

**MEMORANDUM OF  
UNDERSTANDING**

**FOR**

**PUBLIC SAFETY NON-SWORN  
EMPLOYEES ASSOCIATION  
(PSNSEA) UNIT 10**



**DECEMBER 23, 2018- DECEMBER 18, 2021**

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**MEMORANDUM OF UNDERSTANDING FOR  
PUBLIC SAFETY NON-SWORN EMPLOYEES ASSOCIATION, UNIT # 10  
DECEMBER 23, 2018 – DECEMBER 18, 2021**

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**MEMORANDUM OF UNDERSTANDING FOR  
PUBLIC SAFETY NON-SWORN EMPLOYEES ASSOCIATION, UNIT # 10  
DECEMBER 23, 2018, – DECEMBER 18, 2021,**

**1. TERM**

The term of this MOU shall be three years, commencing December 23, 2018 and expiring December 18, 2021.

**2. WAGE ADJUSTMENT**

A. Effective retroactive to the first full pay period of the 12/18 – 12/19 MOU year (pay period including December 23, 2018), for all persons employed on the date of City Council approval, salaries for all represented classifications will be increased by four percent (4%).

For the December 2019 – December 2020 MOU year, salaries for all represented classifications will be increased by four percent (4%).

For the December 2020 – December 2021 MOU year, salaries for all represented classifications will be increased by three percent (3%). An additional one percent (1%) market equity adjustment will be provided to employees in the following classifications for a total wage increase of four percent (4%): Public Safety Dispatcher I, II, and III; Senior Public Safety Dispatcher; Fire Prevention Specialist I and II; Fire Protection Engineer; Police Records Specialist I and II; and Police Records Supervisor.

A.

**B.** It is both the City's and PSNSEA's 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 MOUs, 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

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**Deleted:** Effective December 18, 2016, all employees shall receive a 7.0% wage increase. Effective December 17, 2017, employees shall receive a wage increase equal to the greater of either 3.0% or the change in the CPI-W from October 2016 to October 2017.

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**Deleted:** <#>For the duration of this MOU the provisions specified below in this Section 2(B) are suspended.¶ <#>Effective April 1, 2001 and April 1, 2003 (or 60 days after comparable positions are identified and jointly agreed to), whichever is later for 2001), PSNSEA may present comparison data between Santa Clara and the cities of Mountain View, Palo Alto, Milpitas, San Jose and Sunnyvale for not more than six represented classifications in April, 2001 and not more than five in April, 2003 the PSNSEA believes to be responsible for essentially the same work in the comparison jurisdictions for review by the City. If the City and the PSNSEA are in agreement that the classifications presented are appropriate for comparison, the City and the PSNSEA will determine if the total compensation after five years of service in the Santa Clara classification is more than 2.5% below the average of the classifications presented for review. 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 PSNSEA 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 PSNSEA, 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 current salary range which will bring the total compensation for Santa Clara to equal or above the comparison average, effective the first pay period which begins in July, 2001 or July, 2003.¶

<#>For purposes of this section of the MOU, total compensation for comparison agencies is defined as salary and fringe benefits which are paid by the agency to the employee or on the employees behalf and which are available to each employee in the classification specified in the survey that are recurring in nature after five years' service in that classification as shown below. For the City of Santa Clara, total compensation shall be defined as those elements listed in Section 1A of this MOU.¶

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determination of the amount to be paid.

- C. There shall be no employee generated reclassification requests during the term of this MOU.
- D. 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 Public Safety Dispatcher II in the comparing agencies of the cities of San Jose, Mountain View, Palo Alto, Milpitas and Sunnyvale and obtaining the average total compensation afforded those agencies. The survey methodology shall be the same as used in the 2016 MOU negotiations. The historical definitions of the compensation elements used in the survey follow.

#### DEFINITIONS

- 1. Top Step Salary - Maximum step in the monthly salary range for classification (excluding seniority or longevity steps).
- 2. Life, Health, Dental, Vision, LTD, VEBA, Retiree Medical and 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, the top amount to which an active employee would be entitled if the employee retired.
- 3. Retirement - Maximum agency monthly contribution per employee, including employer paid employee contribution rate to retirement and social security plans.
- 4. Holiday Pay - Number of paid holidays allowed by agency per year times the base hourly rate divided by 12.
- 5. Vacation Pay - Maximum number of annual paid vacation days 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 employees. To be eligible for inclusion in comparison data, such benefits of the comparing

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jurisdiction must be of a recurring nature or become part of their compensation base. This category includes the City's monthly contributions to employees' VEBA accounts, uniform allowance contributions and awarded compensatory time off.

7. Total Compensation - The sum of Items 1 through 6 above.

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3. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

The City previously contracted with CalPERS to provide "classic" employees, as defined by CalPERS and applicable law, with the 2.7% at age 55 formula effective December 17, 2006. The City will contribute 100% of the employer CalPERS retirement rate applicable under the 2.7% at age 55 formula. Employees shall continue to pay the full 8% employee CalPERS retirement rate. The Employees' Contribution will continue to be treated as tax deferred. Notwithstanding the above language, the parties agree that the City will comply with the requirements of PEPRA with respect to "new members" as defined by CalPERS and applicable law hired on or after January 1, 2013.

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By April 1, 2001 and April 1, 2003

4. 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

The City will pay the cost of a long term disability plan. This LTD plan will have a maximum 30 day waiting period and the maximum monthly benefit will include those offsets required by law such as, but not limited to, SDI, retirement, reduced work schedule, worker's compensation, social security, and Railroad retirement.

5. 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 as available, with Department Head approval.

- 3) In lieu of receiving a sick leave cash payout at retirement, the Association may vote to roll accrued sick leave hours in the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Association compliance with Federal rules associated with employee contributions of sick leave to their VEBA accounts.

