

CITY OF YUBA CITY  
STAFF REPORT

**Date:** June 5, 2018  
**To:** Honorable Mayor & Members of the City Council  
**From:** Human Resources Department  
**Presentation By:** Natalie Springer, Human Resources Director

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**Summary**

**Subject:** Yuba City Firefighters Local 3793 Memorandum of Understanding (MOU)

**Recommendation:** A. Adopt a Resolution approving a Memorandum of Understanding with Firefighters Local 3793

B. Approve a supplemental appropriation of \$88,100 to the FY 2017/2018 adopted budget

**Fiscal Impact:** An increase in cost of \$88,100 for FY 2017/2018 and \$181,500 for FY 2018/2019

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**Background:**

The City's employment agreement with Yuba City Firefighters, IAFF Local 3793 (IAFF) expired on June 30, 2017. The previous MOU eliminated the furlough program, provided a 2% wage increase, one time distribution, transitioned in 80% City paid medical contribution, more restrictive FLSA provisions including sick and vacation not counting as time worked along with 28 day cycle and no "FLSA" pay.

For these current negotiations, the City and IAFF have been meeting since May 2017 to negotiate a new employment agreement. During this round of negotiations, the City's and IAFF's positions were fundamentally different with respect to the FLSA provisions. Despite these differences, the City and IAFF were able to successfully negotiate a Memorandum of Understanding.

While the City continues to face growing employee pension obligations, the City must remain competitive in recruiting and retaining employees which requires competitive employee benefits and terms. The proposed employment contract is an attempt to find the balance between competitive employee benefits and terms and management of the ongoing changing landscape of employee pension obligations.

**Analysis:**

IAFF agreed to the following in their contract:

1. Includes a one-time distribution of \$1,500 or 2% base hourly rate (whichever is greater) in year one;
2. Includes an ongoing 2% hourly base rate in year two;
3. Maintains comprehensive management rights clause;
4. Addition of bilingual pay, compensation time off, and floating holidays (40 hour personnel only);
5. Maintains FLSA provisions with the exception of the modification of the 28 day cycle to 14 day cycle;
6. Establishes an updated model for stations/shift assignments.

**Fiscal Impact:**

The proposed changes will result in a net increase in cost of \$88,100 for FY 2017/2018 and \$181,500 for FY 2018/2019 (breakdown of costs provided in Attachment 1).

**Alternatives:**

1. Do not approve IAFF Memorandum of Understanding and provide staff direction.

**Recommendation:**

Adopt a Resolution approving a Memorandum of Understanding with IAFF and approve a supplemental appropriation of \$88,100 to the FY 2017/2018 adopted budget.

Attachments:

- 1: IAFF MOU Resolution
- 2: Cost impact of IAFF Agreement Terms
- 3: IAFF MOU

Prepared By:

*/s/ Natalie Springer*  
Natalie Springer  
Human Resources Director

Submitted By:

*/s/ Steven C. Kroeger*  
Steven C. Kroeger  
City Manager

Reviewed By:

Finance  
City Attorney

RB  
TH by email

# ATTACHMENT 1

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY  
APPROVING THE YUBA CITY FIREFIGHTERS,  
IAFF LOCAL 3793 MEMORANDUM OF UNDERSTANDING**

WHEREAS, the City recognizes the IAFF's commitment to the City and its citizens while providing outstanding and dedicated service to all;

WHEREAS, City staff and IAFF have negotiated since May 2017 for an updated bargaining unit agreement;

WHEREAS, the City appreciates the efforts IAFF and its negotiating team has put forth to negotiate this Memorandum of Understanding;

WHEREAS, IAFF has agreed to an one-time distribution, 2% hourly base rate increase, maintenance of comprehensive management rights clause, addition of bilingual pay, compensation time off, floating holidays for 40 hour personnel, establishes an updated model for station/shift assignments, and maintains thorough FLSA provisions;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuba City as follows:

Approve the attached IAFF Memorandum of Understanding and corresponding salary schedule.

The Director of Finance is hereby authorized to make the necessary budget adjustments to implement the provisions of this resolution.

The forgoing Resolution of the City Council of the City of Yuba City was duly introduced, passed and adopted at a regular meeting thereof held on the 5th day of June 2018.

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Preet Didbal, Mayor

ATTEST:

\_\_\_\_\_  
Patricia Buckland, City Clerk

# ATTACHMENT 2

**City of Yuba City**  
**Impact of 2 Year Agreement**

	<i>Fire</i>
<b><i>FY 17/18 - Year 1</i></b>	
One-time distribution of \$1,500 or 2% base salary (whichever is greater)	\$ 88,100
<b>Year 1 Total Cost</b>	<u><u>\$ 88,100</u></u>
<b><i>FY 18/19 - Year 2</i></b>	
2% flat rate salary increase	133,700
Adopt 14-day payroll cycle	47,800
<b>Year 2 Total Cumulative Cost</b>	<u><u>\$ 181,500</u></u>
<b><i>Grand Total Cost Impact-2 Year Total</i></b>	<u><u>\$ 269,600</u></u>

# ATTACHMENT 3

# MEMORANDUM OF UNDERSTANDING

Between

The City of Yuba City

And

The Yuba City Firefighters' Local 3793

July 1, 2017 through June 30, 2019



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The City of Yuba City (City) recognizes the Yuba City Firefighters' Local 3793 (Union) as the exclusive representative and bargaining agent for all regular permanent Fire Department employees in the Firefighter, Fire Inspector, Apparatus Operator and Fire Captain classifications. The City agrees to meet and confer with the designated representatives of the Association on all matters subject to meet and confer pursuant to the Meyers-Milias-Brown Act (Government. Code section 3500 *et seq.*). As a result of meet-and-confer sessions, the City and the Union have agreed to the following:

## **ARTICLE 1 FULL UNDERSTANDING, MODIFICATION, AND WAIVER**

The City and the Association mutually agree that the terms and conditions set forth in the Articles and provisions of this Agreement represent the full and complete understanding and commitment between the parties on the topics expressly addressed below which may not be altered, changed, added to, deleted from or modified unless by mutual consent in writing or by a procedure expressly allowing same stated in this Agreement.

The Association and City agree that each has had a full and unrestricted right and opportunity to make, advance, and discuss all matters related to the subjects expressly addressed below and agree during the term of this agreement neither the City nor the Association will be required to meet and negotiate regarding these expressed terms.

## **ARTICLE 2 MANAGEMENT RIGHTS**

The exclusive rights to determine the mission of its constituent departments, commissions, boards; set standards of service; determine the procedures and standards of selection for employment and promotions; direct its employees; establish and enforce dress and grooming standards; determine the methods and means to relieve its employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology to be used; determine and/or change the facilities, methods, technology, means organizational structure and size composition of the work force and allocate and assign work by which the City operations are to be conducted; determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all of City functions including, but not limited to, the right to contract for or subcontract and work or operations of the City; to assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments upon reasonable notice; establish and modify productivity and performance programs and standards; discharge, suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline employees for cause; establish reasonable employee performance standards including, but not limited to, quality, and quantity standards; and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. The City Council on its own behalf and on behalf of the City, hereby retain and reserves

unto itself all rights, power, authority, duty, responsibility, and obligations confirmed on and vested in it by the laws and Constitution of the State of California and the United States of America.

