

MEMORANDUM OF UNDERSTANDING

between

CITY OF SANTA CLARA

and

**AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES
LOCAL 101
UNIT 6**



DECEMBER 17, 2017 – DECEMBER 26, 2020

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SANTA CLARA AND
LOCAL 101, A.F.S.C.M.E. REPRESENTING
CITY OF SANTA CLARA FIELD OPERATIONS AND MAINTENANCE UNIT NO. 6
DECEMBER 17, 2017 – DECEMBER 26, 2020**

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**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SANTA CLARA AND
LOCAL 101, A.F.S.C.M.E. REPRESENTING
CITY OF SANTA CLARA FIELD OPERATIONS AND MAINTENANCE UNIT NO. 6
DECEMBER 17, 2017 – DECEMBER 26, 2020**

In accordance with the provisions of Section 18 of the City of Santa Clara Employer-Employee Relations Resolution, this Memorandum of Understanding was made and entered into by and between the designated representatives of the City of Santa Clara (a public agency as defined in Section 3501 (c) of Chapter 10 of Division 4 of Title I of the Government Code of the State of California), hereinafter referred to as the City, and Local 101, A.F.S.C.M.E., the recognized majority representative of the City of Santa Clara Field Operations and Maintenance Unit No. 6, hereinafter referred to as the Union. This agreement constitutes the results of discussions between the City Management Staff and the Union on all matters within the scope of representation. The term of this agreement shall be from December 17, 2017 through December 26, 2020.

WITNESSETH that:

WHEREAS the parties hereto desire to facilitate the peaceful adjustment of differences that may from time to time arise between them, to promote harmony and efficiency to the end that the City, Union, and the general public may benefit therefrom, and to establish fair and equitable wages, hours and working conditions for certain hereinafter designated employees of the City,

NOW, THEREFORE, the parties hereto do agree to propose and recommend that the City Council adopt the following, effective as indicated:

1. WAGE ADJUSTMENT

- A. Effective retroactive to December 17, 2017, for purposes of base wage and overtime, for persons employed on the date the City Council approves this MOU, employees shall receive a 3.0% wage increase. Effective the first full pay period of the 12/18-12/19 MOU year, employees shall receive a further 1.0% wage increase. Effective the first full pay period of the 12/19-12/20 MOU year, employees shall receive a further 2.5% wage increase.
- B. **For the duration of this MOU, the provisions specified below in this Section 1(B) are suspended.**

On or before April 1, 2001, and April 1, 2003, the Union may present comparison data between Santa Clara and the cities of Mountain View, Palo Alto, San Jose and Sunnyvale and Santa Clara County for not more than fifteen (15) represented classification which has total compensation after five years of service in that classification that is more than 2.5% below the average of the classification determined to be responsible for essentially the same work in the comparison jurisdictions. The determination of comparability shall be provided by the Santa Clara County Employee Relations Service (ERS). If there are less than two appropriate comparisons among the jurisdictions listed, no adjustment will be made even though Santa Clara is more than 2.5% below the comparison jurisdiction. If there are less than two comparable classes available within the comparison jurisdictions, the Union may present comparable information from at least two and up to

five cities or special districts, including any benchmark agency, within Santa Clara, San Mateo and Alameda counties for consideration. In the event less than five comparison agencies are provided by the Union, the City will attempt to identify additional comparison agencies to provide for five comparisons. Following verification by the City of Santa Clara being 2.5% or more below the average total compensation in the comparison jurisdictions, the City will place the Santa Clara class on the "G" Salary Schedule which brings total compensation to equal to or above the comparison average, effective the first pay period which begins in July, 2001, or July, 2003.

- C. It is recognized by both parties to this agreement that it is their mutual responsibility to independently verify, to the extent possible, the accuracy of the information upon which total compensation adjustments are made. Should it be discovered by either party that adjustment(s) to salary and fringe benefits are based on erroneous information or has been erroneously computed, the necessary corrective action will be taken as soon as practical after the discovery and notice of the error has been given. It is the mutual responsibility of both parties to report any suspected error immediately upon discovery to the other party. However, the period for which there will be a right to recover any monies which are either overpaid by the City or underpaid to the employee shall be limited to an adjustment period of up to 90 calendar days from the date the error was first reported to the other party. The corrective action will be taken even in circumstances where the error may bridge successive MOU's, but the recovery will still be limited to amounts owed or owing during the prior 90 calendar days. The 90 calendar day period will begin upon the date of written notification by personal service upon the other party.

Right of recovery by the City of overpayment shall be limited to recovery over the same time period as the overpayment was made. Said repayment will begin with the next paycheck following final determination of the amount to be repaid. Underpayment to the employee shall be made by the City in a lump sum of the amount owed on the next regular paycheck following final determination of the amount to be paid.

- D. The City and AFSCME will meet and confer regarding implementation of a City-wide classification policy during the term of this MOU.
- E. Prior to MOU negotiations, the City will prepare a total compensation survey by computing the total compensation effective October 1 afforded similarly represented classifications of Equipment Operator in the comparing agencies of the cities of San Jose, Mountain View, Palo Alto, Santa Clara County and Sunnyvale and obtaining the average total compensation afforded those agencies. The definitions of the compensation elements used in the survey follow.

DEFINITIONS

1. Salary - Fifth step in the monthly salary range for classification (excluding seniority or

	longevity steps).
2. Life, Health, Dental, Vision, Retiree Medical, other Insurance -	Maximum agency monthly contribution per employee to insurance premiums plus maximum agency monthly contribution to other fringe benefit insurance premiums. For retiree medical, maximum monthly amount for which current fifth year employee would be eligible if the employee retired.
3. Retirement -	Monthly employer contribution to social security plans and monthly blended employer rater contributions to retirement.
4. Holiday Pay -	Number of paid holiday hours per year times the base hourly rate, divided by 12.
5. Vacation Pay -	Maximum number of annual paid vacation hours allowed by agency per employee upon completion of five (5) years' service times the base hourly rate, divided by 12.
6. Other -	Monthly salary equivalent of or maximum monthly agency contribution to other fringe benefits available to all full-time agency employees. To be eligible for inclusion in comparison data, such benefits of the comparing jurisdiction must be of a reoccurring nature or become part of their compensation base. This category includes the City's monthly contributions to employee's VEBA accounts
7. Total Compensation -	The sum of Items 1 through 6 above.

TABULAR DESCRIPTION OF
ADJUSTMENT OF TOTAL COMPENSATION

For the duration of this MOU, the provisions specified in this TABULAR DESCRIPTION OF ADJUSTMENTS OF TOTAL COMPENSATION are suspended.

MEMORANDUM OF UNDERSTANDING – Unit # 6 (December 2017 – December 2020)

Upon adoption of MOU for 1999 and by December 15, 2000, 2001 and 2002	Union presents its determination of total compensation monies among element areas noted in Item I-A and in accord with the above action.
Pay Period established as effective date of MOU, December 24, 2000 and December 23, 2001 and December 22, 2002	City implements Union's determination of allocations as verified by the City.
By April 1, 2000 and April 1, 2003	Union presents its comparison data as defined under Section 2.1, if any, on represented classifications which are 2.5% or more below survey average in total compensation after application of the common salary adjustment provided for in the MOU for 2000, 2001, 2002, 2003 for verification by the City.
After July 1, 2001 and July 1, 2003	City implements salary increases on Salary Schedule "G" for classifications determined to be 2.5% or more under the survey average in total compensation as necessary to bring those classifications to equal or above the survey average.

2. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

The City has contracted with CalPERS to provide employees with the 2.7% at age 55 formula effective December 17, 2006 for "Classic" or "Legacy" employees as defined by CalPERS and the Public Employees' Pension Reform Act of 2013 (PEPRA) and the 2.0% at 62 with "highest three year average" for "New Members" as defined by CalPERS and PEPRA. Classic/Legacy employees shall continue to pay the employee contribution rate and New Members shall contribute 50% of the "normal cost" of their pension formula as required and defined by CalPERS and PEPRA. The employee's CalPERS retirement contribution will continue to be treated as tax deferred.

If CalPERS should implement a change in its actuarial methodology (i.e. assumed discount rate, smoothing methodology, demographic assumptions, etc.) which change would have a material impact on the City's employer contribution, the City and AFSCME agree to meet and confer regarding this change and its impacts.

3. HEALTH INSURANCE

A. Health Flex Contribution

Effective January 1, 2018, the City will offer employees a Health Flex Contribution of \$188.33/month to put toward the payment of a City offered health plan. This amount applies for 2018, and shall be modified each calendar year

using the Rate of Pay Safe Harbor (based on the lowest base pay of any full-time employee covered by this MOU) to ensure the City's offered coverage is "affordable."

Employees who enroll in a City health plan for which the premium amount is more than \$946.86/month shall receive an Additional Health Flex Contribution. The Additional Health Flex Contribution, when added to the Health Flex Contribution described in the prior paragraph and the Regular Flex Contribution described herein, shall not exceed \$400 over the Kaiser employee only premium amount from January 1, 2018 through May 30, 2018. Thereafter, the Additional Health Flex Contribution, when added to the Health Flex Contribution described in the prior paragraph and the Regular Flex Contribution described herein, shall not exceed an amount equal to the Kaiser employee plus one rate for the applicable year. (For 2018, this means an additional \$235.57/month to these individuals from January 2018 through May 2018, and then \$618.01/month for the remainder of 2018.)