#### 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, 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, all represented employees will be entitled to use 40 hours of accrued sick leave as Personal Leave, provided he/she has sufficient sick leave balance available. Personal leave shall be used in minimum increments of four (4) hours.
- 2) Use of 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.
- 3) Requests to use personal leave may be granted at the discretion of supervisory personnel, taking into consideration operational needs including whether the use of personal leave would require backfilling the employee's shift with overtime. The employee has an obligation to provide as much notice as possible so as to allow for proper scheduling by the department and failure to provide such notice may result in denial of a request to use personal leave.
- 4) Personal Leave may not be used on December 31<sup>st</sup>, January 1<sup>st</sup>, July 4<sup>th</sup>, Thanksgiving, December 24<sup>th</sup>, December 25<sup>th</sup>, or December 26<sup>th</sup>.
- 5) Employees may use Personal Leave in conjunction with vacation and CTO.

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.



6. 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.

7. HOLIDAYS AND AWARDED CTO

A. PAID HOLIDAYS

- 1) The City will observe the following thirteen (13) dates (or days) as City Holidays.

New Year's Day (January 1), Martin Luther King Day (3<sup>rd</sup> Monday in January), President's Day (3<sup>rd</sup> Monday in February), Spring Holiday (observed on Good Friday), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (1<sup>st</sup> Monday in September), Admission Day (September 9), Columbus Day (2<sup>nd</sup> Monday in October), Veteran's Day (November 11), Thanksgiving Day (4<sup>th</sup> 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.

- a. Represented employees in the classifications of Fire Inspector, Fire Safety Aide and Fire Prevention Specialist will be entitled to eight (8) hours of paid time off in observation for each of the holidays listed above.
- b. Employees working shift assignments in a 24-hours per day, 7-days per week operation, such as employees in the classifications of Jail Services Officer, Records Specialist I, Records Specialist II, Records

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Supervisor, Public Safety Dispatcher I, Public Safety Dispatcher II, Public Safety Dispatcher III, and Senior Public Safety Dispatcher may be assigned to work on holidays as part of their regular work schedule.

For these classifications, the holiday will be observed as the actual holiday as designated above, not necessarily the date observed by the City, for example, January 1, July 4, December 25, etc. If the holiday falls on a regularly scheduled day off employees will receive eight (8) hours as either pay or compensatory time off (CTO). If the holiday falls on a regularly scheduled workday employees will be compensated at the normal rate of pay for the time worked. In addition, such employees will receive eight (8) hours compensation for the holiday at the rate of time and one half as either pay or compensatory time off (CTO).

- c. Community Services Officers will observe holidays in accordance with B1 or B2 above dependent upon their current assignment within the Police Department.

B. AWARDED COMPENSATORY TIME OFF (CTO)

- 1) On each January 1st the City will credit each represented employee with 16 hours of compensatory time off (CTO) (or the proportionate share if the employee is working a reduced work schedule). The 16 hours of CTO accrual will be included on the total compensation survey for the benchmark classification. 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.
- 2) Employees hired after January 1, 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.

Deleted: <#>Employees in the classifications of Public Safety Dispatcher I, Public Safety Dispatcher II, Public Safety Dispatcher III and Senior Public Safety Dispatcher will have the following four (4) holidays designated as "pay only" holidays: ¶  
<#>Martin Luther King Day (3<sup>rd</sup> Monday in January), Spring Holiday (observed on Good Friday), Admission Day (September 9), and Veteran's Day (November 11)¶  
<#>If the "pay only" holiday falls on a regularly scheduled day off employees will receive eight (8) hours as pay. If the "pay only" holiday falls on a regularly scheduled workday employees will be compensated at the normal rate of pay for time worked. In addition, such employees will receive eight (8) hours compensation for the holiday at the rate of time and one half as pay. ¶

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8. VACATION ACCRUAL AND USAGE

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 6 months of regular employment.
- B. Vacation will be earned on a bi-weekly basis (1/26 of the yearly 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.
- C. Accrued vacation time will be paid off regardless of term of employment.
- D. Yearly and maximum vacation accrual rates, calculated to four decimal points for accuracy, are as follows:

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<u>COMPLETED YEARS OF SERVICE</u>	<u>YEARLY ACCRUAL</u>	<u>MAXIMUM ACCRUAL</u>
1 through 4	80 hours	400 hours
5 through 9	120 hours	400 hours
10 through 15	168 hours	400 hours
16 through 20	176 hours	400 hours
21 years +	192 hours	400 hours

- E. Employees are limited to the maximum accrual of vacation as defined in Section 7D, based on years of service. Employees may temporarily exceed the allowed maximum vacation accrual, subject to the vacation balance as of the end of the pay period that includes December 31 of each year being reduced to the maximum allowable accrual. The current vacation balance, the maximum allowable accrual and the current pay period usage and accrual are all shown on the employees' pay check stub and are the responsibility of the employee to track for compliance with this provision.

Vacation that is temporarily allowed to exceed the maximum allowable accrual and is removed from the vacation balance as of the end of the pay period that includes December 31 of each year may be donated to the Emergency Paid Leave Pool at the direction of the employee.

- F. Vacation may be used in one-tenth (1/10th) hour increments.
- G. Employees who begin work prior to July 1st or continue to be employed after the first calendar year of employment are required to use at least one-half of the vacation accrued during the prior calendar year during the current calendar year.

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 ~~sixty (60)~~ 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.

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<#>Subject to having a sufficient balance of accrued vacation available, an employee may, on a once per year basis, be paid at his/her current hourly pay rate for a maximum of 40 hours of accrued vacation.¶  
<#>¶  
<#>Effective for the 2017 Calendar year and Subsequent Years...

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- H. An approved request for vacation time off will not be cancelled due to the use of Personal Leave by another employee on that shift; however an approved vacation request may be cancelled due to an emergency, if such emergency cannot be covered with the use of assigned overtime.
- I. In lieu of receiving a vacation-leave cash payout at retirement, the Association may vote once per calendar year to roll accrued vacation leave hours into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to PSNSEA compliance with Federal rules associated with employee contributions of vacation leave to their VEBA accounts.

