ten (10) working days of the appeal meeting. An employee and the Association have no further right to appeal or grieve a written reprimand beyond the administrative appeal described in this paragraph.

11.5 Written Reprimands for Non- Safety Employees

In the event that an employee receives a written reprimand, the employee may write a rebuttal within thirty (30) calendar days of receiving the written reprimand and such rebuttal will be placed in the Personnel File along with the written reprimand. Employees have not right to appeal or grieve a written reprimand.

ARTICLE 12 - COMPLAINTS, APPEALS AND HEARINGS

12.1 Policy

The procedure for filing complaints and appeals by employees set forth under this Article 12 shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to file complaints with the City and appeals to the Personnel Board pursuant to the provisions of this Manual.

12.2 Final Decision Maker for Purposes of this Article

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

12.3 Complaints

Disciplinary action shall be taken in accordance with Article 11 (Disciplinary Action) of this Manual. All other complaints by employees, except complaints about compensation, which allege a violation of the Personnel Ordinance or this Manual shall be filed through proper channels, commencing with the department head, and then to the final decision maker.

12.3.1 **Compensation Complaints**: All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. The Director of Human Resources shall respond in writing within thirty (30) working days. If the complaint has not been resolved within thirty (30) working days of filing with the Director of Human Resources, the complaint may be moved to the final decision maker. Only complaints, which allege that employees are not being compensated in accordance with the policies, rules and resolutions of the City Council, shall be considered as complaints under this Section. No compensation adjustment shall be retroactive for more than thirty calendar days from the date upon which the complaint was filed or thirty calendar days from the date when an employee may reasonably be expected to have learned of the claimed violation.

Appeal: If the grievant is not satisfied with the decision of the Director of Human Resources or his or her designee, the grievant may move the complaint to the final decision maker within ten (10) days of receipt of the decision rendered under Section 12.3.1 above. Failure by the employee to file an appeal within the specified time limits specified constitutes a dropping of the complaint. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.

12.3.2 **Discrimination Complaints:** An employee may file a complaint concerning a violation of the "FAIR EMPLOYMENT" provision specified by the rules of this Manual, and the complaint shall be processed in accordance with the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley EEO/Affirmative Action Program, as established in Resolution No. 54,926-N.S., as amended from time to time.

12.4 Right of Appeal

An aggrieved employee shall have the right to appeal the decision of the final decision-maker regarding the aggrieved employee's disciplinary dismissal, demotion, suspension or complaint to the Personnel Board except in instances where the right to appeal is prohibited by the Personnel Ordinance or the provisions of this Manual.

12.5 Method of Appeal

Appeals to the Personnel Board shall be in writing, signed by the aggrieved employee and filed with the Director of Human Resources within ten calendar days after the action is imposed. The appeal shall be a written statement, addressed to the Chair of the Personnel Board, explaining the matter appealed from and setting forth a statement of the action desired by the aggrieved employee, supported by his or her reasons. The Director of Human Resources shall, within ten calendar days after receipt of the appeal, inform the Chair of the Personnel Board, the City Manager and the affected department head of the filing and contents of the appeal with the Board.

12.6 Investigations and Hearings

Upon receipt of any appeal, the Personnel Board shall make such investigation, as it may deem necessary.

An aggrieved employee who has been demoted for a disciplinary purpose, suspended or discharged is entitled to a hearing upon appeal before the Personnel Board. As to all other appeals, the Personnel Board may grant a hearing or decide the appeal without a hearing as it may deem warranted.

12.7 Hearing Procedures

In cases where the employee is entitled to a hearing as a matter of right and in other cases whenever the Board may deem it advisable to hold a hearing, these procedures shall apply.

12.7.1 **Notice:** The Personnel Board shall schedule a hearing on the appeal within forty-five calendar days from the date of the filing of an appeal. The Director of Human Resources shall notify all interested parties of the date, time and place of the hearing at such places as the Personnel Board shall prescribe.

12.7.2 **Hearing Procedure:** The aggrieved employee shall appear personally unless physically unable to do so before the Personnel Board at the time and place of the hearing. The aggrieved employee may be represented by any person or attorney as may be selected and may at the hearing produce relevant oral or documentary evidence. The party who has the burden of proof shall state the case first after which opposition matter may be presented. Rebuttal matter that is not repetitive may be allowed at the discretion of the Personnel Board. Cross-examination of witnesses shall be permitted. Hearings need not be conducted according to technical rules relating to evidence and witnesses, but shall be conducted according to any rules of applicable procedures. Hearings shall be closed unless otherwise required by the Ralph M. Brown Act, Government Code Section 54950, as amended from time to time, or any other applicable law.

12.8 Findings and Recommendations

The Personnel Board shall, within thirty calendar days after the conclusion of the hearing, or if no hearing was conducted, within thirty calendar days of its decision, certify its findings and recommendation(s) in writing to the aggrieved employee and to the final decision-maker. The final decision maker shall review the findings and recommendation(s) of the Personnel Board and may then affirm, reject or modify the Personnel Board's findings and recommendation(s) as, in his or her judgment, seems warranted, and the final decision maker's decision shall be final. Any member of the Personnel Board may submit a minority or supplemental report which shall be attached to the findings and recommendation(s) of the Board.

APPENDIX

This Appendix contains detailed information regarding benefits and compensation which covers unrepresented benefitted employees. It is appended to the Unrepresented Employee Manual but the contents are not part of the resolution establishing the Unrepresented Employee Manual and may be changed to reflect changes in benefit details, as approved by the City Council by resolution.

13.1 Administrative Leave

Employees who are in career, benefitted, or at-will benefitted classifications which are FLSA Exempt may be approved by the City Manager to receive up to an additional 50 hours of compensated administrative leave beginning on January 1, 2016, and at the beginning of each calendar year thereafter, or prorated during the course of the year when employed less than a full year. This administrative leave is granted to employees whose job responsibilities cause them to work numerous hours in excess of the normal City workweek. The City Manager has the authority to rescind administrative leave in those instances of abuse or misuse of the intent of this provision.

Administrative leave taken must be approved in advance by the department head and posted to the employee's timecard. Unused administrative leave may be carried over to the next calendar year, providing the total of excess vacation and unused administrative leave do not exceed 320 hours. Otherwise, the excess administrative leave must be taken within the calendar year in which it was earned or it may be forfeited. Upon termination or retirement, no monetary award will be authorized for unused accumulated administrative leave.

13.1.1 **Prorated Administrative Leave**: A benefitted employee who is otherwise eligible for overtime and who is on a temporary or provisional benefitted appointment in an FLSA Exempt classification for a period of one month or longer, and is ineligible to earn overtime, shall be entitled to prorated Administrative leave for the duration of the temporary or provisional appointment. Any unused administrative leave at the end of the temporary or provisional appointment will roll into vacation, provided the total of accrued and unused vacation and accrued administrative leave do not exceed 320 hours.

13.2 Automobile Allowance

The City reimbursement rate for the use of a private automobile on authorized City business will be equal to the amount established by the Internal Revenue Service.

13.3 Bilingual Premium Pay

13.3.1 **As Part of Regular Job Assignment:** An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, routinely and consistently as part of his or her regular job assignment as determined by the City

will receive a Bilingual Premium Pay Differential of 5%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 5% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

13.3.2 **Occasional Assignments:** An employee assigned occasionally to provide non-English language services, including Braille and sign language, when either a) assigned by management, or b) at the request of the employee with the supervisor's agreement, or, c) after a job audit will receive a Bilingual Premium Pay Differential of 2%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 2% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

13.3.3 **Competency and Management Rights:** The bilingual premium will not be applicable under any circumstances except to an employee who possesses second language competency. Management reserves the right to test for second language appropriate competency prior to a Bilingual Premium Pay Differential.

13.3.4 **Temporary Designation:** The City may designate an employee to receive either the 5% or 2% Bilingual Premium Pay Differential on a temporary basis for a specified period provided the employee met the requirements contained in the first or second paragraph of this Section.

13.4 Cash-In-Lieu Payments

For those employees who are able to show proof of ongoing alternate group medical coverage, the City will compensate employees $560.00 per month, prorated for less than full-time employees. This benefit shall be frozen at this amount. To comply with FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments instead of once a month.

13.5 Dependent Care

Employees shall be allowed to designate a specific amount of salary, consistent with State and Federal tax laws, to be redirected to pay for dependent care costs through pre-tax salary deductions. The amount of funds designated should be considered carefully, because under the current tax code, any unexpended funds which have not been spent for the specific purpose of paid dependent care and remain in the employee's account at the end of the year, will be forfeited.

13.6 Life Insurance

The City shall provide paid group life insurance, by a carrier of the City's choice, in the amount of $25,000 which shall include a standard accidental death and dismemberment provision of a like amount. Employees in the classification of Police Chief and Fire Chief shall be provided with life insurance in the amount of $100,000, which shall include a standard accidental death and dismemberment provision of a like amount. Life insurance shall become effective the first day of the calendar month following appointment, and shall continue until the last day of the calendar month in a pay status.

In addition, all unrepresented benefitted employees may purchase additional coverage, in increments of $10,000, up to a maximum of $300,000, at the rate offered by the City's insurance carrier, subject to any rules and restrictions of the carrier, including but not limited to any medical exam that might be required by the insurance carrier.

13.7 Medical/Dental Insurance for Employees/Dependents

Except as provided in Section 8.1 (Group Medical-Dental Insurance Benefits), the City offers fully paid and/ or partially paid health insurance plans and a fully paid dental plan for the employee and eligible dependents, including a domestic partner. The dental plan currently provides orthodontic coverage for the employee's dependent children through age 26 and 90% of the Bay Area Usual, Customary and Reasonable charges. Effective January 1, 2007, the maximum annual coverage will be $2,000 annual coverage, and $2,000 lifetime orthodontia limit. Any employee, who is required to partially pay premiums, shall be allowed to make these payments with pre-tax deductions. The medical and dental benefit coverage for dependent children extends to the date of their 26th birthday, providing they meet the Internal Revenue Service definition of "dependent". If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for medical benefits and/or dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

Medical and dental benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status, except in the case of parental and Family and Medical Leave Act, as described in the Administrative Regulation No. 2.4. Maximum annual coverage amounts are found in the Employee Benefits Handbook.

13.7.1 **Dental Coverage for Fire Management**: Effective January 15, 2015, employees in the classification of Fire Chief and Deputy Fire Chief, shall be provided with dental insurance with an annual maximum coverage of $3,000 and lifetime orthodontia limit of $3,000.

13.8 Retiree Medical Plan

The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

13.9 Amendment of Retiree Health Premium Assistance Plans I and II, effective June 28, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after June 21, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City will also amend the Retiree Premium Assistance Plans I and II to allow eligible retirees who retired prior to June 21, 2015 to enroll in a non-City sponsored health plan.

13.10 Retiree Medical for Unrepresented Benefitted Employees

Effective June 28, 1998, the City will provide the retiree medical coverage set forth below for all unrepresented benefitted employees, except employees in the classifications of Police Chief, Fire Chief, and Deputy Fire Chief (see separate plans below). An employee's entitlement to any and all benefits provided by the City under this retiree medical plan is subject to the funding limitations set forth in the plan document.

13.10.1 **Eligibility and Percentage of City Contribution:** An employee is eligible for the retiree health insurance coverage as set forth in Sections 13.10.3 (Pre Age 65 Retiree Health Insurance) and 13.10.4 (Retiree

Benefits for Employees Age 65 or Over) below if he or she meets all the following criteria:

a. retires from career service on or after June 28, 1998;
b. is vested with CalPERS;
c. has at least eight (8) years of CalPERS qualifying service with the City; and
d. is at least age 55.

An "Eligible Retiree" also includes individuals who meet the definition as set forth in Section 2.11.1 of the Retiree Health Premium Assistance Plan I for Confidential and Executive Management Employees (Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials) Restated and Amended effective as of March 22, 2011 (Resolution No. 65,196-N.S.) for "Eligible Retiree."

Percentage of City Contribution: The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percentage of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

13.10.2 **Annual Increase:** Retirees will pay the difference between the City's monthly contribution and the actual monthly medical insurance premium charged by the health plan he or she has elected for retiree medical coverage. If the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year's contribution. No increases in the amount the City contributes shall occur before July 1, 1999. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

13.10.3 **Pre Age 65 Retiree Health Insurance:** Beginning June 28, 1998, the City shall make available health insurance coverage to the employee and his or her spouse or domestic partner. The City will pay on the employee's behalf no more than $166.26 per month for an employee electing single party health coverage and no more than $332.52 per month for an employee electing two party coverage.

13.10.4 **Retiree Benefits for Employees Age 65 and over**: Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his or her eligibility for the retiree medical benefits set forth in Section 13.10.1 (Eligibility) ceases. On reaching age 65, the City will make available health insurance coverage in addition to Medicare. When an employee or retiree reaches age 65, the City will contribute no more than $16.17 per month on the employee's behalf for single party health insurance coverage and no more than $32.34 per month for two-party health coverage.

13.10.5 **Termination by City of Retiree Medical Benefit**: Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under Section13.10 (Retiree Medical for Unrepresented Benefitted Employees).

13.10.6 **Retiree Medical Benefit for Employees Retiring between the Ages of 50 and 55**: An employee who is at least 50 years of age, but less than 55, has at least eight (8) years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in group health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

13.10.7 **Employees Retiring with a CalPERS Approved Disability Retirement:** If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide

any benefits under this Section to the employee and/or his spouse or domestic partner.

13.10.8 **City Funding of Retiree Health Benefit**: City contributions to the retiree medical benefit began on July 1, 1998. Funding of this benefit has been set aside in a trust to be established by the City.

The retiree medical benefit will be funded by a charge of 0.25% of payroll in each year, so that contributions are at 1% of the payroll after four years. The City will fund the benefit at approximately 1% of the payroll for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

Effective July 4, 2004, an additional charge of 0.25% of payroll was charged each year in the subsequent four years so that contributions are at 2% by July 1, 2007. The purpose of this 1% increase in payroll contribution is to fund post age 65 Medicare supplement plans. As a result of this change, the amount the City contributes toward the post-65 Medicare Supplement coverage under the Retiree Health Premium Assistance Plan was $102 effective July 7, 2002 for all post 65 retirees as well as future retirees.

13.10.9 **Retiree Medical Plan for Unrepresented Employees (Rep Units Z-2, Z-3, Z-6):** Eligible retirees who retired from positions in Representation Units Z-2, Z-3 and Z-6 on or after July 1, 2008.

Not Medicare Eligible: Effective July 1, 2008, between the ages of 55 and 65 who retire on or after June 29, 2008 the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by $50 per month in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2009, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional $25 per month (i.e., an aggregate $75 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2011, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional $25 per month (i.e., an aggregate $100 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase).

13.10.10 Retiree Medical Plan for Confidential and Executive Management Employees (Rep Unit Z-1; Z-5; Z-7; Z-9; and Elected Officials): Eligible retirees who retired from positions in Representation Unit Z-1 on or after July 1, 2008.

Medicare and Not Medicare Eligible: Effective June 29, 2008, an additional charge of 0.50% of payroll will be charged so that contributions are at 2.5%. The purpose of this 0.50% increase in payroll contribution is to fund both pre-65 retiree health care premium costs and post age 65 Medicare Supplement plans for eligible retiree who retired from positions in Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials on or after July 1, 2008. As a result of this change, the amount the City contributes toward pre age 65 health insurance premium costs shall increase from $258.19 per month to $309.39 per month for single coverage and from $516.38 per month to $618.78 per month for 2-party coverage. The City's contribution toward the post-65 Medicare Supplement coverage shall increase from $132.83 per month to $184.03 per month for single coverage and from $265.67 per month to $368.06 per month for 2-party coverage.

13.11 Reimbursement Plan

After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow for the reimbursement of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both. If there is no spouse or domestic partner at the time of retirement, the City shall only reimburse the single party rate. The reimbursement shall be paid directly to the retiree or surviving spouse or domestic partner. The maximum amount the City will reimburse for the cost of Medical Insurance Premiums is based on the schedule described in Section 13.10.1 (Eligibility and Percentage of City Contribution) above.

13.11.1 **Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z-9; and Elected Officials) Who Retire on or After June 28, 1998 through June 30, 2008**

13.11.1.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both as follows:

a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $166.26 for single party coverage for the retiree or $332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total $338.60 for single party coverage for the retiree or $677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.1.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of June 28, 1998**: Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $16.17 for single party coverage for the retiree or $32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of July 7, 2002**: Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $102.00 for single party coverage for the retiree or $204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

c. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $172.98 for single party coverage for the retiree or $345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.2 **Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z9 and Elected Officials) Who Retire on or After July 1, 2008**

13.11.2.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling $309.39 for single party coverage for the retiree or $618.78 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $405.73 for single party coverage for the retiree or $811.46 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.2.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008**: Effective July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $184.03 for single party coverage for the retiree or $368.06 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $239.65 for single party coverage for the retiree or $479.31 for two party

coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3 **Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; Z-6) Who Retire on or After June 28, 1998 through June 30, 2008**

13.11.3.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $166.26 for single party coverage for the retiree or $332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total $338.60 for single party coverage for the retiree or $677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of June 28, 1998**: Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $16.17 for single party coverage for the retiree or $32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of July 7, 2002**: Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of

Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $102.00 for single party coverage for the retiree or $204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

c. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $180.76 for single party coverage for the retiree or $361.53 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.4 **Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; and Z-6) Who Retire on or After June 29, 2008**

13.11.4.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling $297.08 for single party coverage for the retiree or $544.16 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of July 1, 2009**: As of July 1, 2009, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), total $335.45 for single party coverage for the retiree or $593.64 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

c. **Reimbursement as of July 1, 2011**: As of July 1, 2011, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical

Plan for Unrepresented Employees), total $391.32 for single party coverage for the retiree or $673.27 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

d. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $469.92 for single party coverage for the retiree or $808.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

3.11.4.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008:** As of July 1, 2008, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $138.81 for single party coverage for the retiree or $277.62 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $172.98 for single party coverage for the retiree or $345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.5 **Enrollment in City Group Plans**
Retiring employees may receive continuing health coverage in City sponsored group health plans subject to the limitations and co-pay amounts permitted by the health care providers.