## **ARTICLE 3 UNION RIGHTS**

The City agrees to follow the rights of employees as enumerated in the Fire Fighter Bill of Rights and will adhere to the provisions of the Myers-Milias Brown Act that states in part, “the matter in question is negotiable if it primarily relates to and has a significant or material relationship to wages, hours, terms and conditions of employment, and is not itself a fundamental management right related to the merits, necessity, or organization of any service or activity provided by law or executive order.”

The City shall allow employee representatives of Local 3793 reasonable time off without loss of compensation or other benefits when formally meeting with representatives of the public agency on matters within the scope of representation.

The Union shall have access to interoffice mail, existing bulletin boards, e-mail, and computers in the department employee work areas, for the purpose of posting, transmitting, or distributing notices or announcements that pertain to Local 3793 official business. Such permission is given with the understanding that no political inflammatory or derogative information will be distributed. All usage shall be subject to the City Computer and E-mail Usage Policy.

## **ARTICLE 4 WAGES**

### **4.1 Wages**

Effective the first full pay period following City Council ratification of this Agreement or July 1, 2018, whichever is later, the City agrees to implement a two percent (2%) hourly base rate increase for all classifications represented by the Yuba City Firefighters’ Local 3793.

### **4.2 Wage Relationships**

The following is a list of positions within the Fire Association indicating the wage differential between each classification and the Fire Captain position.

Fire Apparatus Operator	-14%
Firefighter II	-25%
Fire Safety Inspector I	-45%
Fire Safety Inspector II	-30%

These wage relationships will be calculated as follows:

Fire Apparatus Operator benchmark calculation = Captain divided by 1.14

Firefighter II = Captain divided by 1.25

Fire Safety Inspector I = Captain divided by 1.45

Fire Safety Inspector II = Captain divided by 1.30

### **4.3 Acting Pay**

Acting pay shall be earned when employees are assigned acting assignments in the classifications of Fire Apparatus Operator and Fire Captain. Employees shall be compensated by earning one-half (.5) hour of pay at their regular hourly rate for each four (4) hour period of assignment. The four (4) hours may be accumulated during a 24 hour shift. (Personnel fulfilling an "acting position" can only do so for a period of 960 hours).

In order to qualify for acting pay, employees must:

- a. Meet the minimum qualifications for the higher classification; and/or
- b. Be assigned with the approval of the Fire Chief, or his/her designee.

Time spent in acting assignments may be considered during promotional recruitment but shall not substitute for minimum qualifications for education and experience requirements.

### **4.4 One-Time Stipend**

In the first full pay period following City Council ratification of this Agreement, all members active on payroll on the day of City Council ratification shall receive a one-time stipend of 2% or \$1,500, whichever is greater, and shall be in a separate check from the regularly reoccurring payroll check.

This one-time stipend is subject to applicable payroll taxes and withholdings.

### **4.5 Fair Labor Standards Act (FLSA)**

The City shall comply with the Fair Labor Standards Act. All unit members are hourly, non-exempt employees. All wages are paid on an "actual hours worked" basis, both as to straight time and overtime (if any), in each pay period. This status/pay arrangement is declarative of existing status.

### **4.6 Bilingual Pay**

Employees who are proficient in speaking a foreign language shall receive \$100.00 per month for bilingual pay incentive. The method of certifying proficiency and determination of which language will be covered under this program shall be determined by the City in consultation with Local 3793.

## **ARTICLE 5 VACATION ACCRUAL**

Vacation accrual for Firefighters' Local 3793 employees shall be adjusted to the following amounts per pay period:

56 hour employees:

- 0 to 5 years of City service: 6.5 hours
- 5+ to 10 years of City service: 8.6 hours
- 10+ to 15 years of City service: 10.2 hours
- 15 or more years of City service: 11.1 hours

40 hour employees:

- 0 to 5 years of City service: 4.6 hours
- 5+ to 10 years of City service: 6.1 hours
- 10+ to 15 years of City service: 7.3 hours
- 15 or more years of City service: 7.9 hours

All current employees with less than four years employment with the City shall receive increased vacation accrual at the 5+ to 10 year scale after completion of their fourth year of City service. All current employees who have worked for the City for more than four years but less than five years shall receive the 5+ to 10 year vacation accrual scale effective the date of MOU adoption.

## **ARTICLE 6 PUBLIC EMPLOYEES RETIREMENT SYSTEM**

### **6.1 Retirement Terminology**

Retirement benefits shall be provided to eligible employees in accordance with the applicable then-existing, contract(s) between the City and the Public Employees Retirement System (PERS).

The use of terms "Classic Member" and "New Member" shall be as defined by CalPERS and the Public Employee Pension Reform Act of 2013 (PEPRA). For ease of reference, a summary of these definitions is provided below, however, the definitions set forth in the CalPERS statutes and regulations, as applied by CalPERS, shall control.

"Classic Members" are those members who entered into membership with a qualifying public retirement system on or before December 31, 2012 who do not meet the definition of "New Member" in Government Code section 7522.04(f).

A "New Member" is defined in Government Code section 7522.04(f) as any of the following:

- a. An individual who becomes a member of a qualifying public retirement system for the first time on or after January 1, 2013, and has no prior membership in any other qualifying public retirement system; or
- b. An individual who becomes a member of a qualifying public retirement system for the first time on or after January 1, 2013, and is not eligible for reciprocity with another qualifying public retirement system; or
- c. An individual who established prior membership in a qualifying public retirement system and after a break in service of more than six months, returns to active membership in that system with a new employer.

### **6.2 Classic Member Retirement Formula**

- a. The 3% at 50 PERS formula shall be provided for "Classic Member" public safety category employees hired prior to July 1, 2012. The 3% at 55 PERS formula shall be provided for "Classic Member" public safety category employees hired on or after July 1, 2012.
- b. Safety employees hired prior to December 15, 1990 shall have their benefit based on the single highest year of salary. Classic member employees hired on

or after December 15, 1990 shall have their benefit based on the three highest years' salary in accordance with the City's PERS contract.

- c. All other current retirement benefits including the optional benefit programs in the existing contract between the City and CalPERS for safety members shall remain in effect to the extent permitted by law.

### **6.3 "New Member" Retirement Formula Provided by Statute**

- a. Employees classified as new member safety category employees:
  - 2.7% at 57 retirement formula.

### **6.4 Employee Contribution**

- a. Classic safety member employees shall continue to pay the 9% of salary employee contribution towards the employee statutory share of CALPERS retirement.
- b. New Members shall pay the employee contribution required by CalPERS, currently calculated at fifty percent (50%) of the total normal costs as determined annually by CalPERS.
- c. All applicable contributions identified in (A) thru (B) above shall be made through payroll deduction on a pre-tax basis as permitted by law.

### **6.5 Employer Contribution**

The City agrees to continue to pay the employer contribution for the City's CalPERS retirement benefit.

## **ARTICLE 7 HEALTH, DENTAL, VISION AND LIFE INSURANCE**

### **7.1 Health Plans**

#### **a. Health Plan Contributions**

Effective with the start of the first pay period following City Council approval of this MOU, the split is 80%/20% between the City and the employee, with the City paying 80% of the total premium cost and the employee paying 20%.

The maximum City contribution shall be based on the lowest cost health plan (as measured by premium cost) available to the majority of City employees.

#### **b. Employee Contributions**

Employee contributions are on a pre-tax basis.

