



**DATE:** April 7, 2026

**TO:** Mayor and City Council

**FROM:** Director of Human Resources

**SUBJECT:** Adopt a Resolution Approving a Side Letter of Agreement Amending the Memoranda of Understanding between the City of Hayward and the Hayward Fire Chiefs Association and Authorizing Staff to Execute the Agreement

### **RECOMMENDATION**

That the City Council adopts a Resolution (Attachment II) approving a Side Letter of Agreement amending the Memoranda of Understanding (MOU) between the City of Hayward and the Hayward Fire Chiefs Association (HFCA) and authorizing staff to execute the agreements.

### **SUMMARY**

The City has met and conferred in good faith with HFCA and the Parties have agreed to corrections to existing contract language to comply with the California Public Employee Retirement System (CalPERS) and the Internal Revenue Service (IRS). These changes respectively reflect the intention of pensionable contributions for certain pays and align with IRS regulations and administrative process.

### **FISCAL IMPACT**

If approved, the proposed amendments to the HFCA MOU would result in minor fiscal impact which can be absorbed into the department budget, as the corrections bring the agreements into alignment with CalPERS regulations, existing pay practices, and the intentions of the City. These items are cost neutral in the near term as proposed changes resolve for reporting compliance and administration.

### **BACKGROUND**

As part of review of the MOUs to ensure compliance with CalPERS regulations, the parties identified a potential issue with application of MOU Section 7.02 Holiday Pay as applied to employees who work in assignments that require scheduling without regard to observed holidays. MOU Sections 7.01, 7.02, 7.03, and 7.04 do not draw a distinction between such assignments and assignments that allow employees to observe holidays.

The City's purpose and intent of this holiday pay section has always been to pay these employees in accordance with Gov. Code Section 20636(c), Section 571 and 571.1. After an extensive review and analysis by the parties, and in order to ensure the MOU language clearly aligns with the requirements of Gov. Code Section 2063(c), CCR Section 571 and 571.1, and the Parties' intent, the City and the Union have met and conferred on the matter to modify the holiday pay language to comply with CalPERS requirements.

In addition, the parties have identified two other contract provisions that require clarification to ensure they are administered consistent with the Parties' intent. These include MOU Article 6.07 Change in Pay upon Promotion and MOU Article 8.04 Vacation Leave Transfer.

## **DISCUSSION**

The City and HFCA have met and conferred in good faith to revise language to ensure compliance with CalPERS regulations. The following provisions for holiday pay, change in pay upon promotion, and vacation leave transfer were revised to align with the original intention of pension-reportable pay, compliance with applicable IRS regulations and administrative process.

### **Articles for Holiday Pay: 7.01, 7.02, 7.03, 7.04 and 7.05**

To address a reporting compliance issue with CalPERS, Articles 7.01 Holidays Observed by the City; 7.02 Holiday New Years Eve; 7.03 Holiday Christmas Eve; and 7.04 Holidays for Part-Time Employees; are updated to align with the original intention of pension-reportable holiday pay.

The edits simplify holiday pay including updating Article 7.01 to clarify the holidays that are observed by the City of Hayward; Article 7.02, retitled as "Holiday Pay"; Articles 7.03 and 7.04 are removed; and Article 7.05 removes language related to scheduling release for observing days of morning. These changes streamline the provision so that all covered employees will be paid holiday in lieu regardless of their scheduled hours as employees in represented classifications serve in assignments that require scheduled staffing without regard to observed holidays. This update proactively addresses potential CalPERS concerns for reportable pay under this provision and aligns with the staffing necessary for the operation.

### **6.07 Change in Pay upon Promotion**

A discrepancy was identified through the administration of this provision when employees are promoted – that promotional pay may result in significantly less than a five percent (5%) increase, inconsistent with the intention of promotional placements. The parties agreed to update the language to reflect the standard practice of promotional pay closer to five percent (5%). Specific to the agreement, when employees are promoted, their promotional pay will be calculated to provide at least a five percent 5% increase as long as the increase is within the salary range of the classification to which the employee is promoted.

### **8.04 Vacation Leave Transfer**

This section is updated to reflect internal alignment within the MOU and distinguishes between conversion of vacation leave to cash and transfer of vacation leave to a qualified 401(b) or medical retirement plan. Language was added to clarify the ability to request transfers in the same calendar year is permissible when transferring into a qualified retirement plan, subject to any future changes to IRS rules.

A summary of the agreed upon changes are outlined in Table 1 below.

**Table 1: Key Proposed Changes**

<b>MOU Section</b>	<b>Summary of Change</b>	<b>Effective Dates (as aligned with applicable pay periods)</b>
<b>7.01 Holidays Observed by the City</b>	Clarifies Holidays are observed by the City of Hayward and removes language for bargaining unit members observing the holiday.	After adoption by City Council
<b>7.02 Holiday New Year's Eve</b>	Retitled to "Holiday Pay" and updates section to simplify pay for holidays aligned with administrative process and CalPERS requirements.  Holiday-in-lieu pay applicable for all employees regardless of schedule at 5.77% of regular hourly rate so long as the employee is scheduled to work without regard to observed holidays.	After adoption by City Council
<b>7.03 Holiday Christmas eve</b>	Removed related to clarification edits for Article 7.02.	After adoption by City Council
<b>7.04 Holidays for Part-Time Employees</b>	Removed related to clarification edits for Article 7.02.	After adoption by City Council
<b>7.05 National Days of Mourning</b>	Removes related language to clarify edits for Article 7.02.	After adoption by City Council
<b>6.07 Change in Pay Upon Promotion</b>	Updating section to reflect promotional salary increases of at least 5% and no greater than the salary range of the promotional classification.	After adoption by City Council
<b>8.04 Vacation Leave Transfer</b>	Clarifies and distinguishes request timeframes for vacation leave cashouts versus transfers, clarifies items are subject to any future changes to IRS rules.	January 1, 2024

## **STRATEGIC INITIATIVES**


This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

## **NEXT STEPS**

Staff will finalize the side letter agreements and obtain necessary review by the City Attorney and approval by the City Manager to execute them. The Human Resources Department will work with the Finance Department to implement these changes.

*Prepared and Recommended by:* Ian Tecson, Director of Human Resources

Approved by:

A handwritten signature in blue ink, appearing to read "Jennifer Ott".

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Jennifer Ott, City Manager