13.12 Fire Chief and Deputy Fire Chief Retiree Medical Plan

Internal City of Berkeley candidates who promote and are appointed to the Fire Chief or Deputy Fire Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn fire employees in Representation Unit B.

13.12.1 **Retiree Medical Benefits for External Appointments**: External City of Berkeley candidates appointed to the Fire Chief or Deputy Fire Chief classifications shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.13 Retiree Medical for Police Chief Classification

Internal City of Berkeley candidates who promote and are appointed to the Police Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn police employees in Representation Units E and F.

13.13.1 **Retiree Medical Benefits for External Appointments**: External City of Berkeley candidates appointed to the Police Chief classification shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.14 Partially Subsidized YMCA Membership

The City currently provides a partially subsidized membership in the Berkeley YMCA for those employees who agree to pay the required monthly fee. Use of a YMCA membership by a City of Berkeley employee, as provided by this provision, is not part of the employee's work related duties, is not required for continued employment and is not considered part of a City sponsored physical fitness program. The City of Berkeley nor its Claims Administrator shall not be liable for any injury that may arise out of a City of Berkeley employee's participation in and use of a YMCA membership. The amount the City contributes toward the employee’s monthly membership fee is subject to federal and state income tax withholding.

13.15 Part-Time Employees Eligible for Full Benefits

Those part time employees who have been continuously employed by the City in benefitted part time career positions since prior to July 1, 1977 and who have not accepted a full time career position are eligible to participate in the City's health and dental insurance programs with the City's payment of premiums at the same level as for full time benefitted employees.

13.16 Probationary Periods for Unrepresented Classifications

The competitive appointment to a career classification will include a probationary period during which time the incumbent may be dismissed without right of appeal. The probationary period for unrepresented classifications varies from six (6) months of actual work hours (1040 hours for full time employees and 520 hours for half time) to one year of actual work hours (2080 hours for full time and 1040 hours for half time).

Presently, unrepresented classifications require a six (6) month probationary period except for the following unrepresented classifications which require a one year probationary period:

(a) All classifications in Unit Z-1 in the career service; and
(b) All classifications in Unit Z-2 in the career service.

13.17 Public Safety Uniform Allowance

(a) Fire Uniform Allowance: Effective November 9, 2004, $1,000 annual allowance. Effective December 1, 2015, $1,100 annual allowance.
(b) Police Uniform Allowance: Effective July 7, 2002, $1,000 annual allowance.
(c) To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

13.18 Regular "At-Will" Classifications

The following classifications are exempt from the career service and in accordance with the Personnel Ordinance (Berkeley Municipal Code Section 4.04.120), At-Will appointments are eligible to receive benefits:

- All department heads
- Assistant City Manager
- Assistant to the City Manager
- Assistant to the Mayor
- Assistant, Associate and Senior Management Analyst in the City Manager's Department and in the Office of Budget and Fiscal Management
- Budget Manager
- Capital Improvement Programs Manager
- Deputy City Manager
- Economic Development Manager
- Health Officer
- Legislative Assistant
- Police Review Commission Investigator
- Police Review Commission Officer
- Secretary to the Mayor, Administrative Secretary and Secretary in the Mayor's Office
- Supervising Psychiatrist

13.19 City Manager Department Differential

Assistant, Associate, Senior Management Analysts, and Accounting Office Specialists III in the City Manager's Department and in the Office of Budget and Fiscal Management shall receive a 5% salary differential.

13.20 Shift Differential

Employees whose regular schedules meet the definition, as specified by Unrepresented Employee Manual Section 1.12 (Shift Differential), for shift differential, for the hours of 5:00 p.m. to 12:00 a.m., shall be paid their regular salary plus seven and one-half percent (7.5%) of their monthly salary per month. Those whose regular schedule meets the definition for shift differential, for the hours of 12:00 a.m. to 7:00 a.m., shall be paid their regular monthly salary plus ten percent (10%) of their monthly salary per month.

13.21 SRIP II Disability Insurance

The City shall pay the premium for the current cost of long term disability insurance for SRIP covered employees who are enrolled in the SRIP II (Supplementary Retirement and Income Plan).

13.22 Vacation Schedules

Unrepresented employees, except those confidential executive, management and professional employees in Section 13.20.1 (Confidential Executive Management and Professional Employees) below, shall be entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workweeks (FTE 80 hours)	During the first 3-years
3-workweeks (FTE 120 hours)	During the 4th through 11th year
4-workweeks (FTE 160 hours)	During the 12th through 17th year
5-workweeks (FTE 200 hours)	During the 18th through 24th year
6 workweeks (FTE 240 hours)	During the 25th and subsequent years

13.22.1 **Confidential Executive, Management and Professional Employees:** Confidential executive, management and professional employees who were eligible under the City's Administrative Leave Policy are entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workeeks (FTE 80 hours)	During the first 2-years
3-workweeks (FTE 120 hours)	During the 3rd through 5th year
4-workweeks (FTE 160 hours)	During the 6th through 17th year
5-workweeks (FTE 200 hours)	During the 18th through 24th year

6 workweeks (FTE 240 hours)	During the 25th and subsequent years

13.22.2 **Director of Library Services and Deputy Director of Library Services:** Employees in the classifications of Director of Library Services and Deputy Director of Library Services are entitled to earn annual vacation Leave as follows:

Years of Actual Benefited Service	Authorized Annual Vacation Accrual
Through the first 5 Years of Service	3 weeks (120 Hours)
Beginning the 6th through 17th Years of Service	4 weeks (160 Hours)
Beginning the 18th through 24th Years of Service	5 weeks (200 Hours)
Beginning the 25th and subsequent Years of Service	6 weeks (240 Hours)

13.23 Special Pay for Camps Personnel

When an employee, who has a valid Red Cross Senior Lifesaving Certificate and occupies a camps classification, is specifically assigned in writing by the Camps Manager or an authorized representative, with approval by the City Manager, to temporarily serve as a lifeguard for one day or more, said employee shall be paid a five percent (5%) differential, more than the employee's current salary.

13.24 Hazard Premium Pay for Clerical Mental Health Personnel

Clerical employees who are regularly assigned to work in Mental Health Programs, in direct contact with clinic patients, shall receive a five percent (5%) differential. This Hazard Premium Pay shall be reported to CalPERS as “Hazard Premium” under PERL Section 571 (Definition of Special Compensation), (4) Special Assignment Pay.

13.25 Longevity Pay

Effective the first full pay period after Council adoption, employees in Representation Units Z-2, Z-3 and Z-6 who complete nineteen (19) years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. Longevity pay shall be paid at the beginning of the pay period following completion of the 20 years of service. This Longevity Pay shall be reported to CalPERS as “Longevity Pay” under PERL Section 571.a.(1) Incentive Pay.

13.26 Longevity Pay for Confidential and Executive Management Employees

Effective the first full pay period after Council adoption, and except as noted below in Section 13.24.1 (Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief), employees in Representation Unit Z-1 who have completed nineteen (19) years of service shall receive a three percent (3%) differential beginning with the

anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

13.26.1 **Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief**: The longevity pay for the Fire Chief and Deputy Fire Chief classifications is intended to provide the same benefits as the Longevity Pay for represented sworn fire employees under the Berkeley Fire Fighters Association (Unit B) Memorandum of Understanding.

13.26.2 **Longevity Pay for Unit Z1 Police Chief and Deputy Police Chief**: The longevity pay for the Police Chief and Deputy Police Chief classifications will provide the same benefits as the Longevity Pay for represented sworn police employees under the Berkeley Police Association (Units E & F) Memorandum of Understanding.

13.27 Automobile Allowance for Police Chief

The City Manager may authorize an automobile allowance of $400 per month in lieu of a City provided vehicle for an employee appointed after November 1, 2009 to the classification of Police Chief.

13.28 Video Display Terminal Screening/Glasses

The City offers VDT screening and glasses as medically required, every two years, to employees who in the course of their employment operate VDT equipment more than four hours in a work day.

13.29 Emergency Medical Technician

Unit Z-1 Fire Chief and Deputy Fire Chief who maintain current Emergency Medical Technician (EMT) certification shall receive the same EMT pay differential as sworn fire employees under the Berkeley Fire Fighters Association (Unit B) Memorandum of Understanding.

13.30 Shoe Allowance

An annual allowance of two hundred dollars ($200) shall be paid to benefitted employees in the classification of Janitor, Groundskeeper, Laborer, and Solid Waste Worker.

13.31 Training Differential

13.31.1 **Trainer Differential:** Effective July 1, 2016, any employee, excluding those classifications that require training as part of the assignment (e.g. supervisors), designated by the department and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills (identified by the departments in consultation with Human Resources) who is required to provide formalized training to a new employee or an employee who management has identified as needing formalized training, shall receive a five percent (5%) differential in salary for that time served in such capacity. Such assignment shall be in writing by the department and approved by the Director of Human Resources. This Training Differential will be reported to CalPERS as

Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported

"compensation earnable" in California Government Code Section 20635.

13.31.2 **Higher Class Training Differential:** For training purposes, employees not meeting all of the minimum qualifications of a higher classification may be temporarily assigned for a minimum of one (1) week, to perform the duties of the higher classification and will receive a five percent (5%) increase in their current base salary for the duration of the temporary assignment. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.

13.31.3 **Trainee Differential**: For training purposes and to enhance an employee skills and abilities, any employee designated in advance by the department director and approved by the Director of Human Resources to perform duties that are outside of the employee's classification, shall receive a three percent (3%) differential in salary for that time served in such capacity. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.

13.32 Summary of May 2017 Changes to the Unrepresented Employee Manual

- Included reference to Unrepresented Unit Z-9 (Deputy Director Rent Stabilization Program).
- Former Section 1.14 (One-Time Allocation) - deleted obsolete provision.
- Section 5.2 (Floating Holidays) - corrected omission of one (1) day.
- Section 8.3 (Hourly Rated Employees in Lieu of Benefits) – codified existing benefit.
- Section 13.11 (Reimbursement Plan) – revise plan as reimbursement.
- Section 13.12 (Fire Chief and Deputy Fire Chief Retiree Medical Plan) – clarified benefit for internal and external appointments.
- Section 13.13 (Retiree medical for Police Chief Classification) – clarified benefit for internal and external appointments.
- Section 13.18 (Regular "At-Will" Classifications) – deleted duplicate classification.
- Section 13.31.3 (Trainee Differential) – included provision authorizing differential for employees assigned duties outside of classification.

13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual

- Section 8.4.5 Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment – added subsection 8.4.5.3

13.34 Summary of July 2018 Changes to the Unrepresented Employee Manual

- Section 1.14 (One-Time Allocation) - $2,000 paid August 17, 2018.
- Section 8.1.3 (Medical Contribution Executive Managers) – Cost-share of $50.00 for medical contributions by all department heads, City Manager and Deputy City Manager effective July 1, 2019.
- Section 8.4.6.4 – Correct typographical error.
- Section 11.5 (Written Reprimand for Non-Safety Employees) – Include provision allowing written rebuttal.
- Section 12.3.1 (Compensation Complaints) – Include provision that specifies appeal time lines.
- 13.1 (Administrative Leave) – Clarify leave extended to career and benefitted at-will employees; benefit is prorated based on assignment; and codifies practice that unused administrative leave rolls into vacation.
- 13.24 (Hazard Premium Pay for Clerical Mental Health Personnel) – Clarify pay is reportable to CalPERS.
- 13.25 (Longevity Pay) – Include CalPERS reportable section.
- 13.30 (Shoe Allowance) – Clarify benefit extended to benefitted employees.
- Shoe Allowance
- 13.31 Training Differential
- 13.32 Summary of July 2018 Changes to the Unrepresented Employee Manual
- 13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual

13.35 Summary of July 2020 Changes to the Unrepresented Employee Manual

Section	Change
Term Duration	Parties agree to a one-year term Agreement ending on June 30, 2021
Living Wage –	NEW LANGUAGE: The City agrees to pay each of its direct employees an hourly wage of no less than $18.33 effective the first full pay period in January 2021. The City agrees to pay each of its direct employees an hourly wage of no less than $19.33 effective the first

Section	Change
	full pay period in June 2021. If the Living Wage increases beyond $19.33, as outlined in the Berkeley Municipal Code effective July 2021, the City shall implement the increases the first full pay period in September 2021 and July 1st of each year thereafter.
Additional City Emergency Paid Sick Leave Allocation	NEW LANGUAGE: The City shall provide an additional 80 hours of emergency paid sick leave to be used for COVID-19 related reasons as listed in the Emergency Paid Sick Leave Act. Part-time employees receive a prorated number of hours. In order to use this additional City emergency paid sick leave, the employee must first exhaust all hours that they received under the Emergency Paid Sick Leave Act. The City will use a specific pay code for this additional emergency paid sick leave and these additional hours will be available until June 30, 2021. These additional 80 emergency paid sick leave hours shall have no cash value and may not be used towards any CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.
Additional Floating Holidays	NEW LANGUAGE: For employees who were required to remain in the workplace from March 17, 2020 – June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the Agreement for classifications which, due to the nature of the assignment, require backfill, employees will be paid a stipend in the amount of the earned floating holiday hours up to a maximum of 32 hours the first full pay period in August 2020. The City will use a specific pay code for these additional floating holiday hours will be available until June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not be used towards CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.
Additional language on Layoffs for the Term of the Agreement	NEW LANGUAGE: The City recognizes the important role that the employee workforce plays in delivering public services; therefore, during the period ending June 30, 2021 the City agrees to not layoff any Unrepresented career employees. However, should the City determine that its expenditures exceed its revenues during the period ending June 24, 2021, the City may

Section	Change
	notice the Unrepresented group in writing and the Unrepresented group shall be provided an opportunity to meet and discuss one-time cost savings and alternatives such as furloughs, VTO, etc. Nothing in this section requires the City to retain positions (filled or vacant) where state, federal or grant funding has been reduced or eliminated and would require the City to backfill such positions. All other provisions on Layoffs remain unchanged.
Provisional Employee	No employees shall hold a provisional appointment in the same position for more than 12 months. The City Manager may extend the provisional appointment beyond this 12- month limitation with the mutual agreement of the parties.
Limited Reopener	If during the fiscal year 2020 -2021 the City reaches agreement with SEIU or extends to other unrepresented employees an opportunity to confer on an across the board Cost of Living Adjustment (COLA) increase and/or an additional City contribution towards medical premiums, the City agrees to a limited reopener to meet and discuss with the Unrepresented group on these increases.

13.36 Summary of July 2023 Changes to the Unrepresented Employee Manual

- **Add second sentence to section 1.6.**
- **Add sections 3.3.6, 3.3.7, 3.3.8, and 13.26.2.**
- **Add "group" to section 13.4.**
- **Add "Accounting Office Specialists III" to section 13.19.**
- **Revise section 13.29.**

Internal

City of Berkeley

Unrepresented Employee Manual

~~July 17, 2021~~July 11, 2023

Internal

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RESOLUTION NO. 69,968-N.S.

UNREPRESENTED EMPLOYEES MANUAL

WHEREAS, on July 30, 2020, the City Council adopted Resolution No. 69,538-N.S., the Unrepresented Employee Manual, that establishes rules governing working conditions, benefits and compensation for unrepresented career benefited and regular at-will employees; and

WHEREAS, in a separate agenda item on July 20, 2021, the City Council will consider a new Memoranda Agreement with the Service Employees International Union Local 1021 Maintenance and Clerical Chapters that provides for an additional three-years and modifies its members' benefits; and

WHEREAS, the City Manager is recommending similar changes in terms and conditions for the unrepresented employees in Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); Z-6 (Legislative Analysts); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program); and

WHEREAS, the Unrepresented Employee Manual is amended as a result of the attached Agreement July 20, 2021.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley rescind Resolution No. 69, 538-N.S. (Unrepresented Employee Manual) and all other resolutions amendatory thereto and that the Unrepresented Employee Manual that includes the executed Memoranda Agreement as shown in Exhibit A attached hereto and made a part hereof, is hereby adopted as the City of Berkeley Unrepresented Employee Manual.

The foregoing Resolution was adopted by the Berkeley City Council on July 20, 2021 by the following vote:

The foregoing Resolution was adopted by the Berkeley City Council on July 20, 2021 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Jesse Arreguin, Mayor

Attest:

Mark Numainville, City Clerk

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Manual 63

UNREPRESENTED EMPLOYEE MANUAL

This document establishes the rules governing benefits and working conditions, which are in effect for Unrepresented employees which have been approved by the City Council of the City of Berkeley.

This Unrepresented Employment Manual provides the personnel policies and procedures that affect the working conditions and benefits of unrepresented employees in the City of Berkeley. For purpose of categorization, all classifications are designated by a representation unit. Unrepresented employees are in classifications included in representation units Z-1; Z-2; Z-3; Z-9; X; and X-1, as noted in the City's Classification/Salary Resolution. The working conditions and benefits for represented employees are contained in their respective memoranda agreements. Rules, which describe general policies of the City's personnel system, are found in the City of Berkeley Personnel Rules and Regulations.

ARTICLE 1 - SALARY, OTHER PAY AND OVERTIME

1.1 Intent

This Section (Salary, Other Pay and Overtime) is intended only to define the normal hours of work and the time for which salary shall be paid, and to provide the basis for the calculation of overtime pay. Nothing in these rules shall be construed as a guarantee of hours of work per day or per week, or of days of work per week. The City's pay records, practices and procedures shall govern the payment of all wages.

