

**MEMORANDUM OF UNDERSTANDING  
ON  
WAGES, HOURS, AND OTHER TERMS AND  
CONDITIONS OF EMPLOYMENT**

**PETA**

**PROFESSIONAL ENGINEERS &  
TECHNICIANS ASSOCIATION  
AND  
CITY OF FREMONT**



**TERM OF AGREEMENT  
JULY 1, 2017 - JUNE 30, 2019**

CITY OF FREMONT  
MEMORANDUM OF UNDERSTANDING  
PROFESSIONAL ENGINEERS & TECHNICIANS ASSOCIATION  
2017 – 2019  
TABLE OF CONTENTS

CHAPTER 1. ADMINISTRATIVE..... 1  
ARTICLE I. PARTIES TO UNDERSTANDING .....1  
ARTICLE II. RECOGNITION .....1  
ARTICLE III. STATE LAW COMPLIANCE .....1  
ARTICLE IV. CITY COUNCIL APPROVAL .....1  
ARTICLE V. CONTINUATION OF EXISTING BENEFITS .....2  
ARTICLE VI. TERM OF UNDERSTANDING .....2  
ARTICLE VII. SEPARABILITY OF PROVISIONS .....2  
ARTICLE VIII. TOTAL AGREEMENT .....2  
ARTICLE IX. CITY RIGHTS .....2  
ARTICLE X. NON-DISCRIMINATION .....3

CHAPTER 2. SALARIES AND OTHER COMPENSATION ..... 3  
ARTICLE I. SALARIES .....3  
ARTICLE II. ACTING PAY .....3  
ARTICLE III. CALL BACK .....4  
ARTICLE IV. OVERTIME .....4  
ARTICLE V. RECOGNITION PAY .....6  
ARTICLE VI. COURT APPEARANCE PAY .....6  
ARTICLE VII. SAFETY SHOE ALLOWANCE .....7  
ARTICLE VIII. DEFERRED COMPENSATION .....7

CHAPTER 3. LEAVES ..... 8  
ARTICLE I. GENERAL LEAVE PLAN .....8  
ARTICLE II. HOLIDAYS .....10  
ARTICLE III. BEREAVEMENT LEAVE .....11  
ARTICLE IV. JURY DUTY LEAVE .....11  
ARTICLE V. MILITARY LEAVE .....12  
ARTICLE VI. LEAVE WITHOUT PAY .....12  
ARTICLE VII. PERSONAL LEAVE DONATION .....12  
ARTICLE VIII. CATASTROPHIC SICK LEAVE BANK .....13  
ARTICLE IX. ON THE JOB INJURY LEAVE .....14

CHAPTER 4. INSURANCE ..... 15  
ARTICLE I. ALTERNATIVE BENEFITS AND COMPENSATION PLAN .....15  
ARTICLE II. SHORT TERM/LONG TERM DISABILITY INSURANCE PLAN .....15  
ARTICLE III. LIFE INSURANCE COVERAGE .....16  
ARTICLE IV. RETIREE MEDICAL REIMBURSEMENT BENEFIT .....16  
ARTICLE V. INSURANCE BENEFIT ADMINISTRATION .....17

---

CHAPTER 5. RETIREMENT.....	18
ARTICLE I. PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS).....	18
ARTICLE II. IMPLEMENTATION OF INTERNAL REVENUE CODE SECTION....	18
CHAPTER 6. HOURS AND SCHEDULING .....	18
ARTICLE I. ALTERNATE/MODIFIED WORK SCHEDULES .....	18
ARTICLE II. STAND-BY TIME.....	19
CHAPTER 7. GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURES	20
ARTICLE I. PURPOSE AND PROCEDURES.....	20
ARTICLE II. BINDING ARBITRATION .....	20
ARTICLE III. EMPLOYEE RIGHT TO REPRESENTATION.....	20
ARTICLE IV. GRIEVANCE PROCEDURE.....	21
ARTICLE V. DISCIPLINARY APPEAL PROCEDURE .....	22
ARTICLE VI. ARBITRATION PROCESS.....	23
ARTICLE VII. GENERAL PROVISIONS.....	24
CHAPTER 8. ASSOCIATION ISSUES.....	25
ARTICLE I. ASSOCIATION BUSINESS.....	25
ARTICLE II. BULLETIN BOARDS, MEETING FACILITIES.....	25
CHAPTER 9. MISCELLANEOUS.....	25
ARTICLE I. SUBSTANCE ABUSE POLICY.....	25
ARTICLE II. VARIABLE DEMAND HIRING .....	26
ARTICLE III. PROFESSIONAL LICENSES AND CERTIFICATIONS.....	26
ARTICLE IV. TUITION REIMBURSEMENT .....	26
ARTICLE V. JOINT LABOR-MANAGEMENT COMMITTEE.....	27
ARTICLE VI. PERSONNEL RULES AND LAYOFF ADMINISTRATIVE REGULATIONS.....	27
ARTICLE VII. PROBATIONARY PERIODS .....	28
ARTICLE VIII. HEALTH SAVINGS COMMITTEE.....	28
APPENDIX A. CLASSIFICATION LIST .....	31
APPENDIX B. EMPLOYMENT RELATED INFORMATION SOURCES.....	33
INDEX .....	35

MEMORANDUM OF UNDERSTANDING  
ON  
WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF  
EMPLOYMENT BETWEEN  
CITY OF FREMONT  
AND  
PROFESSIONAL ENGINEERS AND TECHNICIANS  
ASSOCIATION

CHAPTER 1. ADMINISTRATIVE

**ARTICLE I. PARTIES TO UNDERSTANDING**

This Memorandum of Understanding is entered into by and between the CITY OF FREMONT, a municipal corporation (hereinafter referred to as CITY), and the PROFESSIONAL ENGINEERS AND TECHNICIANS ASSOCIATION (hereinafter referred to as the Association of PETA), pursuant to Government Code 3500, et seq. This Memorandum of Understanding applies to those classes of employment set forth in Appendix "A" attached hereto and made a part hereof.

**ARTICLE II. RECOGNITION**

The City recognizes the Professional Engineers and Technicians Association as the exclusive representative for the purposes of establishing wages, hours, and other terms and conditions of employment for full-time and modified schedule employees in the classified service in the classes of positions set forth in Appendix "A", attached hereto and made a part hereof, as well as position classifications that may be added or deleted pursuant to the provisions of the Employer-Employee Relations Rules and Regulations Resolution (Resolution No. 9697).

**ARTICLE III. STATE LAW COMPLIANCE**

This Memorandum of Understanding complies with the provisions of Section 3500, et seq. of the Government Code of the State of California, and Chapter 4.5, Title 2 of the Fremont Municipal Code, in that the Employer-Employee representatives noted herein did meet and confer in good faith and did reach agreement on those matters within the scope of representation.

**ARTICLE IV. CITY COUNCIL APPROVAL**

It is the mutual understanding of the parties hereto that this Memorandum of Understanding is of no force or effect until approved by the City Council of the City of Fremont.

## **ARTICLE V. CONTINUATION OF EXISTING BENEFITS**

Except as provided herein, this Memorandum of Understanding does not modify existing economic benefits contained in the Personnel Resolution (Resolution 688, as amended) or Personnel Ordinance. Such unmodified economic benefits shall continue in full force and effect throughout the term of this Understanding.

## **ARTICLE VI. TERM OF UNDERSTANDING**

This Memorandum of Understanding (hereinafter referred to as Understanding) shall be effective as of July 1, 2017, and shall expire June 30, 2019.

## **ARTICLE VII. SEPARABILITY OF PROVISIONS**

Should any article, section, or provision thereof of this Understanding be found to be unlawful and/or unenforceable by any court of competent jurisdiction, such decision of the court shall only modify or invalidate the specific article, section, or portion thereof modified or invalidated by the decision, and the remainder of this Understanding shall not be affected thereby, and shall remain in full force and effect throughout the term of this understanding.

## **ARTICLE VIII. TOTAL AGREEMENT**

- A. This Memorandum of Understanding sets forth the full and entire understanding of the parties regarding matters set forth herein. All prior Memoranda of Understanding are hereby superseded or terminated in their entirety.
- B. All ordinances, resolutions, administrative regulations, departmental rules and regulations, and personnel policies and procedures not specifically addressed within this Understanding shall remain in full force and effect.
- C. No verbal statement or other amendments, except an amendment mutually agreed upon between the parties and in writing annexed hereto designated as an amendment to this Understanding, shall supersede or vary the provisions herein.