#### **c. Cash-in-Lieu**

In accordance with the City's current Cash-in-Lieu program, Cash-in-Lieu payments when an employee reduces the level of health care coverage rather than entire coverage shall be as follows:

Employee, who reduces the level of health care coverage to which they are entitled, i.e. from full family coverage to employee plus one, or employee only coverage, or from employee plus one to employee only coverage, shall be



entitled to a Cash-in-Lieu benefit. The Cash-in-Lieu benefit is based upon the lowest cost health plan available to the majority of City Employees.

The employee making the election covered above, shall receive the difference between the Cash-in-Lieu benefit to which they would have been entitled had they waived coverage at their present coverage level and Cash-in-Lieu benefit for the lower level elected.

The Cash-in-Lieu medical insurance payment employees electing to forego health insurance coverage will be based on the below percentage of the current lowest cost health plan available to the majority of City employees:

Employee only: 25%  
Employee plus one dependent: 25%  
Family Coverage: 30%

### **7.2 Dental and Vision Plans**

City shall pay 90% of premium and employees shall pay 10% of premium. Premiums will be based on periodic actuarial conducted by an outside consultant. Employees may participate in the City's Dental and Vision Plan subject to the terms and conditions in the City's adopted Dental and Vision Plan Agreements with the applicable provider(s) or benefit administrator(s).

### **7.3 Claims Administrator**

At the City's option, and after consultation with the Firefighters' Local 3793, the City may change the Dental and Vision Plan claims administrator at any time.

### **7.4 Life Insurance**

The City will provide a life insurance benefit of \$5,000 for employees covered by this MOU. Dependent life insurance shall be available to employees. Payment for dependent life insurance is the responsibility of the employee.

### **7.5 Employee Assistance Program**

An EAP shall be provided to City employees, spouses and dependents. Eligible individuals may use up to 3 sessions per 6 month period, for a total of 6 sessions per year.

### **7.6 Post Employment Health Benefits**

Firefighters' Local 3793 employees contribute to a RHS plan. The City does not contribute to the RHS plan. RHS agreements are available from Human Resources.

## **ARTICLE 8 MEDICAL EXAMINATION AND WELLNESS STANDARD PROGRAMS**

The specific components of the Fire Employee Fitness Program are outlined in the Departmental Policies and Procedures manual. Any injury while exercising off-duty will not be assumed to be job related.

## **ARTICLE 9 CERTIFICATIONS**

The City shall pay the costs associated with obtaining and maintaining special certificates that are required by the State of California, the City of Yuba City or any governmental agency to obtain and maintain as a condition of employment.

The California State Fire Marshal Fire Prevention I and Driver Operator 1A and 1B course will be fully sponsored by the City and the Yuba City Fire Department. Classes must be scheduled with and approved by the Fire Chief and within 60 miles driving distance of the City. No overnight travel or lodging is permitted without prior approval by the Fire Chief.

## **ARTICLE 10 DEPARTMENT OF TRANSPORTATION COMMERCIAL DRIVERS LICENSE TESTING**

It is mutually agreed that the Addendum to the Alcohol and Drug Abuse Policy Implementing the Omnibus Transportation Employee Testing Act of 1991 (Exhibit A) shall remain in effect.

## **ARTICLE 11 LEAVE DONATION PROGRAM**

The City Rules and Regulations on Catastrophic Illness & Injury Prevention Program effective June 24 (Exhibit B), 1995 shall remain in effect.

## **ARTICLE 12 COUNSELING MEMORANDUM**

The policy on Counseling Memos (Exhibit C) shall remain in effect.

## **ARTICLE 13 COMPENSATORY TIME OFF (CTO)**

### **13.1 Applicability and Accumulation for Fire Safety Inspector I/II**

For employees in the Fire Safety Inspector I/II classification, employees shall accrue CTO at the same rate as the employee would have earned had the employee been compensated by pay. Employees may schedule and use accumulated CTO in the same manner as vacation, subject to employees first using vacation hours which are or will be in excess of the maximum accrual limit, which is 120 hours. There is no cash-out option for accumulated compensation time.

### **13.2 Applicability and Accumulation for all Other Classifications**

For Fire Recruits, Firefighters, Fire Apparatus Operators, and Fire Captains, CTO shall be accrued at the same rate as the employee would have earned had the employee been compensated by pay. The accrual of CTO shall be accrued in the employee's respective Fire rank. CTO shall not be accrued while "working down" in another rank (for example: a Fire Captain working as Fire Apparatus Operator for a specific duration). Employees may schedule and use accumulated CTO in the same manner as unscheduled vacation. The following rules shall apply to the accrual and use of CTO:

- a. CTO accrual shall be requested at the time the employee is earning the benefit, approved by the supervisor and validated by the BC prior the end of the shift at 0800 hours in FIREHOUSE/TELESTAFF RMS. Once approved, CTO earned shall not be changed.
- b. The accrual rate of straight time versus premium time shall based on current adopted FLSA rules.
- c. The CTO accrual bank shall not exceed 96 hours.
- d. CTO hours earned cannot be requested to be cashed out during the fiscal year, any cashing out of CTO hours will follow subsection e.
- e. Any remaining balances of CTO earned that is not used by the end of the fiscal year shall be paid out in the first pay period in June.
- f. Only one (1) member per shift may take CTO or be “off duty” at any given time.
- g. There will be no backfilling or overtime staffing for personnel utilizing CTO , unless authorized by the Fire Chief or their designee.
- h. The Fire Chief, or their designee, reserves the right to deny the use of CTO if it severely impacts the operations of the Fire Department.

## **ARTICLE 14 FLOATING HOLIDAYS**

For the Fire Safety Inspector I/II only, effective with the MOU approval, two (2) floating holidays per fiscal year shall be provided which must be used during the fiscal year. These two floating holidays have no cash value and may not be carried over to a subsequent fiscal year. If an employee in this unit does not use either of both of these floating holidays during the fiscal year when the holidays are provided, the employee forfeits the unused floating holiday(s). Scheduling/approval of use of the floating holidays must be in accordance with requirements of Rule 2.08 in the Personnel/Rules and Regulations.

## **ARTICLE 15 VACATION LEAVE**

Vacation shall be scheduled in accordance with the department policy and operations manual, and in accordance with the City's Rules and Regulations. Once an employee has selected their first round vacation days pursuant to the department's policy, the time period of that vacation shall be honored regardless of future movements of that employee between shifts, even if this necessitates multiple personnel from the same rank being on vacation on the same day.

## **ARTICLE 16 PERSONAL LEAVE**

Two unscheduled vacation days can be requested outside of the yearly vacation bids in accordance with the Fire Department Standard Operating Guidelines, Section 1.04 for unscheduled vacation.

## **ARTICLE 17 OVERTIME**

### **17.1 Work Schedule and Work Period**

The normal work shift shall consist of twenty-four (24) consecutive hours. Employees work a “48/96” schedule, meaning two days on-duty, followed by four days off-duty. The normal work shift begins at 8:00 a.m.

The City will adhere to a fourteen-day work period. This work period is adopted pursuant to section 207(k) of the Fair Labor Standards Act.

## **17.2 Overtime**

Overtime refers to hours worked that exceed 106 hours in a designated 14-day work period. Overtime hours are paid at a premium rate of time and one-half the regular rate of pay as required by the FLSA.

Time during which an employee is excused from work due to approved vacation or sick leave shall not be considered as hours worked for the purposes of reaching the above mentioned 106-hour threshold. In other words, only hours actually worked will count toward the overtime hours calculation. Hours worked in Department-approved shift trades have no bearing on the overtime calculation.