1.2 Hours and Days of Work

Hours and days of work shall be governed by rules established by the City.

1.3 Workweek

The workweek shall consist of seven days beginning at 12:01 a.m. on Sunday to and including 12:00 midnight the following Saturday.

1.4 Regular Workweek

The regular workweek shall consist of forty hours of work within the workweek.

1.5 Payment of Salaries

Payment of salaries shall be bi-weekly and shall cover a pay period of two (2) consecutive workweeks. Each payment shall be made not later than Friday following the ending of each payroll period and shall include payment for all earnings reported during the previous payroll period.

1.6 Salary Ranges without Salary Steps

In those classes of positions for which a salary range is established without a designation of salary steps, the City Manager is authorized to fix the salary rate at any point within the established salary range. Subsequent increases, if approved by the City Manager, shall be effectuated at the start of the pay period closest to the employee's anniversary date (defined as the date of hire into the employee's current classification).

1.7 Automobile Allowances

In addition to the salaries provided in the salary resolution, employees may be reimbursed for the use of automobiles owned by employees of the City of Berkeley and used on City business, as authorized by the City. Current automobile allowances are appended to this Manual, as shown in the Appendix, Section 13.27 (Automobile Allowance).

1.8 Mandatory Professional Fees and Licenses

The City will assume full payment of the mandatory professional fees and licenses required by employees in the following unrepresented classes in order to maintain their continued employment with the City of Berkeley:

Director of Public Works	City Attorney
Deputy Director of Public Works (Registered)	The Attorney Class Series
Rent Stabilization Board Staff Attorney Class Series	Audit Manager
Classes requiring a license to practice medicine	

1.9 Bilingual Pay

Employees appointed to positions requiring bilingual abilities, including Braille and sign language shall receive additional compensation as established by the City Council. Only those employees who possess second language competency, can demonstrate second language competency, and are serving in a position requiring competency in that particular language are entitled to receive the bilingual premium pay. The current level of approved compensation and procedures for qualifying and receiving bilingual pay are appended to these Rules, as shown in Appendix, Section 13.3 (Bilingual Premium Pay).

1.10 Overtime for FLSA Non-Exempt Employees

All employees who are covered by the overtime provisions of the Fair Labor Standards Act are designated as "FLSA non-exempt employees." Unless otherwise required by the Fair Labor Standards Act, all FLSA non-exempt employees, and employees in the classification of Battalion Chief, who are required to work in excess of their regular workweek shall be paid overtime compensation at the rate of one and one-half times the straight time rate based upon the regular monthly salaries or shall be given compensatory time off in lieu of payment at the rate of one and one-half hours off with pay for each overtime hour worked. The following provisions regarding overtime apply only to FLSA non-exempt employees and do not apply to FLSA exempt employees. FLSA non-exempt employees, temporarily promoted to FLSA exempt classifications, will be ineligible for overtime compensation for the duration of the appointment.

1.10.1 **Manner of Compensation:** An employee may be compensated for overtime by either compensatory time off or by payment; the method of overtime compensation shall be agreed upon by the employee and the supervisor at the time of obtaining approval to work overtime.

1.10.2 **Pre-Authorization:** No employee may work overtime without the express prior approval of his or her department head.

1.10.3 **Accrual Limit on Compensatory Time:** Compensatory time shall not accumulate in excess of sixty (60) overtime hours worked which is the equivalent of ninety (90) hours of compensatory time. Overtime accumulation in excess of sixty (60) hours shall be paid as compensation.

1.10.4 **Use of Compensatory Time:** All use of compensatory time off must be approved, in advance, by the employee's department head, on forms provided by the City.

1.10.5 **Effect of Termination on Compensatory Time:** An employee is entitled to compensation for any accumulated overtime upon resignation or termination.

1.11 Emergency Overtime

All FLSA non-exempt employees who are called to duty from their living quarters outside of their regular work hours and work days shall be paid emergency overtime compensation for the actual time worked provided, however, that each employee shall be paid a minimum of two (2) hours pay for emergency overtime unless such emergency overtime work is performed prior to the beginning of his or her work regularly scheduled work period without a break in service in which case, compensation shall be paid only for the actual time worked.

1.12 Shift Differential

All unrepresented FLSA non-exempt employees (except for Police Aides) who regularly work a shift of eight hours or more, which includes more than four hours between the hours of 5:00 p.m. and 12:00 a.m., or between 12:00 a.m. and 7:00 a.m., are paid a shift differential in addition to their regular base rate of pay in an amount established by the City Council. The current shift differential rate paid to unrepresented employees is in the Appendix to this Manual.

1.13 Fifty-Six (56) Hour per Week Work Schedule Leave Conversion Factor

The conversion factor for Fire Management employees accruing and using vacation leave, sick leave or sick leave bonus bank of hours is as shown below. The intent of the parties is to have the dollar value of the vacation leave, sick leave or sick leave bonus bank of hours accrued be the same whether an employee is assigned to a fifty-six (56) hour per week schedule or a forty (40) hour per week schedule.

1.13.1 **Leave Accrual for 56 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a fifty-six (56) hour per week scheduled is converted to a forty (40) hour per week schedule by multiplying number of hours of vacation leave or sick leave accrued by the conversion factor of 0.7143.

1.13.2 **Leave Accrual for 40 Hour per Week Schedule:** Vacation leave, sick leave or sick leave bonus bank of hours accrued on a forty (40) hour per week scheduled is converted to a fifty-six (56) hour per week schedule by multiplying number of hours of vacation leave accrued by the conversion factor of 1.4.

1.14 One-Time Allocation

Employees in Units Z-1, Z-2, Z-3, Z-6, and Z-9 who are in paid status as of July 29, 2018 will receive a one-time allocation of $2,000.00 (prorated for part-time employees) on August 17, 2018, minus applicable local, state and/or federal taxes.

1.15 Payroll Specialty Pay

City shall provide ("payroll clerks") identified by the City in Unrepresented Employees a one-time lump sum payment of $500.00 effective the first full pay period after Council adoption of this successor agreement and a second $500.00 one-time lump sum payment the first full pay period in January 2022 for only those employees in the Accounting Office Specialist III classification. Such payments are subject to applicable payroll taxes and will not be considered pensionable salary. At the time of each payment, employee must be still employed by the City and must still be in the Accounting Office Specialist III classification. Employees working less than full-time (40 hours per week, 2,080 hours per year) shall receive a pro rata share of the one-time lump sum payment based on the number of hours they are assigned to work. For example, an employee working 30 hours per week, shall receive 75% of the one-time lump sum payment ($375 effective the first full pay period after Union ratification and Council adoption of this successor agreement and $375.00 the first full pay period in January 2022).

1.15.1 Salary Resolution

Effective the first full pay period in July 2021 after Council adoption on its regular agenda, the salary ranges for those classifications covered by this Manual shall receive a salary increase of four percent (4.0%).

Effective the first full pay period in July 2022, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by three percent (3.0%)

Effective the first full pay period in July 2023, the salary ranges for those classifications covered by this Manual as listed in Exhibit A shall be increased by one percent (1%).

Effective the first full pay period after City Council adoption on its regular agenda, a onetime non-pensionable lump sum payment of $1,000.00 for each career bargaining unit employee shall be conferred. Eligible employees must be current City employees in paid status for the full pay period this lump sum is conferred and shall not apply to unit members who are in unpaid status. Such payment shall be subject to required payroll tax deductions. The parties agree that this lump sum provision does not create or bind the City to any precedent or past practice.

ARTICLE 2 - PROBATIONARY PERIOD

2.1 Length of Probationary Period

All original and promotional appointments to positions in the career service shall be tentative and subject to a probationary period. The length of the probationary period shall be determined for each class by the City Council. However, the length of the probationary period shall not be less than six months of actual service (1040 hours) or more than two years of actual service (4160 hours). A six (6) month probationary period must be completed in no more than one (1) year. A one (1) year probationary period (2080 hours) must be completed in no more than two (2) years. A two (2) year probationary period must be completed in no more than three (3) years. A current schedule of probationary periods for unrepresented classes is appended to this Manual, as shown in Appendix, Section 13.16 (Probationary Periods for Unrepresented Classifications).

2.2 Objectives of Probationary Period

The probationary period shall be regarded as a part of the selection process and shall be used to closely observe and evaluate the employee's work, to secure the most effective adjustment of a new employee to his or her position, and to eliminate any probationary employee whose performance does not meet the required standards of work.

2.3 Rejection of Probationers

During the probationary period, an employee may be rejected from employment at any time by the City Manager without cause and without the right of appeal.

2.4 Rejection during Probationary Promotion

An employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he or she was promoted unless charges are filed and he or she is discharged in the manner provided in the Personnel Ordinance and these rules.

ARTICLE 3 - VACATION

3.1 Vacation Leave

All benefitted employees shall be entitled to annual vacation leave subject to the provisions in this chapter.

3.2 Vacation Approval

All vacations must be approved, in advance, by the employee's department head, on forms provided by the City.

3.3 Vacation Accrual

3.3.1 **Full Time Benefitted Employees:** During the first two (2) calendar years of employment, all full time benefitted employees shall be entitled to take only such annual vacation leave as the employees earn based on their continuous length of service measured from the date of hire. After two (2) years of service, employees may request, and upon approval, take up to a maximum of two (2) weeks of their annual vacation, in advance of actual earning. Approval of requests for advance vacation shall be solely at the discretion of management.

Vacation accrues according to schedules established by the City Council and can vary for different groups of employees. The current vacation schedules for full time unrepresented employees are in the Appendix to this Manual.

3.3.2 **Part Time and Temporary Employees**: Benefitted part-time employees working a minimum of twenty (20) hours per week accrue vacation benefits on a pro rata basis. Employees who work less than twenty (20) hours per week and temporary employees, unless otherwise authorized, do not accrue leave benefits

3.3.3 **Accrual of Vacation Credits**: Vacation leave credits are only accrued for each straight time hour for which the employee is paid.

3.3.4 **Effect of Extended Leave on Vacation Accrual**: An employee who has returned from extended military leave or an extended authorized leave of absence without pay of six (6) months or more or who has been re-employed or reinstated shall be entitled, during the calendar year in which the employee returns to the City service, to earn vacation according to a schedule based upon the total years in the career service with the City and upon the total number of months of actual service with the City during the said calendar year. For succeeding calendar years, the employee's vacation leave shall accrue as provided in this Manual.

3.3.5 **New Hire Vacation Accrual**: For new hires, the City Manager may authorize vacation accrual at a higher rate, up to the maximum accrual rate, depending upon the paid leave accrual of the potential employee at his or her present employer. The new hire must be able to document his or her current paid leave accrual, which has been earned for general use, such as vacation. The waiting period to advance to the next accrual rate would be the actual number of years between the respective accrual levels.

3.3.6 **Vacation Accrual for Unit Z1 Police Chief and Deputy Police Chief**: The vacation accrual rate for the Police Chief and Deputy Police Chief classifications will provide the same benefits as the vacation accrual for represented sworn police employees under the Berkeley Police Association (Units E & F) Memorandum of Understanding.

3.3.7 **Vacation Accrual for Unit Z1 Fire Chief and Deputy Fire Chief**: The vacation accrual rate for the Fire Chief and Deputy Police Chief classifications will provide the same benefits as the vacation accrual for represented sworn fire employees under the Berkeley Fire Fighters Association (Units B) Memorandum of Understanding.

~~3.3.5~~3.3.8 The classifications identified within Sections 3.3.6 and 3.3.7 shall be allowed to participate in the annual vacation leave sell back to the extent such rights are afforded to the bargaining units they supervise in their respective memoranda of understanding.

3.4 Vacation Scheduling

The times during the calendar year at which an employee shall take his or her vacation shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head cannot permit the employee to take an annual vacation leave or any part of such leave within a particular calendar year, the employee may accrue vacation according to Section 3.3 (Vacation Accrual) of this Manual.

3.5 Maximum Vacation Accumulation

Employees may defer vacation earned up to a maximum cumulative total of eight (8) weeks. An employee who has attained maximum accumulation may be required to take all excess earned vacation at the option of the City. Not later than October 1 of each year, the City will advise employees who have attained a maximum accumulation of vacation whether such excess earned vacation must be scheduled as time off prior to March 31. Such time off shall be scheduled in accordance with the provisions of Section 3.2 (Vacation Approval).

The City shall require all employees to reduce their accrued vacation balances to no more than 320 hours, as of the last pay period in February of each year. To effectuate the requirement that employees not accrue more than 320 hours vacation leave, no later than November 15 of each year the City will provide Department Heads with a report identifying all employees who have accrued two hundred and eighty (280) hours of vacation leave and appear in danger of exceeding the 320 hour limit.

Employees who have accrued 280 hours of vacation leave, as of that date, will be advised by their supervisor that they must take vacation leave to reduce their vacation leave accrual by February of the following year.

Supervisors should be flexible in granting employee vacation requests to those employees above, or approaching the 320 hours limit, and further, that with regard to employees who are in danger of exceeding the 320 hour limit, no vacation request by such an employee shall be unreasonably denied. If an employee who is in danger of exceeding the 320 hour limit fails by December 31 to schedule a vacation to be taken before the last pay period in February, the City has the

authority to direct the employee to go on vacation leave to reduce the employee's accrued vacation.

If, due to operational necessity, a department head denies an employee vacation leave and does not provide the employee with an alternate vacation date, and as a result causes the employee to exceeds the 320 vacation leave limit, said employee shall nonetheless be entitled to use that vacation leave in the next calendar year to the extent necessary to reduce their accrued vacation to not more than 320 hours. Under no circumstances will the City liquidate any vacation leave balances for any employee during employment.

3.6 Vacation Leave before Retirement

Accumulated vacation shall not be used immediately prior to retirement, which has the effect of extending the date of retirement, but shall be paid out in full upon retirement.

3.7 Vacation Leave in Lieu of Sick Leave

Except for absences that qualify for benefits under Administrative Regulation 2.4 (Family Care Leave) Vacation leave shall not be used in lieu of accrued sick leave for absences due to illness. If accrued sick leave is exhausted, vacation leave may be used for absences due to illness, only if such leave is approved by the employee's department head.

3.8 Payout upon Termination or Extended Unpaid Leave

Upon termination, including death, extended military leave or other extended leave without pay, an employee or his or her estate shall be paid for all accrued unused vacation leave at the employee's base rate at the time of his or her termination, and such employee or his or her estate shall reimburse the City for any vacation leave taken before it had accrued, in accordance with provisions established by the City Manager.

3.9 Holidays Occurring during Vacation

If an observed City holiday occurs during an employee's scheduled vacation, no deduction from accrued vacation will be made for the holiday period.

ARTICLE 4 - SICK LEAVE

4.1 Eligibility

All full-time benefitted employees are eligible for one (1) sick leave day (eight [8] hours) per month of service, except that the Police Chief hired before September 11, 2012 is eligible for two (2) sick leave days for each month of service during the twenty-first (21) year of employment and thereafter. Employees in the classifications of Fire Chief and Deputy Fire Chief shall be credited with two (2) sick leave days for each month of service during the seventeenth (17th) year of employment and thereafter. Part time benefitted employees are eligible to accrue sick leave on a pro rata basis.

4.2 Sick Leave Not a Privilege

Sick leave shall not be considered a privilege, which an employee may use at his or her discretion, but shall be allowed only in the case of his or her sickness or disability or in the case of illness within the defined family of the employee.

4.3 Family Sick Leave

As of January 1, 1999, employees may use up to fifteen (15) working days of accrued sick leave in a calendar year to care for a family member, limited to one of the following: a legal dependent, parent, spouse, son, daughter or domestic partner.

4.4 Notice to Department Head

In order to qualify for sick leave benefits, the employee shall notify his or her department head or designee prior to or within two (2) hours after the time set for the beginning of the employee's daily duties, or as otherwise required by the department head. Leave for non-emergency medical appointments shall be requested in advance of the workday.

4.5 Medical Verification

The City of Berkeley retains the right to request a verification from a licensed medical practitioner under appropriate circumstances which include (1) showing that an employee's illness or disability has started or ended, before the City will allow an employee to take a leave or to return from leave, (2) showing regular updates during a medical leave of absence regarding the employee's medical status and the date the employee expects to return to work, (3) where reasonable cause exists to believe that the employee is not medically fit to perform the essential functions of the job or that the employee cannot perform the job without endangering the health and safety of the employee or others, and (4) where reasonable cause exists to believe that the employee is abusing sick leave or family sick leave. Sick leave pay may be withheld if a satisfactory verification is not received.

4.6 Injury Incurred in Outside Employment

No sick leave shall be allowed for time off for an injury incurred while working for another employer, provided that the injury is covered by California's workers' compensation law or by provisions of the other employer granting payment for time off because of the injury. In the event the injury is not covered either by the workers' compensation law or by the other employer's provisions, sick leave will be granted in accordance with this chapter only if the outside employment had been authorized by the City before the injury occurred

4.7 Bonus for Unused Sick Leave

For every six (6) months of perfect attendance, the employee will receive eight (8) hours of bonus time. "Perfect attendance" means the employee has not received sick leave or salary continuation benefits and has not taken or been placed on leave without pay. Benefitted part time employees will receive sick leave bonus time on a pro rata basis. Sick leave bonus can be used for any leave purpose authorized by this Manual.

4.8 Accumulation of Sick Leave

Employees may accumulate sick leave up to a maximum of two hundred (200) days (1600 hours) except for the classifications named below.

The Police Chief and Fire Chief may accumulate sick leave in excess of the 1600-hour limit by 100 hours per year.