## **ARTICLE IX. CITY RIGHTS**

Except to the extent they are specifically modified by an express provision of this Understanding, the Personnel Rules, or the Employer-Employee Relations Rules and Regulations Resolution, the City reserves, retains and is vested with all management rights including but not limited to the right to:

- A. Determine and modify the organization of City government and its constituent work units.
- B. Determine the nature, standard, levels and mode of delivery of City services.

- C. Determine the methods, means, number and kind of personnel by which services are provided.
- D. Impose discipline for just cause, subject to applicable law and the provisions of this Understanding.
- E. Relieve employees from duty because of lack of work or lack of funds, or for inability to perform the job as required, subject to the Personnel Rules.

Nothing in this Article shall relieve the City of its obligation to meet and confer on the impacts of the exercise of rights enumerated in this article that are within the scope of representation.

#### **ARTICLE X. NON-DISCRIMINATION**

The City and the Association agree that each shall not discriminate in any aspect of employment or membership based on political affiliation, race, religion, creed, color, national origin, ancestry, sex, marital status, sexual orientation, age (40 and above), medical condition (cancer/genetic characteristics), or any other basis prohibited by law.

## CHAPTER 2. SALARIES AND OTHER COMPENSATION

#### **ARTICLE I. SALARIES**

- A. Effective June 25, 2017, the salaries for all classifications covered under this MOU shall be increased by 3%.
- B. Effective June 24, 2018, the salaries for all classifications covered under this MOU shall be increased by 3%.

#### **ARTICLE II. ACTING PAY**

- A. An employee specifically assigned by a department head or his/her designated representative on a temporary basis to a position in a higher class and who, pursuant to such assignment, does perform the significant duties and responsibilities of such position for five (5) consecutive days, shall be paid at the first step of the higher classification or 5% not to exceed the top of the range, whichever is greater, retroactive to the first day of the temporary appointment.
- B. Assignment of employees to serve in an acting capacity, as defined above, shall be based upon methods determined by the department head.
- C. An employee specifically assigned by personnel action form on a temporary basis to a position in a management classification and who, pursuant to such assignment, does perform the significant duties and responsibilities of such position for five (5) consecutive days, shall be granted an acting pay increase of 10% not to exceed the

top of the range retroactive to the first day of the assignment. The employee is subject to all benefits and conditions applicable to his/her permanent classification.

- D. Nothing in this section shall limit management's authority to assign employees temporarily to a position of a higher classification for the purpose of providing training in the work or the position. Such temporary training assignments shall not constitute service in an acting capacity, as defined above, and shall only be made by mutual consent.

### **ARTICLE III. CALL BACK**

- A. An employee who has departed from the employee's work location and is called back to work shall be entitled to a minimum of two (2) hours work or, if not provided, a minimum of two (2) hours pay.
- B. Such two (2) hour entitlement of pay shall be compensated at time and one-half.
- C. This minimum entitlement does not apply to employees who are called back to work within two (2) hours of their regular starting time.

### **ARTICLE IV. OVERTIME**

#### **A. DEFINITION OF THE WORK WEEK**

The regular work week shall consist of forty (40) hours within seven (7) consecutive days. Unless otherwise specifically provided, the work week shall commence at 12:01 a.m., Sunday and end at 12:00 p.m. (midnight), Saturday.

#### **B. PAYMENT OF OVERTIME - GENERAL RULE FOR EMPLOYEES WORKING FORTY HOURS IN FIVE DAYS**

Overtime work shall be defined as any time worked beyond the regular work day or beyond the regular work week. No employee shall have his/her regular work schedule changed in order to avoid meeting overtime pay requirements, except by mutual consent.

Except as otherwise provided by the other paragraphs of this Article listed below, all hours worked in excess of eight (8) hours per day or forty (40) hours per work week shall be compensated at the rate of one and one-half times the employee's regular hourly rate of pay.

#### **C. PAYMENT OF OVERTIME – MODIFIED SCHEDULE POSITIONS**

An employee who, pursuant to Chapter 6, Article I., of this Understanding, works a modified schedule shall be compensated at the rate of one and one-half times the employee's regular hourly rate of pay:

1. for all hours worked in excess of forty (40) hours per work week, or

2. for all hours worked in excess of eight (8) hours per day; provided, however, that an employee whose regular modified schedule exceeds eight (8) hours in a day shall be paid at the rate of one and one half times the employee's regular hourly rate of pay only for the hours worked in excess of the regular modified schedule hours for the day.

#### D. PAYMENT OF OVERTIME – ALTERNATE SCHEDULING (40 HOUR WORK WEEK)

An employee who, pursuant to Chapter 6, Article I. of this Understanding, has requested and received approval to work an alternate schedule consisting of 40 hours per week shall be compensated at the rate of one and one-half times the employee's regular hourly rate of pay for all hours worked in excess of forty (40) hours per week or all daily hours worked in excess of the daily schedule of hours in the approved alternate schedule.

#### E. SAME DAY FLEXIBLE WORK SCHEDULE

An employee will not receive overtime compensation under this Article when the employee is able to flex his/her normal work day to account for a partial day absence from work.

#### F. PAYMENT OF OVERTIME - HOLIDAYS

All hours worked on holidays shall be compensated at the rate of one and one-half the employee's regular hourly rate of pay, in addition to straight time holiday pay for eight (8) hours.

#### G. COMPENSATORY TIME OFF

Employees in the classifications of employment set forth in Appendix "A" shall be eligible to establish a Compensatory Time Off Bank.

1. Employees will be required to irrevocably elect, prior to working the overtime, whether they want to be paid for the overtime worked or accrue paid time off in their Compensatory Time Off Bank at the rate of one and one half hour for each hour of overtime worked. If the employees fail to identify how they want the overtime compensated, it will automatically be paid overtime.
2. The maximum Compensatory Time Off Bank accrual shall be 240 hours (160 hours worked) per employee at any given time. Overtime hours worked which would result in a compensatory time bank in excess of 240 hours at any given time shall be paid overtime.
3. Employees will not be able to cash out Compensatory Time Off Banks. Once accrued overtime is banked as Compensatory Time Off the employee may only access the Compensatory Time Off Bank by taking time off.



4. Compensatory Time Off Banks will be liquidated (paid out) at termination at the employee's final hourly rate of base pay.

**H. EMERGENCY OVERTIME**

1. For purposes of this section, emergency or disaster is defined as a "declared emergency" or a situation where the City Manager or designee has directed some or all employees to return to work.
2. After the initial response to an emergency, the standard disaster work shift will be twelve (12) hours, if possible, and in no event will an employee be required to work more than sixteen (16) consecutive hours.
3. Employees will be compensated at the rate of one and one-half times the employee's regular hourly rate of pay for all hours worked which exceed their regular shift.
4. In disaster situations, the City shall:
  - (a) Provide meals to employees scheduled to work twelve (12) or more hours.
  - (b) Provide accommodations if the employee lives 30 or more miles away or is unable to return home due to the disaster situation.
  - (c) Provide critical incident debriefing in the event of response to serious injury or accident or rescue involving trauma or death.
5. Work schedules, whenever possible, will provide for the following:

<b>Work Shift</b>	<b>Break Before Return to Work</b>
12 hour emergency shift	8 hour break
16 hour emergency shift	8 hour break and next shift not to exceed 12 hours
12+ hours and end of disaster	Minimum 8 hour break before return to regular schedule

**ARTICLE V. RECOGNITION PAY**

An employee assigned by a Department Head or designee to regularly perform work outside the scope of his/her permanent classification may receive Recognition Pay at the exclusive discretion of the City Manager.

**ARTICLE VI. COURT APPEARANCE PAY**

- A. When employees who are off duty appear in court in response to a subpoena as part of their normal work assignment, they shall be entitled to a minimum of four (4) hours pay.
- B. Such four (4) hour entitlement shall be compensated at time and one-half.

- C. This minimum entitlement shall not apply to employees appearing in Court during their regular work hours or appear in court less than three (3) hours prior to the start of the work shift.
- D. A call to appear in court less than one-half hour following the end of a shift (regardless of length of shift) shall be deemed a continuation of shift and shall not be subject to the four (4) hour minimum.
- E. When court meal breaks exceed one hour, the employee shall be entitled to compensation at the rate prescribed in this Article for the amount of time by which the meal break exceeds one hour.