9. MEDICAL/DENTAL/VISION

A. Medical

i. Health Flex Contribution

Effective January 1, 2019, the City will offer employees a Health Flex contribution of \$136.00/month to put toward the payment of a City offered health plan. The \$136.00/month applies for 2019, and this amount 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 \$1,261 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 below shall not exceed \$576.10 per month over the Kaiser employee only premium amount for the applicable year. (For 2019, this is an additional \$84.36/month to these individuals, since \$576.10 over the Kaiser employee only amount in 2019 is \$1,346.12/month.)

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 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. \$136/month in 2019), which is the City's designated PEMHCA amount.

ii. Regular Flex Contribution

Effective January 1, 2019, the City will provide a regular Flex Contribution equal to \$1,261.76/month less the monthly Health Flex Contribution (thus,

**Deleted:** Effective the later of either January 1, 2017 or the first full month following Council approval of this MOU, the City will pay toward health premiums for those employees enrolled in a City health plan an amount equal to \$576.10 more than the Kaiser employee only rate. Employees that show proof of health that sign an ACA compliant attestation confirming coverage by a family member in a group health insurance plan shall have the option to instead receive a flat dollar taxable cash-in-lieu benefit of \$1,261.76. Employees covered by a City health plan whose premium amount is less than \$1,261.76 shall receive a flat dollar taxable payment of the difference between their applicable premium amount and \$1,261.76. ¶

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for 2019, the Regular Flex Contribution will be \$1,125.76/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 9.A.iii, below.

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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.

iii. Cash In Lieu

Effective January 1, 2019, 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 \$1,261.76/month minus the monthly Regular Flex Contribution (for 2019, the Cash in Lieu amount is \$136.00/month).

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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.

iv. Family and Medical Leave Act / California Family Rights Act

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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).

v. 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.

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B. Dental

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

C. Vision

The City will pay toward vision insurance premiums an amount equal to the lowest cost employee only vision premium. Participation is voluntary; however, employees that choose not to enroll in a vision plan are not entitled to the benefit described in this paragraph.

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Deleted: Effective the first full month following (a) Council approval of this MOU and then (b) an open enrollment period and then (c) a reasonable administrative time following the open enrollment period, t

Deleted: <#>Re-Opener¶  
<#>The City and PSNSEA agree there shall be a re-opener in March 2017 limited to the subject of the City's cafeteria plan, including medical, dental and vision benefits, and cash take home as an element of a cafeteria/medical program. The parties will negotiate in good faith on these issues. Any agreement by the parties resulting from this re-opener shall be reflected in an amendment to this MOU. If the parties cannot agree, applicable impasse procedures shall apply including, if necessary, imposition of terms and conditions covered by the re-opener by the City.¶  
<#>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).

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10. LIFE INSURANCE

Effective as soon as administratively feasible, the City shall pay the monthly premium for a \$50,000 life insurance policy for all employees of the bargaining unit.

11. NIGHT DIFFERENTIAL PAY

Employees will be eligible for 5% night differential premium pay for all hours worked between 4 p.m. and 6 a.m.

12. OUT OF CLASS AND ACTING PAY

Effective the first full pay period after City Council approval of this 12/18 – 12/21 MOU, a supervisor may assign, in writing, an employee to work "Out of Class" in a higher classification and receive "Out of Class Pay" if (a) the employee will assume the full range of duties of the higher classification; (b) the assignment will not and does not exceed 960 hours in a fiscal year and (c) is to a position in a higher class that is vacant during recruitment for a permanent employee (i.e. does not include a vacancy due to an employee on leave). Out of Class Pay shall be at the pay step in the higher class closest to but no less than 5% higher than the employee's base pay and is intended to be PERSable compensation under Government Code section 20480. To qualify as Out of

Deleted: 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.¶  
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.¶  
If the out-of-class assignment lasts more than 4 hours, out-of-class pay will begin with the first hour of the assignment.¶  
For a continuing out-of-class assignment of less than 4 hour increments which 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 (A), (B), and (C) 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.¶

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Class Pay rather than Acting Pay (see next paragraph), the assignment must be approved by the Chief of Police or his/her designee and the Human Resources Department.

Effective the first full pay period after City Council approval of this 12/18 – 12/21 MOU, a supervisor may also assign an employee to work in a higher class and receive “Acting Pay” if the employee does not qualify for Out of Class Pay. Acting Pay is not available unless the employee works at least four (4) hours in the higher classification, and shall also be at the pay step in the higher class closest to but no less than 5% higher than the employee’s base pay but is not PERSable compensation under Government Code section 20480.

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For both Out of Class Assignments and Acting Assignments, the 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. If the Out of Class or Acting Assignment lasts more than 4 hours, the Out of Class or Acting Assignment Pay will begin with the first hour of the assignment. For a continuing Out of Class or Acting Assignment of less than 4 hour increments which lasts more than 4 hours, Out of Class or Acting Pay will begin with the first hour of the assignment.

### 13. PSYCHOLOGICAL COUNSELING

The City will continue the psychological counseling service with a provider of such service who has demonstrated experience in the provision of such services to public safety and communications personnel. This counseling service shall provide for at least five (5) and not more than ten (10) private counseling sessions on a pre-paid basis that will be available to both the employee and his/her dependents. Execution of this program is subject to the following conditions:

- A. The counseling service continues to be mutually acceptable to the City and the PSNSEA.
- B. Each covered employee will pay 10% of the cost of each visit.
- C. No disclosure of services shall be made except with the written authorization of the employee, as the result of a subpoena, or if the employee is deemed by the counselor to be a threat to the safety of himself/herself, fellow employees or the public, and should be removed from his/her position. Said notification is to be made to the Chief of Police or his/her designee.