4.9 Payout for Excessive Sick Leave for Employees Hired on or Before June 30, 2013

All employees, except employees in the classification of Deputy Fire Chief hired on or before June 30, 2013 in the career service who regularly work one-half time or more who have attained the two hundred (200) day maximum sick leave accumulation shall be entitled to receive payment for one-third (1/3) of the first twelve (12) days of sick leave days (or if earning sick leave at the rate of two (2) working days each month of service, one-third (1/3) of the first twenty-four (24) days of sick leave days), for which sick leave days they become eligible, they do not use and they would otherwise forfeit because of the two hundred (200) day maximum limitation. Determination of eligibility for such payment shall be made on an annual calendar year basis, and payment for such sick leave for any calendar year shall be made not later than the first full pay period in January. Such payment shall be at the employee's salary rate in effect on the preceding December 31, and shall be made only in units of whole days and will not be made for any fraction of a day.

4.9.1 **Deputy Fire Chief:** For employees in the classification of Deputy Fire Chief, the following provisions shall apply. In each year following that 1200 hour base year, the employee may, on a form provided by the City, elect to receive pay for excess sick leave or may elect to increase his or her sick leave accumulated base by the 96 hours and take any additional

excess sick leave in pay at the following prescribed rate: employees who choose to increase their sick leave accumulated base by the 96 hours will receive 50% pay off rate in March; employees who choose to receive pay out for excess sick leave over the base, and do not exercise the option of increasing their accumulated sick leave base by 96 hours in any particular year, will be paid for excess sick leave at the 38% pay off rate in March.

Forms, provided by the City along with projected excess sick leave balances, shall be distributed to affected employees by February of each year and shall be returned to the City by February 15th. If an employee uses part of an established "sick leave maximum accumulation level", the employee may replenish the used portion at the applicable rate.

Determination of eligibility for such payment shall be made on an annual basis, and payment for such sick leave for any calendar year shall be made during the month of March each year. Such payment shall be made at the employee's regular monthly salary rate in effect on the last day of the first pay period to end in March. An employee shall be eligible for this provision whether or not the employee is on the payroll as of the last day of the first pay period to begin and end in March.

4.9.2 **Police Chief and Fire Chief Hired on or before June 30, 2013:** For the Police Chief and Fire Chief hired on or before June 30, 2013, the maximum sick leave accrual allowed shall be adjusted at the rate of 100 additional hours per year above the 1600-hour limit. The employee may elect to receive pay for the excess sick leave or may elect to increase the base by 100 hours, in each subsequent year. Payment for excess sick leave is prescribed at 1/3 of the excess leave balance.

4.10 Effect of Leave without Pay on Sick Leave Accrual

Sick leave will not accrue during any period of absence without pay. Sick leave credits are accrued on the basis of actual straight time hours worked or paid, based on a forty-hour workweek.

4.11 Accrued Sick Leave Canceled Upon Termination

Except as otherwise provided under the CalPERS conversion of sick leave retirement credit benefit (California Government Code Section 20965) and the other exceptions set forth below, all accrued sick leave shall be canceled upon termination of an employee. Such leave shall be credited back to the employee if the employee returns to City employment within two (2) years of termination except as otherwise provided by the City Council, or within three (3) years of termination if re-employed under the City's Layoff Policy provided in this Manual.

4.11.1 **CalPERS Miscellaneous Members, Chief of Police Hired on or before June 30, 2013 Sick Leave Payout**: For CalPERS

Miscellaneous members and Chief of Police hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty (20) years of benefitted City of Berkeley service or to employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City shall be entitled to liquidate a portion of their accrued but unused sick leave as follows: Upon termination, employees with between twenty (20) years and twenty-eight (28) years of benefitted City of Berkeley service shall be entitled to receive payment in an amount equal to 38% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days.

All employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

Employees hired on or before June 30, 2013 who voluntarily separate from service with a vested pension and at least twenty-eight (28) years of benefitted City of Berkeley service or employees retiring on permanent disability arising out of and incurred in the course and scope of their employment with the City, with at least twenty-eight years of benefitted City of Berkeley service, shall be entitled to receive payment in an amount equal to 50% of their accrued sick leave days up to a maximum of two hundred (200) unused sick leave days. Employees hired on or after July 1, 2013 shall not be eligible for payment of any unused sick leave days.

4.11.2 **Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout:** For employees hired on or before June 30, 2014 in the classification of Fire Chief and Deputy Fire Chief who retire or voluntarily terminate with twenty (20) years of service or who retire on permanent disability arising out of and incurred in the course and scope of their employment with the City, shall be entitled to receive payment at retirement or termination of unused sick leave days, based on the following schedule:

Number of Days	% of Payment
0-75 Days	38%
75-99 Days	41%
100-124 Days	44%
125-149 Days	47%
150 Days and over	50%

Employees in classifications identified in this Section 4.11.2 (Fire Chief and Deputy Fire Chief Hired on or before June 30, 2014 Sick Leave Payout) hired on or after July 1, 2014 shall not be eligible for payment of any unused sick leave days.

4.12 City of Berkeley Supplemental Retirement Plan [Termination 401(a)]

Employees who retire on a vested pension shall be eligible to participate in the City of Berkeley Supplemental Retirement Plan. The Supplemental Retirement Plan provides for negotiated required roll-forwards of accrued but unused leave, and also permits the City to do a “tax pick-up” of employee contributions under Section 414(h)(2) of the Internal Revenue Code. A tax pick-up works through an irrevocable payroll deduction authorization, on an individual by individual elective basis, to contribute accrued but unused sick leave, vacation leave, compensatory time, floating holiday and bonus sick leave into an Internal Revenue Code 401(a) defined contribution plan. The Supplemental Retirement Plan Document shall govern administration of the Plan.

4.13 Accrued Sick Leave Applied to CalPERS Retirement Credit

The conversion of unused sick leave to retirement credit benefit under Government Code Section 20965 offered by CalPERS as an optional benefit to contracting agencies shall be made available to employees who retire with a vested pension.

4.14 Sick Leave Benefits and State Disability Insurance

Employees may use their accrued sick leave benefits during the normal seven day period before the eligible employees are paid benefits from State Disability Insurance. Following the seven day period, an employee will continue to receive accrued sick pay until exhausted and then, upon approval by the department head, accrued vacation or compensatory pay, less the disability benefits actually received.

4.15 Workers’ Compensation and Salary Continuation

Workers' compensation payments shall commence in accordance with State law, on the fourth day following an industrial injury, unless the employee is hospitalized in which case payment commences on the first day of injury. For the purpose of this Section (Workers’ Compensation and Salary Continuation), "hospitalized" means confinement.

For all career and regular at-will employees who are receiving or shall receive workers' compensation benefits for an industrial injury, the City will pay retroactive compensation benefits to the eligible employee for the normal three day waiting period before the employee is paid workers' compensation benefits for temporary disability pursuant to California law governing the industrial injury or illness.

Payments under the workers' compensation law for temporary disability or a recurrence thereof arising out of and in the course of employment shall be paid for a period not to exceed 365 days at a maximum payment of the employee's pre-disability pay, but shall not exclude any salary adjustments to which the employee is entitled. Thereafter, the employee will continue to receive only the temporary disability payments provided under State law and the City shall cease to pay the difference.

4.15.1 Salary Continuation Benefit

1. New Accepted Claim with Overlapping Previously Accepted Injury - Where an Employee sustains a subsequent industrial injury as part of a new accepted workers' compensation claim that includes a previously accepted body part in the same five (5) year period, Employee shall be entitled to a period of time not to exceed 183 days of Salary Continuation Benefits.
2. New Accepted Claim with No Overlapping Previously Accepted Injury - Where an Employee sustains another industrial injury resulting in a new accepted workers' compensation claim within the same five (5) year period that does not include a previously accepted body part, the Employee's new accepted claim shall be entitled to a period of time not to exceed 365 days of the Salary Continuation Benefit.
3. New Accepted Claim for Same Previously Accepted Injury after Five (5) Years - Where an Employee sustains an industrial injury to a previously claimed body part after five (5) years from the initial Date of Injury, the Employee shall be entitled to a new period of time not to exceed 365 days of the Salary Continuation Benefit. In effect, after five (5) years from the initial Date of Injury, the benefit resets with respect to a previously claimed body part.
4. Workers' Compensation Medical Appointments and Salary Continuation - For the purposes of the Salary Continuation Benefit, effective January 1, 2019, the City shall calculate absences from work to attend medical appointments for the treatment of an accepted industrial injury in one (1) hour increments for the purposes of running against the maximum 365 days of Salary Continuation.

4.16 Sick Leave Accrual for Department Heads and Deputy City Managers

At the time of appointment of new hires in regular at-will department head classifications and Deputy City Managers, the City Manager may authorize credit for accrual of sick leave based on sick leave accrual with a prior employer in an amount that does not exceed four weeks of sick leave credit.

ARTICLE 5 - HOLIDAYS

5.1 Holidays

The City observes the following holidays and provides all full time regular, at-will and career employees. Contingent upon agreement by all Employee Bargaining Units, the parties agree that the Lincoln Holiday shall be eliminated and that Cesar Chavez Day – observed on March 31, or on the Monday or Friday closest to March 31 if it falls on a Saturday or Sunday would be added instead.

Holiday	Day Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	Third Monday in February
Malcolm X's Birthday	Monday or Friday nearest May 19
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	First Monday in September
Indigenous People's Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	Fourth Friday in November
Christmas	December 25

5.2 Floating Holidays

Full time, regular at-will, and career employees who have worked for the City six (6) months or more shall be granted three (3) floating holidays each calendar year. Employees may take floating holidays in one (1) hour increments. Employees who terminate employment within the first six (6) months of initial employment shall not be eligible for payout of any accrued but unused floating holiday.

In the first calendar year of employment, employees shall be granted prorated floating holidays as follows:

Date of Hire	Number of Floating Holidays
Hired January 1 - April 30	3 days
Hired May 1 - August 31	2 days
Hired September 1- December 31	1 day

All use of floating holidays must be approved, in advance, by the employee's department head, on forms approved by the City. The days on which the employee shall take his or her floating holiday(s) shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. If the requirements of the service are such that a department head

cannot permit the employee to take the floating holiday(s) within a particular calendar year, the employee shall add the unused floating holiday(s) to the employee's accrued vacation according to Section 3.5 (Maximum Vacation Accumulation).

5.3 Eligibility

In order to be eligible for holiday pay, an employee must be on paid leave status on his or her regularly scheduled workdays before the holiday.

5.4 Part-Time Employee Eligibility

Benefitted part time employees are eligible for holiday benefits on a pro rata basis.

5.5 No Work on the Holiday

Employees in the career service who are not scheduled to work on the day observed as a holiday will be granted an alternative scheduled holiday. The alternative holiday must be scheduled, by the department head, during the same workweek.

5.6 Work on the Holiday

FLSA non-exempt benefitted employees who work on a scheduled holiday shall be paid at one and one-half times their normal base rate for all hours worked or shall be granted the equivalent amount of compensatory time off. In either event, the holiday pay shall be in addition to the employees' regular salary.

ARTICLE 6 - OTHER PAID LEAVES OF ABSENCE

6.1 Family Bereavement Leave

Any benefitted employee who experiences a death in the immediate family is granted death leave of up to three (3) working days for the purpose of attending the funeral or memorial service in the State of California, or up to five (5) working days for the purpose of attending the funeral or memorial service outside the State of California. Employees in the classification of Fire Chief and Deputy Fire Chief shall be granted one week (five (5) consecutive calendar days) for a death in the immediate family whether in state or out of state for the purpose of attending the funeral or memorial service.

For all employees except those employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren, dependent or domestic partner. For employees in the classification of Fire Chief and Deputy Fire Chief, "immediate family" is limited to wife, husband, domestic partner mother, father, sister, brother, child, grandmother, grandfather, aunt, uncle mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchildren or dependent residing within the household.

Bereavement leave will be paid at the employee's normal base rate of pay for the actual time lost and is allowed solely for the purpose of attending funeral or memorial services. The department head may, within his or her discretion, grant the employee additional time off provided that all accrued vacation and/or sick leave shall be used prior to taking a leave of absence without pay for this purpose.

In special cases, with the approval of the department head, the City Manager may grant death leave within his or her discretion to allow an employee to attend a funeral or memorial services because of the death of persons not included within the definition of immediate family.

6.2 Jury Duty Leave

Any benefitted employee who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his or her department head, shall be entitled to be absent with pay from his or her duties with the City during the period of such service and while necessarily being present in court as a result of such call. An employee is required to be present at work when not serving as a trial juror or as a member of a jury selection panel. An employee will notify his or her supervisor of any requirements (on-call status) made by the court that may affect the employee’s ability to simultaneously fulfill his or her jury duty service and employment obligations. The employee will keep any payment received for jury service including mileage reimbursement.

6.3 Continuing Education Leave

The City will grant a continuing education leave of absence with pay up to forty hours per year to benefitted employees who are required by their employment or continuing employment with the City of Berkeley to pursue course work in order to:

(a) renew a license issued by the State of California; or

(b) obtain a license issued by the State of California provided that employees verify to the City that the course work for the initial license was not offered as a part of their basic curriculum.

Upon prior approval of the department head, FLSA non-exempt employees who take required course work during non-scheduled work hours in order to obtain or renew a job-required license shall be allowed time off from work on an hour-for-hour basis without loss of compensation or other benefits.

6.4 Administrative Leave Program

The City Manager provides for paid administrative leave to eligible employees as set forth in the Appendix to this Manual. Administrative leave is not charged against other accrued leave balances.

6.5 Temporary Employees – Earned Leave

A temporary employee who works one thousand forty (1040) hours or more in a calendar year and is in active employment during December of such year, shall be credited with forty (40) hours of paid time off to be used by such employee in the subsequent calendar year for either paid vacation or paid sick leave. The following conditions shall apply to the use of this earned leave as paid time off:

a. To qualify for earned leave as vacation, the employee must apply, in writing, to the employee's supervisor at least thirty calendar days in advance of the desired time off. The granting or denial of the requested time off shall be in writing and shall be controlled by program considerations as established by the City.

b. To qualify for earned as sick leave, the employee must notify the employee's supervisor of an inability to report to work by reason of illness or injury in advance of the scheduled work.

c. An employee who has any unused earned leave credit shall receive payment for such time upon termination of temporary employment. All credited earned leave not utilized by employees at the end of the calendar year in which the employees are eligible to take such leave will be paid at the end of such year as wages and this earned leave shall not be accumulated from year to year.

6.6 Abolishment of Temporary Employees – Earned Leave

Effective July 1, 2015, Section 6.5 (Temporary Employees – Earned Leave) is abolished in its entirety and replaced with the following Section 6.7 (Temporary Employees Sick Leave).

6.7 Temporary Employees Sick Leave

Effective January 1, 2015, Temporary Employees who have been employed for at least 90 days on July 1, 2015 are eligible to accrue and use sick leave based on hours worked after July 1, 2015 as provided in Section 6.8 (Sick Leave Accrual) below.

6.8 Sick Leave Accrual

Effective July 1, 2015, once a temporary employee works for 30 days within a calendar year, the employee shall be eligible to accrue one (1) hour of sick leave for every 30 hours worked thereafter, to a maximum accumulation of 48 hours. Once an employee accrues 48 hours sick leave, the employee shall not accrue any additional sick leave hours until his or her sick leave balance is below the maximum of 48 hours. Under no circumstances will an employee be allowed to accrue more than 48 hours sick leave.

6.9 Sick Leave Use

Temporary Employees shall be eligible to use sick leave beginning on the 90th day of work. Sick leave shall be used in a minimum of two (2) hours increments, and limited to a maximum of 24 hours use each calendar year. Unused accrued sick leave hours shall carry over to the following calendar year. The following conditions shall apply to the use of this sick leave as paid time off:

a. Sick Leave may be used for the following purposes: Diagnosis, care, or treatment, of an existing health condition or, preventive care for, an employee or an employee's family member; for an employee who is a victim of domestic violence, sexual assault, or stalking. To qualify for earned as sick leave and if the need for sick leave is foreseeable, the employee must notify the employee's supervisor of an inability to report to work in advance of the scheduled work. If the need for sick leave is unforeseeable, the employee shall provide notice to the immediate supervisor of the need for the leave as soon as practicable.

b. All accrued and unused sick leave shall be cancelled upon separation/termination of employment. Such previously accrued and unused sick leave shall be credited back to the employee if the employee returns to City employment within one (1) year from the date of separation.

ARTICLE 7 - LEAVES OF ABSENCE WITHOUT PAY

7.1 Power to Grant Leave

The City Manager shall have the power within his or her sole discretion to grant leaves of absence, with and without pay.

7.2 Authorized Leave Without Pay

Upon request of the employee, a department head may grant or deny a leave of absence to an employee within his or her department without pay for a period not to exceed thirty working days. No leave without pay shall be granted for more than thirty working days except upon written request of the employee and written approval of the City Manager.

7.2.1 **Required Exhaustion of Accrued Leave:** In the event of an authorized absence due to illness, the employee must use all accrued sick, compensatory and vacation leave prior to receiving authorization for leave without pay. In the event of personal leaves not related to sickness, the employee must use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay. However, employees in the classifications of Legislative Assistant and Assistant to the Mayor are not required to use all accrued compensatory and vacation leave prior to receiving authorization for leave without pay for the employee's respective appointing Councilmember or the Mayor. This subsection does not apply to parental leave or to the exhaustion of sick leave by employees in the classification of Deputy Fire Chief as referenced in Section 7.2.2 (Fire Chief and Deputy Fire Chief Use of Sick Leave), below.

7.2.2 **Fire Chief and Deputy Fire Chief Use of Sick Leave**: In the event of illness or injury of an employee in the classification of Fire Chief and Deputy Fire Chief requiring the use of sick leave, the employee has the option to notify the City in writing that he/she wishes to freeze the use of sick leave after thirty (30) days, prior to receiving authorization for leave without pay, in order to utilize the International Association of Fire Fighters sponsored Long Term Disability benefit.