Employees may not receive all or any portion of the Health Flex Contribution or Additional Health Flex Contribution as cash or any other taxable benefit, and must apply the Health Flex Contribution to City-offered health benefits. Employees who do not enroll in City-offered health benefits will not receive any of the Health Flex Contributions.

It is understood and agreed that a portion of the Health Flex Contribution described in this subsection is the City's contribution of the statutorily required minimum contribution under the Public Employees Medical and Hospital Care Act (PEMHCA) (e.g. \$133/month in 2018), which is the City's designated PEMHCA amount.

B. Regular Flex Contribution

Effective January 1, 2018, the City will provide a Regular Flex Contribution equal to \$946.86/month less the monthly Health Flex Contribution (thus, for 2018, the Regular Flex Contribution will be \$758.53/month). Employees may use the Regular Flex Contribution to pay for health benefits offered under the City's Section 125 plan or may opt to receive any or all of the Regular Flex Contribution as taxable cash. An employee will receive a Regular Flex Contribution whether or not he/she enrolls in City-offered health benefits and notwithstanding the provisions of Section 3.C. below.

For employees who enroll in City health and whose benefits exceed the total of the City's Health Flex and Regular Flex Contributions to them, the balance of the health premium shall be paid by a salary deduction from the pay of the individual employee.

C. Cash In Lieu

Effective January 1, 2018, employees who choose not to enroll in a City health plan, and meet the requirements set forth below shall receive a Cash in Lieu amount equal to \$946.86 minus the Regular Flex Contribution (for 2018, the Cash in Lieu amount is \$188.33/month).

In order to receive Cash in Lieu of health coverage, an employee must sign a form attesting that the employee and the employee's Tax Family have the Alternative Required Coverage for the Opt Out Period.

- Tax Family means all individuals for whom the employee intends to claim a personal exemption deduction for the taxable year or years that begin or end in or with the City's plan year to which the opt out applies.
- Alternative Required Coverage required means minimum essential coverage through another source (other than coverage in the individual market, whether or not obtained through Covered California).
- Opt Out Period means the plan year to which the opt out arrangement applies.

An employee must provide the attestation every plan year at open enrollment or within 30 days after the start of the plan year for each plan year the employee would like to receive cash in lieu.

The Cash in Lieu payment cannot be made and the City will not in fact make payment if the City knows or has reason to know that the employee or a Tax Family member does not have such alternative coverage, or if the conditions in this paragraph are not otherwise satisfied.

An employee who opts out of City-offered health benefits, but cannot provide the attestation, will not receive the Cash in Lieu contribution described in this subsection.

D. FMLA/CFRA Compliance

The City shall comply with the provisions of the Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993 (CFRA).

E. Flexible Spending Account (IRS Section 125 Plan)

The City has established a Flexible Spending Account benefit (IRS Section 125 Plan) for employees, which provides accounts in which employees may contribute pre-tax dollars for dependent care and un-reimbursed medical expenses. This Plan will follow the regulations outlined by the Internal Revenue Service. Detailed information will be available in the Summary Plan Document.

This Plan is voluntary and participating employees will make pre-tax salary reduction elections to fund the plan.

4. DENTAL INSURANCE

The City will pay toward dental insurance premiums an amount equal to the lowest cost employee only premium amount among the dental plans offered by the City. All employees are required to enroll in a dental plan.

5. VISION INSURANCE

For persons enrolled in the City's VSP vision plan, the city will pay toward vision insurance premiums an amount equal to the lowest cost employee only vision premium. Participation is voluntary. Employees that do not choose to enroll in a vision plan are not entitled to the benefit of City contributions to vision premiums described in this paragraph.

6. AGENCY FEE

- A. For the term of this MOU the City agrees that the Union shall remain the sole and exclusive agent for all the employees covered by this agreement in Unit 6, without regard to membership in the Union, with respect to all matters relating to hours, rates, terms and conditions of employment and all other bargainable issues. The City further agrees that it will not recognize or negotiate with any other person, association, group, committee or entity other than the Union with respect to such matters and will deal solely through the agency of and with the Union herein.
- B. All employees who are members in good standing of the Union at the date of the signing of the contract and those employees who thereafter become members shall, as a condition of employment, remain members of the Union in good standing during the life of the agreement.
- C. All employees in Unit 6, other than current employees as of August 16, 1987, within thirty (30) days of the date of their initial employment or the signing of the contract, whichever is later, shall be required to make payment of a cash sum as periodic dues to the Union, if such employee is a member thereof; or, an equivalent sum, if not a member, as a charge for the services rendered and to be rendered hereunder by the Union as the exclusive bargaining agent, for the duration of the agreement. Permanent employees employed with the City as of August 15, 1987, have the option of joining the Union.
- D. In the event an employee neglects, fails or refuses to comply with the terms of Sections B or C above, the employer hereby agrees, upon the request of the Union, to discontinue the employment of any such employee. The Union agrees to give a delinquent employee ten (10) days' notice prior to seeking termination and the City is obliged to terminate for failure to pay sums due and owing.
- E. A dues check off or service fee check off provision will be made available by the City to any employee who voluntarily agrees and executes a written authorization to the City.
- F. An employee who has conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. Such employee is required, in lieu of periodic dues and initiation fees, to pay Agency Shop Fees in sums equal to the Union's regular dues and initiation fees to a non-religious, non-labor charitable fund exempt from

taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by such employee and verified as being a qualifying organization by the Union.

- G. The agency shop provision shall be rescinded by a majority vote of all the employees in the unit covered by such memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least thirty (30) percent of the employees in the unit; (2) such vote is by secret ballot; (3) such vote may be taken at any time during the term of such memorandum of understanding, but in no event shall there be more than one vote taken during such term.
- H. Any employee who claims financial inability to pay dues (or in lieu Agency Shop fees) may request a waiver of this requirement by filing a petition with the Union. If the Union finds that hardship exists, either a temporary or permanent waiver may be approved.

DEFINITION: For purposes of this Section, Agency Fee is defined as that portion of dues not attributable to social or political activities.

- I. Maintenance of Membership: Any employee who is a Union member and is tendering dues through payroll deduction as of the date of execution of this Memorandum of Understanding (MOU), or who becomes a Union member during the term of this MOU, shall remain a member and continue dues deduction for the duration of this MOU and each subsequent MOU thereafter. As an exception, however, between the dates of November 15 and December 15 each calendar year, an employee who is a Union member shall have the right to withdraw from the Union by discontinuing dues deduction by communicating such withdrawal in writing to the Union and the City. Such withdrawal shall be effective the following February 1st. An employee that moves to a classification outside the Union's bargaining unit shall not be required to continue dues deductions.
- J. PEOPLE Deductions: The City agrees to deduct from the wages of any employee who is a member of the Union a PEOPLE deduction as provided for in a written authorization. Such authorization must be executed by the employee and may be revoked by the employee at any time by giving written notice to both the City and the Union. The employer agrees to remit any deductions made pursuant to this provision promptly to the Union together with an itemized statement showing the name of each employee from whose pay such deductions have been made and the amount deducted during the pay period covered by the remittance. AFSCME and employees represented by AFSCME must comply with CMD 82 and this does not change the current rule/policy placing restrictions on political activities during work hours.

7. SICK LEAVE/FAMILY SICK LEAVE/PERSONAL LEAVE

A. Sick Leave

- 1) Employees shall accrue ninety-six (96) hours of sick leave per year of regular City employment. Sick leave shall accrue in equal amounts each

pay period. Employees shall not accrue sick leave while they are on unpaid status.

- 2) Use of sick leave will be under the same terms and conditions as are now in place. Vacation and CTO may be used to supplement sick leave with Department Head approval, as permitted and set forth in CMD 30 at the time this MOU was adopted.

B. Family Sick Leave

- 1) Not more than forty eight (48) hours of sick leave within one calendar year shall be granted to any employee for the care or attendance upon members of his/her immediate family, and not more than forty (40) hours of sick leave shall be granted to any employee for each occurrence of death in his/her immediate family, unless the use of additional leave is approved by the City Manager or designee. "Immediate family" is defined as spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, parent by marriage, step-parent, step-child, grandparent by marriage, son-in-law, daughter-in-law, sibling by marriage, foster parent, domestic partner, anyone residing with employee, or anyone dependent on the employee for care.

C. Personal Leave

- 1) Each calendar year, an employee is entitled to use forty (40) hours of accrued sick leave as Personal Leave, provided he/she has sufficient sick leave balance available.
- 2) Personal leave is intended to provide the employee with paid time off to attend to legitimate personal business that may arise from time to time during the year. Reporting the reason for use of Personal Leave is not needed.
- 3) The employee has an obligation to provide as much notice as possible so as to allow for proper scheduling by the department.
- 4) Providing that the minimal requirements of proper notification have been met, the use of Personal Leave should not be denied.

The adoption of this program does not modify the existing ability of the employee to exchange up to 96 hours of accrued sick leave for up to 48 hours of vacation, based upon two (2) hours of sick leave for one (1) hour of vacation as provided and defined in the Personnel and Salary Resolution.