**ARTICLE VII. SAFETY SHOE ALLOWANCE**

- A. For each two year period beginning July 1, 2006, the City shall advance an employee in this unit, working in an assignment designated by their Department head, the sum of One Hundred Seventy-five Dollars (\$175.00) for purchasing and regularly wearing steel-toed safety shoes/boots.
- B. An employee who is required to wear steel-toed safety shoes/boots for safety reasons must wear them while working and shall be subject to disciplinary action if not worn. All steel-toed safety shoes/boots must conform to minimum safety, maintenance and appearance standards established by the City unless OSHA standards supersede. An employee may choose not to wear, and therefore not to be paid for, safety shoes/boots unless the City requires their wear and use for safety reasons.

The City shall determine when repair or replacement is necessary. The employee is responsible for maintaining the serviceability of the safety shoe/boot.

- C. New employees eligible for this allowance shall, within two pay periods after their appointment, receive a pro-rata share of the above allowance in the amount of \$3.37 per pay period, for the number of full calendar months falling between the date of appointment and June 30<sup>th</sup> of the year that ends the two year shoe allowance cycle.
- D. An employee who leaves City employment, who by assignment changes to a status of non-entitlement, who is absent from work for reasons other than authorized general leave, holiday or compensatory time off, or who is otherwise no longer covered by this MOU for all of the regularly scheduled work hours in a calendar month, shall not be eligible for nor receive the pro-rata allowance for each month in which such absences occur.

**ARTICLE VIII. DEFERRED COMPENSATION**

All employees covered by this Understanding may participate in the City-sponsored Deferred Compensation Plan as specified in Resolution No. 2928 of the City Council of the City of Fremont.

## CHAPTER 3. LEAVES

### ARTICLE I. GENERAL LEAVE PLAN

The City established this General Leave Plan January 1, 1994.

#### A. DEFINITIONS

For the purposes of this Article, the following terms have the meanings stated below:

1. “Old General Leave” shall mean unused leave accrued by the individual employee in this bargaining unit on or before December 31, 1993.
2. “General Leave” shall mean leave accrued by the individual employee in this bargaining unit on and after January 1, 1994, for use as vacation, sick leave, emergency leave, and personal leave.
3. “Sick Leave Bank” shall mean leave with pay hours available to employees pursuant to Section C. of this Article, which may be used for scheduled medical or dental appointments, personal illness, or illness involving a member of the employee’s immediate family, as defined, requiring the care and/or involvement of the employee.

#### B. ACCRUAL AND USE

1. General Leave shall be accrued as follows:

<u>Years of Service</u>	<u>Annual</u>	<u>Per biweekly Pay Period</u>	<u>Maximum Accruable Limit</u>
a. First 5 years of service	192 hours	7.3846 hours	288 hours
b. After 5 years of service	216 hours	8.3077 hours	324 hours
c. After 10 years of service	240 hours	9.2308 hours	360 hours
d. After 15 years of service	264 hours	10.1538 hours	396 hours

For employees with previous City of Fremont years of service, upon rehire, the City Manager may, at his/her sole discretion, credit (all or a portion of) previous City of Fremont service credit as a regular employee to the employee’s years of service for purposes of his/her general accrual rate. Such credit shall not apply for any other purpose.

2. An employee’s maximum General Leave accrual limit shall be one and one-half (1.5) times the individual employee's annual General Leave accrual rate based on years of service. No hours of General Leave will accrue above the maximum limit except as provided in Section C. below.

3. Old General Leave will be maintained in a separate Old General Leave bank of hours. Old General Leave is available for use as General Leave and will be recorded separately from General Leave. Old General Leave hours will not be charged until all General Leave is exhausted. Old General Leave cannot be replenished once used.
4. There are two categories of General Leave use:
  - a. Scheduled Leave: Any leave that can be reasonably forecast or anticipated, i.e., vacation leave, scheduled medical/dental appointments, "extended weekends", personal leave, etc., shall require prior approval of the employee's supervisor.
  - b. Unscheduled Leave: Any leave that is genuinely of an unanticipated nature, i.e., "sick leave", bereavement leave beyond that provided in Chapter 3, Article VI, etc. Inappropriate or excessive use of unscheduled leave may be grounds for corrective action.

#### C. SICK LEAVE BANK OF HOURS

General Leave hours that would accrue above the maximum accrual limit described in paragraph B.2. above but for such limit, shall be placed in a Sick Leave Bank of Hours with a maximum accrual limit of 520 hours.

Sick Leave Bank hours shall be available to an employee to use for scheduled medical and dental appointments, personal illness or illness involving a member of the employee's immediate family requiring the care and/or involvement of the employee.

Immediate Family shall be defined as wife, husband, child, brother, sister, parent, parent-in-law, grandparents, grandparents-in-law, except that a relative residing in the same household or a domestic partner residing in the same household who is not a legal spouse may, for the purposes of this Article, be considered one of the immediate family. For purposes of this section, "child" means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis; and "parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

Accrued time in the Sick Leave Bank shall not be compensated for in any manner except as used for sick leave as provided in this section.

#### D. LIQUIDATION OF "OLD GENERAL LEAVE" AT TERMINATION

All Old General Leave hours that remain unused at the time of an employee's termination shall be liquidated upon termination at the rate of the employee's base hourly rate of pay in effect at the time of his/her termination plus 33.543%.

**E. LIQUIDATION OF GENERAL LEAVE AT TERMINATION**

Upon an employee's termination all unused General Leave hours accrued on or after January 1, 1994, shall be liquidated at the hourly base rate of pay in effect at the time of termination.

**F. LIQUIDATION OF GENERAL LEAVE FOR CURRENT EMPLOYEES**

Effective for Fiscal Years beginning July 1, 2008 and each July 1 thereafter during the term of this Understanding:

PETA members who have a general leave balance of at least 75% of their maximum accruable leave at the end of the first pay period that ends in the preceding May (e.g., May 11, 2008 for the Fiscal Year beginning July 1, 2008) and have nineteen (19) or more years of service will have the option to make a once a year, irrevocable election to liquidate leave. Leave may be liquidated in one-hour increments up to the annual maximum liquidation limit. The applicable maximum liquidation limit will be based on the employee's years of service as of the end of the first pay period in May. This leave liquidation will be paid out in a lump sum on the first scheduled payday in the following August.

<b>Years of Service</b>	<b>Maximum Accruable Leave</b>	<b>75% Qualifying Balance</b>	<b>Maximum Liquidation Limit</b>
19+	396 hours	297	40 hours

**ARTICLE II. HOLIDAYS**

A. The following list of City paid holidays is designated for employees in the classes of positions specified in Appendix "A":

1. January 1; known as "New Year's Day"
2. The third Monday in January; known as "Martin Luther King Day"
3. The third Monday in February; known as "Presidents' Day"
4. The last Monday in May; known as "Memorial Day"
5. July 4; known as "Independence Day"
6. The first Monday in September; known as "Labor Day"
7. November 11; known as "Veterans' Day"
8. The Thursday in November designated as "Thanksgiving Day"
9. The day following "Thanksgiving Day"
10. December 24; known as Day preceding "Christmas Day"
11. December 25; known as "Christmas Day"
12. December 31; known as Day preceding "New Year's Day"

B. One (1) additional paid floating holiday shall be granted to each employee in the classes of positions specified in Appendix "A." All full-time members will receive one floating holiday in the form of eight (8) hours of non-accruable leave (i.e. unused hours may not be carried forward from one year to the next) at the beginning of the

first full biweekly pay period each new fiscal year covered in this Memorandum of Understanding. Employees starting employment after the first full biweekly pay period in a fiscal year shall have the non-accruable leave prorated as follows:

The total number of complete biweekly pay periods remaining in the fiscal year, divided by twenty-six (26), multiplied by eight (8) hours, then rounded up to the nearest quarter hour.

- C. Employees who are covered by this MOU will receive eight (8) hours, of their current base pay, for each of the holidays listed above, regardless of their assigned schedule.
- D. Holiday hours shall be prorated for employees who work a modified/part-time schedule.
- E. To be eligible for holiday pay, an employee must be in a paid status on the regularly scheduled work day before and after the holiday.
- F. When a holiday falls on Sunday it shall be observed on the following Monday. When a holiday falls on Saturday it shall be observed the previous Friday.
- G. Should the City grant any other employee groups a holiday(s) in commemoration of any national and/or state observed holiday(s), they will also grant such additional holiday(s) to employees covered by this Understanding.