7.2.3 **Grounds for Discharge:** Failure on the part of an employee to report to work promptly at the expiration of the authorized leave without pay will result in discipline up to and including termination.

7.3 Unauthorized Leave of Absence

All paid and unpaid leaves of absence must be approved in accordance with the applicable sections of this Manual. Any absence on the part of the employee who has failed to obtain such approval or failure of an employee to report for duty without appropriate authorization as required by each department will result in the employee being placed on unauthorized leave of absence without pay.

7.3.1 **Grounds for Discharge:** Unauthorized leave of absence without pay shall be cause for disciplinary action up to and including termination.

7.4 Parental Leave

Any employee with one or more years of benefitted employment with the City of Berkeley shall be entitled to up to one year of parental leave upon the birth of a child or the adoption of a child who is five years or younger as provided in Administrative Regulation 2.4 (Family Care Leave).

7.5 Family Care Leave

The City will fully comply with the requirements of the state and federal law regarding pregnancy disability leave and medical/family illness/child care leave where their provisions are more generous than those provided elsewhere in this Manual or Administrative Regulation 2.4 (Family Care Leave). Leaves under this Section 7.5 (Family Care Leave) and Section 7.4 (Parental Leave) and as provided in Administrative Regulation 2.4 may not be combined to yield a larger amount of leave than the state or federal maximums and may not be combined to exceed the maximum one year period of parental leave provided by the City of Berkeley.

7.6 Military Leave

Employees will be granted a leave of absence without pay with appropriate seniority, pay, status and vacation as required by law for the purpose of fulfilling any required military obligation.

ARTICLE 8 - EMPLOYEE FRINGE BENEFITS

8.1 Group Medical-Dental Insurance Benefits

Benefitted employees and their dependents may participate in the City's group medical and dental benefits, which are summarized in the Appendix.

8.1.1 **Part Time Employment:** All benefitted employees who work a minimum of twenty hours, but less than forty hours per week, qualify to receive prorated health and dental benefits and shall pay a pro rata portion of the health and dental insurance premiums. Full time career employees who accept part time employment in lieu of layoff shall continue to receive full health and dental benefits paid by the City.

8.1.2 **Medical Plan for Part-Time Employees:** Effective November 1, 2016, the City will pay 75% of the cost of the medical plan which is fully paid for full-time employees for those benefitted part-time employees who work twenty (20) to twenty-nine (29) hours per week. The City will pay 100% of the cost of the medical plan which is fully paid for benefitted full-time employees for those part-time employees who work thirty (30) or more hours per week.

8.1.3 **Medical Contribution Executive Managers**: Effective July 1, 2019, the City Manager, Deputy City Manager, and all department heads shall pay fifty dollars ($50.00) per month via pre-tax payroll deduction toward their health premium, and the City will pay an amount equal to the balance of the Kaiser monthly premium rate for the employee's applicable single, two-party, or family employee category.

8.2 Life Insurance

The City provides basic group life insurance coverage by a carrier of the City's choice to all benefitted employees and pays the full amount of the life insurance coverage. The City also provides the option to benefitted employees to purchase additional coverage, at their own expense. A summary of the terms of the life insurance coverage is in the Appendix.

8.3 Hourly Rated Employees in Lieu of Benefits

Except for employees in the Aquatics Specialist II and Senior Aquatics Specialist classifications, the Salary Resolution shall provide that hourly-rated employees working in career benefitted classifications will receive an additional seven percent (7.0%) in lieu of benefits.

8.4 Public Employees Retirement System:

8.4.1 **Participation**: The City shall continue to participate in the Miscellaneous Employees Plan, the Safety Fire Plan and the Safety

Police Plan of the California Public Employees Retirement System ("CalPERS"). All benefitted employees shall participate in one of these plans.

8.4.2 **"Classic Employees" Definition:** Classic Employees are defined as current employees and future employees who do not qualify as "New Members" under the California Public Employees' Pension Reform Act of 2013 (PEPRA).

8.4.3 **CalPERS Retirement Formula for Miscellaneous Employees "New Members" as Defined under PEPRA:** Miscellaneous Employees "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2% at age 62 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.4 **CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees:** Effective January 1, 2003, the City amended its Miscellaneous Employees Plan contract with CalPERS to provide the 2.7% at age 55-retirement formula benefit improvement and the City's contribution to CalPERS on behalf of Miscellaneous employees increased from 7% to 8%. Effective July 3, 1994, contributions made pursuant to this Section shall be reported to CalPERS as "special compensation" as provided in Government Code Section 20636(c)(4) pursuant to Section 20691. Said contributions shall not apply in the case of temporary or provisional employees.

The contributions in Section 8.4.4 (CalPERS Miscellaneous Employees Retirement Formula and Employer Paid Member Contribution for Classic Employees) shall not be considered as a part of an employee's salary for the purpose of computing straight time earnings, compensation for overtime worked or for other differentials; nor shall such contributions be taken into account in determining the level of any other benefit which is a function of or percentage of salary.

The City will not treat these contributions as compensation subject to income tax withholding unless the Internal Revenue Service or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of the implementation of this Section or any penalty that may be imposed therefore.

8.4.5 **Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment**

8.4.5.1 **June 4, 2017:** Effective June 4, 2017, Miscellaneous employees will contribute one percent (1%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allows such contributions via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

8.4.5.2 **December 31, 2017:** Effective December 31, 2017, Miscellaneous employees will contribute an additional seven percent (7%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions on a pre-tax basis, for a total of eight percent (8.0%), via automatic payroll deduction on a pre-tax basis. Such employee deductions by the City shall be used towards the City's CalPERS required contributions. The parties recognize that the Employer Paid Member Contributions (EPMC) shall remain in effect as long as the CalPERS amendment stays in effect.

8.4.5.3 If legislation is enacted requiring employers under the CalPERS retirement system to pay all of the employee's share of retirement, thus eliminating the Employer Paid Member Contribution, the City may convert the employee's contribution to the employer's share under this Section 20516 CalPERS contract amendment to the employee's share toward retirement and may continue to pay the 5.58% wage increase provided on December 31, 2017 associated with the CalPERS swap for Miscellaneous Classic Employees.

8.4.6 **Miscellaneous New Members' Pension Contribution**

8.4.6.1 Miscellaneous New Members as defined in the California Public Employees' Pension Reform Act of 2013 (PEPRA), shall continue to pay 50% of the Normal Cost required under PEPRA.

8.4.6.2 **June 4, 2017**: Effective June 4, 2017, in addition to the contribution in Section 8.4.6.1, Miscellaneous New Members shall contribute one percent (1.0%) toward the City's CalPERS employer share of pension through a 20516 CalPERS amendment that allow such contributions as pre-tax via automatic payroll deduction. Such employee deductions by the City shall be used toward the City's CalPERS required contributions.

8.4.6.3 **December 31, 2017:** Effective December 31, 2017, in addition to the contributions in Sections 8.4.6.1 and 8.4.6.2 above,

Miscellaneous New Members shall contribute an additional seven percent (7.0%) towards the City's CalPERS employer share of pension through a 20516 CalPERS contract amendment that allows such contributions as pre-tax, for a total of eight percent (8.0%) via automatic payroll deduction. Such employee deductions by the City shall be used towards the City's CalPERS required contributions.

8.4.6.4 Miscellaneous New Member contributions in Sections 8.4.6.2 and 8.4.6.3 to the CalPERS 20516 employee contributions towards the employer rate are in addition to the required 50% of the normal share of cost of "New Members" (required pursuant to PEPRA)benefits and made in consideration of additional salary increases effective June 4, 2017 and December 31, 2017 and set forth in the Salary Resolution (a total of 5.58% in exchange for employees paying an additional eight percent (8.0%) towards CalPERS pension costs).

8.4.6.5 Miscellaneous New Member contributions in Sections 8.4.6.2, 8.4.6.3, and 8.4.6.4 to the CalPERS 20516 employee contributions towards the employer rate will be amended and reduced as follows:

8.4.6.5.a

- FY2021-22: 1% (Effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% effective July 1, 2022
- FY2023-24: 1% effective July 1, 2023
- FY2024-25: 2% effective July 1, 2024
- FY2025-26: 2% effective July 1, 2025
- FY 2026-27: 1% effective July 1, 2026

8.4.6.5.b No change to Classic members' contributions during the contract term.

8.4.7 **Public Safety CalPERS Retirement Formula for "New Members" as Defined Under PEPRA**: Public Safety "New Members" as defined by PEPRA who are hired by the City on or after January 1, 2013 shall be entitled to the 2.7% at age 57 retirement formula with the highest three (3) year average compensation as set forth in PEPRA.

8.4.8 **Public Safety Classic Employees CalPERS Retirement Formula:** The City agrees to provide the 3% at age 50-retirement formula benefit

improvement (December 22, 2000 for Classic Fire Safety; and July 7, 2002 for Classic Police Safety hired prior to December 28, 2011).

For Classic Police Safety Employees hired on or after December 28, 2011, the City provides the 3% at age 55-retirement formula benefit.

8.4.9 **Public Safety Fire Classic Employees' CalPERS Pension Contribution**: On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Fire Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Cost Share: Effective November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Public Safety Fire Classic Employees shall contribute two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

8.4.10 **Public Safety Police Classic Employees' CalPERS Pension Contribution**: On July 1, 1994, the City increased the base salary of Classic Employees participating in the Safety Police Plan, in the amount of nine percent (9%). Employees then assumed, and shall continue to assume responsibility for payment of the normal employee retirement contribution to CalPERS. The City shall designate such payments as an Employer Pickup as defined under the provisions of Section 414(h)(2) of the Internal Revenue Code. The employee contributions shall be made through automatic payroll deduction.

Effective January 3, 2016, Police Public Safety Classic Employees shall contribute one percent (1%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety Classic employees shall contribute an additional one percent (1%), for a total of two percent (2%) toward the City's CalPERS employer contribution rate via automatic payroll deduction on a pre-tax basis.

8.4.11 **Public Safety Fire New Members CalPERS Pension Contribution**: Public Safety Fire New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost as required pursuant to PEPRA.

Cost Share: **Effective** November 8, 2015 (the first full pay period after Council approval of this Unrepresented Employee Manual), Fire New

Members shall also contribute an additional two percent (2%) of pensionable compensation, in addition to the PEPRA mandated 50% of the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis

8.4.12 **Public Safety Police New Members CalPERS Pension Contribution**: Public Safety Police New Members New Members hired on or after January 1, 2013 shall pay fifty percent (50%) of the normal share of cost required by PEPRA.

Cost Share: Effective January 3, 2016, Public Safety Police New Members shall also contribute one percent (1%) of pensionable compensation (in addition to contributing 50% of the normal share of cost) towards the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis. And, effective July 3, 2016, Police Public Safety New Members shall contribute an additional one percent (1%), for a total of two percent (2%), in addition to the PEPRA mandated 50% of the normal share of cost, toward the City's CalPERS employer contribution rate through automatic payroll deduction on a pre-tax basis.

8.4.13 **CalPERS Options Available to Berkeley Employees**: The City's contract with CalPERS includes the following optional benefits:

a) Classic Employees Only - One-Year Final Compensation as provided in Section 20042 (July 9, 1978 for Miscellaneous; July 22, 1976 for Fire and Police).

b) Post Retirement Survivor Allowance as provided in Sections 21624, 21626 and 21628 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).

c) Post Retirement Survivor Allowance to Continue after Remarriage as provided in Section 21635 (July 18, 1986).

d) Credit for Unused Sick Leave as provided in Section 20965 (June 26, 1988).

e) 1959 Survivor Benefits to Surviving Spouse at Age 60 as provided in Section 21580 (December 16, 1973 for Miscellaneous; March 1, 1973 for Fire and Police).

f) Third Level of 1959 Survivor Benefits as provided in Section 21573 (November 28, 1996).

g) Fourth Level of 1959 Survivor Benefits as provided in Section 21574 for Police Safety only (October 15, 1998).

h) Military Service Credit as Public Service as provided in Section 21024 (April 9, 1999 for Miscellaneous; July 14, 2000 for Fire; November 6, 1998 for Police).

i) Public Service Credit for Peace Corps or America Corps: Vista Service as provided in Section 21023.5. (April 14, 2000).

j) Classic Fire - 3% @ 50 for Local Safety Members as provided in Section 21362.2 for Fire members only, (December 22, 2000); and for Police members only (July 7, 2002.).

k) Classic Police Hired Prior to December 28, 2012: 3% @ 50 for Local Safety Classic Members as provided in Section 21362.2 for Police members only (July 7, 2002).

l) Classic Police: 3% @ 55 for Local Safety Classic Members as provided in Section 21363.1 for Police members only (December 28, 2012).

m) Classic Miscellaneous: 2.7% at age 55 for miscellaneous members as provided in Section 21354.2 on January 5, 2003.

n) New Members Miscellaneous: 2% at age 62 for Miscellaneous New Members as defined by PEPRA on January 1, 2013.

o) New Members Police and Fire: 2.7% @ 57 for Local Safety New Members as defined by PEPRA (January 1, 2013).

p) Indexed Level of 1959 Survivor Benefits as provided in Section 21574.5 for Fire Safety only (June 13, 2003).

8.4.14 **Unused Sick Leave Conversion**: The conversion of unused sick leave to CalPERS Retirement Credit for Unused Sick Leave under Government Section 20965 shall be made available to qualified retiring employees. This allows employees to convert unused accumulated sick leave at time of retirement, for which the employee receives no compensation, to additional service credit at the rate of 0.004 year of service credit for each day. This credit applies to qualified employees

whose effective date of retirement is within four months of separation from employment. The CalPERS sick leave conversion applies to accumulated sick leave, exclusive of the amount of accumulated sick leave paid out to the employee pursuant to Section 4.11 (Accrued Sick Leave Cancellation Upon Termination), of this Manual.

8.4.15 **Retirement Benefit Allowance**: CalPERS retirement benefits are calculated on a formula based on the participating employee's years of service, age at retirement, and percentage of highest year compensation. For employees participating in the Local Miscellaneous Employees Plan, the percentage is 2.7% at age 55 effective January 5, 2003. For Classic Employees participating in the Fire Safety Employees Plan, the percentage is three percent (3%) at age 50 effective December 22, 2000. For Classic Employees participating in the Police Safety Employees Plan, the percentage is three percent (3%) at age 50 effective July 7, 2002. For Classic Employees participating in the Police Safety Employee Plan effective December 28, 2012, the percentage is three percent (3%) at age 55.

8.5 Supplementary Retirement and Income Plans

In lieu of participating in the Federal Social Security Program, the City provides a supplemental retirement and income plan to most benefitted employees. There are three supplementary retirement and income plans: Supplementary Retirement and Income Plans I, II and III ("SRIP I, II and III"). The City's contributions to these plans on behalf of participating employees is not subject to income tax until it is paid out to the employees upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.5.1 **SRIP I:** In SRIP I, the City contributes 5.7% of the participating employee's salary (up to a maximum annual salary of $32,400) into an investment account and 1% into a long term permanent disability plan. SRIP I was closed to new participants on July 22, 1988.

8.5.2 **SRIP II:** In SRIP II, the City contributes 6.7% of the participating employee's salary (up to a maximum annual salary of $32,400) into an investment account and pays into a disability insurance benefit plan on the employee's behalf; and employees may also borrow up to 50% of the balance in their SRIP II investment accounts, subject to certain limitations. All employees, including the Fire Chief, hired (or who are subsequently enrolled by resolution of the City Council) after July 22, 1988 are automatically enrolled in SRIP II.

The Deputy Fire Chief is enrolled, effective July 1, 1993.

8.5.3 **SRIP III**: For eligible Police Safety employees, the City contributes 2% of the employee’s salary (up to a maximum annual salary of $32,400) into the investment account, SRIP III.

8.6 Deferred Compensation

Benefitted City employees are eligible to participate in the City's Deferred Compensation Plan through voluntary payroll deductions from the employee's salary. The Deferred Compensation Plan allows employees to defer part of their salaries, in accordance with Internal Revenue Service limits, to a separate fund, which is not subject to income tax until it is paid out to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.7 PARS

At-will employees who are not eligible to receive fringe benefits under this chapter are automatically enrolled in the Public Agency Retirement System ("PARS"). Each pay period, such employee shall contribute 3.75% of his or her salary into the employee's PARS account on a tax deferred basis and the City shall contribute a matching amount equaling 3.75 % of the employee's salary. The employee's PARS account balance will be distributed to the employee upon retirement or termination, or to the employee's beneficiary in the event of the employee's death.

8.8 Public Safety Uniform Allowance

Due to the requirement for sworn fire and police department management personnel to wear standard and dress uniforms in the performance of their duties, the City Manager may provide for the payment of uniform allowance, in keeping with the allowance provided to other fire and police personnel, as shown in the Appendix. The uniform allowance is intended to cover uniform expenses incurred during active service prior to the payment and shall be paid semi-annually, in installments of equal amounts. To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

8.9 Supplemental Retirement Plan and Trust Agreement

Effective July 1, 2001, the City adopted a Supplemental Retirement Plan and Trust Agreement to provide supplemental retirement income and other benefits for eligible unrepresented career benefited and regular at-will employees through the liquidation of termination pay. Termination pay means pay due to an eligible unrepresented career benefited and regular at-will employee from the City on account of termination of his or her employment, but only including the commuted value of the following such accumulated pay: vacation, sick leave, sick leave bonus, compensatory time and floating holidays. The Supplemental Retirement Plan includes both mandatory contributions of termination pay and voluntary contributions for employees who provide the City with an irrevocable payroll deduction authorization at least 90 days in advance of the date of termination.