8. BEREAVEMENT LEAVE

- A. The City will provide employees with a paid bereavement leave benefit to attend to the customary obligations arising from the death of a member of an employee's immediate family, as defined in this Section. Employees are eligible to receive up to forty (40) hours of bereavement leave in the event of the death of a parent , child , or sibling of the employee, employee's spouse

or employee's domestic partner (including, in each case, step, adoptive and in-law), spouse or domestic partner; up to three (3) work days (regardless of shift assigned) of bereavement leave in the event of the death of a grandparent, grandchild, aunt or uncle of the employee, employee's spouse or employee's domestic partner (including, in each case, step, adoptive and in-law); and up to one (1) work day (regardless of shift assigned) of bereavement leave in the event of the death of a great-grandparent, great-grandchild, great-aunt, great-uncle, niece, nephew, or first cousin of the employee, employee's spouse or employee's domestic partner (including, in each case, step, adoptive and in-law).

- B. The bereavement leave benefit is based on each death occurrence.
- C. Up to five (5) work days of additional bereavement leave may be charged to an employee's sick leave balance with City Manager approval.
- D. At the request of the City, the employee will provide verification.

9. HOLIDAYS AND AWARDED CTO

A. Paid Holidays

The City will observe the following thirteen (13) dates (or days) as City Holidays and City offices will be closed in observance of those holidays. Represented employees will be entitled to eight (8) hours of paid time off in observation of the holidays listed.

New Year's Day (January 1), Martin Luther King Day (3rd Monday in January), President's Day (3rd Monday in February), Spring Holiday (observed on Good Friday), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (1st Monday in September), Admission Day (September 9), Columbus Day (2nd Monday in October), Veteran's Day (November 11), Thanksgiving Day (4th Thursday in November), Friday after Thanksgiving, Christmas Day (December 25). Holidays which fall on a specific date and which fall on Saturday are observed the preceding Friday. Holidays which fall on a specific date and which fall on Sunday are observed the following Monday.

Additionally, the City will observe four additional non-permanent paid holidays on 12/26/17, 12/27/17, 12/28/17, 12/29/17, 12/26/18, 12/27/18, 12/28/18 and 12/31/18, and 12/26/19, 12/27/19, 12/30/19 and 12/31/19. These non-permanent paid holidays would be only for these MOU years, and this provision will sunset and expire at the end of these 12/18-12/20 MOU years. Employees whose jobs require them to work on these holidays will receive banked paid days off instead (8 hours per holiday) which hours may and must be used during the MOU year with the approval of the applicable supervisor/manager.

Because this MOU will be approved by the City Council after the 12/26/17 to 12/29/17 time period, employees who used leaves for these days/hours on and between 12/26/17 and 12/29/17 and are employed on the date the City

Council approves this MOU will receive banked days/hours off which may and must be used as set forth previously; but also shall have the option, if requested, to instead have their leave balances retroactively adjusted.

B. Awarded Compensatory Time Off (CTO)

On each January 1st the City will credit each represented employee with sixteen (16) hours of awarded compensatory time off (CTO) (or the proportionate share if the employee is working a reduced work schedule). This CTO shall be available for use by the employee under the same terms and conditions required by the department for use of regularly accrued CTO. Unused CTO may be traded for cash payout at any time after accrual.

Employees hired after January 1, 2004 shall be credited with a pro-rata share of the awarded CTO based upon the proportion of the calendar year remaining after their hire date.

10. VACATION ACCRUAL

Represented employees will be entitled to use vacation as it is earned under the following conditions:

- A. Vacation may not be taken during the first six (6) months of regular employment.
- B. As long as an employee has not reached his/her maximum allowable accrual rate, based on completed years of service, vacation will be earned on a bi-weekly basis (1/26 of the annual accrual) provided that the employee is in a paid status for at least 2/3 of the hours (53.4 hours) of that pay period. Employee is required to take at least 1/2 of the vacation earned in the previous calendar year during any calendar year.
- C. Employees may continue to accrue and use vacation in excess of the stated maximum accrual amounts; however, any unused vacation accrual amount still on the books as of the beginning of the pay period that includes December 31st will automatically be transferred to the Emergency Paid Leave Pool.
- D. Vacation may be used in one-tenth (1/10th) hour increments.
- E. Annual and maximum vacation accrual rates, calculated to four decimal points for accuracy, are as follows:

<u>COMPLETED YEARS OF SERVICE</u>	<u>ANNUAL ACCRUAL RATE</u>	<u>MAXIMUM ACCRUAL</u>
1 through 4	80 hours	400 hours
5 through 9	120 hours	400 hours
10 through 15 years	160 hours	400 hours
16 through 20	176 hours	400 hours

21 years +

192 hours

400 hours

F. Vacation Pay-Out

On or before the last business day before December 25th each calendar year, an employee may make in writing on an "Irrevocable Vacation Cash-Out Election Form" to be provided by the City an irrevocable vacation cash-out election for one cash-out of vacation the following calendar year. To be effective, the employee's written notice must be received by the Director of Human Resources or designee no later than the last business day before December 25th of the calendar year before the calendar year in which the employee wishes to cash-out vacation. The amount of vacation requested to be cashed out in the following calendar year may not exceed forty (40) hours which number of vacation hours, must have been earned in the following calendar year before it may be cashed out, and requires a sufficient balance of available accrued vacation. It is understood that an employee using vacation shall always use vacation earned in prior years first before using vacation earned in the current year. The dates available for the cash-out on the Election Form provided by the City shall be the first full pay period in either April, July, October or December.

This provision shall have no effect on an employee's right to cash out all his or her accrued vacation at the time of the employee's separation/retirement from City employment.

G. For purposes of Vacation selection, seniority will be defined as time in class within the department.

H. In lieu of receiving a vacation-leave cash payout at retirement, the Union may vote once per calendar year to roll accrued vacation leave hours into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Union compliance with Federal rules associated with employee contributions of vacation leave to their VEBA accounts.

11. NIGHT DIFFERENTIAL

Employees will be eligible for 5% night differential pay for all continuous hours worked between 6:00 p.m. and 8:00 a.m. so long as such hours include a minimum of 2 continuous applicable hours between 6:00 p.m. and 8:00 a.m. Night differential shall be included in the overtime rate for overtime hours that qualify for night differential under the rule in the preceding sentence.

12. EMPLOYEE ASSISTANCE PROGRAM

The City agrees to provide a confidential employee assistance program. Each new represented employee is provided information about the program and details about the program are on file in the Human Resources Department.

13. AFFIRMATIVE RESPONSE TO EMERGENCY OVERTIME

It is the policy of the City of Santa Clara to avoid the necessity for overtime work whenever possible. The City recognizes, however, the obligation to provide services to the community and, on occasion, may require employees to extend work shifts or to be called back to work due to emergencies, personnel shortages, or required workloads. Employees contacted for overtime work have an obligation to affirmatively respond to this need unless incapacitated or due to extenuating circumstances beyond the control of the employee and reasonably acceptable to the City. Failure on the employee's part to affirmatively respond to such requests and/or to acceptably document such extenuating circumstances or incapacitation will be in violation of the City's rules and regulations and may be subject to formal disciplinary action. For purposes of this section, incapacitation commonly means that an employee is unable to respond to perform his/her duties because of his/her own sickness or injury, or because he/she does not feel capable of performing the duties of the assignment safely because of the ingestion of alcohol or other legal drugs or prescriptions. For purposes of this section, extenuating circumstances commonly means that an employee is unable to respond or perform his/her duties because of extraordinary circumstances such as being required to provide care for another person who is unable to care for him/herself, inability to obtain transportation to the work site, or an undue hardship that places the employee in a situation that he/she deems unsafe. In cases of extenuating circumstances, the employee is expected to notify his/her supervisor of the basis for the decision not to respond and a realistic time at which he/she will be able to report to work. Repeated instances where an employee is either incapacitated or has extenuating circumstances may be cause for the supervisor to review the situation and take appropriate corrective action.

14. OUT-OF-CLASS ASSIGNMENTS AND TRAINING

A. Out-of-Class Pay and Elimination Periods

Represented employees assigned to work temporarily in a higher classification than their own shall be paid at least 5% more than their prevailing salary or at the entrance step of the range of the higher classification, whichever compensation pattern is greater.

- 1) Such assignment will be paid for all actual time assigned to the higher classification, after a 4 hour elimination period on the first day of said assignment.
- 2) If the out-of-class assignment lasts more than 4 hours, out-of-class pay will begin with the first hour of the assignment.
- 3) For a continuing out-of-class assignment of less than 4 hour increments that lasts more than 4 hours, out-of-class pay will begin with the first hour of the assignment.

Any represented employee who is assigned to work out of class in an unclassified position will receive a 5% salary differential above his/her current salary or the salary established as 85% of Control Point for the unclassified

position if such salary has been established, whichever compensation pattern is greater, provided that the requirements of (1), (2), and (3) above are satisfied.

To be eligible for out-of-class pay, the employee must perform all duties as assigned within the higher classification and must be assigned in writing.