### **ARTICLE III. BEREAVEMENT LEAVE**

In the case of a death in the immediate family, an employee may be granted Bereavement Leave with pay for a period of three (3) work days falling during the period from the time of death until one day following the day of the funeral. Such Bereavement Leave will not be charged against any general leave or sick leave bank. The employee's immediate family is defined as wife, husband, child, step child, brother, sister, parent, parent-in-law, grandparents, and grandparents-in-law, except that a relative or life partner residing in the same household may, for the purpose of this section, be considered as a member of the immediate family. A life partner is an individual who is in an established, long-term committed relationship (minimum of six [6] months) with an employee.

### **ARTICLE IV. JURY DUTY LEAVE**

Leave of absence with pay shall be granted to an employee who has been selected for jury duty and from which he/she cannot be excused. An employee who serves on jury duty shall be paid his/her regular salary for the period of such jury duty. Jury duty leave is not charged against an employee's general leave balance.

## **ARTICLE V. MILITARY LEAVE**

Employees authorized to take military leave with pay shall receive an amount from the City that when added to their military pay for the period of such leave will equal their regular monthly base pay. Military leave with pay shall be provided pursuant to applicable state law and Resolutions No. 9713 and 9761 of the City of Fremont.

## **ARTICLE VI. LEAVE WITHOUT PAY**

The City Manager may at his/her discretion grant an employee a leave of absence without pay for any period of time. No such leave shall be granted except upon the written request of the employee. The request shall specify the period of time for which the leave is requested.

An employee may not take leave without pay, until all accumulated paid leave time which the employee is eligible to take is exhausted, except that an employee may be granted leave without pay without exhaustion of accumulated leave time when recommended by the department head and approved by the City Manager.

## **ARTICLE VII. PERSONAL LEAVE DONATION**

In the event of a medical, personal or family emergency, employees covered by this Understanding may donate or receive accrued and/or prospective leave accruals to or from other City of Fremont employees. Donations and use of donated leave time shall be administered through a Personal Emergency Time (PET) Bank, provided as follows:

- A. For purposes of this article, “medical, personal, or family emergency” shall mean circumstances in which an employee needs to take time off from, or reduce, their regular work schedule as the result of the illness or injury of themselves or illness or injury of a family member which requires their care. “Family member” shall be defined as: 1) a biological, adopted, or foster child, a step child, a child of a domestic partner, a child of a person standing in loco parentis, a legal ward under 18 years of age, and an adult dependent child over 18 years of age; 2) a biological, foster, or adoptive parent, a stepparent, a legal guardian, or a person who stood in place of a parent to the employee; 3) a spouse as defined or recognized under State law for purposes of marriage in the State of California; or 4) another relative residing in and a member of the same household or domestic partner residing in the same household who is not a legal spouse.
- B. An employee covered by this Understanding may donate only accrued general leave and future, general leave. An employee may not donate sick leave, compensatory time, or non-accruable leave time.
- C. The recipient employee will not accrue seniority or receive benefits during any period of donated leave usage.

- 
- D. In order to receive donated time from the PET Bank, an employee must first exhaust all general leave, compensatory time and sick leave banks, as applicable to the recipient employee.
  - E. The point at which an employee may request use of the PET Bank shall be when all applicable leaves have been used down to an aggregate total of forty-five (45) hours and the employee anticipates that he/she will use all existing aggregate hours during the next pay period, because of the need to be absent from work more than forty-five (45) hours.
  - F. The recipient employee will be responsible for payment of taxes due on the salary received when the leave is used.
  - G. The donating employee cannot donate future leave accruals in excess of his/her leave accrual rate per pay period at the time of donation.
  - H. The donating employee cannot donate accrued leave in excess of his/her existing general leave balance.
  - I. The City will determine whether or not a leave of absence will be approved for the recipient employee. The City will comply with Federal and State leave laws, which will generally provide direction for evaluating leave requests.
  - J. Neither the City nor the Association shall discriminate in any way with respect to the donation of accrued leave or future leave accruals based on race, religious creed, political affiliation, color, national origin, ancestry, sex, marital status, age (40 and above), sexual orientation, medical condition, or physical or mental disability.
  - K. In instances when the receiving employee does not use all donated hours, the hours not used will, at the donating employees' election, remain in the general, City wide PET Bank for use by other eligible employees or returned to the donating parties.
  - L. A donating employee may designate a specific recipient to receive donated hours.
  - M. An employee covered by this Understanding may give or receive hours across bargaining unit lines consistent with reciprocating agreements with other City of Fremont bargaining units.
  - N. The Human Resources Director will administer this PET Bank.

#### **ARTICLE VIII. CATASTROPHIC SICK LEAVE BANK**

A Catastrophic Sick Leave Bank of one-hundred seventy-five (175) hours will be available for use by members of the Association until the City Short Term/Long Term Disability plans are implemented. Once the Short Term/Long Term Disability plans are available this Section of the Memorandum of Understanding will be void.



The purpose of the Catastrophic Sick Leave Bank is to enable an employee who has been granted Leave Without Pay for medical purposes and is approved for Long Term Disability (LTD) benefits from the City's LTD carrier to receive full pay and benefits to the maximum extent possible, but not to exceed their regular salary and benefits for the period between the 31<sup>st</sup> and 60<sup>th</sup> calendar days of disability.

To receive Catastrophic Sick Leave, employees shall be required to use any available leave banks for the first thirty (30) calendar days of leave due to non-work related disability prior to utilization of time from the Catastrophic Sick Leave Bank. For calendar days thirty-one (31) through sixty (60) of leave due to non-work related disability, the employee who applies for and is granted a leave without pay shall be eligible for time from the Catastrophic Sick Leave Bank provided the employee is approved for Salary Continuation benefits by the City's Long-Term Disability Insurance Carrier.

For purposes of PERS reporting, Catastrophic Sick Leave is not considered salary. Additionally, Catastrophic Sick Leave payment does not count as service seniority with the City of Fremont.

Employees requesting use of Catastrophic Sick Leave shall submit a written request to the Association President. The request shall be subject to review and approval of the Association President, or designee, and the Human Resources Director, or designee. Documentation will be forwarded to Human Resources by the Association for processing. The Association President is responsible for coordinating leave requests and Human Resources will assume responsibility jointly with the Association for monitoring the leave hour balance.

#### **ARTICLE IX. ON THE JOB INJURY LEAVE**

- A. The City and the Association agree that for injuries occurring on or after June 30, 2002, the first paragraph of Personnel Rule Article XII, Section 2.01, titled "Disability Leave" will no longer apply to employees covered by this agreement, and will be replaced instead by the following provisions.
- B. A full time, permanent employee who is unable to work as a result of injury or illness determined to arise out of and in the course of his/her employment with the City of Fremont, shall be paid an amount which, together with the Workers' Compensation benefits to which he/she may be entitled, shall equal:
  - 1) His/her regular gross rate of pay for the first sixty (60) calendar days (or hourly equivalent); and
  - 2) 80% of his/her regular gross rate of pay for the sixty-first (61<sup>st</sup>) through the three hundred sixty-fifth (365<sup>th</sup>) calendar day (or hourly equivalent).
  - 3) The above benefits will cease when the employee is determined to be "permanent and stationary."

---

## CHAPTER 4. INSURANCE

### ARTICLE I. ALTERNATIVE BENEFITS AND COMPENSATION PLAN

- A. The City shall secure and make available to all eligible employees, medical care, dental care, vision care, accidental death and dismemberment, child care reimbursement, excess medical expense reimbursement, and vacation leave purchase plans under the Alternative Benefits and Compensation Plan (ABC Plan). The ABC Plan is a "cafeteria plan" as defined in Section 125 of the Internal Revenue Code (IRC).

The City contribution for insurance and other benefit coverages available under the Alternative Benefits and Compensation Plan is known as the Health Benefits Allowance (HBA).

Effective July 1, 2017, the City shall continue to contribute \$1,998 toward Health Benefit Allowance for each employee represented by PETA.

Effective January 1, 2018, the Health Benefit Allowance shall increase by \$100 per month to a maximum of \$2,098 per month for each employee represented by PETA.