### 14. OVERTIME

- A. Represented employees assigned to work a 40 hour work week who work overtime are entitled to:



MEMORANDUM OF UNDERSTANDING – UNIT # 10 (12/2018 – 12/2021)

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- 1) Time and one half the employee's regular rate for worked overtime excluding unpaid meal time for all hours worked outside of their regular daily or weekly work schedule.
  - 2) Employees who are assigned to work a 4-day week, 10-hour day shall be eligible for double time for all consecutive hours of actual work beyond fifteen (15), including any paid meal time. All other employees shall be eligible for double time for hours worked in excess of twelve (12) consecutive hours of actual work excluding meal time.
  - 3) Represented employees working in a Public Safety Dispatcher classification who are required to work 4 or more hours of overtime and receive less than 24 hours' notice of the need to work this overtime, shall receive, in addition to the applicable overtime, the dinner allotment in CMD 15.
- B. Regular employees assigned to work less than a 40 hour week who work overtime are entitled to:
- 1) Straight time for worked overtime excluding unpaid mealtime, which results in less than 40 hours paid time in a work week.
  - 2) Time and one half the employee's regular rate for worked overtime excluding unpaid meal time for all hours worked beyond the regular daily or weekly work schedule for that classification (usually 8 hour day and 40 hour week).
  - 3) Double time for all hours worked in excess of 12 consecutive hours of actual work excluding unpaid mealtime.
- C. Compensation for overtime hours worked, either pay or CTO, shall be at the discretion of the employee as long as the employee's CTO balance is below the maximum accrual rate set by the department and outside circumstances do not dictate the City pay the employee. Represented employees who voluntarily perform work for which the City receives payment from a company or business for time worked shall receive time and a half. When an employee is ordered to work an overtime work assignment under the same conditions, the employee will have the choice of CTO or overtime pay.
- D. In lieu of receiving a CTO cash payout at retirement, the PSNSEA may vote to roll accrued CTO hours into the employee's VEBA account, subject to Association compliance with Federal rules associated with contributions of accrued time into a deferred medical expense account.
- E. The maximum CTO accrual limit for employees in Unit 10 is 200 hours.
- F. The Department Head or designee may, in his or her discretion, grant an exception to the maximum CTO accrual limit on a case-by-case basis in the case of an employee with an anticipated extended pregnancy, medical or FMLA leave who wishes to accrue additional CTO to use during the extended leave. An employee seeking to accrue CTO in excess of the

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applicable maximum described in the prior paragraph must put the request in writing and identify in the request the justification for the request, including the amount of CTO in excess of the maximum requested, why the maximum number of hours of CTO will not be sufficient, and the approximate time period during which the employee plans to take the identified extended leave. The Department Head may approve up to an additional 80 CTO hours. The decision of the Department Head shall be final and shall not be grievable or appealable.

- G. Employees that have an unpaid lunch break shall not be called back from their lunch break to perform duties they would normally handle during their on-duty time. Should they be called back during their lunch break, they will be given an alternative time for their lunch break or be compensated for the call back time at the appropriate overtime rate.

This section is not intended to dilute the Department Head's right to modify an employee's work schedule with appropriate notice to avoid the overtime assignment.

15. COURT CALLBACK

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Effective the first full pay period following City Council approval of this 12/18 – 12/21, MOU, a represented employee who is called back to testify in court on his/her day off shall be granted a minimum of four (4) hours at the overtime rate.

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16. 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 its same payment toward health, dental, vision, long term disability and life insurance coverage for the employee and dependents 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. Continued payments toward employee health/dental/vision/long term disability/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. Continuation toward payment of dependent health/dental/vision/long term disability/life insurance coverage is limited to one (1) year from the date of 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/vision/long term disability/life insurance premium and is no longer entitled to any salary from the City.

17. FLEXTIME

The City will continue the practice of Flexible Work Schedules, as specified in City Manager's Directive #46.

18. UNIFORM ALLOWANCE

- A. The annual uniform allowance for any employee required to wear a uniform will be \$575 per calendar year. Effective the first full pay period following City Council approval of this 12/18 – 12/21 MOU, the annual uniform allowance for any employee required to wear a uniform will increase to \$600 per calendar year.
- B. The applicable classifications include, but are not limited to: Community Service Officer I and II, Jail Service Officer, Fire Inspector, Fire Prevention Specialist, Fire Safety Aide, Police Records Specialist I and II, and Police Records Supervisor and persons working in the classifications of Public Safety Dispatcher I, II, III and Senior Public Safety Dispatcher will be required to wear an appropriate uniform as determined by the Police Chief after they begin physically working at the Santa Clara Police Department.
- C. A uniform shall be defined as clothing required for work that is not suitable for wear outside of the work setting.
- D. The daily uniform for Public Safety Dispatchers I, II, III and Senior Public Safety Dispatchers shall consist of a standard two or three button polo shirt with the appropriate Santa Clara Police Department insignia and navy blue colored pants similar in style to "Dockers". In addition, Public Safety Dispatchers shall be required to possess and maintain a Class A uniform consisting of a white shirt with Santa Clara Police Department patches and dark pants to be worn for formal occasions such as City Council meetings, funerals, ceremonies, etc. The City will pay for the cost of the initial Class A uniform for Public Safety Dispatchers hired in the future.
- E. For newly hired employees in the above listed classifications a credit for uniform purchase will be provided not to exceed \$250. This \$250 will be deducted from this employee's first uniform allowance payment. If during the first year of employment, the employee leaves his/her position in the above referenced classifications for any reason he/she will have this credited amount deducted from the final paycheck.
- F. Uniform allowance will be paid bi-weekly.
- G. Community Service Officers and Jail Service Officers will be provided the basic leather belt and accessories needed in the performance of their duties.

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19. MILEAGE ALLOWANCE

Represented employees will be reimbursed for authorized use of a personal vehicle. The rate of reimbursement shall be the allowable standard deduction for mileage, which is permitted by the Internal Revenue Service in the filing of personal income tax returns.