All overtime must be authorized in advance by the Fire Chief or his designee.

If there are any inconsistencies between the provisions of this MOU relating to overtime and any other City policy or personnel rule, the provisions of this MOU shall govern.

## **17.3 Payment of Overtime**

All overtime hours earned shall be paid or added to an employee's CTO balance (for classifications eligible for PTO) in the pay period in which the fourteen-day work period ends.

# **ARTICLE 18 SHIFT EXCHANGE**

Career service employees may be allowed to exchange shifts or portions thereof. Shift exchanges must be made with the prior approval of the Department Head, or his/her designee, when the exchange does not interfere with established training schedules, the operation of the department or other applicable laws. The shift exchange shall have no effect on the hours or rate of pay for any employee involved in the exchange.

A record shall be maintained by the Department of the exchange and employees shall sign an appropriate agreement developed by the City regarding the shift exchange.

The City shall be made whole relative to any shift exchange where the employee agreeing to work does not fulfill his/her obligation. Any cost to the City shall be offset by an equal reduction in either the employees vacation/sick leave hours of the employee who did not fulfill his/her obligation.

If the Employee agreeing to work the shift calls in sick and the City does not incur overtime, twenty-four (24) hours will be deducted from the employee's vacation or sick leave at the employees' option. If the Employee agreeing to work the shift calls in sick, pursuant to section 2.09 of City rules and regulations, and the City does incur overtime, thirty-six (36) hours will be deducted from the employee's vacation or sick leave at the employee's option. Use of sick leave must be in accordance with Section 2.09 of City Rules and Regulations. Employees seeking approval for a shift exchange must have sufficient vacation and sick leave hours available to fulfill the obligation in this Article

should he/she call in sick. Those employees without such sufficient vacation or sick leave balances are ineligible for shift exchanges.

## **ARTICLE 19 SHIFT BIDDING**

Represented employees may bid for Station Assignments within their shifts during the second quarter of each calendar year. This process shall be completed prior to April 15<sup>th</sup> of each year. The bidding process shall be done by seniority and by rank on a rotating basis beginning year 2018. Employees wishing to transfer to a different shift may do so provided they: 1. Find a member of equal rank on another shift that agrees to the transfer. 2. Obtain concurrence their immediate Battalion Chief and approval from the Fire Chief or his designee. Administrative Staff reserves the right to place employees in specific billets, which will enhance the mission of the department.

## **ARTICLE 20 PROMOTIONAL TESTING**

Promotional testing processes will be conducted on a bi-annual basis as outlined below:

At the beginning of each even-numbered year (e.g. 2016, 2018), there will be a promotional process and a current promotional list created for the position of Fire Apparatus Operator. At the beginning of each odd numbered year (e.g. 2017), there will be a promotional process and a current promotional list created for the position of Fire Captain. Recruitments in these designated years shall not be required if a recruitment recently occurred due to a vacancy. For example, a Fire Captain recruitment occurs in July 2016 due to a retirement, therefore a beginning of the year recruitment for 2017 is not required for the Fire Captain classification.

Eligibility lists established following the promotional testing process for entry level Firefighters and Fire Apparatus Operators shall remain in effect for a period of one year from the date the list is established. Eligibility lists established for the Fire Captain shall remain in accordance with the Rules and Regulations.

For the classification of Fire Captain only, only those employees currently on an active eligibility list for the Fire Captain position are eligible to work in Acting Fire Captain capacity.

The need for additional promotional testing processes will be determined by the Fire Chief subject to his or her discretion.

## **ARTICLE 21 ANNUAL HEALTH ASSESSMENTS**

The Annual Health assessment will at a minimum include, but not necessarily be limited to, the medical tests included in Attachment A and Attachment B to this agreement. These medical tests shall remain applicable for the duration of this agreement.

## **ARTICLE 22 TEMPORARY EMPLOYEES**

The City may use Acting Fire Captains; Acting FAO's and replace additional Firefighters with Temporary Firefighters due to a qualifying event as outlined in Section 2.09 (M) of the City of Yuba City Personnel Rules and Regulations or for a Worker's Compensation injury at any time if the absence is anticipated to be or continues for 30 calendar days or more. Temporary Firefighters cannot exceed one per shift or no more than three Temporary Firefighters total (one temporary firefighter per shift). Personnel can work in an "acting position" for a vacant position only for a maximum period of 960 hours.

## **ARTICLE 23 LEAVE CONVERSION RATES**

The parties agree to the following terms related to the conversion of leave hours by employees when they are placed in temporary and permanent assignments (in excess of the 1st full pay period) within the department.

- a. Conversion from 56-hour to 40-hour work week assignments. Employees temporarily or permanently assigned to staff positions on a 40-hour work week schedule shall have all leave usage banks converted using a division factor of 1.4 for each hour available in the leave bank. As an example, a 56-hour employee with 100 hours of annual leave would see their annual leave bank adjusted to 71.43 hours with the employee assigned to a 40-hour work week assignment.

Conversion from 40-hour to 56-hour work week assignments. Employees temporarily or permanently assigned to line positions on a 56-hour work week schedule shall have all leave usage banks converted using a multiplier factor of 1.4 for each hour of available in the leave bank. As an example, a 40-hour employee with 71.43 hours of annual leave would see their annual leave bank adjusted to 100 hours when the employee is assigned to a 56-hour work week assignment.

- b. Leave accrual and usage rates shall be applied at the hourly rate used by the employee during the temporary or permanent assignment.
- c. Leave conversion rates shall be applied to all leave accrual banks provided to the employee by the City.

## **ARTICLE 24 REVIEW OF PERFORMANCE EVALUATION**

In general, performance related issues, which have been previously documented in a performance evaluation but which have not been repeated in subsequent evaluation periods should not be included in later performance evaluation reports. However, review of overall performance during the entire probationary period may include such items in making a final recommendation to pass or fail an employee on probationary status. In no event, shall any matter of performance evaluation, including reference to this section, be subject to appeal of the given procedure. However, employees may request the Director of Human Resources to review a performance evaluation which contains

reference to performance related issues which the employee believes are inconsistent with this section.

## **ARTICLE 25 GRIEVANCE PROCEDURE**

Grievances involving the application or interpretation of existing Fire Department policies, procedures and rules relating to Emergency Call Back, Overtime, Compensatory Time Off and Unscheduled Vacation may not be pursued beyond the City Manager level. The City Manager's review shall be considered the final step in the grievance process involving those matters.

## **ARTICLE 26 FIREFIGHTERS' LOCAL 3793 INFORMATION SHEET**

The Firefighters' Local 3793, may supply at their own expense, an informational sheet to be included in new employee orientation packets. The information sheet is subject to the approval of the Director of Human Resources.

## **ARTICLE 27 DMV LICENSE EXAMINATION**

Physical examinations for Firefighters' Local 3793 members who are required to maintain a Class A or B California Drivers License as a job requirement shall have the expense paid by the City. Employees may elect to go to their own personal physician or to the medical center designated by the City. Employees electing to go to their own personal physician shall be reimbursed upon submission of an itemized receipt to the Human Resources Department. The maximum amount eligible for reimbursement is the amount the City has contracted for with the designated medical center.