Effective January 1, 2019, the Health Benefit Allowance shall increase by \$100 per month to a maximum of \$2,198 per month for each employee represented by PETA. In the event health premiums and/or costs for the benefits selected by the employee exceed the amount of the HBA, the balance will be paid by the employee through automatic pre-tax payroll deduction, as allowed under IRC Code, Section 125.

HBA money not used for the purchase of benefits under the ABC Plan will be paid to the employee in taxable compensation. The maximum amount paid in any month to an employee who uses less than the total of the HBA amount for the purchase of benefits will be \$580.00.

- B. The City's contribution as established above shall be the maximum amount required, and the City shall not be responsible for contribution of any sum in addition to that established by the terms of this Memorandum of Understanding.
- C. The coverage, exclusions and limitations of the City sponsored plans are those in force on July 1, 1999, for the purpose of description of said plans.
- D. In the event that the benefits in this Article become fully subject to Federal or State taxation, the City and PETA agree to meet in a timely manner to discuss the impact.

### ARTICLE II. SHORT TERM/LONG TERM DISABILITY INSURANCE PLAN

- A. The City shall secure and make available to all eligible employees long term disability and short term disability insurance under a program to be selected and administered by the City. Each employee shall have the option to purchase short

term disability insurance at no cost to the City. To qualify for the purchase of short term disability insurance, the employee will be required to meet qualifications set down by the insurance carrier.

- B. The maximum insurable salary under the Long Term and Short Term Disability Insurance Plans for any member of the Association shall be \$15,000 per month. The benefit shall be calculated as 66-2/3% of the employee's monthly salary to a maximum benefit of Ten Thousand Dollars (\$10,000) per month.
- C. Effective January 1, 2010 members of the Association electing coverage of long term disability insurance assumes responsibility for payment of the entire insurance premium on an after-tax basis. Effective, January 1, 2010 and January 1, 2011, a credit equal to the premium amount for Long Term Disability Insurance will be given to all members of the Association in the form of a line item credit.

### **ARTICLE III. LIFE INSURANCE COVERAGE**

All employees covered by this Understanding shall be provided Fifty Thousand Dollars (\$50,000) of group term life insurance under a program to be selected and administered by the City.

The City shall secure and make available to all eligible employees supplemental life insurance under a program to be selected and administered by the City. Each employee shall have the option to purchase supplemental life insurance at no cost to the City. To qualify for the purchase of additional optional supplemental life insurance, the employee will be required to meet qualifications set down by the insurance carrier.

### **ARTICLE IV. RETIREE MEDICAL REIMBURSEMENT BENEFIT**

- A. For members employed prior to July 1, 2006 and retiring during the term of this Memorandum of Understanding within 120 days of separation from the City, the City agrees to pay an amount to the retiree up to the sum of \$300 per month as a retiree medical reimbursement benefit upon proof of payment of medical premiums.
- B. 1. An employee who is hired between July 1, 2006 and June 30, 2013 is eligible for retiree medical premium reimbursement set forth in B.2 below provided if he/she meets the following criteria.
  - a. retires from the City of Fremont within 120 days of separation,
  - b. is vested with CalPERS,
  - c. has completed at least five (5) years of continuous service with the City,
  - d. is at least age 50 or has received a CalPERS industrial disability retirement as a result of employment with the City of Fremont.

2. The actual amount of medical premium reimbursement the City will contribute to eligible employees will be based on the employee's total years of City service as provided in the following chart.

<b>Employee Years of Service at Retirement</b>	<b>City Base Contribution (\$/mo.)</b>	<b>Adjustment for Years of Service (\$/mo.)</b>	<b>Total City Contribution (\$/mo.)</b>
0 to 5	\$0	\$0	\$0
6 to 10	\$100	\$0	\$100
11 to 19	\$100	\$100	\$200
20 or more	\$100	\$200	\$300

- C. The retiree medical reimbursement benefit paid to retirees shall not exceed the actual premiums paid for medical coverage. Retirees shall furnish to the City proof of coverage and payment as required to establish eligibility under this section.
- D. The retiree medical reimbursement amount described in Sections A and B.2 and C above shall be reduced by the CalPERS-required employer portion of the premium if the retiree purchases insurance through the CalPERS plan.

#### **ARTICLE V. INSURANCE BENEFIT ADMINISTRATION**

The City shall have the exclusive right to determine and select the provider or method of providing benefit plan services and the methods of providing benefits for: medical, dental or other health care benefits; life, income protection or other benefits which may be provided through insurance plans, self-insurance or similar procedures for providing such benefit plans.

If any change in benefit levels is proposed by the City, the City and the Association shall meet and jointly consider the matter(s) and no change shall be made without mutual agreement.

## CHAPTER 5. RETIREMENT

**ARTICLE I. PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**

The City agrees to offer the following PERS Benefits:

	Employees hired before 4/8/12	Employees hired from 4/8/12 – 12/31/12 and <b>Classic</b> PERS Members hired after 12/31/12 (as defined by the Public Employees' Pension Reform Act of 2013 PEPR)	Employees hired 1/1/13 or later as <b>New PERS</b> Members
Retirement Formula	2.5% at age 55	2% at age 60	2% at age 62
Average Highest Comp. Time	Single Highest Year	Average of Three Highest Years	Average of Three Highest Years
COLA	3%	2%	2%
Normal Member PERS Contribution	8%	7%	50% of the normal cost (currently 6.25%)
Survivor Benefit	4 <sup>th</sup> Level 1959	4 <sup>th</sup> Level 1959	4 <sup>th</sup> Level 1959
Death Benefit Remarriage	Eligible	Eligible	Eligible
Military Service Credit	Eligible	Eligible	Eligible

**ARTICLE II. IMPLEMENTATION OF INTERNAL REVENUE CODE SECTION 414(H)(2) EMPLOYER PICKUP**

Effective January 1, 1994, the City increased the base salary of employees encumbering positions in classifications represented by this bargaining unit in the amount of six and sixty-one hundredths percent (6.61%), and, employees assumed responsibility for payment of the normal employee retirement contribution to the Public Employees' Retirement System (PERS). The City has designated such payment as an "Employer Pickup" as defined under the provisions of Section 414(H)(2) of the Internal Revenue Code.

## CHAPTER 6. HOURS AND SCHEDULING

**ARTICLE I. ALTERNATE/MODIFIED WORK SCHEDULES**

- A. Definition: An Alternate Work Schedule is a fixed work schedule which is materially different than 8:00 a.m. – 5:00 p.m. Monday through Friday, and includes a Modified Work Schedule, which is an abridged work schedule of not less than twenty (20) or more than thirty-six (36) hours per week.

- B. An employee may request of his/her Department Head, with his/her supervisor's approval, assignment to an alternate work schedule. Such request shall be in writing and include the schedule proposed by the employee. The Department Head shall respond in writing to the employee within fifteen (15) calendar days of the date the employee's request was received. Such response shall include the duration and conditions under which the alternate work schedule would be approved or the reason(s) for its disapproval.
- C. An alternate work schedule may be a benefit to the employee and the City, but it is not an entitlement. Implementation of alternate work schedules will be dependent upon the operational requirements of the department and the City, the department's customer service both internally and externally, and shall not increase the cost of doing business for the department or the City. If an employee's alternate work schedule is to be revoked or modified, the employee shall be given reasonable notice before the schedule is changed.
- D. An employee who is working on a modified work schedule shall have all benefits pro-rated on the basis of the employee's schedule.

## **ARTICLE II. STAND-BY TIME**

Assignment to stand-by duty shall be at the discretion of management. If there is more than one equally competent employee available for assignment, management shall not unreasonably deny an employee's preference. No employee shall be required to perform stand-by duty for more than twenty-four (24) consecutive hours.

While on stand-by duty, the employee shall remain accessible by telephone or pager, and must have the ability to show up for work within one hour of being called into work should the need arise. At the request of an employee assigned to stand-by duty, the City shall provide the employee a cellular phone or pager to be used while on stand-by.

Stand-by duty shall be paid at the straight hourly rate according to the following formula:

- One hour paid for eight hours or less on duty
- Two hours paid for between eight hours and sixteen hours on duty
- Three hours paid for between sixteen and twenty-four hours on duty

In the event the stand-by employee is called into work, that employee shall be paid at time and one-half, and shall be guaranteed a minimum of two hours of either work or pay.