This will exclude those employees guaranteed flat rate monthly mileage allowance.

20. DUES DEDUCTION

All employees within the bargaining unit represented by the Association may voluntarily join the Association and pay dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the organization (hereinafter "payroll deductions") as determined by the Association. It shall be the responsibility of the Association to maintain a record of employees who have given their written consent to join and pay dues to the Association. The Association shall certify to the City the identity of such members and the amount of such payroll deductions to be deducted.

The City agrees to deduct the periodic payroll deductions from the paycheck of each employee who voluntarily executes a valid authorization form as certified by the Association, or pursuant to an authorization form tendered to the City by either the Association or the employee. All sums deducted by the City shall be remitted to the Association in an expedient manner and at the intervals requested by the Association (i.e., no more than seven (7) calendar days after the deduction), together with a list of names of each employee for whom a deduction was made.

If an employee member in the bargaining unit desires to revoke, cancel or change prior dues deduction authorization, the City shall direct the employee member to the Association. Any such dues deduction revocation, cancellation and/or change shall only be effective when submitted by the Association directly to the City and is subject to the terms and conditions as set forth in the original payroll deduction/authorization.

Notification will be provided to the City's Payroll Division. Change, cancellation or deduction requests received by the City prior to the 15th of the month will be processed the first full pay period of the following month. Change, cancellation and deduction requests received by the City on or after the 15th of the month will be processed the second full pay period of the following month.

The Association shall indemnify and hold the City and its agents and employees harmless from any cost, expense, fee or liability resulting from any claims,

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**Deleted:** <#>The PSNSEA shall remain the sole and exclusive agent for all the employees covered by this agreement in Unit #10 without regard to membership in the PSNSEA, with respect to all matters relating to hours, rates, terms and conditions of employment and all other bargainable issues. The Employer further agrees that it will not recognize or negotiate with any other person, association, group, committee or entity other than the PSNSEA with respect to such matters and will deal solely through the agency of and with the PSNSEA herein.¶  
<#>All employees who are members in good standing of the PSNSEA 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 PSNSEA in good standing during the life of the agreement.¶  
<#>All employees in Unit #10, other than current employees as of December 31, 1985, 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 PSNSEA, 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 PSNSEA as the exclusive bargaining agent, for the duration of the agreement. Permanent employees employed with the City as of December 31, 1985, have the option of whether or not they wish to join the PSNSEA.¶  
<#>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 PSNSEA, to discontinue the employment of any such employee. The PSNSEA 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.¶  
<#>A dues check-off or service fee check-off provision will be made available by the Employer to any employee who voluntarily agrees and executes a written authorization to the Employer.¶  
<#>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 PSNSEA'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 PSNSEA.¶  
<#>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.¶  
<#>Any employee who claims financial inability to pay dues (or in lieu Agency Shop fees) may request a waiver...

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demands, lawsuits, or any other action arising from the operation of this Section.

21. EMERGENCY PAID LEAVE POOL

A. 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 PSNSEA 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 PSNSEA Board of Directors and their determination shall be final.

B. METHOD OF DONATION

- 1) Contribution of vacation or CTO will be computed at the member's base hourly rate of pay (excluding premium or specialty pay).
- 2) 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.
- 3) 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.
- 4) 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.
- 5) 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. The Finance Department will report the status of the fund on a calendar quarter basis to the PSNSEA.
- 6) Employees may contribute earned vacation, CTO or cash to the Emergency Paid Leave Pools of other City bargaining groups.

C. USE OF POOL

- 1) 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. Non-

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

- 2) Employee must have exhausted appropriate paid leave (sick leave including eligible conversion to vacation, vacation or CTO) prior to becoming eligible to request Emergency Paid Leave benefits from the pool. Employees will be notified by the Human Resources Department when they first become eligible to request emergency leave benefits from the pool.
- 3) 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.
- 4) Emergency Paid Leave will be deducted from the pool based upon the employee's base hourly rate of pay (excluding premium or specialty pay).
- 5) Emergency Paid Leave hours will be made available for use in the pay period following approval by the Association.
- 6) 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.
- 7) 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.

22. JURY DUTY

Represented employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the Court, provided the employee remits to the City all fees received from such duties and provided that the employee provides written proof from the Jury Commissioner for each day of jury duty which shows the time the employee has actually been present for assignment to jury duty. An employee who uses a private vehicle may keep any mileage fees. Employees who use City vehicles for travel to and from Court must remit jury and mileage fees to the City.

- A. Swing shift personnel shall have release time on the day of Court attendance. Time spent in Court, including time spent traveling to and from Court, shall be considered as time worked and shall be deducted from the regular shift.
- B. Graveyard shift personnel must be released from the shift prior to Court attendance. The time spent in Court, including time spent traveling to and from Court, shall be considered as time worked and shall be deducted from

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the regular shift. The balance of the shift will be offset by accrued vacation or CTO.

- C. For departments with minimum staffing requirements, employees who have been released from work for Court appearance shall take the balance of their shift off as CTO or vacation. For departments without minimum staffing requirements, employees who are released from jury duty prior to the end of their regular shift shall have the option of requesting CTO or vacation for the remainder of their shift or of returning to work.
- D. Employees who normally work a schedule which includes Saturday and/or Sunday as a part of their regular work schedule who are called to jury duty, and who request reassignment of their normal work schedule because of the jury duty, will be assigned to a week-day (normally Monday through Friday) work schedule with their normal shift reporting times.
- E. Notwithstanding the above, dispatch personnel who may be called to jury duty will be assigned to the control room Monday through Friday for the hours of 09:00 – 17:00 to accommodate the possibility of being called to court during the day. They will not be included in minimum staffing.

If an employee learns in advance that the employee is actually required to report to court for jury duty, the employee's work hours will be 08:00 – 17:00 for that and any additional days the employee is required to report to court for jury duty. This schedule includes an unpaid hour off for lunch. If an employee is required to report to the court for jury duty but is excused by the court prior to completion of the employee's work day, the employee may either report to work for the balance of the work day or use CTO or vacation to account for any time in which the employee is neither present at work or required to be present at court.