## **ARTICLE 28 NCCSIF DRIVING STANDARDS**

It is acknowledged that the City will implement the Driving Standards Policy as required by NCCSIF. Should the requirements of the policy affect an employee's ability to continue working, the City shall promptly notify the affected employee. If an employee's driving privilege is suspended or revoked, or if an employee becomes uninsurable, the City will consider accommodations for the employee subject to the needs of the City and department operations. Should an employee's employment status be affected by the requirements of the policy, the appropriate disciplinary procedures shall be followed.

## **ARTICLE 29 NOTICE OF CHANGES IN EMERGENCY DUTY**

The City agrees to advise the Firefighters' Local 3793 in writing of changes in the scope of the emergency duties provided by the Fire Department. The Department will provide such notice 15 working days prior to the implementation of the change from the date the change is received by the Firefighters' Local 3793. Should extenuating circumstances preclude such notice, the Department shall notify the Firefighters' Local 3793 as soon as possible. A request to meet and confer by the Firefighters' Local 3793 must be made within the 15 day notice period and may be made only when the change in emergency duties affects the wages, hours, or terms and conditions of employment and which is

considered to be within the scope of representation as specified in GC 3504 (Meyers Millias-Brown Act). The City is not obligated to meet and confer on any such change unless requested to by the Firefighters' Local 3793. The Firefighters' Local 3793 will request to meet and confer as soon as possible.

## **ARTICLE 30 REDUCTION IN PAY**

It is agreed that for classifications with a single pay rate (no salary steps) that reductions in pay for disciplinary purposes shall be made in 5% increments from the pay rate for the classification. Such reduction will be administered through the payroll system without adjustment to the salary schedule.

## **ARTICLE 31 CALLBACK COMPENSATION**

### **31.1 Emergency Incidents**

Qualification for callback pay for emergency incidents shall be based upon the definition of "emergency" as defined in the departmental Policy and Operations Manual pursuant to the Department Memo issued February 9, 1995.

In the event of emergency overtime recall by telephone, employees who live within 25 air mile radius of Station 1 shall be contacted prior to any other employees. Employees who agree to respond must report within 45 minutes. Failure to respond may be subjected to disciplinary action for failure to respond to duty.

For purposes of overtime recall for second alarms, emergency recall pay of two hours of overtime minimum pay at the overtime rate, shall be earned only by those employees who report to duty within 45 minutes of the tone-out. All others who report after this time will be paid only if they have been specifically authorized to report to duty after the 45 minute time period by the Officer in Command.

### **31.2 Non-Emergency Incidents**

An employee who is called back to work after leaving his or her work place following the completion of the employee's work shift, shall be paid a minimum of two hours pay at their overtime rate of pay.

## **ARTICLE 32 LIMITATION ON CONSECUTIVE HOURS WORKED**

Employees shall not work more than 96 hours consecutively. Exceptions may be made on a case by case basis by the Fire Chief or designee.

## **ARTICLE 33 COMMERCIAL DRIVERS LICENSE TESTING**

The City reserves the right to reopen on this topic. The purpose of this re-opener is to discuss any changes in the Alcohol and Drug Abuse Policy as a result of the Omnibus Transportation Employee Testing Act of 1991.



## **ARTICLE 34 AMERICAN DISABILITIES ACT COMPLIANCE**

### **34.1 Accommodation**

The parties acknowledge the City's obligations pursuant to the ADA to provide reasonable accommodation to qualified individuals with disabilities. State and Federal Law will take precedence over the provisions this MOU and the City's Personnel Rules when determining whether a particular accommodation is reasonable and may be provided to a particular employee represented by the Firefighters' Local 3793.

### **34.2 Protection**

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance procedure.

## **ARTICLE 35 NOTICE**

The City shall notify the Firefighters' Local 3793 prior to the implementation of any management right or management decision that materially impacts or affects matters within the scope of representation for bargaining unit employees. The City may take action only after satisfying its meet and confer obligations under the Meyers-Milias-Brown Act with respect to such matters.

During the term of this Agreement, the City shall notify the Firefighters' Local 3793 of any proposed additions, deletions or modifications to existing operational policies, procedures, and work rules. The City shall provide the Union with copies of such proposals at least thirty (30) days prior to implementation. Within fifteen (15) days following the Union's receipt of the proposed additions, deletions or modifications, the Union shall have the right to bargain with the City over identifiable impacts of the proposals on matters within the scope of representation.

Employees shall be provided with copies of all new or modified operational policies, procedures, and work rules at least fifteen (15) days prior to implementation.

## **ARTICLE 36 INTEREST BASED PROBLEM SOLVING**

Firefighters' Local 3793 and the City utilized the Interest Based Problem Solving Process philosophy to negotiate this contract. This contract represents the results of open, honest sharing of information and concerns related to issues for Firefighters' Local 3793 and the City. Based on the philosophy of this process, Firefighters' Local 3793 and the City agree and understand that this is a living contract and agree to meet and discuss any items within this agreement that become of concern to either party during the course of this agreement. As part of this understanding and due to the current economic conditions, both parties have agreed to reopen discussions in order to address the impact on this contract with regard to compensation in the event that the City's overall financial situation, based on all General Fund revenues, either significantly diminishes or improves during the term of this contract. Both parties understand that any changes to this agreement are subject to the mutual consent of Firefighters' Local 3793 and the City Manager and are also subject to approval by the City Council.

# ARTICLE 37 TERM OF AGREEMENT

The term of this agreement shall be July 1, 2017 through June 30, 2019.

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

Date: 5-24-18 \_\_\_\_\_

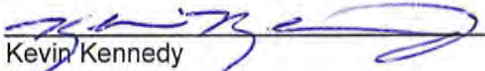
City of Yuba City

Firefighters' Local 3793

\_\_\_\_\_  
Steven C. Kroeger, City Manager

  
\_\_\_\_\_  
Chuck Flesher, Mastagni et. al Law Firm

\_\_\_\_\_  
Natalie Springer, Human Resources Director

  
\_\_\_\_\_  
Kevin Kennedy

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Robin Bertagna, Finance Director

\_\_\_\_\_  
Brett Geyer

\_\_\_\_\_

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Daniel Parnow

# **THE CITY OF YUBA CITY**

## **Addendum to Alcohol and Drug Abuse Policy Implementing the Omnibus Transportation Employee Testing Act Of 1991**

The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from risks posed by the use of alcohol and controlled substances. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transportation industry. The Federal Highway Administration (FHWA) of the Department of Transportation has enacted 49 CFR Part 382 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The Department of Transportation has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine breath specimens. In addition, the Department of Transportation has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the Department of Transportation. The policy incorporates those requirements of safety-sensitive employees and others when so noted.

THE CITY OF YUBA CITY recognizes that the use of alcohol and/or controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy and productive work environment for all employees, it is the objective if the City to have a work force that is free from the influence of alcohol and controlled substances.

### **A. Applicability**

This policy applies to all safety-sensitive employees, volunteers, and contractors when they are on City property or when performing any City related business. It applies to off-site lunch periods and breaks when a safety-sensitive employee is scheduled to return to work. Visitors, vendors, and contracted employees are governed by this policy while on City premises, and they will not be permitted to conduct business if found to be in violation of this policy.

A safety-sensitive position is defined as any position requiring the use of a Class "A" or Class "B" commercial driver license. Fire safety employees will be subject to the policy in accordance with State and Federal laws. A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

This policy addendum coexists with the current Alcohol and Drug Abuse Policy except where it is intended by Federal regulations to supercede the policy, as specified herein.