## CHAPTER 7. GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURES

### ARTICLE I. PURPOSE AND PROCEDURES

The purpose of these procedures shall be:

- A. To establish orderly procedures providing the methods of communication between employees and management concerning matters which may be subject to grievance or disciplinary appeal.
- B. To provide that the procedure shall be as informal as possible.
- C. To provide that grievances and disciplinary appeals shall be settled as promptly as possible and at the lowest possible level of the procedure.
- D. To provide employees, individually or with a representative of their own choosing, and/or the Association, a systematic means of obtaining formal consideration by higher authority, prior to the imposition of discipline, or if reasonable efforts fail to resolve a grievance through informal processes.

Exclusions. The procedures set forth herein shall not apply in matters where other required methods of dispute resolution have been specifically provided for in City, State or Federal law, such as, but not limited to, appeals of worker's compensation claims, disposition and appeal of determination of retirement status under PERS, claims made pursuant to the Fair Labors Standards Act (FLSA), unemployment insurance claims, claims of employment discrimination based upon race, religion, creed, sex, color, disability, medical condition, age, national origin, political affiliation, marital status, or sexual orientation for which a remedy is provided by the California Fair Employment Practices Act (Gov. Code Sec. 12900 et seq.), or Title VII (42 United States Code 2000 et seq.).

### ARTICLE II. BINDING ARBITRATION

The Association and the City agree that the final resolution of any grievance or disciplinary appeal shall be by binding arbitration. In agreeing to this method of resolving a grievance or disciplinary appeal, both parties understand and agree that the City Manager is vested with sole authority to carry out the decision of the arbitrator.

### ARTICLE III. EMPLOYEE RIGHT TO REPRESENTATION

- A. An employee shall have the right to be represented by an Association representative at all steps of the grievance and disciplinary appeal procedures. An Association representative shall make arrangements for such representation in advance with his/her supervisor, subject to the operational needs of the department.

- B. Whenever an interview undertaken during the course of an investigation focuses on matters which are likely to result in disciplinary action against the employee being interviewed, that employee, at his/her request shall have the right to be represented by a representative of his/her choice who may be present at all times during such interview. This provision shall not apply to verbal reprimands.

The representative shall not be a person subject to the same investigation.

The representative may not interrupt the course of questioning or interfere with the gathering of documents or information by the City. However, the employee and the employee's representative shall have the right to confer privately before and during breaks in the meeting, to present documents or additional information and to question either the employee or the City to discover and bring forward additional relevant information.

## **ARTICLE IV. GRIEVANCE PROCEDURE**

### **A. Matters Subject to the Grievance Procedure**

1. Grievances. For the purpose of this procedure, a grievance shall be defined as:
  - a. Any dispute regarding the interpretation or application of any ordinance, resolution, rule, or regulation of the City governing personnel practices or working conditions; or
  - b. Any dispute regarding the interpretation or application of any of the provisions of this Memorandum of Understanding between the Professional Engineers and Technicians Association and the City of Fremont.
  - c. Probationary employees. Probationary employees who are rejected during probation shall have no right to appeal or grieve such action.
  - d. The parties recognize that disputes should be resolved expeditiously at the lowest possible administrative level, notwithstanding the desirability of the City, the employee, or the Association to bypass any initial steps if the case involves decision-making at a higher administrative level.

### **B. Procedure**

1. Informal Discussion. The employee shall present the grievance orally to the immediate supervisor within fifteen (15) calendar days of the occurrence of the issue grieved or within fifteen (15) calendar days from such time as the employee or Association should reasonably have been aware of the occurrence.
2. Formal Submission. Should the grievance remain unresolved within fifteen (15) calendar days after oral presentation pursuant to B.1. above, the employee or Association representative may submit the grievance in writing to the immediate supervisor within ten (10) additional calendar days. The grievance shall state the



specific section of the Understanding, or the Personnel Rules alleged to have been violated and the proposed solution. The supervisor shall render a decision in writing to the employee and/or Association representative within ten (10) calendar days of the formal submission of the grievance.

3. Submission to Department Head. Should the grievance remain unresolved, the employee or Association representative may, within ten (10) calendar days after receipt of the supervisor's decision, submit the grievance in writing to the department head. The department head or his/her designee shall meet with the employee or Association representative within ten (10) calendar days of submission to attempt to resolve the dispute. The department head or designee shall render a written decision regarding the grievance to the affected employee within ten (10) calendar days of the meeting.
4. City Manager – Association Staff Representative. Should the grievance remain unresolved, the employee or Association representative may, within twenty (20) calendar days after receipt of the department head's written response, submit the grievance in writing to the City Manager or his/her designee. The City Manager or his/her designated representative shall meet, as he/she deems appropriate, with the affected employee and with the assigned Association staff representative within ten (10) calendar days of submission and attempt to resolve the dispute. The City Manager or his/her designee shall render a written decision within ten (10) calendar days of the meeting.
5. Appeal to Arbitration. Should the City Manager or designee not resolve the matter to the satisfaction of the Association, the Association may request arbitration as the final step in the appeal process by notifying the City of their intent to utilize the services of an arbitrator. Such notice shall be in writing and shall be provided to the City within ten (10) calendar days from the date of the written notice of the decision by the City Manager or designee.

## **ARTICLE V. DISCIPLINARY APPEAL PROCEDURE**

A. Exclusive Procedure. This shall be the sole and exclusive procedure for the appeal of disciplinary actions equal to or lesser than the actions listed in Section B below, for employees represented by the Association, and no other appeal of any kind shall be available for appeal of any discipline.

### **B. Matters Subject to the Disciplinary Appeal Procedure**

For the purpose of this Understanding, a disciplinary appeal shall be defined as a complaint or dispute regarding the following disciplinary or punitive actions directed specifically at an individual employee's employment status:

1. dismissal;
2. demotion;
3. suspension of more than five (5) days;
4. reduction in salary;
5. disciplinary transfer.

C. Procedure

1. The procedure for the pre-disciplinary notice and meeting shall be in accordance with Administrative Regulation (currently Administrative Regulation 2.8), consistent with the rule of *Skelly v. State Personnel Board*.
2. Appeal to Arbitration  
Should the employee or Association not be satisfied with the results of the pre-disciplinary meeting, the Association may request arbitration of the decision by notifying the City in writing, within ten (10) calendar days from the date the decision is rendered, of its intent to proceed to arbitration.
3. In any disciplinary appeal provided herein from a termination, suspension, reduction in pay, transfer, or demotion, any relief which the arbitrator may grant shall be limited to a rescission of the action appealed from, a restoration of any lost pay and benefits, and, where the arbitrator deems it appropriate, the imposition of substitute discipline composed of a suspension without pay of not more than six (6) months, a reduction in pay, a disciplinary transfer to an established position, a demotion, or a combination of any or all of these forms of disciplinary action. The arbitrator shall have no authority to add to or modify the provisions of this MOU.
4. To the extent legally permissible the Association and the City endorse the principle that disclosure of information relating to contemplated impositions of employee discipline may, in many instances, serve no public purpose and may be harmful to the City, the Association, and the employee concerned. This endorsement of principle does not and is not intended to create any enforceable rights on the part of any person or entity.

**ARTICLE VI. ARBITRATION PROCESS**

- A. Selection of the Arbitrator. Upon notice of intent to arbitrate, the Association and the City shall meet to select an arbitrator. If unable to mutually agree on the selection of an arbitrator, then a list of available arbitrators shall be obtained from the State of California Department of Industrial Relations or if by mutual consent from the American Arbitration Association. Upon receipt of such list, the parties shall meet and if unable to mutually select an arbitrator from such list, then a coin shall be flipped and the party correctly calling the coin flip shall first strike a name from the list. The parties shall then alternately strike names from the list until only one name remains and that individual shall be the arbitrator. In the event the arbitrator so selected is not available, then the individual whose name was last struck from the list shall be the arbitrator. If that individual is not available, then the Association and the City shall request another list or select an arbitrator through any other mutually agreed upon process.
- B. Decision of the Arbitrator. The decision, opinion, and award of the arbitrator shall be final and binding upon all parties, subject to review pursuant to California Code of Civil Procedure Section 1280, et. seq., as amended. The arbitrator shall not have the

power to add to, subtract from, or modify any of the terms of this Memorandum of Understanding.