ARTICLE 9 - EMPLOYMENT AT-WILL

9.1 Employment At-Will

An employee who is employed in a position that is excluded from the career service by Berkeley Municipal Code Section 4.04.120 of the Personnel Ordinance is employed by the City in an "at-will" status. This means that both the at-will employee and the City have the right to terminate employment at any time, with or without advance notice, and with or without cause. No employee or officer of the City of Berkeley has the authority to alter the employee's at-will status or to enter into an oral or written agreement for employment for a specified period of time, or to make any promises, assurances or agreements contrary to this the provisions of this Section.

9.2 No Right to Appeal Discharge

An at-will employee who is discharged has no right of appeal or hearing in any manner provided by this Manual.

9.3 Benefits

Those offices, positions and employments named in the Berkeley Municipal Code, Sections 4.04.120 (A), (B) and (C) who regularly work twenty or more hours per week are classified as regular at-will employees and shall be entitled to those benefits as specified for benefitted employees by this. A list of regular at-will positions entitled to receive such benefits is in the Appendix.

All other offices, positions and employments named in the Berkeley Municipal Code, Section 4.04.120, are not eligible for any benefits provided under these Rules, except those expressly specified for temporary employees, such as the Earned Leave benefit or those required by State or Federal law such as Family Care Leave and enrollment in the City's PARS retirement plan, as provided in this Manual.

9.4 Standards of Conduct

At-will employees are subject to the same standards of conduct that prevail over employees in the career service. Any evaluations, warnings or disciplinary action provided to at-will employees regarding their conduct or job performance does not create any obligation or duty on the City's part to provide a warning or evaluation or corrective progressive discipline prior to discharge and in no way negates or otherwise abrogates the City's right to discharge at-will employees for any reason without notice at any time during their employment and without right of appeal.

9.5 Transfer or Appointment of Career Employee to an At-Will Position

Any employee in the career service who accepts a transfer or appointment to an at-will position shall be reinstated to the career position from which he or she was transferred or appointed if within six months after such transfer or appointment, action is taken to dismiss the employee, unless charges are filed and the employee

is discharged in accordance with these Rules. After expiration of the six month period, the employee is excluded from the career service and from any retreat rights to former career positions and is subject to termination at any time, with or without advance notice, with or without cause, and without the right of appeal.

ARTICLE 10 - LAYOFF POLICY AND PROCEDURE

10.1 Statement of Intent

This layoff policy is intended to provide the maximum employment protection to employees in the career service and to minimize the impact on the City's affirmative action accomplishments should a layoff become necessary.

10.2 Announcement of Layoff

The City Council, City Manager and department heads shall make every reasonable effort to manage and budget the City's resources effectively, and to plan for the delivery of City services in a manner which will avoid the necessity to lay off career City employees. A reduction in the workforce for more than thirty calendar days is necessitated by, but not limited to, the following a material change in duties and organization, adverse working conditions, return of employee from leave of absence, or shortage of work or fund. In the event of a layoff, the City Manager shall notify the Director of Human Resources of the intended action and the reason for the layoff.

10.3 Vacancy Freeze

Immediately following a decision which may involve the potential layoff of career City employees, the City Manager shall freeze all current City vacancies in the career service in similar and related classes to those likely to be targeted for layoff. The City Manager shall notify the department heads of a freeze of vacancies in their departments and shall require that requisitions continue to be submitted for any budgeted positions which the department head intends to fill and for which funding is available.

10.4 Seniority Service Date

All service in the employ of the City shall be counted toward the establishment of an employee's Seniority Service Date, including permanent, probationary, provisional, temporary, part time (on a prorated basis), seasonal, regular at-will employment, and approved military and parental leaves of absence. All other leaves without pay, including time off as a result of formal disciplinary action will be subtracted from the Seniority Service Date.

10.5 Establishment of Seniority Lists

Layoffs shall be made according to City-wide class Seniority Lists which the Human Resources Department will immediately establish for probationary and permanent employees in each class targeted for layoff. The names of all City employees holding permanent and probationary appointments in a given class will be listed on the appropriate list in descending order by Seniority Service Date.

Probationary or permanent employees temporarily acting out of class and holding a provisional appointment in another class will be listed on the Seniority List of the class in which they hold permanent or probationary status.

10.6 Order of Layoff

Employees within a specific class shall be laid off on the basis of their Seniority Service Date; i.e., employees with the least amount of total service shall be laid off first. All emergency, temporary and provisional employees working in classes similar to those identified for layoff must be terminated prior to the layoff of probationary and permanent employees. Probationary employees will be laid off prior to permanent employees for a specific class.

10.6.1 **Tie:** If two or more employees on a Seniority List have an identical Seniority Service Date, the tie shall be broken in the following order: (1) time in class--the employee having least time in the class shall be laid off first, and (2) by lot.

10.6.2 **Administrative & Fiscal Services Manager Position in the Berkeley Public Library:** This is a specialty designated position within the Administrative & Fiscal Services Manager classification, and will be treated as a separate classification for the purpose of administering the Layoff Policy and Procedure.

10.7 Notification

Permanent and probationary employees should be notified individually, in writing, of pending layoffs as soon as possible, with no less than thirty calendar days notification if targeted for termination or retreat to a lower class.

All other employees to be laid off shall be given, whenever possible, at least a fourteen (14) calendar day prior notice.

10.8 Employee Retreat Rights

A probationary or permanent employee affected by layoff shall have the right to displace an employee in a lower level class in which the affected employee once had permanent status or in a subsequently created intermediate level career class which provides normal progression through the class series. Retreat rights shall also extend to employees who have not previously been promoted through a class but for whom the class is a natural progression or beginning in the class series. Retreat rights into a lower class will be granted in order of the highest seniority date on the Seniority List for employees in that class.

10.8.1 **Qualified to Retreat into More than One Classification:** When an employee is qualified to retreat into more than one class, the options shall be discussed with the employee and due consideration given to the employee's preferences. However, it is the prerogative of the City Manager to determine the final placement offer to the employee

10.8.2 **Salary Step:** Employees retreating to a lower class or being flexibly placed in a similar class shall be placed at the salary step representing

the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

10.8.3 **Reinstatement after Transfer**: An employee whose position is abolished and is transferred in lieu of layoff shall have the right to return to the position if it is restored within one year of the date of the transfer.

10.9 Flexible Placement Program

After all frozen vacant positions have been filled by employees entitled to retreat rights under Section 10.8 (Employee Retreat Rights) of this chapter, the Human Resources Department will review and identify the remaining frozen vacant classes into which career employees targeted for layoff who have not retreated into a lower class may be placed on the basis of total experience and education.

10.9.1 **Failure to Meet Minimum Requirements**: Where the targeted employee does not meet the minimum qualifications of a frozen vacant position, the City Manager has the discretion to either waive the minimum qualifications and/or substitute the targeted employee's job-related experience and education for the minimum qualifications, but under no circumstances is the City Manager required to do so. Where the employee does not meet the minimum qualifications, flexible placement can occur only if the City Manager determines that management and supervisory personnel are able to provide adequate supervised on-the-job training to the employee to meet the requirements of the job. The employee must successfully complete the training within six months as determined by the Director of Human Resources or the employee shall be again subject to the layoff procedures.

10.9.2 **Salary Range**: Assignments under the Flexible Placement Program shall be limited to positions in the same or lesser salary range as the classification from which the employee is to be laid off.

10.9.3 **Order of Assignment**: Offers to positions under the Flexible Placement Program shall be made according to the employee's standing on the Seniority List.

10.10 Failure to Accept Offer under Layoff

Failure on the part of an employee to accept a written bona fide offer to retreat to a lower class or be flexibly placed in an alternative job within ten calendar days after the offer is made shall result in forfeiture of any further right to employment retention. Acceptance of a reassignment to a lower class does not remove the employee's right of appeal under Section 10.12 (Appeal Procedures) nor does acceptance of an alternative job under the Flexible Placement Program jeopardize an employee's standing on the re-employment lists as further provided in this Section 10.10 (Failure to Accept Offer under Layoff).

10.11 Re-Employment List

The names of probationary and permanent employees laid off in accordance with this chapter shall be entered on a re-employment list for both those classes from which they were separated as well as other classes to which they have retreat rights.

10.11.1 **Duration of List:** Re-employment lists for laid off employees who are separated from City service shall remain in effect for three years. Re-employment lists for laid off employees who are demoted shall remain in effect indefinitely.

10.11.2 **Use of List:** Re-employment lists shall be used by each department when a vacancy arises in the same or lower class of position before certification is made from an eligible list.

10.11.3 **Order of Appointment:** Employees on the re-employment list shall be certified and appointed to a vacancy in the appropriate class according to their standing on the Seniority List.

10.11.4 **Failure to Appoint from Re-Employment List:** If a vacancy is filled from an eligible list in a class for which a re-employment list exists which is a violation of this Section, the employee on the re-employment list who should have been appointed shall be appointed to the vacancy and paid retroactively from the date the vacancy occurred.

10.11.5 **Failure to Accept Bona Fide Offer:** Failure on the part of the employee on the re-employment list to accept a bona fide written offer of re-employment within fifteen calendar days will result in removal of the employee's name from the re-employment list from which the offer was made. Failure to accept an offer of re-employment to the class with the highest salary range for which the employee is eligible for re-employment will result in automatic removal of the employee's name from all re-employment lists. The employee may, however, accept or decline temporary re-employment without jeopardizing his or her standing the re-employment list for the class from which he or she was originally terminated.

10.11.6 **Salary Step:** Upon reappointment to the class from which the employee was originally separated or demoted, the employee shall be placed at the salary step that the employee held at the time of the separation or demotion.

10.11.7 **Reinstatement List:** Any former employee on a re-employment list shall be included as an eligible on the reinstatement list for a specific class at or below the class from which layoff occurred, upon written request by the employee for reinstatement which is submitted with a current, completed City of Berkeley application and upon meeting the

minimum qualifications of the specific class unless waived by the City Manager as provided under flexible placement.

10.12 Appeal Procedures

The decision of the City Manager to implement a layoff is not appealable. Any unrepresented career employee who believes that the layoff procedure, as defined herein, has been improperly administered as to the employee may appeal the action under the Complaints, Appeals and Hearing Procedure of this Manual. Employees are entitled to review all records pertaining to their class and their rights under the provisions of the layoff policy.

10.13 Audit

In the event of a dispute between an employee and the City over the application of the re-employment list and if either party so requests, the City Manager's Office shall order an audit by an outside auditor of all vacant positions filled in each department to determine whether vacancies were filled in compliance with the procedures for appointments from re-employment lists set forth in Section 10.11 (Re-Employment List) of this Manual. In the event vacancies for which re-employment lists were in existence remain unfilled, the auditor shall offer an opinion as to whether or not the reasons for leaving the positions vacant appear to be legitimate. A report of the audit shall be transmitted to the City Manager and the City Council.

ARTICLE 11 - DISCIPLINARY ACTION

11.1 Policy

Prior to the suspension, disciplinary demotion or discharge of an employee in the career service for disciplinary purposes, the procedure set forth in this Article 11 (Disciplinary Action) shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to the notice, rights and procedures provided under Section 11.3 (Disciplinary Actions).

11.2 Final Decision Maker for Disciplinary Action

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

11.3 Disciplinary Actions

The department head shall initiate disciplinary procedures, as set forth here. The department head may suspend a subordinate employee for not more than three working days at any one time. For suspensions of more than three days, disciplinary demotions and discharge, the department head shall make a recommendation to the final decision-maker. The final decision-maker may suspend an employee from a position at any time for cause. Suspension without pay shall not exceed thirty working days, nor shall any employee be penalized by suspension for more than thirty working days in any continuous twelve month period. However, FLSA exempt employees shall not be suspended in less than regular workweek increments except for safety or security violations. A "regular workweek" is defined elsewhere by this Manual.

11.4 Written Reprimands for Fire Safety Employees

Consistent with the Firefighter Bill of Rights Act, the Deputy Fire Chief receiving a written reprimand shall have the right to a non-evidentiary administrative appeal to the Fire Chief or Fire Chief's designee. The employee must request an administrative appeal in writing to the Fire Chief within ten (10) working days of receipt of the written reprimand. Failure to do so shall be deemed a waiver of the employee's right to appeal. The Fire Chief or Fire Chief's designee shall have discretion regarding how the appeal meeting is conducted, including whether and the extent to which witnesses other than the employee and employee's representative are required and may participate. The Fire Chief or Fire Chief's designee shall notify the employee of his or her decision within ten (10) working days of the appeal meeting. An employee and the Association have no further right to appeal or grieve a written reprimand beyond the administrative appeal described in this paragraph.

11.5 Written Reprimands for Non- Safety Employees

In the event that an employee receives a written reprimand, the employee may write a rebuttal within thirty (30) calendar days of receiving the written reprimand and such rebuttal will be placed in the Personnel File along with the written reprimand. Employees have not right to appeal or grieve a written reprimand.

ARTICLE 12 - COMPLAINTS, APPEALS AND HEARINGS

12.1 Policy

The procedure for filing complaints and appeals by employees set forth under this Article 12 shall be complied with provided, however, that only those employees in the career service who are not represented by a labor organization shall be entitled to file complaints with the City and appeals to the Personnel Board pursuant to the provisions of this Manual.

12.2 Final Decision Maker for Purposes of this Article

For purposes of this chapter, the City Manager is the final decision maker for City of Berkeley employees. The Rent Stabilization Board is the final decision maker for Rent Stabilization Program employees. The Library Board of Trustees is the final decision maker for Library employees.

12.3 Complaints

Disciplinary action shall be taken in accordance with Article 11 (Disciplinary Action) of this Manual. All other complaints by employees, except complaints about compensation, which allege a violation of the Personnel Ordinance or this Manual shall be filed through proper channels, commencing with the department head, and then to the final decision maker.

12.3.1 **Compensation Complaints**: All complaints involving or concerning the payment of compensation shall be initially filed in writing with the Director of Human Resources. The Director of Human Resources shall respond in writing within thirty (30) working days. If the complaint has not been resolved within thirty (30) working days of filing with the Director of Human Resources, the complaint may be moved to the final decision maker. Only complaints, which allege that employees are not being compensated in accordance with the policies, rules and resolutions of the City Council, shall be considered as complaints under this Section. No compensation adjustment shall be retroactive for more than thirty calendar days from the date upon which the complaint was filed or thirty calendar days from the date when an employee may reasonably be expected to have learned of the claimed violation.

Appeal: If the grievant is not satisfied with the decision of the Director of Human Resources or his or her designee, the grievant may move the complaint to the final decision maker within ten (10) days of receipt of the decision rendered under Section 12.3.1 above. Failure by the employee to file an appeal within the specified time limits specified constitutes a dropping of the complaint. If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.

12.3.2 **Discrimination Complaints:** An employee may file a complaint concerning a violation of the "FAIR EMPLOYMENT" provision specified by the rules of this Manual, and the complaint shall be processed in accordance with the EEO Complaint Investigation and Resolution Procedure of the City of Berkeley EEO/Affirmative Action Program, as established in Resolution No. 54,926-N.S., as amended from time to time.

12.4 Right of Appeal

An aggrieved employee shall have the right to appeal the decision of the final decision-maker regarding the aggrieved employee's disciplinary dismissal, demotion, suspension or complaint to the Personnel Board except in instances where the right to appeal is prohibited by the Personnel Ordinance or the provisions of this Manual.

12.5 Method of Appeal

Appeals to the Personnel Board shall be in writing, signed by the aggrieved employee and filed with the Director of Human Resources within ten calendar days after the action is imposed. The appeal shall be a written statement, addressed to the Chair of the Personnel Board, explaining the matter appealed from and setting forth a statement of the action desired by the aggrieved employee, supported by his or her reasons. The Director of Human Resources shall, within ten calendar days after receipt of the appeal, inform the Chair of the Personnel Board, the City Manager and the affected department head of the filing and contents of the appeal with the Board.

12.6 Investigations and Hearings

Upon receipt of any appeal, the Personnel Board shall make such investigation, as it may deem necessary.

An aggrieved employee who has been demoted for a disciplinary purpose, suspended or discharged is entitled to a hearing upon appeal before the Personnel Board. As to all other appeals, the Personnel Board may grant a hearing or decide the appeal without a hearing as it may deem warranted.

12.7 Hearing Procedures

In cases where the employee is entitled to a hearing as a matter of right and in other cases whenever the Board may deem it advisable to hold a hearing, these procedures shall apply.

12.7.1 **Notice:** The Personnel Board shall schedule a hearing on the appeal within forty-five calendar days from the date of the filing of an appeal. The Director of Human Resources shall notify all interested parties of the date, time and place of the hearing at such places as the Personnel Board shall prescribe.

12.7.2 **Hearing Procedure:** The aggrieved employee shall appear personally unless physically unable to do so before the Personnel Board at the time and place of the hearing. The aggrieved employee may be represented by any person or attorney as may be selected and may at the hearing produce relevant oral or documentary evidence. The party who has the burden of proof shall state the case first after which opposition matter may be presented. Rebuttal matter that is not repetitive may be allowed at the discretion of the Personnel Board. Cross-examination of witnesses shall be permitted. Hearings need not be conducted according to technical rules relating to evidence and witnesses, but shall be conducted according to any rules of applicable procedures. Hearings shall be closed unless otherwise required by the Ralph M. Brown Act, Government Code Section 54950, as amended from time to time, or any other applicable law.

12.8 Findings and Recommendations

The Personnel Board shall, within thirty calendar days after the conclusion of the hearing, or if no hearing was conducted, within thirty calendar days of its decision, certify its findings and recommendation(s) in writing to the aggrieved employee and to the final decision-maker. The final decision maker shall review the findings and recommendation(s) of the Personnel Board and may then affirm, reject or modify the Personnel Board's findings and recommendation(s) as, in his or her judgment, seems warranted, and the final decision maker's decision shall be final. Any member of the Personnel Board may submit a minority or supplemental report which shall be attached to the findings and recommendation(s) of the Board.

