

City of Napa *C2012*
Agreement No. *139*

MEMORANDUM OF UNDERSTANDING

**BETWEEN AND FOR
THE CITY OF NAPA**

AND

**NAPA CHIEF FIRE OFFICERS
FOR**

JANUARY 1, 2012 THROUGH DECEMBER 31, 2013

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MEMORANDUM OF UNDERSTANDING

Between and For
THE CITY OF NAPA

And
NAPA CHIEF FIRE OFFICERS

For

January 1, 2012 through December 31, 2013

This Memorandum of Understanding (hereinafter MOU) is entered into pursuant to the Meyers-Milias-Brown Act (California Government Code Section 3500 et seq.), the City Charter of the City of Napa, and applicable ordinances and resolutions of the City of Napa, by and between the City of Napa (hereinafter City) and the Napa Chief Fire Officers (hereinafter NCFO). As a result of meet and confer sessions, the City and NCFO have agreed to the following:

Section 1. Classifications

The City recognizes NCFO as the certified employee organization representing the following classes of employees: Division Chief and Battalion Chief. "Member" shall mean an individual regularly employed in either of the aforementioned classes.

Section 2. Term

The term of this MOU shall be January 1, 2012 through December 31, 2013. No member shall be entitled to any term, provision or benefit under this MOU unless he or she is actively and regularly employed by the City on the date such term, provision or benefit becomes effective. Any member who retires, is terminated or otherwise discontinues regular and active employment with the City shall not be entitled to any term, provision or benefit that first becomes effective after that member's last date of active and regular employment with the city, irrespective of the fact that such member's active and regular employment ended subsequent to the effective date of the MOU.

Section 3. Compensation

3.1 There shall be no change to base salary during the term of the MOU.

Each member actively employed by the City on July 1, 2012, shall receive a lump sum payment of \$562. This lump sum payment is not PERSable.

3.2 The Battalion Chief's top step salary shall be set at 21.25% above the Fire Captain's top step salary.

3.3 During the term of this MOU, there shall be a 15% differential between the Battalion Chief and the Division Chief salaries.

- 3.4 Division Chiefs and Battalion Chiefs will be paid the equivalent of one and one-half times their hourly rate when they are detailed to work for another agency (such as the California Office of Emergency Services or the Federal Emergency Management Agency) and the other agency reimburses the City at the higher rate.
- 3.5 Battalion Chiefs may backfill on extra shifts under the following conditions:
 - 3.5.1 Battalion Chiefs are eligible to backfill (1) when all shifts drop to 17 staffing; (2) when other Battalion Chiefs are assigned to a CalEMA incident and there are no qualified acting Battalion Chiefs available to fill the assignment, or when other Battalion Chiefs are assigned to an American Canyon incident; and/or (3) at the Fire Chief's discretion.
 - 3.5.2 Extra shift pay will be paid at \$65.74 per hour, with the exception that when backfill is necessitated by CalEMA or American Canyon assignments, then extra shift pay shall be paid at the CalEMA/American Canyon rate (i.e., the time-and-one-half hourly rate for Battalion Chief, currently \$72.84 per hour).
 - 3.5.3 No backfill will be available if the department institutes brownouts or a reduction in minimum staffing.
 - 3.5.4 Battalion Chiefs will be subject to mandatory overtime under the same policy as Captains.
 - 3.5.5 The parties reiterate their understanding that Battalion Chiefs continue to be exempt from the Fair Labor Standards Act (FLSA).
 - 3.5.6 Nothing in this provision negates the Fire Chief's right of assignment.
- 3.6 Joint compensation survey. The parties agree that surveys of wages and benefits of employees performing comparable work for comparable agencies provide information useful in ensuring that salaries and benefits are maintained at a level that attracts and retains quality employees. The parties will jointly conduct an external total compensation survey and will also review internal comparisons with classifications in the Police Management Unit. Each party will select a comparability consultant on or before March 1, 2013. The consultants will gather data for the survey and issue a joint report of the survey results by no later than August 1, 2013. The survey results will be informational only.

Section 4. Reopener-FLSA

If any member of NCFO is deemed subject to the Fair Labor Standards Act (FLSA), and in the event that FLSA imposes any new financial, staffing, or other increased obligations on the City, the City reserves the right to reopen and renegotiate any provision inside or outside the contract, affected by the application of the FLSA.

Section 5. Working Hours/Work Schedules

- 5.1 Daily working hours for members shall be flexible, as assigned by the Fire Chief, provided the amount of hours in the normally scheduled work week is performed.
- 5.2 Represented members shall typically be assigned to either an administrative work week, consisting of four (4), ten (10) hour days, or a shift schedule consisting of an average of fifty-six (56) hours per week on a twenty-four (24) hour per day basis. Other schedules may be assigned as the needs of the City dictate. The specific work schedule for each covered member shall be flexible, as assigned by the Fire Chief, provided that the minimum scheduled hours to be worked shall not be less than forty (40) in a given work week.
- 5.3 Members assigned to a forty (40) hour per week schedule shall have the option of working five (5) eight (8) hour days.