23. 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. Effective December 27, 2009, the City began contributing \$50 per month per represented employee. Effective the first full pay period of the 12/19 – 12/20 MOU year, the City shall contribute an additional \$50 per month per represented employee (for a total of \$100/month) to employee VEBA accounts. Per the City's contract with VEBA, VEBA's consulting fee will be deducted from plan participant's accounts shall be included on total compensation surveys. Specific information regarding the Plan is 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

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<#>The provisions for the PSNSEA participation in the CalPERS Health Insurance program adopted by the Addendum to the Memorandum of Understanding between the City and the PSNSEA dated June 16, 1987 are incorporated into this MOU....

Deleted: The City previously stopped making contributions to PSNSEA employee VEBA accounts effective April, 2004 through December 26, 2009 and employee VEBA accounts remained open for other potential contributions.

MEMORANDUM OF UNDERSTANDING – UNIT # 10 (12/2018 – 12/2021)

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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.

23. DEFERRED COMPENSATION Effective beginning the first full pay period following City Council approval of this 12/18 – 12/21 MOU, the City shall contribute \$100 per month to the City's Section 457 deferred compensation plan on behalf of each represented employee.

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24. RETIREE MEDICAL REIMBURSEMENT BENEFIT

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The Retiree Medical Reimbursement Benefit shall provide each employee who retires from the City with a CalPERS retirement 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 (65<sup>th</sup>) 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 up to \$352 per month, including the PEMHCA minimum, for unreimbursed single retiree health insurance premium, or up to \$211 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%.

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Beginning in 2004, the City will 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 once per year.

24. 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. 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.

**25. 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. Employees provided with fewer than three (3) hours' notice prior to the time they are required to report to work will receive 1.5 hours paid at time and a half, regardless of the time it actually takes the employee to report to work, and payment at time and half for any hours actually worked.

## 26. LAY-OFF POLICY

The need for reduction in force shall be determined by the City Manager as a result of the resource allocation plan adopted by City Council. The determination to reduce the work force shall contain reasons for reduction and a listing of programs, which are affected, and the specific City classifications and numbers within each classification, which shall be reduced.

In the event the City demonstrates it is necessary to reduce the work force of represented employees, the City agrees to meet-and-consult with the Bargaining Unit at least thirty (30) days prior to any layoff notifications to receive recommendations as to how best to accomplish this 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:

A. ORDER: The order of lay-off shall be as follows:

- 1) Temporary (as-needed) employees in 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.
- B. SENIORITY: 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.
- C. NOTICE: When the City determines that it must implement a reduction in work force, notice to the employee shall be in writing at least thirty (30) days prior to the effective date of the lay-off. The Bargaining Unit shall also 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
- D. REASSIGNMENT (BUMPING): Employees identified for lay-off shall have reassignment rights (bumping) to the same classification in a different department or division based or to a previously held classification in which the employee attained permanent status based upon seniority as defined in Section B above. Employees must exercise these rights by notifying Personnel, in writing, within seven (7) calendar days after receiving written notification of the lay-off.

In the event of lay-off, any employee so affected may elect to:

- A. 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.
- B. 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.
- C. Accept a vacant position in a lateral or lower class for which he/she is otherwise qualified.

- D. 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.

#### RE-EMPLOYMENT/REINSTATEMENT LISTS

The names of regular or probationary employees laid-off according to this policy will be placed on a Re-employment List for each classification for which the employee is eligible in the inverse order of the lay-off. Individuals' names will be retained on a Re-employment List for classified positions for the shorter of either two (2) 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. Employees whose names are on a Re-employment List for classified positions will be notified of other related openings for which testing is scheduled.

In the event an employee accepts reinstatement to a lower class than the one from which laid off, such person's name shall remain on the Re-employment List for reinstatement to the class from which laid off, lateral classes or other higher classes upon which his/her name appears provided such person, except for lack of seniority, would have been otherwise entitled to such lateral class at the time of the most recent lay-off. Laid off persons who are re-employed under this provision shall be reinstated with/to the same seniority, pay step and pay step anniversary date, and leave accrual rates as at the time they were laid off. Employees whose names are on a Re-employment List for classified positions will be notified of other related openings for which testing is scheduled.

#### 27. UNPAID TIME OFF

The Federal Family and Medical Leave Act and the California Family Rights Act shall prevail for any employee on personal or family medical leave.

Unpaid Time Off shall be granted under the following conditions:

- A. The City Manager shall be authorized to grant up to one (1) year leave of absence without pay for medical or personal reasons or personal development.
- B. Employees granted either such leave of absence will be returned to the same department and classification and the same salary range that would be in effect if they had not been on leave of absence, except that the leave time will not be included in length of service, upon resumption of their City employment.

#### 28. PERMANENT PART-TIME EMPLOYEES' WORK HOURS

Represented permanent, part-time employees shall have priority over as-needed

employees to request assignment to work hours assigned to full-time or permanent part-time positions which are within the employees classification and which become available in that given department or division, to a maximum of 40 hours per week. In giving consideration to granting the request for additional work hours, the department head will take into consideration the employee's ability to work the hours requested without impact on his/her own regular work schedule and the employee's ability to perform the full range of duties required in the assignment. The determination of the need to assign personnel to fill temporary work hours is reserved to the department head.

#### NOTIFICATION OF TRANSFER OPPORTUNITIES

Permanent, part-time or full-time employees seeking to increase, reduce, or maintain their work hours shall be given notification and the opportunity to request a transfer to any open position in the City within that classification. A permanent, part-time employee's request to transfer to another position within the same classification will be given the same consideration as any other transfer candidate for the vacant position. Transfer candidates will be evaluated, along with other qualified candidates, based on their ability to perform the full range of duties required in the assignment. The determination of the need to fill a vacant position is reserved to the City Manager.