### **B. PROHIBITED SUBSTANCES**

"Prohibited substances" addressed by this policy including the following:

#### **Drugs:**

Marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine.

#### **Alcohol:**

This use of beverages or substances, including any medication, containing alcohol such that it is present in the body at a level in excess of that stated in Department of Transportation guidelines while actually performing, ready to perform, or immediately available to perform any City business is prohibited. "Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.

## C. PROHIBITED CONDUCT

### Manufacture, Trafficking, Possession, And Use

Any safety-sensitive employee engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol on City premises, in City vehicles or while conducting City business off the premises is absolutely prohibited. Violation will result in removal from safety-sensitive duty and referral to a Substance Abuse Professional (SAP).

### Impaired/Not Fit for Duty

Any safety-sensitive employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from safety-sensitive job duties and be required to undergo a reasonable suspicion controlled substance or alcohol test. Employees failing to pass this reasonable suspicion controlled substance or alcohol test shall remain off duty and be referred to a Substance Abuse Professional (SAP). A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the Department of Transportation guidelines.

### Alcohol Use

No safety-sensitive employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety-sensitive employee shall use alcohol while on duty or while performing safety-sensitive functions. No safety-sensitive employee shall use alcohol within four hours of reporting for duty nor during hours that he/she is on call. Violation of this provision is prohibited and will subject the employee to removal from safety-sensitive duty and referral to a Substance Abuse Professional (SAP).

### Compliance with Testing Requirements

All safety-sensitive employees are subject to controlled substance testing and breath alcohol testing. Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be considered as having a positive test result and shall be removed from duty immediately and referred to a Substance Abuse Professional (SAP). Refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test. Employees who refuse the referral to the SAP shall be subject to immediate termination from their position.

### Treatment/Rehabilitation Program

An employee with a controlled substance and/or alcohol problem may be afforded an opportunity for treatment in accordance with the following provisions:

***Positive Controlled Substance and/or Alcohol Test: A Rehabilitation Program is available for safety-sensitive employees who have tested positive for a prohibited substance on a one-time basis only. Employees will be immediately terminated on the occurrence of a second verified positive test result within 36 months and may be terminated or offered additional rehabilitation at the City's sole discretion after 36 months. The City will immediately serve a Notice of Intended Disciplinary Action in accordance with the personnel rules. The safety-sensitive employee will pay referral to the Substance Abuse Professional (SAP) and any other recovery treatment costs. In regards to probationary employees, the City reserves sole discretion in offering a one-time opportunity for rehabilitation in lieu of immediate termination. When recommended by the Substance Abuse Professional (SAP), participation and completion of the rehabilitation program within the prescribed time allowed is***

mandatory. Failure of a safety-sensitive employee to attend and/or complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to sign a Return-to Duty Agreement. Employees may use their accrued leave balances of CTO and vacation or be placed on an approved leave of absence. The Notice of Discipline documents shall specify the employee's leave status when discipline is imposed. The duration and frequency of follow-up testing will be determined by the SAP but will not be shorter than one year or longer than five years. The employee shall pay all costs associated with follow-up testing unless the City receives such services included from the program administrator (Fremont-Rideout Drug Testing Services).

**Voluntary Admittance:** All employees who feel they have a problem with controlled substances and/or alcohol may request voluntary admission to the rehabilitation program. Requests must be submitted through the Department Head to the Director of Human Resources for review. **The safety-sensitive employee will pay rehabilitation plan development costs and any other treatment plan costs.** The City shall have sole discretion in determining any financial contribution to assist the employee. An employee failing to complete the program within the prescribed time allowed will be subject to termination from employment. An employee completing a rehabilitation program must agree to sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up testing for 36 months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests within a 36-month period will result in termination from employment. A positive follow-up test after 36 months may result in termination or additional rehabilitation at the City's sole discretion.

**Leave Balance:** Participants in a rehabilitation program may use accumulated sick leave, (provided a substance abuse professional has attested in writing for the need to use a sick leave) vacation, and CTO leave balances. Time spent in a rehabilitation program shall be counted as utilized leave time under the Federal and State Family Care Leave Act if it qualifies as a "serious health condition" under the law. Once leave balances have been exhausted, an employee will be placed on an approved leave without pay in accordance with Personnel Rule 2.11(B).

#### **D. NOTIFYING THE CITY OF CRIMINAL DRUG CONVICTION**

Pursuant to the "Drug Free Workplace Act of 1988" any employee who fails to immediately notify the City of any criminal controlled substance statute conviction shall be subject to disciplinary action, up to and including termination of employment.

#### **E. PROPER APPLICATION OF THE POLICY**

The City is dedicated to assuring fair and equitable application of this Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination.

#### **F. TESTING FOR PROHIBITED SUBSTANCES**

Analytical urine controlled substance testing and breath testing for alcohol will be conducted as required under Department of Transportation guidelines. All safety-sensitive employees shall be subject to testing prior to employment, randomly, for reasonable suspicion, and following an accident, as defined in the Department of Transportation guidelines. In addition, all safety-sensitive employees will be tested prior to duty after failing a controlled substance and/or alcohol test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five years, as determined by a Substance Abuse Professional (SAP). Safety-sensitive employees who perform safety-sensitive functions as defined in the Department of Transportation guidelines shall also be subject to testing on a randomly selected, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities, which have been approved by the United States Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in the Department of Transportation guidelines. Testing may be conducted by a mobile unit, which meets the requirements of DHHS.

The controlled substances that will be tested for included marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the controlled substances levels present are above the minimum thresholds established in the Department of Transportation guidelines.

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the initial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. An employee who has a confirmed alcohol concentration of 0.02 but less than 0.04 will be removed from his/her position for at least twenty-four hours unless a re-test results in a alcohol concentration 0.02 or less. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of Department of Transportation guidelines and this policy.

Any safety-sensitive employee who has a pending or confirmed positive controlled substance or alcohol test will be removed from safety sensitive duties and/or his/her position, placed on unpaid leave, vacation, or CTO (at the employee's discretion) informed of educational and rehabilitation program available, and evaluated by a Substance Abuse Professional (SAP). Transfer of an employee to a non-safety sensitive position will be made at the sole discretion of the City.

The City affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

**Employees in Safety-sensitive positions may be tested under any of the following circumstances:**

#### **Pre-Employment Testing**

All Applicants for safety-sensitive classifications shall undergo urine controlled substance testing prior to employment. Receipt of satisfactory test results is required prior to employment and failure of a controlled substance test will disqualify the applicant from further consideration for employment.

#### **Reasonable Suspicion Testing**

All safety-sensitive employees will be subject to urine and/or breath testing when there is a reason to believe that controlled substances or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with the effects of substance abuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Observation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Occurrence of a serious or potentially serious accident that may have been caused by human error.
4. Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security, or other operation procedures.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or

misuse.

### **Post-Accident Testing**

Safety-sensitive employees will be required to undergo controlled substance and/or breath alcohol testing if they are involved in an accident with a City vehicle that results in a fatality. This includes all safety-sensitive employees who are on duty in the vehicles and any other whose performance could have contributed to the accident. In addition, a post-accident test will be conducted when the employee is cited for a moving violation and (i) any involved vehicle requires towing from the scene or (ii) any person involved requires medical treatment away from the scene of an accident.