APPENDIX

This Appendix contains detailed information regarding benefits and compensation which covers unrepresented benefitted employees. It is appended to the Unrepresented Employee Manual but the contents are not part of the resolution establishing the Unrepresented Employee Manual and may be changed to reflect changes in benefit details, as approved by the City Council by resolution.

13.1 Administrative Leave

Employees who are in career, benefitted, or at-will benefitted classifications which are FLSA Exempt may be approved by the City Manager to receive up to an additional 50 hours of compensated administrative leave beginning on January 1, 2016, and at the beginning of each calendar year thereafter, or prorated during the course of the year when employed less than a full year. This administrative leave is granted to employees whose job responsibilities cause them to work numerous hours in excess of the normal City workweek. The City Manager has the authority to rescind administrative leave in those instances of abuse or misuse of the intent of this provision.

Administrative leave taken must be approved in advance by the department head and posted to the employee's timecard. Unused administrative leave may be carried over to the next calendar year, providing the total of excess vacation and unused administrative leave do not exceed 320 hours. Otherwise, the excess administrative leave must be taken within the calendar year in which it was earned or it may be forfeited. Upon termination or retirement, no monetary award will be authorized for unused accumulated administrative leave.

13.1.1 **Prorated Administrative Leave**: A benefitted employee who is otherwise eligible for overtime and who is on a temporary or provisional benefitted appointment in an FLSA Exempt classification for a period of one month or longer, and is ineligible to earn overtime, shall be entitled to prorated Administrative leave for the duration of the temporary or provisional appointment. Any unused administrative leave at the end of the temporary or provisional appointment will roll into vacation, provided the total of accrued and unused vacation and accrued administrative leave do not exceed 320 hours.

13.2 Automobile Allowance

The City reimbursement rate for the use of a private automobile on authorized City business will be equal to the amount established by the Internal Revenue Service.

13.3 Bilingual Premium Pay

13.3.1 **As Part of Regular Job Assignment:** An employee who is required as an essential part of his or her job to provide non-English language services, including Braille and sign language, routinely and consistently as part of his or her regular job assignment as determined by the City

will receive a Bilingual Premium Pay Differential of 5%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 5% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

13.3.2 **Occasional Assignments:** An employee assigned occasionally to provide non-English language services, including Braille and sign language, when either a) assigned by management, or b) at the request of the employee with the supervisor's agreement, or, c) after a job audit will receive a Bilingual Premium Pay Differential of 2%. The employee must agree to use the bilingual skill during his or her normal work shift regardless of assignment. The Bilingual Premium Pay Differential of 2% will be reported to CalPERS as Bilingual Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635.

13.3.3 **Competency and Management Rights:** The bilingual premium will not be applicable under any circumstances except to an employee who possesses second language competency. Management reserves the right to test for second language appropriate competency prior to a Bilingual Premium Pay Differential.

13.3.4 **Temporary Designation:** The City may designate an employee to receive either the 5% or 2% Bilingual Premium Pay Differential on a temporary basis for a specified period provided the employee met the requirements contained in the first or second paragraph of this Section.

13.4 Cash-In-Lieu Payments

For those employees who are able to show proof of ongoing alternate group medical coverage, the City will compensate employees $560.00 per month, prorated for less than full-time employees. This benefit shall be frozen at this amount. To comply with FLSA laws, health insurance in-lieu payments shall be paid over twenty-six (26) equal biweekly installments instead of once a month.

13.5 Dependent Care

Employees shall be allowed to designate a specific amount of salary, consistent with State and Federal tax laws, to be redirected to pay for dependent care costs through pre-tax salary deductions. The amount of funds designated should be considered carefully, because under the current tax code, any unexpended funds which have not been spent for the specific purpose of paid dependent care and remain in the employee's account at the end of the year, will be forfeited.

13.6 Life Insurance

The City shall provide paid group life insurance, by a carrier of the City's choice, in the amount of $25,000 which shall include a standard accidental death and dismemberment provision of a like amount. Employees in the classification of Police Chief and Fire Chief shall be provided with life insurance in the amount of $100,000, which shall include a standard accidental death and dismemberment provision of a like amount. Life insurance shall become effective the first day of the calendar month following appointment, and shall continue until the last day of the calendar month in a pay status.

In addition, all unrepresented benefitted employees may purchase additional coverage, in increments of $10,000, up to a maximum of $300,000, at the rate offered by the City's insurance carrier, subject to any rules and restrictions of the carrier, including but not limited to any medical exam that might be required by the insurance carrier.

13.7 Medical/Dental Insurance for Employees/Dependents

Except as provided in Section 8.1 (Group Medical-Dental Insurance Benefits), the City offers fully paid and/ or partially paid health insurance plans and a fully paid dental plan for the employee and eligible dependents, including a domestic partner. The dental plan currently provides orthodontic coverage for the employee's dependent children through age 26 and 90% of the Bay Area Usual, Customary and Reasonable charges. Effective January 1, 2007, the maximum annual coverage will be $2,000 annual coverage, and $2,000 lifetime orthodontia limit. Any employee, who is required to partially pay premiums, shall be allowed to make these payments with pre-tax deductions. The medical and dental benefit coverage for dependent children extends to the date of their 26th birthday, providing they meet the Internal Revenue Service definition of "dependent". If an employee chooses to complete and submit an Affidavit of Domestic Partnership and sign up for medical benefits and/or dental benefits for his or her domestic partner, the employee shall be subject to federal and state income tax withholding.

Medical and dental benefits shall begin the first day of the calendar month following the date of hire, and end the last day of the month an employee is in pay status, except in the case of parental and Family and Medical Leave Act, as described in the Administrative Regulation No. 2.4. Maximum annual coverage amounts are found in the Employee Benefits Handbook.

13.7.1 **Dental Coverage for Fire Management**: Effective January 15, 2015, employees in the classification of Fire Chief and Deputy Fire Chief, shall be provided with dental insurance with an annual maximum coverage of $3,000 and lifetime orthodontia limit of $3,000.

13.8 Retiree Medical Plan

The terms and conditions of this benefit shall be set forth in a separate document which shall contain a full plan description and shall control the administration of the retiree medical plan.

13.9 Amendment of Retiree Health Premium Assistance Plans I and II, effective June 28, 1998, Restated and Amended effective March 22, 2011

Employees who retire on or after June 21, 2015, shall be permitted, at their discretion, to enroll in non-City sponsored health plans. After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow enrollment in non-City sponsored health plans. In the event a retiree elects to enroll in a non-City sponsored health plan, the City shall make medical insurance premium payments directly to the health insurance provider in an amount equal to what the City would contribute to the City sponsored health plan. Retiree shall be solely responsible for all aspects of the requirements to enroll in a non-City sponsored health plan and maintain eligibility for such a plan; the City's sole obligation is to pay the medical insurance premium contribution required under this section, as directed by the retiree to a non-City sponsored health plan. The City shall not be responsible for any excess cost differentials associated with the direct payment of premiums to non-City sponsored plans. The City will only make payments through its third party administrator to provide medical insurance premium payments for an individual plan and will not make payments for a group plan. The retiree and/or surviving spouse or domestic partner that enroll in non-City sponsored health plans shall be solely responsible for paying the administrative set up fee, the monthly administrative fee, and/or any other fees established by the third party administrator, and said fees will be deducted directly from the retiree's monthly contribution. No cash payments will be paid directly to the retiree or the retiree's spouse/domestic partner. There shall be no cash in lieu payments made under this benefit.

The City will also amend the Retiree Premium Assistance Plans I and II to allow eligible retirees who retired prior to June 21, 2015 to enroll in a non-City sponsored health plan.

13.10 Retiree Medical for Unrepresented Benefitted Employees

Effective June 28, 1998, the City will provide the retiree medical coverage set forth below for all unrepresented benefitted employees, except employees in the classifications of Police Chief, Fire Chief, and Deputy Fire Chief (see separate plans below). An employee's entitlement to any and all benefits provided by the City under this retiree medical plan is subject to the funding limitations set forth in the plan document.

13.10.1 **Eligibility and Percentage of City Contribution:** An employee is eligible for the retiree health insurance coverage as set forth in Sections 13.10.3 (Pre Age 65 Retiree Health Insurance) and 13.10.4 (Retiree

Benefits for Employees Age 65 or Over) below if he or she meets all the following criteria:

a. retires from career service on or after June 28, 1998;
b. is vested with CalPERS;
c. has at least eight (8) years of CalPERS qualifying service with the City; and
d. is at least age 55.

An "Eligible Retiree" also includes individuals who meet the definition as set forth in Section 2.11.1 of the Retiree Health Premium Assistance Plan I for Confidential and Executive Management Employees (Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials) Restated and Amended effective as of March 22, 2011 (Resolution No. 65,196-N.S.) for "Eligible Retiree."

Percentage of City Contribution: The actual monthly amount of money the City will contribute on the employee's behalf will be based on the employee's total years of CalPERS service as provided in the following chart:

Years of CalPERS Qualifying Service	Percentage of City Contribution
8	30%
9	40%
10	50%
11	58%
12	66%
13	74%
14	82%
15	90%
16	92%
17	94%
18	96%
19	98%
20	100%

13.10.2 **Annual Increase:** Retirees will pay the difference between the City's monthly contribution and the actual monthly medical insurance premium charged by the health plan he or she has elected for retiree medical coverage. If the premiums for such health insurance are increased, the amount the City contributes shall increase no more than 4.5% above the previous year's contribution. No increases in the amount the City contributes shall occur before July 1, 1999. Thereafter, any increase in the amount contributed by the City will occur on July 1 each year thereafter.

13.10.3 **Pre Age 65 Retiree Health Insurance:** Beginning June 28, 1998, the City shall make available health insurance coverage to the employee and his or her spouse or domestic partner. The City will pay on the employee's behalf no more than $166.26 per month for an employee electing single party health coverage and no more than $332.52 per month for an employee electing two party coverage.

13.10.4 **Retiree Benefits for Employees Age 65 and over**: Once an employee or retiree reaches age 65, he or she is eligible for Medicare. As a result his or her eligibility for the retiree medical benefits set forth in Section 13.10.1 (Eligibility) ceases. On reaching age 65, the City will make available health insurance coverage in addition to Medicare. When an employee or retiree reaches age 65, the City will contribute no more than $16.17 per month on the employee's behalf for single party health insurance coverage and no more than $32.34 per month for two-party health coverage.

13.10.5 **Termination by City of Retiree Medical Benefit**: Failure of the retiree or surviving spouse to pay their monthly share of the health insurance premium will result in termination of the retiree medical benefit and relieve the City of any further obligation to provide any further benefits under Section13.10 (Retiree Medical for Unrepresented Benefitted Employees).

13.10.6 **Retiree Medical Benefit for Employees Retiring between the Ages of 50 and 55**: An employee who is at least 50 years of age, but less than 55, has at least eight (8) years of CalPERS qualifying employment with the City will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in group health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide any benefits under this Section to the employee and/or his spouse or domestic partner.

13.10.7 **Employees Retiring with a CalPERS Approved Disability Retirement:** If an employee retires from the City before age 55 with a CalPERS approved disability retirement, the employee will retain eligibility for the retiree medical benefits provided in Section 13.10.1 (Eligibility) when the employee reaches age 55 if the employee is enrolled in a group health plan coverage from the date of his or her termination from City employment until the employee's 55th birthday. If for any reason the employee has a lapse in health care coverage the employee forfeits his or her eligibility for the retiree health plan benefits upon reaching age 55 and the City has no further obligation to provide

any benefits under this Section to the employee and/or his spouse or domestic partner.

13.10.8 **City Funding of Retiree Health Benefit**: City contributions to the retiree medical benefit began on July 1, 1998. Funding of this benefit has been set aside in a trust to be established by the City.

The retiree medical benefit will be funded by a charge of 0.25% of payroll in each year, so that contributions are at 1% of the payroll after four years. The City will fund the benefit at approximately 1% of the payroll for every year thereafter with the intent of achieving a funding level of 70% after 30 years. The funding will be ongoing to maintain a 70% funding level thereafter.

Effective July 4, 2004, an additional charge of 0.25% of payroll was charged each year in the subsequent four years so that contributions are at 2% by July 1, 2007. The purpose of this 1% increase in payroll contribution is to fund post age 65 Medicare supplement plans. As a result of this change, the amount the City contributes toward the post-65 Medicare Supplement coverage under the Retiree Health Premium Assistance Plan was $102 effective July 7, 2002 for all post 65 retirees as well as future retirees.

13.10.9 **Retiree Medical Plan for Unrepresented Employees (Rep Units Z-2, Z-3, Z-6):** Eligible retirees who retired from positions in Representation Units Z-2, Z-3 and Z-6 on or after July 1, 2008.

Not Medicare Eligible: Effective July 1, 2008, between the ages of 55 and 65 who retire on or after June 29, 2008 the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by $50 per month in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2009, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional $25 per month (i.e., an aggregate $75 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase). Effective July 1, 2011, the amount the City contributes toward payment of the health care premium cost for the Retiree Health Premium Assistance Plan will increase by an additional $25 per month (i.e., an aggregate $100 per month increase) in addition to the 4.5% that occurs on July 1 as provided in Section 13.10.2 (Annual Increase).

13.10.10 Retiree Medical Plan for Confidential and Executive Management Employees (Rep Unit Z-1; Z-5; Z-7; Z-9; and Elected Officials): Eligible retirees who retired from positions in Representation Unit Z-1 on or after July 1, 2008.

Medicare and Not Medicare Eligible: Effective June 29, 2008, an additional charge of 0.50% of payroll will be charged so that contributions are at 2.5%. The purpose of this 0.50% increase in payroll contribution is to fund both pre-65 retiree health care premium costs and post age 65 Medicare Supplement plans for eligible retiree who retired from positions in Representation Unit Z-1; Z-5; Z-7; Z-9 and Elected Officials on or after July 1, 2008. As a result of this change, the amount the City contributes toward pre age 65 health insurance premium costs shall increase from $258.19 per month to $309.39 per month for single coverage and from $516.38 per month to $618.78 per month for 2-party coverage. The City's contribution toward the post-65 Medicare Supplement coverage shall increase from $132.83 per month to $184.03 per month for single coverage and from $265.67 per month to $368.06 per month for 2-party coverage.

13.11 Reimbursement Plan

After Council approval of this Unrepresented Employee Manual, the City shall amend the Retiree Health Premium Assistance Plans I and II as soon as practicable to allow for the reimbursement of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both. If there is no spouse or domestic partner at the time of retirement, the City shall only reimburse the single party rate. The reimbursement shall be paid directly to the retiree or surviving spouse or domestic partner. The maximum amount the City will reimburse for the cost of Medical Insurance Premiums is based on the schedule described in Section 13.10.1 (Eligibility and Percentage of City Contribution) above.

13.11.1 Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z-9; and Elected Officials) Who Retire on or After June 28, 1998 through June 30, 2008

13.11.1.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner until the death of both as follows:

a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $166.26 for single party coverage for the retiree or $332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total $338.60 for single party coverage for the retiree or $677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.1.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of June 28, 1998**: Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $16.17 for single party coverage for the retiree or $32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of July 7, 2002**: Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $102.00 for single party coverage for the retiree or $204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

c. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $172.98 for single party coverage for the retiree or $345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.2 **Retiree Medical Reimbursement Plan for Unrepresented Confidential and Executive Management Employees (Rep Units Z-1; Z-5; Z-7; Z9 and Elected Officials) Who Retire on or After July 1, 2008**

13.11.2.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling $309.39 for single party coverage for the retiree or $618.78 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $405.73 for single party coverage for the retiree or $811.46 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.2.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008**: Effective July 1, 2008, as provided in Section 13.10.10 (Retiree Medical Plan for Unrepresented Confidential and Executive Management Employees), each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $184.03 for single party coverage for the retiree or $368.06 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $239.65 for single party coverage for the retiree or $479.31 for two party

coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3 **Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; Z-6) Who Retire on or After June 28, 1998 through June 30, 2008**

13.11.3.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of June 28, 1998:** Effective June 28, 1998, as provided in Section 13.10.2 (Annual Increase), each month after the employee retires, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $166.26 for single party coverage for the retiree or $332.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Annual Increase), total $338.60 for single party coverage for the retiree or $677.19 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.3.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of June 28, 1998**: Effective June 28, 1998, as provided in Section 13.10.4 (Retiree Benefits for Employees Age 65 and Over) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $16.17 for single party coverage for the retiree or $32.34 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of July 7, 2002**: Effective July 7, 2002, as provided in Section 13.10.8 (City Funding of

Health Benefits) each month after the retiree reaches age 65 and is eligible for Medicare, the City's maximum reimbursement for the cost of Medical Insurance Premiums total $102.00 for single party coverage for the retiree or $204.00 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

c. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $180.76 for single party coverage for the retiree or $361.53 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.4 **Retiree Medical Reimbursement Plan for Unrepresented Employees (Rep Units Z-2; Z-3; and Z-6) Who Retire on or After June 29, 2008**

13.11.4.1 **Not Medicare Eligible**: For retirees who are not eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008:** On July 1, 2008, as provided in Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), the City will reimburse the cost of Medical Insurance Premiums in an amount totaling $297.08 for single party coverage for the retiree or $544.16 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of July 1, 2009**: As of July 1, 2009, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical Plan for Unrepresented Employees), total $335.45 for single party coverage for the retiree or $593.64 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

c. **Reimbursement as of July 1, 2011**: As of July 1, 2011, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.9 (Retiree Medical

Plan for Unrepresented Employees), total $391.32 for single party coverage for the retiree or $673.27 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

d. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $469.92 for single party coverage for the retiree or $808.52 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

3.11.4.2 **Medicare Eligible**: For retirees who reach age 65 and are eligible for Medicare, the City will reimburse the cost of Medical Insurance Premiums for the retiree and/or surviving spouse/domestic partner as follows:

a. **Reimbursement as of July 1, 2008:** As of July 1, 2008, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $138.81 for single party coverage for the retiree or $277.62 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

b. **Reimbursement as of January 1, 2017**: As of January 1, 2017, the City's maximum reimbursement for the cost of Medical Insurance Premiums, which were increased in accordance with Section 13.10.2 (Maximum Increase), total $172.98 for single party coverage for the retiree or $345.96 for two party coverage for the retiree and/or surviving spouse/domestic partner coverage.