B. Out-of-Classification Assignments

Out-of-classification assignment of employees is to be limited to employees who possess the knowledge, skills and abilities necessary to perform all of the duties of a temporarily available assignment in a higher or equal classification. Determination as to the eligibility qualifications will be the responsibility of the Department or Division head. Out-of-classification assignments will be filled from seniority rotational lists as follows:

Candidates for promotion to the position within the work unit will be assigned on a rotational seniority basis. If no candidate for promotion from within the work unit is eligible for assignment, candidates within the Department who are on the promotional list for the position will be assigned on a rotational seniority basis from within the Division first and from within the Department second if the candidate has a sufficient level of qualifications in that work unit to perform all of the duties of the higher classification.

C. Training

To the extent practical and consistent with the existing workload, Department and Division Heads are expected to provide employees with the training necessary for them to perform the duties of higher classifications within the work unit. They are also expected to make information available concerning training outside of the Department that employees may participate in through the existing City Tuition Reimbursement program or on a voluntary basis.

In order to gain the experience necessary to meet the criteria for out-of-classification assignments outlined above, employees are encouraged to seek out opportunities for cross training within the Department. One method by which this may be accomplished is by two employees in the same classification requesting that their assignments be exchanged for a defined period of time (typically three months). It will be the responsibility of the Department or Division head to approve such an exchange of duties based upon the impact on the involved work units. If there is no adverse impact on the involved work units, it is presumed that the assignment exchange will be approved.

15. PERSONAL SAFETY EQUIPMENT AND RAINGEAR REIMBURSEMENT

Employees shall receive a flat dollar lump sum (non-pensionable) amount of \$400 each fiscal year toward the purchase or repair of OSHA approved steel-toed safety shoes or boots (for employees who are required to wear steel-toed safety shoes or boots) and/or eye protection, and/or ear plugs, and/or headwear

protection (i.e., “hard hat”), and/or work gloves, raingear and/or water resistant jacket, work shirts, work pants and socks so long as the type of equipment purchased has been approved in advance by the Department Head as satisfying City requirements. Employees who are required to wear steel-toed safety shoes or boots are subject to disciplinary action if they do not have them available at the work site.

The City will continue the current policy to provide safety and/or protective equipment and/or clothing for use by the employee while performing his/her normal duties or during inclement weather or in other occasional special assignments or conditions.

16. REQUIRED TRAINING AND CERTIFICATION CLASSES

Unless it would conflict with business needs, the city will allow employees on duty time for classes and examinations to acquire and/or renew certifications required for their current positions. The city also will pay the cost of such classes and examinations.

17. GRIEVANCE PROCESS

The City's employee grievance process is established in City Manager's Directive #47 (CMD #47) titled On The Job Personnel Grievances. This CMD generally describes the process available to individual employees to clarify (and modify, if so required) interpretations of City rules, regulations, procedures and policies, including interpretations of this MOU. Should the City determine that CMD #47 needs to be revised during the term of this MOU, an offer to meet and consult with representatives of Unit 6 shall be extended for the purpose of receiving Unit 6 comments prior to the adoption of the revised CMD.

The following procedure is in place for represented employees who choose to have Union representation during the course of the Grievance process.

STEP 1

Step 1 of the process is the informal discussion between the employee and his/her supervisor (up to and including the department head). Should this informal process not result in resolution of the grievance, the employee shall reduce his/her grievance to writing and submit it to his/her department head for formal action as outlined in STEP 2.

STEP 2

Within five (5) working days (or at a later, mutually agreeable date, if either the employee, his/her representative or the department head is not available within the five (5) day period) of the receipt of the formal grievance, the department head shall review the entire grievance file through a meeting with the employee and his/her Union representative (if the employee chooses to be represented at this point). Within five (5) working days from the date of this meeting, the department head will respond in writing to the employee, setting forth his/her resolution to the problem. The employee must respond within five (5) working days to the department head in writing as to whether the grievance has been resolved or is still unresolved. If the matter has not been resolved as a result of

this step, the department head shall immediately forward all written material, including the original grievance, to the Municipal Employee Relations Officer (MERO) for action as outlined in STEP 3.

STEP 3

Within five (5) working days (or at a later, mutually agreeable, date if any party to the grievance is not available within the five (5) day period) of the receipt of the grievance material, the MERO and the department head shall review the entire grievance file through a meeting with the employee, his/her Union representative (if the employee chooses to be represented at this point) and any additional parties who the MERO feels can help to resolve the grievance. Within five (5) working days from the date of this meeting, the MERO will respond in writing to the employee, setting forth his/her resolution to the problem. The employee must respond within five (5) working days to the MERO in writing as to whether the grievance has been resolved or is still unresolved. If the matter has not been resolved as a result of this step, the MERO shall forward all written material, including the original grievance, to the City Manager for action as outlined in STEP 4.

STEP 4

Within fifteen (15) working days of the receipt of the grievance material the City Manager shall review the entire matter and render a final decision, in writing as to the resolution of the grievance. This review may include a meeting with the parties concerned (including the employee and his/her Union representative) and, if such a meeting is required, it will be scheduled within the fifteen (15) day period at a date that is mutually agreeable to all parties to the matter and the City Manager will render a final decision within five (5) working days of that meeting. The City Manager's decision will be directed to the employee through his/her department head. If the employee disputes the City Manager's final decision in the matter, the advisory arbitration process outlined in STEP 5 will be available.

STEP 5

If the Union continues to dispute the decision of the City Manager on behalf of the employee, the Union shall, within 15 working days of the City Manager's final decision, request that the matter be referred to an arbitrator, who shall render an advisory opinion on the merits of the grievance to the City Manager. The City Manager may accept, modify or reject the advisory opinion of the arbitrator and the City Manager's decision shall be final and without any further recourse of appeal.

The cost of the arbitrator shall be shared equally by the City and the Union and shall be selected by mutual agreement between the City and the Union or selected from a list of seven (7) qualified arbitrators provided by the State of California Conciliation Service.

The arbitrator shall have all pertinent written materials and witnesses used by either party in their review of the grievance available during his/her deliberations. Costs of representatives, witnesses or materials shall be assumed by each party to the grievance.

18. GOLDEN FRIDAY PROGRAM

The Golden Friday program (eight 9-hour days and one 8-hour day per bi-weekly pay period) currently in place in the Street Department, the Water and Sewer Department and the Traffic Engineering Division will not be modified (expanded or reduced) during the term of this MOU unless by mutual agreement in writing by both the City and the Union. All other employees in Unit 6, including probationary employees, shall have the right to work a 9/80 alternative schedule, which 9/80 schedule may be modified temporarily or to a different 9/80 work schedule in the discretion of the Department Head or Department Head's designee (examples include modifying the every-other-week day off, or temporarily modifying a Parks and Recreation Unit 6 employee's 9/80 schedule to accommodate a special event need when a special event need (set-up, other) falls on the employee's scheduled day(s) off.

19. ALTERNATE WORK SCHEDULE (NINE-EIGHTY PLAN)

An employee, subject to the conditions of the employee's job assignment, may propose an alternate work schedule as described in City Manager's Directive #71. Proposal must be made to the Department Head through the immediate supervisor. Consideration will be given as to the feasibility and impact on productivity of such proposal. Management retains the sole right to determine scheduling needs. A proposal for alternate work schedule, and the establishment or discontinuance of an alternate work schedule is not subject to any grievance procedure.

20. DEPARTMENTAL SAFETY COMMITTEE

City Manager's Directive #36 (CMD #36) provides for Departmental Safety and Training Programs with "representation from both office and field personnel where applicable." The City agrees to enforce the provisions of CMD #36 and provide for non-supervisory field staff representation on all Departmental Safety Committees.

21. CROSS REFERENCE OF EMPLOYMENT RELATED MATERIALS

The City shall cross-reference all pertinent sections of the Personnel & Salary Resolution, Civil Service Rules & Regulations, City Manager's Directives, and other significant documents, which pertain to employment with the City of Santa Clara. This cross-reference will be attached as an Exhibit to this MOU.

22. USE OF CITY BULLETIN BOARDS

The Employer-Employee Relations Resolution controls the use of City bulletin boards by employee organizations as follows:

- A. Prior to posting, all materials must receive the approval of the department or division head in charge of the departmental bulletin board. Should the department head not approve any item for posting, and if after discussing the matter with the employee organization representative a disagreement still

remains, then the matter shall be referred to the Municipal Employee Relations Officer for determination.

- B. All materials must be dated and must identify the organization that published them.
- C. Unless special arrangements are made, materials posted must be removed 31 days after the publication date.
- D. The City reserves the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to employee organizations' materials.
- E. An employee organization that does not abide by these rules will forfeit its right to have materials posted on City bulletin boards.

23. OVERTIME

Overtime work is defined as hours worked outside an employee's regularly assigned shift. Represented employees who work overtime are entitled to:

- A. Time and one half (1-1/2) the employee's hourly rate for worked overtime, excluding unpaid mealtime.
- B. Double-time (2) the employee's hourly rate for all hours worked in excess of 12 consecutive hours of actual work, excluding unpaid meal time.
- C. Employees shall not work overtime unless approved by the appropriate supervisor or manager.

City Manager's Directive #39 (CMD #39) requires equitable distribution of overtime as follows:

EQUITABLE DISTRIBUTION OF OVERTIME. Overtime will be distributed as equitably as possible consistent with efficient operations, the skills required for the assignment, and the availability of the employee and the speed with which the emergency can be confronted and eliminated.