- C. If the question of arbitrability of an issue is raised by the employee, the Association, or the City, a separate arbitrator shall be selected, utilizing the selection procedure above, to determine the question of arbitrability, unless the parties agree otherwise.
- D. All arbitration proceedings under this Chapter shall be governed by the California Arbitration Act (C.C.P. Section 1280 et. seq.), and any action brought by any party pursuant to the provisions hereof shall be brought solely and exclusively under said act.
- E. Individuals who may have direct knowledge of circumstances relating to the grievance may appear at the request of either party, during any stage of the procedure, subject to the reasonable approval of their supervisor, or, in the event of an arbitration, subject to the discretion of the arbitrator. The number of witnesses called is limited to a reasonable number of appropriate and necessary witnesses with relevant knowledge of the circumstances of the grievance. In the case of an employee appearance, the employee shall be compensated at the regular rate of pay for actual time spent in such appearance during regularly scheduled working hours.
- F. The Association and the City agree to share equally all costs of the arbitrator and to be responsible for their own respective costs of making their presentation to the arbitrator.
- G. If by mutual agreement the services of a court reporter are utilized, the parties agree to equally share the cost of such service.

## **ARTICLE VII. GENERAL PROVISIONS**

- A. Nothing in these procedures shall be construed to prevent discussion or meetings between the parties at any time to clarify the facts in order to conclude the matter as promptly as possible.
- B. Time limits prescribed above may be extended by mutual agreement of the parties. Failure by the employee or Association to follow the time limits, unless so extended, shall nullify the grievance. If the City fails to follow the time limits, unless so extended, the employee may advance the grievance to the next step. A time limit that falls on a weekend or a scheduled holiday shall be extended to the next regular business day.
- C. Concurrent grievances alleging violation of the same provision shall be consolidated for the purpose of this procedure as a single grievance.
- D. The City will not retaliate against any employee for using or participating in the grievance or disciplinary appeal procedures.

## CHAPTER 8. ASSOCIATION ISSUES

### **ARTICLE I. ASSOCIATION BUSINESS**

The President and up to two (2) other officers of the Association shall be allowed time off with pay when approved by the City Manager (or designee) for the purpose of conducting Association business. Reasonable advance notice must be given to the respective Department Head (or designee) for the use of any such time, and prior Department Head (or designee) approval must be granted.

With respect to the meet and confer process, three (3) Association representatives shall be the maximum number of employees who will be allowed concurrent time off without loss of compensation unless prior approval for more than three (3) Association representatives is granted by the City Manager (or designee). The Association shall submit the names of all such employee representatives to the City Manager. The employee representatives shall request release time from their supervisors in advance of leaving their work assignments to attend meet and confer sessions. Approval of release time shall not be unreasonably denied.

### **ARTICLE II. BULLETIN BOARDS, MEETING FACILITIES**

The City shall furnish a bulletin board at the Liberty Street and Capitol Avenue Offices for use by the Association in communicating with its members.

Association shall be provided with reasonable use of City facilities for the purpose of holding meetings with its members, provided such usage does not interfere with revenue derived by the City from rental of such facilities.

## CHAPTER 9. MISCELLANEOUS

### **ARTICLE I. SUBSTANCE ABUSE POLICY**

The City and the Association have met, discussed, and agreed upon a Substance Abuse Policy. The City and the Association have discussed the development of a program for drug and alcohol testing. The intent is to develop a drug and alcohol testing program to cover all City employees. The City and the Association agree that the presence of drugs and alcohol in the workplace is a serious problem and will cooperate to see that City employees are working in a drug and alcohol free environment.

As a result of the aforementioned discussions, the Association agrees and supports the City's Substance Abuse Policy.

## **ARTICLE II. VARIABLE DEMAND HIRING**

The City may hire employees to work for less than twenty (20) hours per week for an unlimited duration. These employees will be used when a department has a specific need to perform work on an on-going basis which requires fewer than twenty (20) hours work per week.

## **ARTICLE III. PROFESSIONAL LICENSES AND CERTIFICATIONS**

- A. City of Fremont shall pay for all renewals of Professional work related licenses in the appropriate fields and/or Plans Examiner certifications for all employees represented by PETA.
- B. City of Fremont shall reimburse examinees for successful completion of examinations for such licenses and/or certifications. Approval for reimbursement must be obtained from the Division Director (or designee) prior to examination registration.

## **ARTICLE IV. TUITION REIMBURSEMENT**

The total amount of the reimbursement, irrespective of the type or reason shall not exceed \$3,000 per employee, per fiscal year. For Full Time Regular, non-probationary employees in this unit, the City will make reimbursement available for the following types of educational opportunities:

- A. College level courses directly related to work – including extension courses and Continuing Education Units .
- B. Certification preparation courses as approved by Department Head or designee.
- C. Certification exams
- D. Review or Refresher courses provided as a study aide as approved by Department Head and subject to limitations as outlined in this MOU section.
- E. Monies expended will be subject to the appropriate IRS regulations.

Tuition Reimbursement for college level courses, including extension courses and Continuing Education Units will be provided under the following circumstances:

- A. A maximum reimbursement shall be \$3,000 per eligible employee per fiscal year for college level courses, including extension courses and Continuing Education Units (CEU).
- B. Courses must be pre-approved as job related by the Department Head or designee.
- C. Eligible expenses include required textbooks, tuition, fees, lab fees, and equipment, but will not include parking fees or health fees related to enrollment.

- D. Employees must attain a grade of “C” or better for undergraduate or extension work and “B” or better for graduate work. Courses providing a “pass/fail” option must have a “pass” to qualify for reimbursement.
- E. Requests for reimbursement shall be submitted in accordance with procedures developed by the City. A request for reimbursement will not be considered submitted until it includes the relevant receipts and proof that the necessary grade was earned.
- F. Requests for reimbursement must be submitted within 30 calendar days of the end of a fiscal year to be allocated to that fiscal year.

Certification for Prep Courses and Certification Exams will be reimbursed under the following circumstances:

- A. The maximum reimbursement for certification and certification prep course expenses shall be \$1,000 per fiscal year.
- B. Certification prep courses and certification exams must be pre-approved as job related by the Department Head or designee and directly related to licensing exams.
- C. Requests for reimbursement shall be submitted in accordance with procedures developed by the City. A request for reimbursement will not be considered submitted until it includes the relevant receipts.
- D. Requests for reimbursement must be submitted within 30 calendar days of the end of a fiscal year to be allocated to that fiscal year.
- E. Employee shall be limited to one instance of exam preparation course reimbursement per exam type in their tenure with the City of Fremont.
- F. Monies expended will be subject to the appropriate IRS regulations.

## **ARTICLE V. JOINT LABOR-MANAGEMENT COMMITTEE**

The parties have agreed to convene a Joint Labor-Management Committee (JLMC) to meet and discuss topics of interest to both parties. The committee will initially convene at the request of either party. The parties will jointly determine ground rules, composition of the JLMC, meeting format and frequency of meetings.

## **ARTICLE VI. PERSONNEL RULES AND LAYOFF ADMINISTRATIVE REGULATIONS**

The City and PETA agree to meet and confer on the City’s Personnel Rules (Resolution #688) and Administrative Regulation 2.20: Layoff Procedure Implementation during the term of this Memorandum of Understanding.

## **ARTICLE VII. PROBATIONARY PERIODS**

Effective July 1, 2013 probationary periods for all classifications represented by PETA shall be set at 12 months (contingent on the City reaching agreement with all other labor groups to extend probationary periods to a minimum of 1 year).

## **ARTICLE VIII. HEALTH SAVINGS COMMITTEE**

During the term of this Agreement, the City will create a Citywide Retiree Health Savings Committee. The purpose of the Committee is to discuss the feasibility of creating an employee-funded Retiree Health Savings Program with one Retiree Health Savings Plan that minimizes any potential administrative burdens on the City. The parties agree that the intent of this provision is not to create a Program with any City contributions and/or multiple Retiree Health Savings vehicles. The City will invite one representative from each bargaining unit to participate on the Committee.

**AGREEMENT**

Executed this 7<sup>th</sup> day of February, 2018, by the Employee-Employer representatives whose signatures appear below for their respective organizations.