Following the accident, the safety-sensitive employee will be tested as soon as possible, but not to exceed eight hours for alcohol and 32 hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and be subject to termination. Post-accident testing of safety-sensitive employees will include not only the operation personnel, but also any other covered employees whose performance could have contributed to the accident.

### **Random Testing**

Employees working in safety-sensitive classifications will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each safety-sensitive employee will have an equal chance of being tested each time selections are made. Safety-sensitive employees will be tested either just before duty, during duty, or just after the safety-sensitive employee has ceased performing his/her duty.

### **Return-to-Duty Testing**

All safety-sensitive employees who have previously tested positive on a controlled substance or alcohol test must test negative and be evaluated and released to duty by the Substance Abuse Professional (SAP) before returning to duty. Employees will be required to undergo unannounced follow-up controlled substance and/or alcohol breath testing following returning to duty. The SAP will determine the duration and frequency. However, it shall not be less than 6 tests during the first 12 months, nor longer than 60 months in total, following return to duty.

### **Employee Requested Testing**

Any safety-sensitive employee who questions the result of a required controlled substance test under Department of Transportation guidelines may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second sample test invalidated the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the Department of Transportation guidelines. The safety-sensitive employee's request for a re-test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

## **G. EMPLOYEE ASSESSMENT**

Any safety-sensitive employee who tests positive for the presence of controlled substances or whose breath alcohol concentration is above the minimum thresholds set forth in the Department of Transportation guidelines will be assessed by a Substance Abuse Professional (SAP). The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse.

If a safety-sensitive employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one to five years, as determined by the SAP. Referral to the Substance Abuse Professional (SAP) and any other recovery treatment costs will be borne by the safety-sensitive employee. Employee will be immediately terminated on the occurrence of a second verified positive test result within 36 months and may be terminated or offered additional rehabilitation at the City's sole discretion after 36 months.

## H. CONTINUOUS COMPLIANCE REQUIREMENTS

The City shall apply and interpret this policy to maintain required compliance with applicable Federal laws and regulations, including subsequent amendments and interpretive rulings.

## I. CONTACT PERSON

Any questions regarding this policy should be directed to the following City representative:

Title: Director of Human Resources  
Address: 1201 Civic Center Boulevard, Yuba City, CA 95993  
Telephone: (530)822-4610

## J. DEFINITIONS

**ACCIDENT** - an unintended happening or mishap where there is a loss of human life (regardless of fault), bodily injury or property damage totaling \$4,400 or more.

**ALCOHOL** - the intoxicating agent in a beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

**ALCOHOL CONCENTRATION** - the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this regulation. For example, 0.02 means 0.02 grams of alcohol in 210 liters of expired deep lung air.

**ALCOHOL USE** - consumption of any beverage, mixture, or preparation, including any medication containing methyl alcohol. Since ingestion of a given amount of alcohol produces the same alcohol concentration in an individual whether the alcohol comes from a mixed drink or cough syrup, the Department of Transportation prohibits the use of any substance containing alcohol, such as prescription or over-the-counter medication or liquor filled chocolates. Prescription medications containing alcohol may have a greater impairing affect due to the presence of other elements (e.g., antihistamines).

**BREATH ALCOHOL TECHNICIAN (BAT)** - a person trained to proficiency in the operation of the Evidential Breath Testing (EBT) device that the technician is using in the alcohol testing procedures. BAT's are the only qualified personnel to administer the EBT tests.

**CHAIN OF CUSTODY** - the procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

**COLLECTION SITE** - a place designated by the City where individuals present themselves for the purpose of providing a specimen of either urine and/or breath.

**COMMERCIAL MOTOR VEHICLE** - a motor vehicle, or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross weight rating of more than 10,000 pounds; or (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is designated to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which



requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

**CITY - THE CITY OF YUBA CITY.**

**CITY TIME** - any period of time in which the safety-sensitive employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**CONFIRMATION TEST** - for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, which provides quantitative data of alcohol concentration. For controlled substances testing this means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines and phencyclidine.)

**CONTROLLED SUBSTANCE (DRUG) TEST** - a method of detecting and measuring the presence of alcohol and other controlled substances, whether legal or illegal, in a person's body. A controlled substance test may either be an initial test or confirmation test. An initial controlled substance test is designed to identify specimens having concentrations of a particular class of drug above a specified concentration level. It eliminates negative specimens from further consideration.

Controlled substances will be tested under the Department of Health and Human Services guidelines.

**The primary (initial or screening) controlled substance test thresholds for a verified positive test result are those that are equal to or greater than:**

Marijuana Metabolites	50 ng/ml
Cocaine Metabolites	300 ng/ml
Phencyclidine (PCP)	25 ng/ml
Opiates Metabolites (1)	300 ng/ml
Amphetamines	1,000 ng/ml

(1) 25 ng/ml if immunoassay

A confirmation drug testing is a second analytical procedure to detect the presence of a specific drug or its metabolite. The confirmation procedure is conducted independent of the initial test and uses a different technique and chemical principle in order to confirm reliability and accuracy. **The confirmatory controlled substance test thresholds for a verified positive test result are those that are equal to or greater than:**

Marijuana Metabolite (THC) (1)	15 ng/ml
Cocaine Metabolite (2)	150 ng/ml
Phencyclidine (PCP)	25 ng/ml
Opiates	
Morphine	300 ng/ml
Codeine	300 ng/ml
Amphetamines	
Amphetamine	500 ng/ml
Methamphetamine (3)	500 ng/ml

(1.) Delta-9-tetrahydrocannabinol-9-carboxylic acid

(2.) Benzoyllecgonine

(3.) Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml

**DEPARTMENT OF TRANSPORTATION GUIDELINES** - The controlled substance and alcohol testing rules (49CFR Part 199 (RSPA - Pipeline), Part 219 (FRA - Railroad), Part 382 (FHWA - Commercial

Motor Vehicle), 654 (FTA - Mass Transit) and 14 CFR 61 (FAA -Aviation) et.al.) setting forth the procedures for controlled substance and alcohol testing (49 CFR Part 40) in all transportation industries.

**DRIVER** - any person who operates a commercial motor vehicle. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of, or with the consent of, an employer. For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.

**DRUG (CONTROLLED SUBSTANCE) METABOLITE** - the specific substance produced when the human body metabolizes (changes) a given drug (controlled substance) as it passes through the body and is excreted in urine.

**EMPLOYEE** - any person who is employed by the City or who is a volunteer in a safety-sensitive position requiring a commercial driver license. A complete list of safety-sensitive employee (function and/or position) classifications is listed in Attachment B.

**EVIDENTIAL BREATH TESTING DEVICE (EBT)** - the device to be used for breath alcohol testing.

**MEDICAL REVIEW OFFICER (MRO)** - a licensed physician responsible for analyzing laboratory results generated by an employer's controlled substance (drug) testing program. The MRO is knowledgeable about substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results.

**PERFORMING (SAFETY SENSITIVE FUNCTION)** - a safety-sensitive employee is considered to be performing a safety sensitive function and includes any period in which the safety-sensitive employee is actually performing, ready to perform, or immediately available to perform such functions.

**POST-ACCIDENT ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - conducted after accidents on employees whose performance could have contributed to the accident. For drivers this is determined by a citation for a moving traffic violation and for all fatal accidents even if the driver is not cited for a moving traffic violation. See Attachment A.