CTO Over-Accrual:

The maximum accrual shall be the legal maximum of 240 hours. It is the City's intention to enforce the CTO maximum accrual limit that applies to each employee. In lieu of receiving a CTO cash payout at retirement, the Union may vote to roll accrued CTO hours into the employee's VEBA account, subject to Union compliance with Federal rules associated with contributions of accrued time into a deferred medical expense account.

24. EMERGENCY PAID LEAVE POOL

ADMINISTRATION

Administration of this program shall be provided by a three (3) member Emergency Paid Leave Board (Board), consisting of two (2) members of the Union Executive Board and the City Director of Human Resources (or designee). Determination of eligibility to use the vacation established in this Emergency Paid Leave pool will be by majority vote of this board. An adverse decision of this board may be appealed to the Union Executive Board and their determination shall be final.

METHOD OF DONATION

- A. Contribution of vacation or CTO will be computed at the member's base hourly rate of pay (excluding premium or specialty pay).
- B. Contribution may be made from earned vacation, CTO or cash only. Conversion of Sick Leave to Vacation for purposes of donation to this pool will be immediately credited to the pool.
- C. In a case where it has become known that an employee has been seriously injured or has a life-threatening illness and is in need of assistance from the Emergency Paid Leave Pool, contributions from accrued Sick Leave, bypassing vacation conversion, computed at the contributing employee's base hourly rate of pay (excluding premium or specialty pay) may be made for the benefit of that specific employee who has the need.
- D. Employee may authorize the City to automatically convert vacation that should be accrued to the employee to the pool when the employee's vacation accrual has reached the maximum allowed.
- E. Funds contributed to the Emergency Paid Leave Pool will be placed in an interest bearing Trust Fund. The Trust Fund will be accumulated in total dollars. No record of number of hours contributed to the Pool will be maintained. An employee making a donation to the Pool will not have a vested right to the amount donated.
- F. Employees may contribute earned vacation, CTO or cash to the Emergency Paid Leave Pools of other City bargaining groups.

USE OF POOL

- A. Employee must have a verified emergency need for time off to request Emergency Paid Leave from the pool. Medical emergencies for the employee or dependent shall be verified by a doctor's certification and shall include the anticipated duration of the medical emergency. An employee's initial request to use leave from the Emergency Paid Leave Pool shall be made to the City's Director of Human Resources (or designee). The Director of Human Resources (or designee) shall make an initial determination regarding whether the employee's request to use Emergency Paid Leave is for a verified medical emergency. The Director of Human Resources (or designee) shall notify the rest of the Board of the name of the individual making the request, the date of the request and whether or not the individual's request qualified as a verified medical emergency need under this section. Non-

medical emergencies shall be verified by certification acceptable to the Board and shall include the anticipated duration of the emergency.

- B. Employee must have exhausted appropriate paid leave (sick leave including eligible conversion to vacation, vacation or CTO) prior to becoming eligible to request vacation benefits from the pool.
- C. The maximum time available from the pool (subject to the assets of the pool) will be 160 hours (two [2] pay periods) for Emergency Paid Leave benefits due to the illness or injury of the employee or the maximum allowable accrual of vacation for emergency needs of the family of the employee.
- D. Emergency Paid Leave will be deducted from the pool based upon the employee's base hourly rate of pay (excluding premium or specialty pay).
- E. Emergency Paid Leave hours will not be available for use until the pay period following the approval by the Union.
- F. Use of Emergency Paid Leave from the pool will be treated in the same manner as use of regular vacation. The employee will continue to accrue sick leave, vacation, insurance coverage and other benefits in the same manner as he/she would if using regularly credited vacation.
- G. Emergency Paid Leave, which has been credited to the employee, and has not been used when the emergency has terminated, will be reinstated to the pool. Vacation, sick leave and other benefits, which have accrued to the employee, will remain in the employee's account.

25. LIMITED/ALTERNATIVE DUTY

A. Job Related Illness or Injury

Employees who have a job related illness or injury which requires him/her to be off work under Workers' Compensation will be assigned to limited or alternative duty under the following condition:

Supervisors shall be advised of the medical condition of any industrial injury as soon as practical. Upon receipt of a Doctor's report which provides work limitations, the City may identify a regular or modified assignment for which the employee has the required experience and training to be eligible for assignment to. Such assignment may be based upon a 40 hour per week or less basis, if mutually agreed between the City and the employee.

Employees who have a job related illness or injury which requires him/her to be off work under Workers' Compensation or who do not qualify for limited or alternative duty will be reassigned to a Monday through Friday work schedule to keep required medical or other workers' compensation commitments.

B. Non Job Related Illness, Injury or Condition

Employees who have a non job related illness, injury or condition which requires him/her to be off work may request to be assigned to limited or alternative duty. Nothing in these provisions is intended to imply that an employee has a right to a limited/alternative duty assignment, unless expressly provided by law. Such request will be accommodated unless no appropriate limited or alternative duty assignment is available under the following conditions:

- 1) Identification by the City of a regular or modified assignment for which the employee has the essential experience and training to be eligible for assignment to. Such assignment may be based upon a 40 hour per week or less basis, if mutually agreed between the City and the employee.
- 2) Upon a written release from his/her doctor, subject to review by the City doctor, which allows the employee to perform all of the duties of the contemplated assignment.
- 3) Employees may account for his/her regular work schedule through a combination of limited or alternative duty hours and sick leave or other paid leave sufficient to maintain eligibility for regular accrual of benefits.

Under both of these limited or alternative duty assignments employees will be required to work their regularly scheduled number of hours (normally forty (40) hours) per week, unless such assignment is modified by mutual agreement between the City and the employee. It is recognized that performance of limited or alternative duty assignments will not be permitted to interfere with any medically related treatment designed to assist the employee to return to full, unrestricted duty in the earliest possible time frame.

All such assignments, and their duration, are temporary assignments and are subject to periodic sixty (60) day review of the employee's continued need for limited or alternative duty, the employee's continued ability to perform the limited or alternative duty and the department's ability to continue the employee in the assignment. All temporary assignments shall be at the employee's regular rate of pay.

In the event the Americans With Disabilities Act requires modification of the provisions of this section, it is agreed that the law will prevail.

26. LAY-OFF POLICY

- A. The need for a layoff shall be determined by the City Manager. One type of layoff is a reduction in force necessitated by financial shortfalls or deficits. In the case of a reduction in force, the City Council shall adopt a resource allocation plan. The resource allocation plan shall contain reasons for reduction and a listing of programs which are affected, and the specific City classifications and numbers within each classification that shall be reduced.
- B. In the event of a layoff, the City agrees to meet-and-confer on the impacts of the layoff with AFSCME at least thirty (30) days prior to the effective day of the layoff. The parties discussion of a reduction in force shall include

AFSCME recommendations as to how best to accomplish the reduction in force process with the least impact on represented employees, and to explore alternatives such as reductions in work hours, freezing of merit pay increases or similar programs which will result in reducing the City's labor costs.

If the City implements a reduction in work force, the City will administer the lay-off policy consistent with the following concepts:

C. Order of Layoff

The order of lay-off shall be as follows:

- 1) In the case of a reduction in force as defined above, temporary (as-needed) employees performing any of the duties of the classification identified for reduction;
- 2) Probationary employees in the classification identified for reduction;
- 3) Permanent employees in inverse order of seniority within the classification identified for reduction.

Seniority shall be determined by the length of current continuous permanent service with the City regardless of classification in which employed. Continuous service shall be defined as that which has not been interrupted by separation of service from the City. Seniority shall be retained, but shall not accrue, during any period of authorized leave without pay (more than 5 days), except for military leave.

- D. Notice: When the City intends to lay-off a represented employee, notice to the employee shall be in writing at least thirty (30) days prior to the effective date of the lay-off. AFSCME shall receive concurrent notification of lay-off. The notice of lay-off shall contain the following:

- 1) Reason for lay-off
- 2) Effective date of lay-off
- 3) Opportunity to discuss with a representative of management
- 4) Conditions governing re-employment
- 5) Information regarding Unemployment insurance
- 6) The date by which the employee must notify Human Resources of his/her election, in writing, of a reassignment or bumping election.

- E. Reassignment and Bumping: Employees identified for layoff shall have reassignment rights (bumping) as follows:

- 1) To the same classification in a different department or division based upon seniority as defined in Section C above.
- 2) Accept a position in a lateral or lower class in which he/she has permanent status, or a position in a lateral or lower class within the series containing the class from which the employee is being laid off, provided he/she is otherwise qualified and is more senior than the least senior employee in such lateral or lower class.
- 3) Accept a position in higher class, provided he/she has held permanent status in such higher class, and further provided that the employee's

transfer from the higher class was voluntary and occurred during his/her current period of employment and provided he/she is otherwise qualified and is more senior than the least senior employee in such higher class.

- 4) Accept a vacant position in a lateral or lower class for which he/she is otherwise qualified.

An employee must notify Human Resources of his/her election in writing including e-mail, within seven (7) calendar days of receipt of written notice the employee has been identified for layoff.