Employer Representatives

Employee Representatives

CITY OF FREMONT

PROFESSIONAL ENGINEERS &  
TECHNICIANS ASSOCIATION



Fred Diaz, City Manager

~~Kan XU, PETA Co-President~~



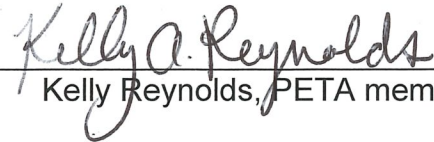
Allen DeMers, Deputy Human Resources  
Director



Anne Quasarano, PETA Co-President



Kelly Wright, Human Resources Manager



Kelly Reynolds, PETA member

Jennifer Leal, Human Resources Analyst II

Approved as to Form:



Debra Margolis, Assistant City Attorney



**Intentionally left blank for 2-sided copying**

**APPENDIX A  
PROFESSIONAL ENGINEERS AND TECHNICIANS ASSOCIATION  
CLASSIFICATION LIST**

<b>JOB CODE</b>	<b>JOB TITLE</b>
<b>5220</b>	<b>Associate Civil Engineer-Deep Class</b>
<b>5411</b>	<b>Associate Transportation Engineer-Deep Class</b>
<b>5230</b>	<b>Engineer I Civil-Deep Class</b>
<b>5413</b>	<b>Engineer I Transportation-Deep Class</b>
<b>5225</b>	<b>Engineer II Civil-Deep Class</b>
<b>5412</b>	<b>Engineer II Transportation-Deep Class</b>
<b>5235</b>	<b>Engineering Specialist</b>
<b>5345</b>	<b>Engineering Technician I</b>
<b>5240</b>	<b>Engineering Technician II</b>
<b>5320</b>	<b>Facilities Design &amp; Construction Project Supervisor I</b>
<b>5321</b>	<b>Facilities Design &amp; Construction Project Supervisor II</b>
<b>5322</b>	<b>Facilities Design &amp; Construction Project Supervisor III</b>
<b>5630</b>	<b>Plan Check Engineer</b>
<b>5233</b>	<b>Senior Engineering Specialist</b>

**Intentionally left blank for 2-sided copying**

## APPENDIX B EMPLOYMENT RELATED INFORMATION SOURCES

### I. Documents Referenced in the MOU

The following references are provided for information purposes only. Inclusion in the listings below does not incorporate any item into the MOU, nor create any rights or obligations not explicitly set forth elsewhere in the MOU.

- PERS Contract Summary
- Layoff Procedures, City Administrative Regulation 2.20
- Personnel Rules, Resolution No. 688, as amended
- Employer-Employee Relations Rules and Regulations Resolution, Resolution No. 9697 ([www.fremont.gov/CityHall/Departments/CityClerksOffice](http://www.fremont.gov/CityHall/Departments/CityClerksOffice))
- Meyers-Milias-Brown Act, California Government Code Section 3500, et. seq. ([www.perb.ca.gov/html/index.mmba.htm](http://www.perb.ca.gov/html/index.mmba.htm))
- Military Leave with Pay, Resolution No. 9713 and No. 9761; California Military and Veterans Code Section 395 and Government Code Section 19775 ([www.leginfo.ca.gov](http://www.leginfo.ca.gov))
- PERS Medical Plans' Domestic Partner Coverage, Public Employees' Medical and Hospital Care Act (PEMHCA) Section 22873 ([www.calpers.ca.gov](http://www.calpers.ca.gov))

### II. Other Employment Related Information

It is the City's intent to comply fully with the requirements of the California Family Care Leave Act (FCL), the Federal Family and Medical Leave Act (FMLA), California requirements regarding maternity disability leave (maternity leave), the City of Fremont Personnel Rules (PR) regarding Leave Without Pay (LWOP), the General Leave (GL) Plan, and the Americans with Disabilities Act regarding reasonable accommodation of employees with disabilities.

The City's Administrative Regulation combines the rules and procedures of the above leave types and defines their application to City of Fremont employees.

- Federal Family and Medical Leave Act (FMLA) ([www.dol.gov](http://www.dol.gov)) or ([www.opm.gov/oca/fmla](http://www.opm.gov/oca/fmla))
- California Family Rights Act (CFRA) ([www.dfeh.ca.gov](http://www.dfeh.ca.gov))
- California Pregnancy Disability Leave Act ([www.dpa.ca.gov](http://www.dpa.ca.gov))
- Americans with Disabilities Act (ADA – Federal) ([www.eeoc.gov](http://www.eeoc.gov))

**Intentionally left blank for 2-sided copying**

**PETA MOU  
2017-2019  
INDEX**

ACTING PAY .....	3	LAYOFF ADMINISTRATIVE	
ALTERNATE/MODIFIED WORK		REGULATIONS .....	27
SCHEDULES.....	18	LEAVE WITHOUT PAY.....	12
ALTERNATIVE BENEFITS AND		LIFE INSURANCE COVERAGE .....	16
COMPENSATION PLAN.....	15	LIQUIDATION OF LEAVE .....	10
ARBITRATION PROCESS.....	23	LIQUIDATION OF NEW GENERAL	
ASSOCIATION BUSINESS .....	25	LEAVE AT TERMINATION .....	10
ASSOCIATION ISSUES.....	25	LIQUIDATION OF OLD GENERAL	
BEREAVEMENT LEAVE.....	11	LEAVE AT TERMINATION .....	9
BINDING ARBITRATION .....	20	LONG TERM DISABILITY	
BULLETIN BOARDS, MEETING		INSURANCE PLAN.....	15
FACILITIES .....	25	MATTERS SUBJECT TO THE	
CALL BACK .....	4	DISCIPLINARY APPEAL	
CATASTROPHIC SICK LEAVE		PROCEDURE .....	22
BANK.....	13	MILITARY LEAVE.....	12
CITY COUNCIL APPROVAL .....	1	MODIFIED WORK SCHEDULES.....	18
CITY RIGHTS .....	2	NON DISCRIMINATION.....	3
CONTINUATION OF EXISTING		ON THE JOB INJURY LEAVE .....	14
BENEFITS.....	2	OVERTIME .....	4
COURT APPEARANCE PAY .....	6	PARTIES TO UNDERSTANDING .....	1
DEFERRED COMPENSATION .....	7	PAYMENT OF OVERTIME –	
DEFINITION OF THE WORK WEEK....	4	ALTERNATE SCHEDULING (40	
DISCIPLINARY APPEAL		HOUR WORK WEEK) .....	5
PROCEDURE.....	22	PAYMENT OF OVERTIME -	
EMERGENCY OVERTIME.....	6	GENERAL RULE FOR	
EMPLOYEE RIGHT TO		EMPLOYEES WORKING	
REPRESENTATION.....	20	FORTY HOURS IN FIVE DAYS .....	4
GENERAL LEAVE PLAN .....	8	PAYMENT OF OVERTIME -	
GRIEVANCE AND DISCIPLINARY		HOLIDAYS.....	5
APPEAL PROCEDURES .....	20	PAYMENT OF OVERTIME –	
GRIEVANCE PROCEDURE.....	21	MODIFIED SCHEDULE	
HEALTH SAVINGS COMMITTEE .....	28	POSITIONS.....	4
HOLIDAYS.....	10	PERSONAL LEAVE DONATION .....	12
HOURS AND SCHEDULING .....	18	PERSONNEL RULES .....	27
IMMEDIATE FAMILY .....	9	PROBATIONARY PERIODS .....	28
INSURANCE .....	15	PROFESSIONAL LICENSES AND	
INSURANCE BENEFIT		CERTIFICATIONS .....	26
ADMINISTRATION.....	17	PUBLIC EMPLOYEES RETIREMENT	
INTERNAL REVENUE CODE		SYSTEM (PERS) .....	18
SECTION 414(H)(2).....	18	RECOGNITION.....	1
JOINT LABOR-MANAGEMENT		RECOGNITION PAY .....	6
COMMITTEE .....	27	RETIREE MEDICAL	
JURY DUTY LEAVE .....	11	REIMBURSEMENT BENEFIT .....	16

RETIREMENT .....	18	SICK LEAVE BANK OF HOURS.....	9
SAFETY SHOE ALLOWANCE .....	7	STAND-BY TIME.....	19
SALARIES .....	3	STATE LAW COMPLIANCE .....	1
SAME DAY FLEXIBLE WORK		SUBSTANCE ABUSE POLICY .....	25
SCHEDULE .....	5	TERM OF UNDERSTANDING.....	2
SCHEDULED LEAVE .....	9	TOTAL AGREEMENT .....	2
SEPARABILITY OF PROVISIONS.....	2	TUITION REIMBURSEMENT .....	26
SHORT TERM DISABILITY		UNSCHEDULED LEAVE.....	9
INSURANCE PLAN .....	15	VARIABLE DEMAND HIRING .....	26