Section 6. Deferred Compensation

A 457 Deferred Compensation Plan is available to all members.

Section 7. Uniform Allowance

Effective July 1, 2010, the City agrees to pay Seven Hundred Eight Dollars per year for uniform allowance, to be paid equally over twenty-six (26) pay periods. The City will purchase and provide everything needed for newly hired members. It is understood that the amount paid hereunder constitutes a reimbursement to members for expenses actually and necessarily incurred in the purchase, maintenance, and cleaning of the uniforms such members are required to wear.

Section 8. Holidays

The following listed holidays shall be recognized, entitling those members that are required to work shifts to "Holiday Pay" as provided for in Section 9 hereafter:

- | | |
|----------------------------------|------------------------|
| New Year's Day | Labor Day |
| Martin Luther King, Jr. Birthday | Columbus Day |
| Washington's Birthday | Admissions Day |
| Lincoln's Birthday | Veterans Day |
| Memorial Day | Thanksgiving Day |
| Independence Day | Day After Thanksgiving |

Twelve o'clock noon to closing hour the last working day before Christmas except when Christmas falls on a Saturday, Sunday, or Monday, provided that Friday or Saturday is observed.

Christmas Day

The parties acknowledge that the City will remain open for business on Lincoln's Birthday, Washington's Birthday, and Admissions day and agree that forty-hour members will be required to work on those days. Forty-hour members who are required to work on a scheduled holiday will be allowed eight (8) hours of time off in lieu thereof as scheduled by mutual agreement with the Fire Chief or designee within the same

calendar year as the date of the holiday. The eight (8) hours provided under this section must be used as a day off with pay, and members will not be granted a day's pay in lieu of time off. Holiday time granted under this provision may not be carried over into a succeeding calendar year if not used during the calendar year granted.

Section 9. Holiday Pay

City will continue the practice of allowing holiday time off for forty (40) hour members and requiring work on holidays for shift personnel who will receive holiday pay at the rate of eight (8) hours pay for each of the above designated holidays. Effective January 1, 2011, said eight (8) hours shall be paid on the pay check covering the period in which the holiday occurs and at a rate adjusted to reflect the rate for forty (40) hour non-shift personnel. Contingent upon written approval by PERS and subject to the approval of the Fire Chief, members will have the option of working holidays and receiving holiday pay in lieu of time off.

Section 10. Acting Pay

The positions covered by this MOU accept the fact that they may be required to perform at a higher classification from time to time and shall receive no additional salary therefore; provided, however, that a Division Chief who is assigned to the position of Chief, or a Battalion Chief who is assigned to the position of Division Chief, and is assigned to act in that position for more than thirty (30) consecutive calendar days shall be entitled to receive acting pay from the date of the assignment. Acting Pay shall be 5% above the member's monthly base salary.

Section 11. Performance Bonus

Upon recommendation of the Fire Chief and the approval of the City Manager, a member may be granted a performance bonus of two percent (2%), three percent (3%), or five percent (5%) of regular base salary only for special and outstanding performance in accordance with the City's Administrative Policy entitled "Criteria for Annual Performance Pay System." Such bonus will be paid in a one-time, lump-sum payment, generally within thirty (30) days of approval, and shall be provided in a separate check subject to legal and required tax deductions.

Section 12. Vacation

12.1 Vacation shall be accrued as follows:

	Years of Service	Days/Year	Hours/Year	Daily Accrual Rate
	0-4 years	11 days/year	85.71	.23482
	5-9 years	17 days/year	137.14	.37573
40 Hour	10-12 years	19 days/year	154.29	.42271
Shift	13-16 years	21 days/year	171.43	.46967
	17-19 years	24 days/year	188.57	.51663
	20+ years	25 days/year	205.71	.56359

	Years of Service	Days/Year	Hours/Year	Daily Accrual Rate
	0-4 years	5 shifts/year	120.0	.32877
	5-9 years	8 shifts/year	192.0	.52603
56 Hour Shift	10-12 years	9 shifts/year	216.0	.59178
	13-16 years	10 shifts/year	240.0	.65753
	17-19 years	11 shifts/year	264.0	.72329
	20+ years	12 shifts/year	288.0	.78904

12.2 The maximum annual carry-over of accrued vacation is two hundred eighty (280) hours for forty (40) hours members and three hundred ninety-two (392) hours for shift members, unless otherwise approved by the City Manager.

Section 13. Insurance

13.1 The City will continue to offer the current medical insurance plans through Kaiser and Health Net, or equivalent plans if the specified plans are no longer available.