**PRE-EMPLOYMENT ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - conducted before applicants are hired or after an offer to hire, but before actually performing safety sensitive functions for the first time. Also required when employees transfer to a safety sensitive position.

**PROHIBITED DRUGS (CONTROLLED SUBSTANCES)** - Marijuana, Cocaine, Opiates, Amphetamines, or Phencyclidine.

**PROHIBITED SUBSTANCES** - means and is synonymous to drug abuse and/or alcohol misuse or abuse.

**RANDOM ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - conducted on a random unannounced basis just before, during or just after performance of safety sensitive functions.

**REASONABLE SUSPICION CONTROL AND/OR CONTROLLED SUBSTANCE TESTING** - conducted when a trained supervisor observes behavior or appearance that is characteristic of alcohol or controlled substance abuse.

**REFUSE TO SUBMIT (TO AN ALCOHOL AND/OR CONTROLLED SUBSTANCE TEST)** – a safety-sensitive employee fails to provide an adequate breath or urine sample for testing without a valid medical explanation after that safety-sensitive employee received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process (i.e., verbal declarations, obstructive behavior or physical absence resulting in the inability to conduct the test.)

**REHABILITATION** - The total process of restoring an employee to satisfactory work performance through constructive confrontation, referral to the SAP and participation in SAP recommendations such as education, treatment and/or support groups to resolve personal, physical or emotional/mental problems which contributed to job problems.

**RETURN-TO-DUTY AND FOLLOW-UP ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - conducted when an individual who has violated the prohibited alcohol or controlled substance conduct standards returned to performing safety sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty upon the SAP recommendation.

**RETURN-TO-DUTY AGREEMENT** - a document agreed to and signed by the employer, safety-sensitive employee and the Substance Abuse Professional that outlines the terms and conditions under which the safety-sensitive employee may return to duty after having had a verified positive controlled substance test result or an alcohol concentration to 0.04 or greater on an alcohol test.

**SAFETY-SENSITIVE EMPLOYEE (FUNCTION AND/OR POSITION)** - An employee or volunteer is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions and any employee who transfers into or is assigned safety-sensitive functions.

A complete list of safety-sensitive employee (function and/or position) classifications is listed in Attachment B.

**SCREENING (INITIAL) TEST** - In alcohol testing, it means an analytical procedure to determine whether a safety-sensitive employee may have a prohibited concentration of alcohol in their system. In controlled substance testing, it means an immunoassay screen to eliminate negative urine specimens from further consideration.

**SUBSTANCE ABUSE PROFESSIONAL (SAP)** - a licensed physician (Medical Doctor or Doctor of Osteopathy), or licensed or certified psychologist, social worker (with knowledge of, and clinical experience in, the diagnosis and treatment of drug and alcohol-related disorders, the license alone does not authorize this), Certified Employee Assistance Professional (CEAP), or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substance-related disorders. The employee shall select a SAP from a list provided by the City.

**SUPERVISOR** - a person in authority who has had one hour of training on the signs and symptoms of alcohol abuse and an additional hour of training on the signs and symptoms of controlled substance abuse.

**VEHICLE** - a bus, electric bus, van, automobile, rail, car, trolley bus, truck or vessel used for mass transportation.

**CITY OF YUBA CITY  
CATASTROPHIC ILLNESS AND INJURY DONATION PLAN**

Purpose

To assist employees confronting personal or family catastrophic illness or injury who need the support of City employees to avoid financial hardship.

Plan Guidelines

1. Regular and probationary employees who are on an approved leave of absence (in accordance with Human Resources Rules 2.11 (B) or (D)) may receive donated hours of vacation, sick leave, or compensatory time off (CTO) from other employees.
2. Employees seeking donations of time shall submit a written request to the Human Resources Department stating the reason(s) for the request. The Director of Human Resources shall review requests. Each request shall be evaluated solely on its merits. If approved, the Director of Human Resources will initiate efforts to notify City employees of the request for the donation of hours. The name of the employee will be identified but the City will not release confidential medical information.

If disapproved, the requesting employee may seek review of the decision by the joint labor-management committee consisting of one representative from each of the following groups:

- A) Yuba City Employees Association
- B) Firefighters' Association
- C) Police Officers' Association
- D) Middle Managers Group
- E) First Level Managers Group
- F) Human Resources Department

In the event the Committee reaches a tie decision, the decision shall be made in favor of the employee.

The decision of the labor-management committee shall be final and binding, and shall not be subject to the grievance procedure.

3. To be eligible for donated leave hours, the employee must be on an approved leave of absence for their critical illness or injury or to provide required care for a family member (spouse, child, parent) who is critically ill or injured. The guidelines of the Family Care Leave (Human Resources Rule 2.11 (D)) shall be used to determine whether the critical illness or injury qualifies for the donation of leave hours. Verification of need via physician statements will normally be required. The employee must have exhausted, or is reasonably expected to exhaust, all accumulated leave hours (vacation, sick leave, CTO) in order to receive leave.

## **COUNSELING MEMO POLICY**

When a department head becomes aware of employee conduct, which requires documentation but does not warrant formal disciplinary action, a counseling memorandum may be issued to the employee. The purpose of a counseling memo is to provide notice to the employee of a deficiency or problem observed, document infractions, and modify behavior.

Counseling memos shall be issued on a standard form used by the City. A copy of the counseling memo shall be given to the employee and a copy shall be maintained in the employee's personnel file for a period of two years. At the conclusion of two years, the employee can ask that the counseling memo be removed from the personnel file. At that time or any time thereafter that it is discovered that a counseling memo exists in the personnel file after two years, all copies shall be removed from any file maintained by the City, including the department or supervisor, and given to the employee. No future reference to the counseling memo will be made in a subsequent disciplinary process or performance evaluation. However, should an employee receive a subsequent counseling memo, or other disciplinary action within the two year period, a counseling memo shall not be discarded until a two year period has passed in which no counseling memo or disciplinary action has been issued.

During the two-year period the counseling memo may be used by a supervisor to support disciplinary action. The fact that a counseling memo has been issued shall not be referenced in a performance evaluation, however the substance of the counseling memo may be referenced in a performance evaluation if the supervisor deems it necessary.

Counseling memos used prior to the adoption of this Memorandum of Understanding are subject to this policy.

YC Firefighter PE components	Frequency
Respiratory Protection Questionnaire	Annual
Asbestos Questionnaire	Annual
Latex Allergy Screening Questionnaire	Annual
TB Questionnaire	Annual
Ancillary Testing	Annual
	Annual
Complete Blood Count	Annual
Chemistry Panel	Annual
Urinalysis (dipstick)	Annual
TB screening (PPD)	Annual
Quantiferon Gold	if current PPD +
Cholinesterase (Plasma & RBC)	Annual
Pulmonary Function Testing	
	Annual
Immunizations/Vaccines	
	Annual
	10 Year Boosters
Tetanus (TDaP)	Annual
Flu Vaccine	Once if no immunity
Hepatitis B Vaccine-each (series of 3)	Once if no immunity
Hepatitis A Vaccine	Once if no immunity
MMR Vaccine	Once if no immunity
Titers for Immunity	
	Once
Hepatitis A/B Titers	Once
MMR & Varicella Titers	
Medical Examination	
	Annual
Medical History Questionnaire	Annual
Provider Exam with test review	Annual
Vision Testing	Annual
Hearing Testing	Annual
Stress Treadmill (HazMat)	3 Years