Any employee entitled to an option noted above, which involves assignment to a lower classification, may elect to be placed on lay-off in lieu of accepting such assignment to the lower class. In the event the employee elects to be placed on lay-off, such employee will only be recalled to the classification from which the employee elected to be placed on lay-off. The decision to not accept assignment to a lower classification may adversely affect the employee's ability to collect unemployment insurance.

F. Re-Employment/Re-Instatement Lists

The names of regular or probationary employees laid-off according to this policy, or who exercised re-assignment or bumping rights under Section E. above, will be placed on a re-employment list for the classification for which the employee was laid off, in the inverse order of the layoff. Individuals' names will be retained on a re-employment list for the shorter of either three (3) years from the effective date of lay-off or the date on which a laid off employee rejects an offer of re-employment in the classification from which the former employee was laid off. Former employees while on the re-employment list that apply for positions at the City other than positions in the classification for which they were laid off shall have the same status and rights and application process advantages, if any, as current employees, assuming they meet the minimum qualifications for the applicable position.

Laid off persons who are re-employed under this provision shall be re-instated with/to the same seniority, pay step and pay step anniversary date and leave accrual rates as at the time they were laid off.

27. STEP INCREASES

Step increases will be applied as follows:

- A. Employees who have an anniversary date that falls within the first week of the pay period and who have been approved for a step increase will be adjusted on the beginning day of the pay period during which the anniversary date falls.
- B. Employees who have an anniversary date that falls within the second week of the pay period and who have been approved for a step increase will be adjusted on the beginning day of the pay period immediately following the anniversary date.

- C. Employees who have passed their probationary period will receive a step increase on the pay scale for their job classification each year on their anniversary date until reaching salary Step '5'.
- D. Employees will receive an increase to Step '6' on their anniversary date on the pay scale for their job classification if they are at Step '5' for at least one year and have at least ten years of continuous, regular City service.
- E. Employees will receive an increase to Step '7' on their anniversary date on the pay scale for their job classification if they are at Step '6' for at least one year and have at least fifteen years of continuous, regular City service.

28. VOLUNTARY TIME OFF (VTO)

Employee participation in this plan is contingent upon the City's understanding and agreement that employee participation cannot be interpreted as anything other than a temporary and limited good faith effort being made by the employee to do his/her part to help ease the current budget crisis. This is not to be construed as a representation of employee commitment to a permanent program or an admission of any kind that the employee would not be harmed by such a plan becoming mandatory.

Employees may request voluntary unpaid time off under the following conditions:

- A. Approval of a work schedule that does not adversely impact the operations of the department or other employees in the work unit with the approval of the Department Head and the City Manager.
- B. No impact on either sick leave or vacation accrual if sufficient hours are worked in a pay period to entitle the employee to his/her regular accrual rate for either benefit.
- C. No reduction of insurance premium payment or refund as long as sufficient hours are worked to allow for full payment of the premium for an employee working a full time work schedule. If the number of hours worked is less than the number required for full payment of premiums or refunds, the premium or refund payments will be reduced in proportion to the hours required to gain full credit.
- D. Voluntary time off may be taken without the employee first using all of his/her accrued Compensatory Time Off (CTO).
- E. Employee may cancel his/her participation in the program with a notice time agreed upon at the time of the granting of the request that will be sufficient to allow the department head to accommodate the request.
- F. Cancellation of the employee's participation in the program will be at the discretion of the Department Head with the approval of the City Manager.

29. DISABILITY INSURANCE

A. State Disability Insurance

The City will continue to contract with the State of California Employee Development Department to provide Disability Insurance (SDI) for represented employees. All cost of SDI insurance is to be paid for as a payroll deduction by the individual employee.

B. Long Term Disability

All represented employees will continue to be enrolled in mandatory long term disability insurance which will provide no less coverage for the employee than the program in place on January 1, 1995 which are a 60 day waiting period and will pay 60% of the employee's monthly salary up to a maximum amount set by the contract between the Union and the insurance carrier. The maximum monthly benefit will be no less than an amount set by the contract between the Union and the insurance carrier, including those offsets required by law such as, but not limited to, SDI, retirement, reduced work schedule, worker's compensation, social security, and Railroad retirement. The maximum monthly premium will be deducted from each employee's total compensation on a post-tax basis.

The City, as provided for under Section 414(h)2 of the Internal Revenue Service Code, continues the practice of reporting the employee contribution to CalPERS as tax deferred.

30. INDUSTRIAL INJURY/CONTINUATION OF INSURANCE BENEFITS WHILE ON WORKERS' COMPENSATION

Workers authorized by the City's Workers' Compensation Administrator to undergo therapy or treatment due to an industrial injury, who are required to leave work, shall receive leave with pay, including reasonable travel time, providing the treatment falls within the normal working hours, is pre-scheduled and cannot be scheduled during non-work hours.

The City will continue payment toward health, dental, vision and life insurance coverage for the employee and dependents as set forth in Section 3 for an employee who is disabled from work because of a work related injury if the employee is no longer in a paid status sufficient to continue the coverage afforded under the terms of the program, subject to the following conditions:

- A. The employee may not increase the existing coverage after the date of injury except to add children born within nine months of the injury.
- B. Continuation toward payment of dependent health/dental/life insurance coverage is limited to one (1) year from the date of injury. Continuation toward payment of employee health/dental/life insurance coverage is limited to one (1) year from the date of injury, unless the employee continues to be on temporary disability status for a Workers Compensation injury.

- C. The employee has supplemented his/her workers' compensation benefit with sick leave, vacation, CTO or other paid leave sufficient to qualify for payment of the health/dental/life insurance premium and is no longer entitled to any salary from the City.

31. FLEXTIME

The City agrees to continue the current reference in the MOU to a Flexible Work Schedule provided in Section 18 of the MOU. Control over the operation of the flexible work schedule will continue to be as specified in CMD #46.

32. AUTOMOTIVE TECHNICIAN TOOLS REIMBURSEMENT

Within the Streets and Automotive Services Department, the following classifications are required to provide tools of the trade as a condition and requirement of employment:

Automotive Technician I
Automotive Technician II
Automotive Technician III

The Department determines minimum tool requirements based upon individual job descriptions and the current fleet composition. Criteria used in determining whether a specific tool should be supplied by the organization or be required of the employee includes cost, frequency of use, and securement of the item, and generally follows the accepted standards of the industry. A list of the tools currently used is attached and referenced in Exhibit A.

All tools may be inspected by the Department to assure that they are of sufficient quality and condition, which will provide safe, damage-free usage. Tools that are deemed of poor condition, quality, inappropriate, or an unnecessary risk to the City may be rejected from the respective employee inventory and the City may require the employee to remove said item from the workplace.

Affected employees shall be entitled to reimbursement of up to \$500 per fiscal year. Employees are obligated to maintain and submit receipts for reimbursement. Employees are required to submit all receipts for which employees seeking reimbursement for a particular fiscal year no later than June 10th of the applicable fiscal year.

33. RELEASE TIME FOR UNION OFFICERS AND STEWARDS

A. Time Off For Union Representation

- 1) MEET AND CONFER/CONSULT: Up to five (5) designated members of the Union shall be allowed time off without loss of compensation for purposes of meeting and conferring or meeting and consulting with City representatives on matters within the scope of representation. In addition, for purposes of MOU negotiations, the up to five (5) members of the Union shall also be afforded a total of two hours' time off without loss of compensation before and/or after each MOU negotiations meeting.

- 2) The Union President or designee shall be authorized release time to appear before the Civil Service Commission and the City Council at meetings when such bodies are considering matters affecting the bargaining unit and to attend meetings called by the City Administration regarding matters affecting the bargaining unit.

B. Stewards

- 1) Employees selected by the Union to act as Union representatives shall be known as "stewards". The Union may select one (1) steward for every division with classifications represented by the Union. The names of employees so selected and the areas to which they are assigned shall be certified in writing to the City by the Union. In the absence of the steward, an alternate may be appointed by the Union President. Stewards, during regular working hours, shall be permitted to investigate and present grievances to the City without loss of pay, provided that the steward is first excused by his/her supervisor. Permission to perform steward functions shall not be unreasonable denied by the City.
- 2) If it becomes necessary during the course of his/her investigation for a steward to contact an employee in another department or division, the steward shall notify the supervisor of that department or division of the purpose of his/her investigation. When the investigation is complete, the steward shall promptly report back to his/her supervisor.

34. DISCIPLINARY RIGHTS

In the event of a suspension, dismissal, involuntary demotion or reduction in pay, the City will provide the employee with a "Notice of Proposed Disciplinary Action" and a "Skelly" hearing prior to the imposition of the discipline. The employee has the right to representation by his/her representative if requested.

Following the "Skelly" hearing, the City shall provide the employee with a "Notice of Final Disciplinary Action" which sustains, modifies or cancels the original action based upon the facts presented. The employee may appeal the final decision of the Appointing Authority (City Manager) to the Civil Service Commission by filing a written request with the Secretary of the Commission and the Appointing Authority within ten (10) calendar days from the date of the written notice of action taken. If an appeal is filed, the Appointing Authority will give consideration to a delay in the implementation of the disciplinary action pending a hearing and decision by the Civil Service Commission unless the Appointing Authority believes there exists compelling reason to take immediate action.