Effective July 1, 2012 through June 30, 2013, the City will contribute either the rates described below or ninety percent (90%) of the Kaiser HMO rate, whichever is higher.

July 1, 2012 minimum City contribution:

Employee-only	\$533.38
Employee-plus-one	\$1,066.77
Family	\$1,418.80

Effective July 1, 2013, the City will contribute either the rates described below or eighty-five percent (85%) of the Kaiser HMO rate, whichever is higher.

July 1, 2013 minimum City contribution:

Employee-only	\$578
Employee-plus-one	\$1,157
Family	\$1,539

In each year of the MOU, bargaining unit members will contribute on a payroll deduction basis the amount of premium, if any, above the City's contribution.

13.2 The City reserves the right at any time during the term of this MOU to change its health insurance carriers and the City will make every effort to notify NCFO in advance of such change; provided, however, that the benefits of any new health insurance plan shall be substantially equivalent to the benefits of the plan being replaced. If substantially equivalent benefits are not possible, the City agrees to meet and confer in advance with NCFO regarding a replacement health insurance plan.

13.3 Life Insurance

13.3.1 The City shall continue to pay the premium for life insurance up to a maximum coverage amount of \$50,000 to age seventy (70) during the period of employment of each member. When a member retires, he/she shall not be entitled to payment of the premium for said insurance policy by the City after retirement. However, any such member shall be entitled to convert all or any portion of said insurance policy at the then existing individual premium rate. Members shall be entitled to purchase additional life insurance if available. (Reference MOU #4245, Section 19(d) dated 9/7/82).

13.3.2 The City will place in a separate actuarial pool, retiree life insurance premiums, regardless of who is paying the premium.

13.3.3 Members shall have the option to purchase, solely at the member's expense, additional life insurance through the City's insurance broker, up to a maximum coverage amount of \$250,000.

13.4 The City will continue to pay the premium for continuation of existing dental insurance through June 30, 2012. Effective July 1, 2012, the City's contribution for dental insurance premiums shall be fixed at the Fiscal Year 2011/2012 Delta Dental Delta Premier rate, as follows:

Employee-only	\$50.15
Employee-plus-one	\$85.26
Family	\$130.40

The City will continue to offer coverage under the plan known as "Delta Care" as an alternative dental plan. Members will contribute on a payroll deduction basis the amount of dental premium, if any, that exceeds the City's contribution.

13.5 In lieu of coverage under a health plan provided by the City, a member who provides proof of coverage comparable to that provided by the City through a spouse or other source will be paid by the City an in-lieu payment of five hundred dollars (\$500.00) per month. Such payment will be either in cash or into the member's deferred compensation plan, at the member's option. The member must complete a form provided by the City's Finance Department. Reenrollment in a plan provided by the City other than during the annual open enrollment period will be permitted only in the event of a significant personal event (i.e., death of a spouse, divorce, loss of spousal coverage, etc.), and will be subject to the requirements of the health plan provider.

13.6 The City will continue to provide the provisions of Internal Revenue Service Code Sections 125 and 129, allowing payment of certain dependent and health care expenses on a pre-tax basis, under the existing terms of this MOU.

13.7 Proration of Benefits. There shall be no proration of member benefits (i.e., the City's cost of providing health and welfare insurance, vacation, sick leave, holidays, etc.) for members working less than twenty-four (24) hours per week.

13.8 NCFO will participate in a Labor-Management Committee, which shall be established by no later than January 1, 2013, for the purpose of soliciting input for plan design and other plan options for

the City's medical and dental plans. The committee shall be comprised of representatives from bargaining groups and management; committee meetings shall be held at a minimum on a quarterly basis; and the committee shall make recommendations to management for consideration and implementation

Section 14. Retirement

14.1 The City has amended its contract with the California Public Employees' Retirement System (PERS) to provide additional benefits for members as follows:

- (1) 1959 Indexed Level Survivor Benefit pursuant to Government Code section 21574. (Effective 9/25/01)
- (2) Effective September 1, 1998, members shall be entitled to convert unused accumulated sick leave to service credit as provided for under Government Code section 20965.
- (3) In addition to the retirement benefits set forth above, members hired before January 1, 1984 shall be entitled to retirement credit for military service pursuant to Government Code section 21024.
- (4) Increase in non-job related disability benefits providing for thirty percent (30%) of final compensation upon five (5) years of service with an improvement of one percent (1%) for each additional year to a maximum of fifty percent (50%) as provided for under Government Code Section 21427. (Effective 5/18/77, Reference MOU #3031, Section 5b).
- (5) The single-highest year retirement benefit as provided for under Government Code section 20024.
- (6) The City shall contract with PERS for the "three percent (3%) at age 50" retirement plan as provided for under Government Code section 21362.2.
- (7) Effective May 26, 2012 and through the term of this MOU, if the City's PERS contribution rate exceeds twenty-one percent (21.00%), the member and City shall share equally such excess rate, up to thirty-two percent (32%) ("Cost Share Percentage").
 - (a) The member will pay fifty percent (50%) of such excess rate. The maximum Cost Share Percentage shall be 5.5%. The City will pay the full cost of the Employer rate up to twenty-one percent (21.00%) and over thirty-two percent (32.00%)
 - (b) The member payment under the provisions of subsection (7) shall be made using the IRC 414 (h) (2) provision and is calculated as a percentage of PERSable salary.
 - (c) The Cost Share Percentage shall be adjusted up or down based on the City's PERS contribution rate as determined by PERS. The City shall provide NCFO