#### 29. STEP INCREASE EFFECTIVE DATE

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.

#### 30. REDUCED WORK WEEK/REDUCED PAY AND 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.

A. REDUCED WORK WEEK/REDUCED PAY

Employees may request a reduced workweek schedule (32 hours per week instead of 40 hours per week, for example) at the same hourly rate of pay, subject to the following conditions:

- 1) With the approval of the Department Head and the City Manager, a binding work schedule as requested by the employee will be developed that may be modified only with the approval of both the City and the employee.
- 2) More than a 20% reduction of the work week in a pay period will result in proportionate reduction of accrual of sick leave and vacation.
- 3) 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.
- 4) Impact on retirement and other benefits will be determined by the application of actual work hours and rates of pay required under each of those programs.
- 5) Overtime hours will be paid at the straight time rate for hours worked which is less than the employee's regular daily work schedule or 40 hours per week. Overtime hours worked in excess of the employee's regular daily work schedule or more than 40 hours per week will be at the appropriate overtime rate.
- 6) Cancellation of the employee's participation in the program will be by mutual agreement of the employee and the Department Head, with the approval of the City Manager.

B. VOLUNTARY TIME OFF

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

- 1) 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.

- 2) 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.
- 3) 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.
- 4) Voluntary time off may be taken without the employee first using all of his/her accrued Compensatory Time Off (CTO).
- 5) Employee may cancel his/her participation in the program with a notice time agreed upon at the time of the granting of the request, which will be sufficient to allow the department head to accommodate the request.
- 6) 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.

31. ADA STATEMENT

The City shall comply with the Americans with Disabilities Act.

32. SAFETY EQUIPMENT

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.

33. 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 eight (8) 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 eight (8) hour rest period overlaps his/her regular work shift in whole or in part, he/she will be paid at the straight-time rate for the time, which falls within his/her regular work shift.
- C. If the eight (8) hour rest period overlaps a portion of the first half of his/her work shift, the employee may be excused from work until the beginning of the second half of said shift. If the eight (8) hour rest period overlaps a

portion of the second half of his/her work shift, he/she may be excused from work until the following work shift. He/she will be paid, however, for that portion of the rest period, which overlaps his/her normal working shift. He/she will not be paid for the time between expiration of the rest period and his/her reporting for work.

- D. Hours worked prior to an eight (8) hour rest period shall not be included in determining another rest period.
- E. If the employee is called back to work during his/her eight (8) hour 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.

34. JAIL SERVICE OFFICERS' SCHEDULE

The Police Department may implement an alternative work schedule for Jail Service Officers during the term of this MOU, and nothing in this MOU should be understood to mean or imply the contrary. The City agrees it will discuss the specifics of any alternative work schedule for Jail Service Officers with Unit 10 representatives prior to implementation.

35. PAID MEAL BREAK

Employees in all Communications Dispatcher classifications and in the classifications of Police Records Specialist II, Police Records Supervisor, Community Service Officer II, Community Service Officer I, and Jail Service Officer will be paid for the meal break during the regularly scheduled shift and will be subject to call back during the meal period.

XX POST CERTIFICATION INCENTIVE PAY

Effective the first full pay period following City Council approval of this 12/18 – 12/21 MOU, employees in the Dispatcher classification series (Public Safety Dispatcher I, II, and III; Senior Public Safety Dispatcher) that have achieved Intermediate POST Certification shall receive 1.5% of base pay for this certification. Effective the first full pay period following City Council approval of this 12/18 – 12/21 MOU, employees in the Dispatcher classification series that have achieved Advanced POST certification shall receive an additional 1.5% (for a total of 3%) of base pay for this certification. To be eligible, and receive payment, employees must either provide proof from POST of the Intermediate or Advanced POST certificate or get written confirmation and approval from both the Training Sergeant and Police Chief (or designee) that the requirements for certification have been successfully completed.

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MEMORANDUM OF UNDERSTANDING – UNIT # 10 (12/2018 – 12/2021)

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Effective the first full pay period following City Council approval of this 12/18 – 12/21 MOU, employees in the classification of Police Records Supervisor that have achieved Records Supervisor POST Certification shall receive 1.5% of base pay for this certification. To be eligible, and receive payment, employees must either provide proof from POST of the Records Supervisor POST certificate or get written confirmation and approval from both the Training Sergeant and Police Chief (or designee) that the requirements for certification have been successfully completed.

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36. BILINGUAL PAY

A represented employee shall be entitled to receive, in addition to the employee's regular compensation, forty-five dollars (\$45.00) per bi-weekly pay period for bilingual skills if the employee meets the following criteria:

- Certification from the City, by oral examination, that the employee possesses the needed language skills.
- A decision by the applicable Department Head that there is a significant need or benefit, on a regular basis, to having the employee certified in a particular language other than English.
- Certifications required and obtained above will not necessarily follow an employee if transferred or promoted.

In addition, effective the first full pay period following City Council approval of this 12/18 – 12/21 MOU, employees that can demonstrate a higher level of bilingual proficiency by satisfying the more rigorous job connected oral and written testing process required by the Police Department than required for the standard bilingual pay described above, shall receive an additional \$45 per biweekly pay period, i.e. a total of \$90 per bi-weekly pay period.

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37. DOMESTIC PARTNERS

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

38. 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 pay periods instead of 26 pay periods. This clarification is not intended to and would not modify anyone's salary/pay rate.

39. 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) dollars for dependent care and qualified un-reimbursed 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.

40. EMPLOYEE ASSISTANCE PROGRAM

The City agrees to provide and fund a confidential Employee Assistance Program.