REPRESENTATION

Whenever an employee is required to meet with a supervisor and the employee reasonably anticipates that such meeting will involve questioning leading to a disciplinary action, he/she shall be entitled to have a steward present if he/she requests. (See e.g. National Labor Relations Board v. J. Weingarten, Inc. 420 U.S. 251, 955.Ct.959)

35. REST PERIOD FOLLOWING EMERGENCY WORK

Any employee working eight (8) or more hours at the overtime rate during the fifteen (15) hour period immediately preceding the beginning of his/her regular work shift shall be entitled to a rest period of twelve (12) consecutive hours on the completion of such overtime work with the following provisions:

- A. No employee shall be required to work in excess of sixteen (16) hours without rest unless an emergency is investigated and continued work is deemed necessary to prevent extreme property damage or to preserve human life.
- B. If the rest period overlaps the employee's regular work shift in whole or in part, the employee will be paid at the straight-time rate for the time within the first eight (8) hours of the rest period which falls within the employee's regular work shift.
- C. If the rest period overlaps a portion of the first half of the employee's work shift, the employee may be excused from work until the beginning of the second half of said shift. If the rest period overlaps a portion of the second half of the employee's work shift, the employee may be excused from work until the following work shift. The employee will only be paid for that portion of the rest period which falls within the first eight (8) hours of the rest period and which overlaps the employee's normal working shift. The employee will not be paid for the time between expiration of the rest period and his/her reporting for work. The employee also will not be paid for the ninth through twelfth hour of the rest period.
- D. Hours worked prior to a rest period shall not be included in determining another rest period.
- E. If the employee is called back to work during the employee's rest period, a new rest period will commence at the conclusion of such work.
- F. Any employee who works a minimum of three (3) hours of emergency overtime between the hours of 11:00 p.m. and 6:00 a.m. will receive an eight (8) hour rest period commencing at the time of release from duty.
- G. Notwithstanding the foregoing, if the employee is required to work during regular work hours on a work shift without having had a rest period of eight (8) hours, for which he/she has qualified as set forth above, he/she shall be paid at the overtime rate for all work performed until he/she has been released from duty for at least eight (8) hours.

36. VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA)

The City established a Voluntary Employee Beneficiary Association (VEBA) trust under Internal Revenue Code Section 501(c)(9) for the purpose of providing a defined contribution post-retirement medical benefit for employees. The City previously stopped making contributions to employee VEBA accounts effective December 21, 2003 through December 26, 2009 and employee VEBA accounts remained open for other potential contributions. Effective December 27, 2009,

the City began contributing \$50 per month per represented employee. Per the City's contract with VEBA, VEBA's consulting fee will be deducted from plan participant's accounts. These contributions shall be included on the Bay Area ERS total compensation surveys. Specific information regarding the Plan will be referenced in the Plan Document.

A VEBA is a tax-exempt trust account formed under Internal Revenue Code Section 501(c)(9) designed to accumulate assets to fund the future payment of qualified medical expenses (including specified insurance premiums). At retirement, participants may withdraw the accumulated plan benefits to pay for unreimbursed health insurance premiums, qualified long term care insurance premiums, and other qualified unreimbursed medical expenses and will not be taxed under current state and federal law. Withdrawals cannot be made for non-medical purposes.

37. RETIREE MEDICAL REIMBURSEMENT

The Retiree Medical Reimbursement Benefit shall provide each employee who retires from the City with at least ten (10) years of regular City service with a reimbursement for unreimbursed single retiree health insurance premium beginning with the second full month after retirement from City service and ending with the last full month before the retiree's sixty-fifth (65th) birthday. Starting with the month in which the retiree turns age sixty-five (65), the reimbursement will be for unreimbursed Medicare single retiree supplemental health insurance premium. For premiums paid in calendar year 2017 that will be reimbursed in 2018, the City will reimburse an amount up to \$343 per month, including the PEMHCA minimum, for unreimbursed single retiree health insurance premium or up to \$205 per month, including the PEMHCA minimum, for unreimbursed Medicare single retiree supplemental health insurance premium. The amount of the City reimbursement will be adjusted thereafter once each year by the percentage change from October to October in the San Francisco-Oakland-San Jose urban wage earners and clerical workers (W) consumer price index from the prior year, but in no event will be increased more than 3.5%.

Beginning in 2004, the City will pre-fund this benefit with an amount to be determined by an actuary.

Each retiree will be required to submit proof of health insurance coverage to the City each year. The City will pay the reimbursement in a lump sum payment once per year.

38. FLEXIBLE SPENDING PLAN INTERNAL REVENUE CODE SECTION 125

The City will make available a Flexible Spending Plan under the Internal Revenue Code Section 125 for employees. Employees may contribute pre-tax (federal, state, FICA, Medicare) dollars for dependent care and qualified unreimbursed medical expenses. This Plan will follow the regulations outlined by the Internal Revenue Code. Detailed information will be available in the Summary Plan Document.

The City will pay the administrative expenses for the plan. This Plan is voluntary and participating employees will pay the monthly participation cost. The monthly participation cost will be considered pre-tax, as defined above, under Internal Revenue Code Section 106. Participating employees will be provided with an Employee Plan Summary and regular statements regarding the status of their flexible spending accounts.

39. DOMESTIC PARTNERS

The City shall make all benefit programs available to employees, dependents and domestic partners, subject to the requirements of each benefit provider.

40. PAY PERIODS

Allowances/payments or accrual rates that are an agreed upon amount per month or year but are paid for administrative purposes in incremental amounts each pay period, shall be the same total amount per year in years in which there are 27 instead of 26 pay periods. This clarification is not intended to and would not modify anyone's salary/pay rate.

41. NEXT MEMORANDUM OF UNDERSTANDING

AFSCME and the City agree to commence negotiations on a successor MOU no later than three months prior to the expiration date of this MOU.

42. INTEGRATED MEMORANDUM OF UNDERSTANDING

During the negotiations leading to this MOU, both the City and AFSCME had the full opportunity to make any proposals they deemed appropriate for a successor MOU, and all of the agreements reached by the parties during MOU negotiations are set forth in this MOU. Accordingly, neither party shall be required to meet and confer regarding any provision of this MOU during the term of this MOU (unless such provision is contrary to law), and any changes to any provision not contrary to law within this MOU will only be effective by mutual agreement.

43. MANAGEMENT RIGHTS

Subject to State law and the provisions of City of Santa Clara Employer-Employee Relations Resolution, and the terms of this MOU, the rights of the City through its Council and Management include, but are not limited to: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; establish and enforce dress and grooming standards; direct its employees; 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 and


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 City functions including, but not limited to, the right to contract for or subcontract any work or operation of the City; to assign work to and schedule employees in accordance with requirements as determined by the City including but not limited 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 and modify probationary periods and 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.

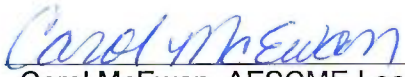
The City Council on its own behalf and on behalf of the City hereby retains and reserves unto itself all rights, power, authority, duty, responsibility and obligations conferred on and vested in it by the laws and Constitutions of the State of California and the United States of America. The exercise of such rights, power, authority, duty, responsibility and obligations by the City Council and the adoption of such rules, regulations, policies as are necessary and as they apply to employees represented by the Union shall be in accord with this Memorandum of Understanding to the extent that they do not violate any of the reserved duties, responsibilities and obligations conferred on and vested in it by the laws, Charter of the City, Constitutions of the State of California, and the United States of America.


MEMORANDUM OF UNDERSTANDING – Unit # 6 (December 2017 – December 2020)

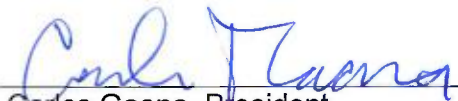
FOR THE CITY OF SANTA CLARA:


FOR AFSCME LOCAL 101/UNIT NO. 6



Edward Kreisberg
Lead Negotiator
Date: 4/11/18

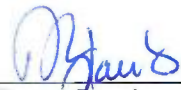

Carol McEwan, AFSCME Local 101
Lead Negotiator
Date: _____



Julia Hill, Interim Director of HR
Date: 4/11/18

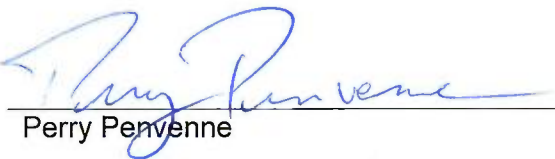

Carlos Gaona, President
Date: 4-12-18



Vanessa Guerra
Date: 4/11/18


Cliff Myers
Date: 4/12/18

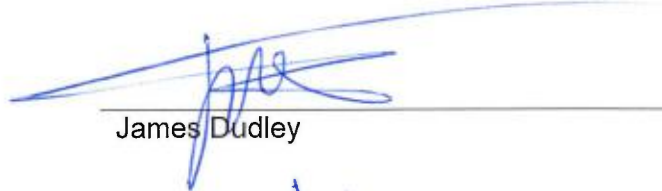

Dave Staub
Date: 4/11/18


Armando (Gary) Ferraris
Date: 4/11/18


Perry Penvenne
Date: 4/12/18


Lupe Fuentes
Date: 4/12/18

MEMORANDUM OF UNDERSTANDING – Unit # 6 (December 2017 – December 2020)