with a copy of the annual actuarial valuation provider by PERS within five (5) business days of receipt.

- (8) On June 1, 2012, or as soon thereafter as practicable, the City will contract with CalPERS to provide the "3%@55" retirement benefit plan as specified in Government Code Section 21363.1, with a three-year average on final compensation as provided by Government Code Section 20037. Notwithstanding sections 14.1(5) and 14.1(6), this 3%@55 retirement benefit plan shall be provided to each member first hired by the City into a position in this bargaining unit, or the Napa City Firefighters Association (NCFA) bargaining unit, after the implementation of this retirement plan. Retirement benefits shall be provided as indicated in sections 14.1(5) and 14.1(6) for: (a) each member of this bargaining unit first hired before the implementation of this 3%@55 retirement plan, and (b) each member of NCFA, first hired before the implementation of this 3%@55 retirement plan, who is promoted to a position in this bargaining unit.
- 14.2 The City has amended its contract with PERS to provide the benefit known as "Employee Paid Member Contribution" (IRC 414(H)(2)) effective July 1, 1996.
- 14.3 The City will allow any member who retires after July 1, 2002 to participate in the City's medical plans provided that the member meets and abides by all of the following qualifications:
 - 14.3.1 Effective July 1, 2002, the member must have worked for the City a minimum of ten (10) years and taken a service or disability retirement from the City and actually draw a PERS pension within ninety (90) days of separation from the City provided the member remains with the City's health plan through COBRA. The member must be enrolled in one of the City's available plans prior to retirement. If a member receives in lieu health coverage they must enroll in the City's available health plan during the open enrollment period prior to retirement in order to qualify for the benefit.
 - 14.3.2 The full cost of the retired member's participation in one of the medical plans shall be deducted from the member's retirement check subject to 14.3.3.
 - 14.3.3 The retired member will no longer be eligible to participate in the City's medical plan should the member elect to be covered by another medical plan. Furthermore, it is agreed that once a retired member waives his or her participation in the City's medical plan coverage such waiver shall be irrevocable.
 - 14.3.4 Members who are not eligible for sick leave conversion to an HRA, as described below in section 15.4.2(a), will make a one-time irrevocable choice as to the supplemental payment by the City toward the retired member's medical coverage, and may choose to have sick leave conversion to retiree medical coverage as described below in section 15.2 or the member may choose the supplement payments described below in section 14.3.5.
 - 14.3.5 Supplemental Payments. A member who is not eligible for sick leave conversion to an HRA as described below in section 15.4.2(a), and who chooses supplemental payments over sick leave conversion to retiree medical coverage, will receive a supplemental

payment by the City toward the member's retiree medical coverage of two hundred forty six dollars (\$246.00) per month. This payment shall remain in effect for the life of the retiree only. The payment shall cease upon death of the retiree, re-employment of the retiree in a capacity where they again are earning a PERS retirement benefit, or the retiree fails to meet the other applicable conditions specified in this section. However, the retiree may elect to use this supplemental payment for another health plan provided they submit documentation that provides proof of paid health insurance coverage to the City of Napa Finance Department (annually) to verify that payments are being used to supplement the retiree's health care premiums. It will be the retiree's responsibility to maintain current addresses on record with the City of Napa. If checks are returned from the last designated address without correction from the retiree for more than two months, this shall result in cancellation of the supplemental payment. Appeals for reinstatement and/or back payments shall be made to the Finance Department with a final appeal to the City Manager. The dollar amount of the supplemental payment for retiree health insurance shall be fixed and remain at the rate in effect upon the date of retirement.

14.3.6 The retired member must enroll in a Medicare supplemental insurance program when they become eligible for Medicare. The Medicare supplemental insurance premium, along with the cost of the retiree's private health plan, will become the new maximum that the City will pay up to in accordance with item 14.3.5, above.

14.4 If during the term of the MOU the State of California amends the California Public Employment Retirement Law to change the definition of PERSable compensation, upon request of NCFO the parties shall reopen the MOU to meet and confer over potential impacts identified by NCFO.