41. CHEMICAL TESTING

It is the policy of the City of Santa Clara, the Santa Clara Police Department and the PSNSEA to provide and maintain a drug and alcohol free work environment for all employees. The above parties recognize and agree that the duties, responsibilities and actions of Police Department personnel may expose the City, the Department and its employees to possible civil or criminal liabilities in the area of drug and alcohol use. In order to address the above concerns, all parties agree as follows:

It will be the responsibility of any represented employee to comply with the Santa Clara Police Department policy on drug and alcohol use, and pursuant thereto, to submit to a blood test as appropriate. All chemical testing shall be administered in a medically approved manner and as soon as practical after being ordered, but no later than six (6) hours after the incidents in the case of subsection A, B, or C listed below, whether the employee is on duty or off-duty at the time of the occurrence whenever any of the following occur:

- A. Any traffic accident involving an employee operating a City-owned vehicle which results in death of another or any traffic accident involving an employee operating a City-owned vehicle which results in serious bodily injury to another, and the employee appears to be the proximate cause of the incident.
- B. Any incident where the Chief of Police or his/her designee has a reasonable belief based upon objective symptoms that an employee is in violation of the departmental policy on drug or alcohol use. The verbal order to submit to a chemical test shall set forth the reasons for the test(s) and shall be followed at the time the test is administered by a written statement of the order.
- C. Employees being assigned to, or being rotated out of specific assignments shall be subject to drug testing at the beginning and at the end of such assignments. These assignments include Evidence Custodian or Relief Evidence Custodian.
- D. Any incident where the Chief of Police or his/her designee develops reasonable suspicion that an employee has used illegal drugs. Reasonable suspicion will be defined as that quantity of proof or evidence that is more than a hunch, but less than probable cause and must be based on objective

and articulated facts sufficient to lead a reasonable, prudent supervisor to suspect that an employee has used illegal drugs.

The following examples, alone or in combination, may constitute reasonable suspicion:

- 1) A pattern of documented abnormal or erratic behavior that indicates potential drug use;
- 2) Direct observation of drug or alcohol use by a reliable and credible source;
- 3) Corroborated information provided by a reliable and credible source that an employee has engaged in illegal drug use, the identity of which source shall be available to the employee and the PSNSEA.

Demands for drug or alcohol analysis by supervisors, which are determined to be malicious will not be tolerated and may subject the directing individual to disciplinary action.

"Designee" is defined as any sworn Santa Clara Police Officer with the rank of Assistant Chief, Captain, Lieutenant or Sergeant.

"Serious bodily injury" is defined as a serious impairment of physical condition, considerably beyond a complaint of pain or minor injury that requires immediate professional medical treatment at a hospital or similar facility.

In the event any portion of the Chemical Testing policy herein described in this MOU is in conflict with any non-negotiated policy, procedure, manual or directive, including the Police Operations Manual, the provisions of this MOU shall prevail.

Nothing in this section shall prevent any represented employee from voluntarily requesting or providing a chemical sample if deemed appropriate by the employee.

#### 42. TRAINING PAY

Community Service Officer IIs assigned as Field Training Officers to train newly hired Community Service Officers, Police Records Specialist IIs assigned to train newly hired Police Records Specialists, and Public Safety Dispatcher IIs assigned to train newly hired Public Safety Dispatcher Is or IIs will be entitled to premium training pay of five percent (5%) for actual hours worked performing those duties.

#### 43. PERSONNEL COMPLAINTS

In all cases, the City agrees that all investigations will be conducted without undue delay and in the most expedient manner possible under the circumstances.

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44. COMMUNICATIONS CENTER

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The City and PSNSEA will informally discuss implementation of Dispatchers running initial warrant and officer safety queries for field units on the primary police officer channel, including the timing of implementation, effect on workload for Dispatchers and other Department employees, training, and potential changes to policies and procedures. PSNSEA retains its rights to any legally required meet and confer on this change in duties to the extent not resolved through the parties' informal discussions. However, PSNSEA agrees that it shall not receive any increase in pay or other compensation in connection with Dispatchers running the initial warrant and officer safety queries described in this paragraph. PSNSEA also agrees that it will not make any proposal for, or argument in support of, additional compensation as part of any informal discussions or meet and confer regarding Dispatchers running these initial warrant and officer safety queries.

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45. 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 these Terms and Conditions.

46. NEGOTIATIONS PREPARATION

Members of the PSNSEA's negotiating team shall have the right to be released from work duties with pay for a reasonable amount of time in conjunction with and before or after Meet and Confer sessions with the City for the purpose of negotiations preparations.

47. EMPLOYEE RIGHTS

All rights, privileges and working conditions enjoyed by the classifications represented herein, as defined in Personnel and Salary Resolutions No. 4652, dated May, 1983, and City of Santa Clara Resolution No. 2979, entitled "Employer-Employee Relations" dated December, 1972, and other City resolutions, if any, dealing with employee rights and benefits shall not be reduced during the term of these Terms and Conditions except in accordance with the provisions of these Terms and Conditions.

For the duration of these Terms and Conditions, except as provided herein, the wage and fringe benefits provided members of the PSNSEA shall not be reduced except by mutual agreement between the Management of the City of Santa Clara and representatives of the PSNSEA.

48. MANAGEMENT RIGHTS

Subject to State law and the provisions of City of Santa Clara Employer-Employee Relations Resolution, 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 PSNSEA shall be in accord with these Terms and Conditions 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.

49. CHANGES IN LAW

Notwithstanding the foregoing, however, in the event any portion of these Terms and Conditions is declared null and void by superseding Federal, State or City law, the balance of these Terms and Conditions shall continue in full force and effect, and the parties shall immediately commence the meet and confer process to ensure that the superseded portions shall be rewritten to conform as nearly as possible to the original intent.

The City reserves the right to consider required organizational and operational changes in the economical and efficient operation of the Departments whenever existing or future statutes bring about additional monetary costs.

FOR THE CITY OF SANTA CLARA:

FOR THE CITY OF SANTA CLARA  
PUBLIC SAFETY NON-SWORN  
EMPLOYEES' ASSOCIATION:

*[INSERT SIGNATURE BLOCKS]*