James Dudley

Date: 4/12/18

APPROVED: _____
Deanna J. Santana, City Manager Date

APPROVED BY THE CITY COUNCIL ON: _____

ATTEST: _____
Jennifer Yamaguma, Acting City Clerk Date

EXHIBIT A
TOOL LIST

Pliers - various	½" Drive Metric Impact Sockets
Side Cutters	10mm - 27mm
Needle Nose Pliers	½" Ratchet Extensions - various
Hose Clamp Pliers	½" Drive Torx - male/female
Wire Strippers	½" U Joints
Wire Crimpers	Power Tools
Wire Grips	Air Drive Cut Off Tools
Tweezers	Air Drive Drill
	Long Drill Bits
Hammers_ - Dead Blow, Brass, Ball	Air Ratchet 1/4", 3/811, 1/211 drive
Peen	Air Rotary Wire Brush
Punch Set	
Chipping Hammer	Anti Freeze Tester
Pry Bar	Battery Post Cleaner
	Post &'Side Post
Philips Screwdrivers	Blow Guns
Standard Screwdrivers	Brushes - Wire Hand Held
Torx Driver t15 - t27	Brushes - Stainless Steel
	Brushes - Brass
Standard Wrenches ¼" - 1 ¼"	Brushes - Steel
Metric Wrenches 6mm - 27mm	DVOM
Std. Allen Wrenches 1/16" - 3/8"	Files - various
Metric Allen Wrenches 1.5mm - 10mm	Mill, Knife, Taper, Flat,
Crows Foot Wrenches 3/16" – 1"	Bastard
Crescent Wrenches	Flashlight
Tube Wrenches - Metric & Standard	Gasket Scrapers
	Hack Saw
¼" Drive Ratchet	Magnets
¼" Drive Std. & Swivel Sockets	Mechanical Fingers
3/16" - ½" Std. deep	Mirror Hand Held Swivel Head
¼" Drive Metric Sockets 5mm - 14mm	Roll Bar
¼" Ratchet Extensions - various	Scissors
¼" U Joints	Soldering Iron
¼" Drive Torx - male/female	Steel Scale
	Squares - Large & Small
3/8" Drive Ratchet	Tape Measure 6' – 25'
3/8" Drive Std. & Swivel Sockets	Test Light
3/8" - 7/8" Std. deep	Test Leads
3/8" Drive Metric Sockets 9mm - 19mm	Tire Depth Gauge
deep standard	Upholstery Tools
3/8" Ratchet Extensions - various	Utility Knife
3/8" Drive Torx - male/female	Vacuum Gauge
3/8" U Joints	
½" Drive Air Impact	
½" Drive Std. & Swivel Sockets	
7/16" – 1" Std. deep	

MECHANIC'S HELPER TOOL LIST

Pliers 3 sizes
Side Cutters
Needle Nose Pliers 2 sizes
Wire Strippers
Wire Crimpers
Tweezers

Hammers 2 sizes
Punch Set

Gasket Scrapers

Philips Screwdrivers 3 sizes
Standard Screwdrivers 3 sizes
Torx Driver t15 - t27

Tire Depth Gauge
Test Light
DVOM
Flashlight
Tape Measure

Standard Wrenches ¼" - 1 ¼"
Metric Wrenches 6mm - 27mm
Standard Allen Wrenches 1/16" - 3/8"
Metric Allen Wrenches 1.5mm - 10mm

¼" Drive Ratchet
¼" Drive Standard Sockets 3/16" - ½"
¼" Drive Metric Sockets 5mm - 14mm

3/8" Drive Ratchet 3/8" Drive Standard
Sockets 3/8" - 7/8"
3/8" Drive Metric Sockets 9mm - 19mm

½" Drive Air Impact
½" Drive Standard Impact Sockets 7/16"
– 1"
½" Drive Metric Impact Sockets 10mm -
27 m

Recognized industrial/professional
standard quality i.e., Snap On, Mac,
Craftsman, etc.

EXHIBIT B
CROSS REFERENCE TO PERTINENT EMPLOYMENT RELATED MATERIALS

The following list is intended to provide the employee with a basic reference to materials related to his/her employment. Materials which are not generally distributed to each employee are available for review through his/her department or the Human Resources Department. Failure to include material in this reference list does not relieve the employee of responsibility for knowledge of the City rules, regulations or operational procedure.

- A. MEMORANDUM OF UNDERSTANDING. Contains the most current modifications to the conditions of employment between the Bargaining Unit and the City. Supersedes existing conditions contained in related materials.
- B. PERSONNEL & SALARY RESOLUTION. (Resolution 4652 or successor resolutions). Contains the existing rules & regulations pertaining to conditions of employment, benefits and other elements of employment. This is a compilation of the all MOUs between the various Bargaining Units and the City. Individual elements will have been superseded by the current MOU.
- C. EMPLOYER-EMPLOYEE RELATIONS RESOLUTION. (Resolution 2979). This governs the method by which the Bargaining Units are determined and sets the guidelines on employee representation and bargaining under the law.
- D. CIVIL SERVICE RULES & REGULATIONS. The Civil Service system of employment is regulated by these rules & regulations. The document defines the methods by which prospective employees may qualify for Civil Service employment and current employees qualify for promotional opportunities. This document also defines the method by which an employee may appeal a disciplinary action or grievance.
- E. EMPLOYEE MANUAL & NEW EMPLOYEE ORIENTATION MATERIALS. This manual is a compilation of the various materials that a new employee is expected to be aware of and contains materials from A, C, and D above, as well as information pertaining to the various benefits an employee is entitled to by virtue of his/her employment with the City of Santa Clara. Materials having to do with the various insurance programs or changes to the benefits are distributed to current employees as they are changed. Also included in each new employee orientation packet is the Code of Ethics, the CMD on Gifts & Favors, the Performance Evaluation, and the City Manager's Policy on Discrimination.
- F. FRINGE BENEFIT SUMMARY. This document summarizes all of the benefits available to regular employees as a result of their employment and is distributed periodically to all employees.
- G. AFFIRMATIVE ACTION PLAN AND CITY MANAGER'S POLICY ON DISCRIMINATION. These documents set forth the City's policy for non-discrimination in employment and the methods by which the City takes steps to ensure equal employment opportunities for all.
- H. CITY CHARTER. This document provides the legal basis upon which the City operates.
- I. CITY ADMINISTRATIVE CODE. This document defines the methods by which the City

operates generally under the City Charter.

- J. CLASSIFICATION PLAN & SALARY SCHEDULES. This document allocates each classification in the City to a range on the individual Salary Schedule. The Salary Schedule defines the pay rate at each step on a salary range.
- K. CITY MANAGER DIRECTIVES. These directives provide the operational procedures that have been adopted by the City Manager to ensure an orderly conduct of City business. All of the 121 current CMDs apply to all of the City's employees. However, the following listed CMDs have particular application to the employees of this Bargaining Unit.

NO. TITLE

2A	Procedures for Reporting Injuries & Property Damage
7	Leave of Absence without Pay Procedures
8	Safety Seat Belts
12	Citizens Complaint or Service Request
15	Meal Policy for Emergency and Overtime Work
18	City Operating and Maintenance Procedures
22	Media Responses/News Releases
25	Jury Duty
26	In-Service Training
30	Standards of Sick Leave Usage
31	Transaction of Personal Business During Working Hours
33	Employment of Relatives
34	Employee Suggestion Program
36	Smoking in the Work Place
37	City Safety Program
39	Overtime Work for Classified Employees
45	Vehicle and Equipment Accident Review Committee
46	Flexible Work Schedules
47	On the Job Personnel Grievances
51	Employment other than City Duty
59	Return to Duty Work Following Industrial Injury/Illness
67	Gifts and Favors to Individuals
70	Gifts to the City
72	Automatic Payroll Deposit Plan
73	Normal Work Schedules
75	Employee Cleanup Policy
75A	Safety Glasses
	Personal Use of City Phones
82	Political Activities
	Unit Composition
85	Reporting of Industrial Injuries/Illnesses
86	Workplace Security
90	City Procedure in Case of Death of City Employee
93	Formal Disciplinary Action – City Employee
94	Temporarily Working in a Higher Classification
97	Voluntary Separation/Retirement Interviews – Classified and Unclassified
	(a) Civil Court Subpoenas – Service on City Employees

MEMORANDUM OF UNDERSTANDING – Unit # 6 (December 2017 – December 2020)

- 102 Employee Identification Card Program
- 110 Employee Liability
- 111 Consumption of Alcoholic Beverages
- 112 Emergency Medical/First Aid Treatment
- 113 Dress and Grooming Code
- 114 Inclement Weather Policy for Field Personnel
- 115 Employee Medical Information
- 116 Use of City Resources
 - (2) Public Contact
- 120 Drivers' License Requirements
- 122 Hazardous Materials Use, Handling, Storage, Disposal, Response
- 131 Equal Employment Opportunity

L. PERSONNEL POLICY AND PROCEDURE RE: ALCOHOL AND CONTROLLED SUBSTANCE USE FOR DRIVERS PERFORMING SAFETY SENSITIVE (HIGHWAY) FUNCTIONS. This document provides the City's policy in compliance with the Federal Department of Transportation regulations.

M. EMPLOYEE PERFORMANCE APPRAISAL STANDARDS AND GUIDELINES.