Section 15. Sick Leave

15.1 Members shall accrue sick leave at the following rates:

40-hour members 96 hours per year
Shift members 134.40 hours per year

15.2 For members who are not eligible for sick leave conversion to an HRA as described below in section 15.4.2(a), those members will be given a one-time irrevocable option to either (1) receive a supplemental payment to the retired member's medical coverage as described in sections 14.3.4 and 14.3.5; or (2) convert up to the equivalent of one hundred eighty (180) days of unused sick leave into single-party health insurance at the rate of one day for one month's premium, based upon a forty (40) hour week, so long as the amount contributed does not exceed actual premiums (however, this benefit shall not apply to sick leave days used for the retirement credit provided for under Section 14.1(2)).

15.3 Members who are not eligible for sick leave conversion to an HRA as described below in section 15.4.2(a) shall continue to have the option of converting unused sick leave to service credit.

15.4 Health Reimbursement Arrangement (HRA). As soon as possible after ratification of the MOU by NCFO and approval by the City Council, the City will create a Health Reimbursement Arrangement (HRA) for all members.

15.4.1 HRA Contributions – All Members.

- (a) Upon implementation of the HRA, the City will contribute to each member's individual HRA a lump sum payment equivalent to a one percent (1%) of each member's base salary for the period of July 1, 2009 through June 30, 2010.
- (b) Effective July 1, 2010, the City shall deposit a lump sum payment equivalent to one-and-three-quarters percent (1.75%) of each member's annual base salary into each member's HRA.
- (c) Effective in the pay period which includes July 1, 2011, the City shall contribute one-and-three-quarters percent (1.75%) of each member's base salary into each member's HRA on a per-pay-period basis.
- (d) Contribution at Time of Retirement. Upon a member's retirement, the City shall deposit into each participating member's individual HRA all of the member's vacation leave balance.

15.4.2 Sick Leave Conversion to HRA.

- (a) The sick leave conversion to an HRA defined contribution is mandatory for (1) all members in the classification of Division Chief; (2) all members in the classification of Battalion Chief who, as of July 1, 2010, have not achieved the minimum age 50 for CalPERS retirement, as set forth in California Government Code section 21060(a); and (3) all newly hired members or new members who are promoted into NCFO. Members who do not meet the eligibility criteria are not eligible for the sick leave conversion contributions.
- (b) Initial Start-up Contribution. Upon implementation of the HRA, the City will contribute to each eligible member's individual HRA an initial contribution for sick leave conversion contributions as follows:
 - (1) The initial HRA contribution for members assigned to a fifty-six (56) hour workweek who have a minimum of 270 hours of accrued sick leave, shall be computed as follows: Sick leave balance as of thirty days prior to the implementation date of the plan, minus 270 hours, times fifty percent (50%), times the base salary of the member as of thirty days prior the implementation date of the plan. Each member's accrual balance shall be reduced by an equivalent amount of hours.

For Example, if a member has a base hourly salary of \$30.00/hour and has 570 hours of accrued sick leave thirty (30) days prior to the implementation of the HRA, 150 hours of his or her sick leave hours

$((570-270)/2=150)$ will be converted to an HRA contribution in the amount of \$4,500 ($150*\$30.00=4,500$). The member's sick leave balance will be reduced to 420 hours.

- (2) The initial HRA contribution for members assigned to a forty (40) hour workweek who have a minimum of 192 hours of accrued sick leave, shall be computed as follows: Sick leave balance as of thirty days prior to the implementation date of the plan, minus 192 hours, times fifty percent (50%), times the base salary of the member as of thirty days prior the implementation date of the plan. Each member's accrual balance shall be reduced by an equivalent amount of hours.

For Example, if a member has a base hourly salary of \$50.00/hour and has 492 hours of accrued sick leave thirty (30) days prior to the implementation of the HRA, 150 hours of his or her sick leave hours $((492-192)/2=150)$ will be converted to an HRA contribution in the amount of \$7,500 ($150*\$50.00=7,500$). The member's sick leave balance will be reduced to 342 hours.

- (d) Annual Sick Leave Conversion and Contribution – 56-hour workweek. Eligible members assigned to a fifty-six hour workweek must have a minimum of 270 hours to qualify for the annual conversion as of December 31 of the previous year.

- (1) For members who are projected to retire between July 1, 2009 and June 30, 2029, the contribution amount shall be computed as follows: Total hours of unused sick leave for that year, minus 48, times the member's base hourly rate in effect on December 31 of the previous year.

- (2) For members who are projected to retire after June 30, 2029 and on or before June 30, 2034 the contribution amount shall be computed by adding the following two calculations:

- Total hours of unused sick leave for that year, minus 88, times the member's base hourly rate in effect on December 31 of the previous year.
- Total remaining hours of unused sick leave for that year, minus 48, times seventy-five percent (75%) of the member's base hourly rate in effect on December 31 of the previous year.