13.11.5 **Enrollment in City Group Plans**
Retiring employees may receive continuing health coverage in City sponsored group health plans subject to the limitations and co-pay amounts permitted by the health care providers.

13.12 Fire Chief and Deputy Fire Chief Retiree Medical Plan

Internal City of Berkeley candidates who promote and are appointed to the Fire Chief or Deputy Fire Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn fire employees in Representation Unit B.

13.12.1 **Retiree Medical Benefits for External Appointments**: External City of Berkeley candidates appointed to the Fire Chief or Deputy Fire Chief classifications shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.13 Retiree Medical for Police Chief Classification

Internal City of Berkeley candidates who promote and are appointed to the Police Chief classification, without a break in service, shall be eligible for the same Retiree Medical Plan as provided to sworn police employees in Representation Units E and F.

13.13.1 **Retiree Medical Benefits for External Appointments**: External City of Berkeley candidates appointed to the Police Chief classification shall be covered by the Retiree Health Premium Assistance Plan described herein at Section 13.10 (Retiree medical Plan) et seq., except that the employee shall not be required to meet the eligibility requirements of sub-Sections 13.10.1(b) and 13.10.1(c) and instead credited with 15 years of qualifying years of service for eligibility in the Plan and shall receive benefits as a Representation Unit Z-1 employee.

13.14 Partially Subsidized YMCA Membership

The City currently provides a partially subsidized membership in the Berkeley YMCA for those employees who agree to pay the required monthly fee. Use of a YMCA membership by a City of Berkeley employee, as provided by this provision, is not part of the employee's work related duties, is not required for continued employment and is not considered part of a City sponsored physical fitness program. The City of Berkeley nor its Claims Administrator shall not be liable for any injury that may arise out of a City of Berkeley employee's participation in and use of a YMCA membership. The amount the City contributes toward the employee’s monthly membership fee is subject to federal and state income tax withholding.

13.15 Part-Time Employees Eligible for Full Benefits

Those part time employees who have been continuously employed by the City in benefitted part time career positions since prior to July 1, 1977 and who have not accepted a full time career position are eligible to participate in the City's health and dental insurance programs with the City's payment of premiums at the same level as for full time benefitted employees.

13.16 Probationary Periods for Unrepresented Classifications

The competitive appointment to a career classification will include a probationary period during which time the incumbent may be dismissed without right of appeal. The probationary period for unrepresented classifications varies from six (6) months of actual work hours (1040 hours for full time employees and 520 hours for half time) to one year of actual work hours (2080 hours for full time and 1040 hours for half time).

Presently, unrepresented classifications require a six (6) month probationary period except for the following unrepresented classifications which require a one year probationary period:

(a) All classifications in Unit Z-1 in the career service; and
(b) All classifications in Unit Z-2 in the career service.

13.17 Public Safety Uniform Allowance

(a) Fire Uniform Allowance: Effective November 9, 2004, $1,000 annual allowance. Effective December 1, 2015, $1,100 annual allowance.
(b) Police Uniform Allowance: Effective July 7, 2002, $1,000 annual allowance.
(c) To comply with CALPERS requirement, Union allowance payments shall be paid over twenty-six (26) equal biweekly installments instead of twice a year payment.

13.18 Regular "At-Will" Classifications

The following classifications are exempt from the career service and in accordance with the Personnel Ordinance (Berkeley Municipal Code Section 4.04.120), At-Will appointments are eligible to receive benefits:

- All department heads
- Assistant City Manager
- Assistant to the City Manager
- Assistant to the Mayor
- Assistant, Associate and Senior Management Analyst in the City Manager's Department and in the Office of Budget and Fiscal Management
- Budget Manager
- Capital Improvement Programs Manager
- Deputy City Manager
- Economic Development Manager
- Health Officer
- Legislative Assistant
- Police Review Commission Investigator
- Police Review Commission Officer
- Secretary to the Mayor, Administrative Secretary and Secretary in the Mayor's Office
- Supervising Psychiatrist

13.19 City Manager Department Differential

Assistant, Associate, ~~and~~ Senior Management Analysts, and Accounting Office Specialists III in the City Manager's Department and in the Office of Budget and Fiscal Management shall receive a 5% salary differential.

13.20 Shift Differential

Employees whose regular schedules meet the definition, as specified by Unrepresented Employee Manual Section 1.12 (Shift Differential), for shift differential, for the hours of 5:00 p.m. to 12:00 a.m., shall be paid their regular salary plus seven and one-half percent (7.5%) of their monthly salary per month. Those whose regular schedule meets the definition for shift differential, for the hours of 12:00 a.m. to 7:00 a.m., shall be paid their regular monthly salary plus ten percent (10%) of their monthly salary per month.

13.21 SRIP II Disability Insurance

The City shall pay the premium for the current cost of long term disability insurance for SRIP covered employees who are enrolled in the SRIP II (Supplementary Retirement and Income Plan).

13.22 Vacation Schedules

Unrepresented employees, except those confidential executive, management and professional employees in Section 13.20.1 (Confidential Executive Management and Professional Employees) below, shall be entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workweeks (FTE 80 hours)	During the first 3-years
3-workweeks (FTE 120 hours)	During the 4th through 11th year
4-workweeks (FTE 160 hours)	During the 12th through 17th year
5-workweeks (FTE 200 hours)	During the 18th through 24th year
6 workweeks (FTE 240 hours)	During the 25th and subsequent years

13.22.1 **Confidential Executive, Management and Professional Employees:** Confidential executive, management and professional employees who were eligible under the City's Administrative Leave Policy are entitled to earn annual vacation leave as follows:

Authorized Annual Vacation (in work weeks)	Years of Actual Benefitted Service
2-workeeks (FTE 80 hours)	During the first 2-years
3-workweeks (FTE 120 hours)	During the 3rd through 5th year
4-workweeks (FTE 160 hours)	During the 6th through 17th year
5-workweeks (FTE 200 hours)	During the 18th through 24th year

6 workweeks (FTE 240 hours)	During the 25th and subsequent years

13.22.2 **Director of Library Services and Deputy Director of Library Services:** Employees in the classifications of Director of Library Services and Deputy Director of Library Services are entitled to earn annual vacation Leave as follows:

Years of Actual Benefited Service	Authorized Annual Vacation Accrual
Through the first 5 Years of Service	3 weeks (120 Hours)
Beginning the 6th through 17th Years of Service	4 weeks (160 Hours)
Beginning the 18th through 24th Years of Service	5 weeks (200 Hours)
Beginning the 25th and subsequent Years of Service	6 weeks (240 Hours)

13.23 Special Pay for Camps Personnel

When an employee, who has a valid Red Cross Senior Lifesaving Certificate and occupies a camps classification, is specifically assigned in writing by the Camps Manager or an authorized representative, with approval by the City Manager, to temporarily serve as a lifeguard for one day or more, said employee shall be paid a five percent (5%) differential, more than the employee's current salary.

13.24 Hazard Premium Pay for Clerical Mental Health Personnel

Clerical employees who are regularly assigned to work in Mental Health Programs, in direct contact with clinic patients, shall receive a five percent (5%) differential. This Hazard Premium Pay shall be reported to CalPERS as “Hazard Premium” under PERL Section 571 (Definition of Special Compensation), (4) Special Assignment Pay.

13.25 Longevity Pay

Effective the first full pay period after Council adoption, employees in Representation Units Z-2, Z-3 and Z-6 who complete nineteen (19) years of service shall receive a three percent (3%) differential beginning with the anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. Longevity pay shall be paid at the beginning of the pay period following completion of the 20 years of service. This Longevity Pay shall be reported to CalPERS as “Longevity Pay” under PERL Section 571.a.(1) Incentive Pay.

13.26 Longevity Pay for Confidential and Executive Management Employees

Effective the first full pay period after Council adoption, and except as noted below in Section 13.24.1 (Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief), employees in Representation Unit Z-1 who have completed nineteen (19) years of service shall receive a three percent (3%) differential beginning with the

anniversary date of beginning the twentieth (20th) year of service and shall apply to all hours in a paid status. This Longevity Pay shall be reported to CalPERS as Longevity Pay Incentive Pay.

13.26.1 **Longevity Pay for Unit Z1 Fire Chief and Deputy Fire Chief**: The longevity pay for the Fire Chief and Deputy Fire Chief classifications is intended to provide the same benefits as the Longevity Pay for represented sworn fire employees under the Berkeley Fire Fighters Association (Unit B) Memorandum of Understanding.

~~13.26.1~~13.26.2 **Longevity Pay for Unit Z1 Police Chief and Deputy Police Chief**: The longevity pay for the Police Chief and Deputy Police Chief classifications will provide the same benefits as the Longevity Pay for represented sworn police employees under the Berkeley Police Association (Units E & F) Memorandum of Understanding.

13.27 Automobile Allowance for Police Chief

The City Manager may authorize an automobile allowance of $400 per month in lieu of a City provided vehicle for an employee appointed after November 1, 2009 to the classification of Police Chief.

13.28 Video Display Terminal Screening/Glasses

The City offers VDT screening and glasses as medically required, every two years, to employees who in the course of their employment operate VDT equipment more than four hours in a work day.

13.29 Emergency Medical Technician

~~Effective September 13, 2015,~~ Unit Z-1 Fire Chief and Deputy Fire Chief who maintain current Emergency Medical Technician (EMT) certification shall receive the~~an~~ same EMT pay differential as sworn fire ~~of four percent (4.0%).~~employees under the Berkeley Fire Fighters Association (Unit B) Memorandum of Understanding.

13.30 Shoe Allowance

An annual allowance of two hundred dollars ($200) shall be paid to benefitted employees in the classification of Janitor, Groundskeeper, Laborer, and Solid Waste Worker.

13.31 Training Differential

13.31.1 **Trainer Differential:** Effective July 1, 2016, any employee, excluding those classifications that require training as part of the assignment (e.g. supervisors), designated by the department and approved by the Director of Human Resources as qualified trainers or instructors for specific specialized skills (identified by the departments in consultation with Human Resources) who is required to provide formalized training to a new employee or an employee who management has identified as needing formalized training, shall receive a five percent (5%) differential in salary for that time served in such capacity. Such assignment shall

be in writing by the department and approved by the Director of Human Resources. This Training Differential will be reported to CalPERS as Training Premium Special Assignment Pay. However, any hours worked on overtime are excluded from CalPERS reported

"compensation earnable" in California Government Code Section 20635.

13.31.2 **Higher Class Training Differential:** For training purposes, employees not meeting all of the minimum qualifications of a higher classification may be temporarily assigned for a minimum of one (1) week, to perform the duties of the higher classification and will receive a five percent (5%) increase in their current base salary for the duration of the temporary assignment. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.

13.31.3 **Trainee Differential**: For training purposes and to enhance an employee skills and abilities, any employee designated in advance by the department director and approved by the Director of Human Resources to perform duties that are outside of the employee's classification, shall receive a three percent (3%) differential in salary for that time served in such capacity. Such assignments shall be in writing and shall indicate the reasons, length and duties of the assignment. Assignments shall be approved in advance by the City Manager, or his or her designee by an Employee Transaction Form, and forwarded to the Human Resources Department for inclusion in the employee's official Personnel file.

13.32 Summary of May 2017 Changes to the Unrepresented Employee Manual

- Included reference to Unrepresented Unit Z-9 (Deputy Director Rent Stabilization Program).
- Former Section 1.14 (One-Time Allocation) - deleted obsolete provision.
- Section 5.2 (Floating Holidays) - corrected omission of one (1) day.
- Section 8.3 (Hourly Rated Employees in Lieu of Benefits) – codified existing benefit.
- Section 13.11 (Reimbursement Plan) – revise plan as reimbursement.
- Section 13.12 (Fire Chief and Deputy Fire Chief Retiree Medical Plan) – clarified benefit for internal and external appointments.
- Section 13.13 (Retiree medical for Police Chief Classification) – clarified benefit for internal and external appointments.
- Section 13.18 (Regular "At-Will" Classifications) – deleted duplicate classification.
- Section 13.31.3 (Trainee Differential) – included provision authorizing differential for employees assigned duties outside of classification.

13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual

- Section 8.4.5 Miscellaneous Employees Classic Employee Pension Contribution through a 20516 Contract Amendment – added subsection 8.4.5.3

13.34 Summary of July 2018 Changes to the Unrepresented Employee Manual

- Section 1.14 (One-Time Allocation) - $2,000 paid August 17, 2018.
- Section 8.1.3 (Medical Contribution Executive Managers) – Cost-share of $50.00 for medical contributions by all department heads, City Manager and Deputy City Manager effective July 1, 2019.
- Section 8.4.6.4 – Correct typographical error.
- Section 11.5 (Written Reprimand for Non-Safety Employees) – Include provision allowing written rebuttal.
- Section 12.3.1 (Compensation Complaints) – Include provision that specifies appeal time lines.
- 13.1 (Administrative Leave) – Clarify leave extended to career and benefitted at-will employees; benefit is prorated based on assignment; and codifies practice that unused administrative leave rolls into vacation.
- 13.24 (Hazard Premium Pay for Clerical Mental Health Personnel) – Clarify pay is reportable to CalPERS.
- 13.25 (Longevity Pay) – Include CalPERS reportable section.
- 13.30 (Shoe Allowance) – Clarify benefit extended to benefitted employees.
- Shoe Allowance
- 13.31 Training Differential
- 13.32 Summary of July 2018 Changes to the Unrepresented Employee Manual
- 13.33 Summary of October 2017 Changes to the Unrepresented Employee Manual

13.35 Summary of July 2020 Changes to the Unrepresented Employee Manual

Section	Change
Term Duration	Parties agree to a one-year term Agreement ending on June 30, 2021
Living Wage –	NEW LANGUAGE: The City agrees to pay each of its direct employees an hourly wage of no less than $18.33 effective the first full pay period in January 2021. The City agrees to pay each of its direct employees an hourly wage of no less than $19.33 effective the first

Section	Change
	full pay period in June 2021. If the Living Wage increases beyond $19.33, as outlined in the Berkeley Municipal Code effective July 2021, the City shall implement the increases the first full pay period in September 2021 and July 1st of each year thereafter.
Additional City Emergency Paid Sick Leave Allocation	NEW LANGUAGE: The City shall provide an additional 80 hours of emergency paid sick leave to be used for COVID-19 related reasons as listed in the Emergency Paid Sick Leave Act. Part-time employees receive a prorated number of hours. In order to use this additional City emergency paid sick leave, the employee must first exhaust all hours that they received under the Emergency Paid Sick Leave Act. The City will use a specific pay code for this additional emergency paid sick leave and these additional hours will be available until June 30, 2021. These additional 80 emergency paid sick leave hours shall have no cash value and may not be used towards any CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.
Additional Floating Holidays	NEW LANGUAGE: For employees who were required to remain in the workplace from March 17, 2020 – June 1, 2020, the City will provide 8 hours of floating holidays for every 40 hours of regularly scheduled hours worked in the workplace up to a maximum of 32 hours of floating holiday. The City will credit these floating holiday hours in the first full pay period after adoption of the Agreement for classifications which, due to the nature of the assignment, require backfill, employees will be paid a stipend in the amount of the earned floating holiday hours up to a maximum of 32 hours the first full pay period in August 2020. The City will use a specific pay code for these additional floating holiday hours will be available until June 30, 2021. These additional 32 hours of floating holiday shall have no cash value and may not be used towards CalPERS retirement service credit as outlined 4.13 of the Unrepresented Employees Manual.
Additional language on Layoffs for the Term of the Agreement	NEW LANGUAGE: The City recognizes the important role that the employee workforce plays in delivering public services; therefore, during the period ending June 30, 2021 the City agrees to not layoff any Unrepresented career employees. However, should the City determine that its expenditures exceed its revenues during the period ending June 24, 2021, the City may

Section	Change
	notice the Unrepresented group in writing and the Unrepresented group shall be provided an opportunity to meet and discuss one-time cost savings and alternatives such as furloughs, VTO, etc. Nothing in this section requires the City to retain positions (filled or vacant) where state, federal or grant funding has been reduced or eliminated and would require the City to backfill such positions. All other provisions on Layoffs remain unchanged.
Provisional Employee	No employees shall hold a provisional appointment in the same position for more than 12 months. The City Manager may extend the provisional appointment beyond this 12- month limitation with the mutual agreement of the parties.
Limited Reopener	If during the fiscal year 2020 -2021 the City reaches agreement with SEIU or extends to other unrepresented employees an opportunity to confer on an across the board Cost of Living Adjustment (COLA) increase and/or an additional City contribution towards medical premiums, the City agrees to a limited reopener to meet and discuss with the Unrepresented group on these increases.

13.36 Summary of July 2023 Changes to the Unrepresented Employee Manual

- **Add second sentence to section 1.6.**
- **Add sections 3.3.6, 3.3.7, 3.3.8, and 13.26.2.**
- **Add "group" to section 13.4.**
- **Add "Accounting Office Specialists III" to section 13.19.**
- **Revise section 13.29.**