- (3) For members who are hired after July 1, 2009 or projected to retire after June 30, 2034, the contribution amount shall be computed by adding the following two calculations:

- Total hours of unused sick leave for that year, minus 88, times the member's base hourly rate in effect on December 31 of the previous year.

- Total remaining hours of unused sick leave for that year, minus 48, times fifty percent (50%) of the member's base hourly rate in effect on December 31 of the previous year.
- (e) Annual Sick Leave Conversion and Contribution – 40-hour workweek. Eligible members assigned to a forty-hour workweek must have a minimum of 192 hours to qualify for the annual conversion as of December 31 of the previous year.
- (1) For members who are projected to retire between July 1, 2009 and June 30, 2029, the contribution amount shall be computed as follows: Total hours of unused sick leave for that year, minus 32, times the member's base hourly rate in effect on December 31 of the previous year.
 - (2) For members who are projected to retire after June 30, 2029 and on or before June 30, 2034 the contribution amount shall be computed by adding the following two calculations:
 - Total hours of unused sick leave for that year, minus 64, times the member's base hourly rate in effect on December 31 of the previous year.
 - Total remaining hours of unused sick leave for that year, minus 32, times seventy-five percent (75%) of the members base hourly rate in effect on December 31 of the previous year.
 - (3) For members who are hired after July 1, 2009 or projected to retire after June 30, 2034, the contribution amount shall be computed by adding the following two calculations:
 - Total hours of unused sick leave for that year, minus 64, times the member's base hourly rate in effect on December 31 of the previous year.
 - Total remaining hours of unused sick leave for that year, minus 32, times fifty percent (50%) of the members base hourly rate in effect on December 31 of the previous year.
- (f) Sick Leave Conversion at Time of Retirement. Upon an eligible member's retirement, the City shall deposit into each member's individual HRA that member's remaining sick leave balance at the rate of fifty percent (50%) of the member's base hourly rate at the time of retirement. The annual conversion of unused sick leave shall be prorated for the year in which the member retires and applied prior to this computation.

Section 16. Bereavement Leave

In the event of a death in the immediate family of a member, the member shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed forty-eight (48) hours (shift workers) or twenty-four (24) hours (40-hour members) within a five (5) consecutive calendar-day period of bereavement leave for death in the immediate family (father, mother, brother, sister, spouse, child, mother-in-law, father-in-law, grandparents, grandchildren and step-

children). Such bereavement leave shall not be deducted from any accrued leaves including management leave. Provision is in-lieu of Civil Service Rule 9, Part A, 3(C) - "Approved Sick Leave."

Section 17. Physical Exams

The City agrees to continue to provide an initial cardiovascular stress test and thereafter an annual physical examination for represented members who are forty (40) years of age or older.

Members may elect to go to a physician of their choosing for the annual physical exam, in which case, the City agrees to pay the member's co-payment, if any, not paid by the member's health insurance.

Section 18. Residency

Within a reasonable period of time from the date of appointment, as established by the City at the time of appointment, each member shall reside within sixty (60) minutes driving time, under normal driving conditions from his/her residence of Fire Station #1. MapQuest or an equivalent mapping program may be used on an ongoing basis to determine the sixty (60) minute boundary. Once a member has established a residence within the sixty (60) minute boundary, that member will be deemed in compliance with the residency requirement until they change residence.

As new job classifications or positions are added to NCFO, the residency requirement for each (if any) shall become part of NCFO's MOU.

The City Manager shall retain the right to waive these requirements in cases of hardship when it is determined that the performance of City services is not compromised.

All members shall be required to maintain a current statement of residence in the Personnel and Finance Departments.

Section 19. Management Leave

19.1 Members serving a forty-hour (40) per week assignment shall be granted One Hundred Four (104) hours of management leave each fiscal year (July 1 through June 30). Members serving a fifty-six (56) hour per week assignment shall be granted One Hundred Forty-six (146) hours management leave each fiscal year (July 1 through June 30). Management leave not used during the fiscal year shall be forfeited. Members shall be allowed to receive compensation in lieu of management leave time off for up to one-half (1/2) of the annual amount of management leave.

19.2 Effective upon ratification, Division Chiefs shall be granted an additional 12 hours of management leave, which must be used by December 31, 2012. This management leave cannot be cashed out.

On January 1, 2013, Division Chiefs shall receive 32 hours of management leave, which must be used by December 31, 2013. This management leave cannot be cashed out.

Section 20. Educational Incentive

20.1 The City shall pay an educational incentive to each member who has demonstrated completion of a job related course of study for an approved major degree, which shall include Fire Science, Public Administration, Business Administration, or other such job-related course of study from an accredited institution of higher learning (accredited by the Western Association of Schools and Colleges and subject to the review and approval of the Fire Chief and City Manager) The parties agree that the amount of the educational incentive shall be one of the following:

30 semester units	\$100/month or
AA Degree	\$150/month or
BA Degree	\$200/month

For the purpose of computing unit credits, the following formula will be used:

Quarter Hours X 2 divided by 3 = Semester Hours

EXAMPLE: 3 Quarter Hours = 2 Semester Hours

Unit credits for Fire Service related studies are as follows:

8 Hours = 1/2 Unit

18 Hours = 1 Unit

36 Hours = 2 Units

Newly hired members shall not be entitled to receive educational incentive pay until they have successfully completed their probationary period.

20.2 The City agrees to pay One-Hundred and Fifty Dollars (\$150.00) per month specialty pay to any member(s) who successfully completes the State Fire Officer Certification program and receives certification. Effective the closest pay date on or before December 30, 2011, State Fire Officer Certification pay shall be Two-hundred and Ten Dollars (\$210.00) per month.

20.3 The City agrees to pay Two-Hundred Dollars (\$200.00) dollars per month specialty pay to any member(s) who successfully completes the State Fire Chief Officer Certification program and receives certification. This pay shall be in addition to Officer Certification pay. Effective January 1, 2012, those members who have completed all State requirements with the exception of the Associate of Arts (AA) degree shall have until December 30, 2013 to complete the AA degree to receive the specialty pay. Effective December 31, 2013, all State requirements must be met to receive the Chief Officer Certification specialty pay.

Section 21. Management Rights

The City shall have management rights, including but not limited to the following, except as otherwise limited by this MOU:

To manage and direct its business and personnel; to manage, control, and determine the mission of the Department, its divisions, committees, consultants, facilities, equipment and operations; to create,

change, combine or abolish jobs, department's services, and facilities in whole or in part; to assign or reassign members to certain duties or shifts or from one existing duty schedule to another; to relieve members from duty or to reduce or adjust such duties because of lack of work or for other reasons considered by City to be legitimate; to direct the work force, set standards of service and assign other additional duties as may be necessary or desirable to maintain the efficiency of City operations; to determine the number of members needed and increase or decrease the work force; to hire, train, transfer, promote and demote members; to determine the procedures and standards of selection for employment and promotion; to establish schedules of operations, work standards and reasonable workloads; to schedule working hours, shifts and overtime necessary to meet minimum manpower requirements and emergency conditions; to adopt rules of conduct and penalties for violation thereof; to make reasonable rules and regulations pertaining to members consistent with this MOU; to determine the content of job specifications and classifications; to determine the type and scope of work to be performed and service to be provided; to determine the methods, processes and means of providing services; to take all necessary actions to carry out its mission in emergency situations; to reorganize the administrative structure of the fire department, except to the extent that any such reorganization effects the employment conditions of members as contemplated by State law to be within the scope of meet and confer.

Section 22. No Strike, No Lockout

During the term of this MOU the City will not lock out NCFO or any members thereof, and neither NCFO nor any members thereof will engage in, cause, or encourage any strike, slow down, concerted refusal to work, or other interruption of the City's operation; provided however, that nothing herein shall be deemed to prohibit off-duty informational picketing.

Section 23. Americans with Disabilities Act

The City and NCFO recognize that the City has an obligation under the Americans With Disabilities Act (ADA) to meet with individual members who allege a need for reasonable accommodation in the work place because of a disability. NCFO will be advised of any proposed accommodation prior to implementation which is in potential conflict with this MOU or past practice or any wage, hour or working condition. NCFO will be afforded the opportunity to consult with the City about the impact of such accommodation(s).

Section 24. Fiscal Emergency

In the event it becomes necessary for the City to use funds from its Emergency Reserves (as defined by City fiscal policy adopted in Fiscal Year Budget 2007-2009 and 2009-2011, which is 12% of the General Fund) for operational purposes, or in the event of an unanticipated event causing a fiscal crisis, the City shall have the right to reopen the MOU for the purpose of negotiating a furlough affecting members covered by this MOU, after first conducting a public hearing and declaring thereafter that a Fiscal Emergency exists in the City of Napa.

Section 25. Firefighters Procedural Bill of Rights Act

25.1 Under the Firefighters Procedural Bill of Rights Act (Government Code section 3250 et seq., hereinafter referred to as the "Act"), section 3262 provides that the rights and protections described in the Act shall only apply to a firefighter during events and circumstances involving the

performance of his or her official duties. The City agrees to apply the following sections of the Act to events not involving the performance of a firefighter's official duties: 3251; 3252; 3254; 3254.5; 3255; 3256; 3256.5; 3257; 3258; and 3259.

- 25.2 The City shall also apply section 3253 of the Act to events not involving the performance of a firefighter's official duties, with the exception of the portion of 3253(e)(1) that states:

The employer shall provide to, and obtain from, the member a formal grant of immunity from criminal prosecution, in writing, before the member may be compelled to respond to incriminating questions in an interrogation. Subject to that grant of immunity, a Firefighter refusing to respond to questions or submit to interrogations shall be informed that the failure to answer questions directly related to the investigation or interrogation may result in punitive action.

Instead, a firefighter under investigation for criminal allegations involving events not involving the performance of his or her official duties shall be informed, prior to interrogation, of the following:

You are hereby ordered to answer the following questions. While you do have the right to remain silent and not incriminate yourself under the Fifth Amendment to the United States Constitution, you do not have the right to refuse to answer questions in this interrogation as a result of this order. If you refuse to answer these questions you may be disciplined for insubordination, up to and including termination. Because of the threat of discipline, nothing you say as a result of this interrogation or evidence derived therefrom may be used against you in any criminal proceeding.

- 25.3 Except for those sections of the Act specifically exempted and/or not listed above, nothing in this MOU is intended to limit and/or reduce those rights afforded by the Act and the rights provided by the Act shall take precedence in the event that anything in this MOU provides lesser protection than the rights guaranteed by the Act.

Section 26. Full Understanding

- 26.1 The parties agree that this MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein.
- 26.2 Except as specifically otherwise provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required, to meet and confer with respect to any subject or matter covered herein or with respect to any other matters within the scope of meeting and conferring during the period of this term of this MOU, except regarding the interpretation of this MOU, or as provided hereinafter. During the term of this MOU, there will be no change in any benefit provided in such MOU without the mutual consent of the parties. There will be no change in any matter outside the MOU, but within the scope of meeting and conferring without advance notice and opportunity to meet and confer. The foregoing shall not preclude the parties hereto from meeting and conferring at any time during the term of this MOU with respect to any subject matter within the scope of meeting and conferring for a proposed MOU between the parties to be effective on or after January 1, 2014.

- 26.3 Notwithstanding the foregoing subsection of this MOU, representatives of the City and NCFO shall meet each six (6) months during the term of this MOU to discuss employer-employee relations within the City, upon request of either party.
- 26.4 All ordinances, rules, benefits, and practices, including agreements contained in prior years' Memoranda of Understanding, not inconsistent with this MOU, whether known by the parties at the time this MOU was negotiated and signed or not, shall not be superseded, modified or repealed by implication or otherwise by the provisions hereof. Such ordinances, rules, benefits and practices shall remain in full force and effect for the duration of this MOU.

Section 27. Separability

If any provision of this MOU should be held invalid or restrained by operation of law or by any court of competent jurisdiction, the remainder of this MOU shall not be affected thereby, and the parties shall enter into meeting and conferring for the sole purpose of arriving at a mutually satisfactory replacement for such provision.

Section 28. Effective Date

- 28.1 Except as otherwise specified herein, each of the terms of this MOU shall be effective upon ratification by NCFO and approval by the City Council of the City of Napa.

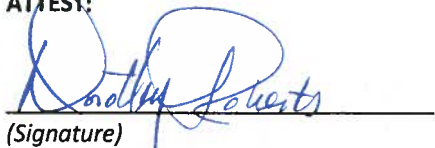
Upon expiration of this MOU, the terms and provisions herein shall continue in effect until a successor MOU is reached. In the event that discussions for a successor MOU are not initiated by any party prior to November 1, 2013, all parties shall be deemed to have waived their right to modify the MOU for the following fiscal year.

- 28.2 The parties shall use their best efforts to commence the meet and confer process prior to September 30, 2013, with respect to a MOU to take effect January 1, 2014.

This MOU is executed at Napa, California on this 15th of June, 2012.

Dated: June <u>1</u> , 2012	By: <u>Nancy Weiss</u> Nancy Weiss, Assistant City Manager City of Napa
Dated: June <u>1</u> , 2012	By: <u>John V. Callahan</u> John Callanan, President Napa Chief Fire Officers

ATTEST:



A handwritten signature in blue ink, appearing to read "Dorothy Roberts", is written over a horizontal line.

(Signature)

DOROTHY ROBERTS , City Clerk

COUNTERSIGNED:

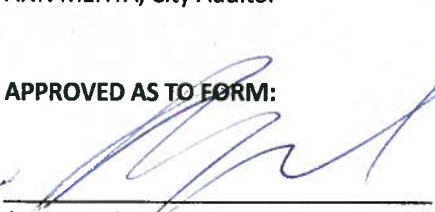


A handwritten signature in blue ink, appearing to read "Ann Mehta", is written over a horizontal line.

(Signature)

ANN MEHTA, City Auditor

APPROVED AS TO FORM:



A handwritten signature in blue ink, appearing to read "Michael W. Barrett", is written over a horizontal line.

(Signature)

MICHAEL W. BARRETT, City Attorney