

# **Memorandum of Agreement**

**City of San José**

**and**

**The San Jose Police Dispatchers' Association  
(SJPDA)**



**July 1, 2023 – June 30, 2026**

**SAN JOSE POLICE DISPATCHERS' ASSOCIATION  
2023-2026 MEMORANDUM OF AGREEMENT  
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*For information regarding the classifications assigned to SJPDA and the current pay range please see the Human Resources Department’s webpage at the following link:*

[HTTPS://WWW.SANJOSECA.GOV/YOUR-GOVERNMENT/DEPARTMENTS-OFFICES/HUMAN-RESOURCES](https://www.sanjooseca.gov/your-government/departments-offices/human-resources)

The Memorandum of Agreement hereinafter referred to as the Agreement or MOA is made and entered into at San José, California, this 24<sup>th</sup> day of May, 2023, by and between the City of San José, hereinafter referred to as the City or Management and the San Jose Police Dispatchers' Association (SJPDA), hereinafter referred to as the Employee Organization, SJPDA, or Union.

For the purpose of this Memorandum of Agreement, words, phrases and terms used herein shall be deemed to have the meanings specified in Section 2 - Definitions of Resolution No. 39367 of the Council of the City of San José and in Part 2 - Definitions of Chapter 3.04 of Title III, of the San José Municipal Code unless it is apparent from the context or from the specific language that a different meaning is intended.

## **ARTICLE 1 PURPOSE**

The parties agree that the purpose of this Memorandum of Agreement is to promote and provide harmonious relations, cooperation and understanding between the City and the employees covered herein; to provide an orderly and equitable means of resolving differences which may arise under this Agreement, and to set forth the full agreements of the parties reached as a result of meeting and conferring in good faith regarding matters within the scope of representation for employees represented by the San Jose Police Dispatchers' Association.

## **ARTICLE 2 PERIOD OF MEMORANDUM OF AGREEMENT**

This Agreement shall become effective July 1, 2023, except where otherwise provided, and shall remain in effect through June 30, 2026. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

It is mutually agreed that the first meeting of the parties will be scheduled no later than fifteen (15) calendar days after the City or Union receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates. This notice must be made in writing, must specifically include a request to commence bargaining, and must include proposed dates for the meeting.

## **ARTICLE 3 AGREEMENT CONDITIONS**

### **3.1 Full Understanding, Modification And Waiver**

- 3.1.1 This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, understandings and agreements, whether formal or informal, are hereby superseded and terminated in their entirety.
- 3.1.2 Existing benefits within the scope of representation, provided by ordinance or resolution of the City Council or provided in the San José Municipal Code shall be continued without change during the term of this Agreement. Such existing benefits, which are referenced in the Agreement, shall be provided in accordance with the terms of the Agreement.
- 3.1.3 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Memorandum of Agreement be administered and observed in good faith.

3.1.4 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement, it is understood and agreed that neither party may require the other party to meet and confer on any subject matter covered herein or with respect to any other matter within the scope of representation during the term of this Agreement.

3.2 Separability. Notwithstanding any other provisions of this Agreement to the contrary, in the event that any Article, or subsections thereof shall become invalid by law or any benefits provided by this Agreement impose additional obligations on the City by law, the parties shall meet and confer on the Article or subsections thereof affected. In such event, all other provisions of this Agreement not affected shall continue in full force and effect.

3.3 Concerted Activity. It is understood and agreed that:

3.3.1 Participation by any employee represented by the Union in picketing with respect to any issue concerning matters within the scope of representation provided or proposed to be provided by the City of San José for employees in this unit, or participation in a strike, including sympathy strikes, work stoppage or slowdown, or any other concerted activity which diminishes services provided by an employee in this unit, or the failure to perform lawfully required work, shall subject the employee to disciplinary action up to and including discharge. Employees may participate in informational picketing in public areas outside of regular work hours (including unpaid lunch time).

3.3.2 If the Union, its officers or its authorized representatives violates provision 3.3.1 above or tolerate the violation of provision 3.3.1 above and after notice to responsible officers or business representatives of the Union, such officers or business representatives fail to take such prompt affirmative action as is within their power to correct and terminate the conduct described in provision 3.3.1 above, in addition to any other law, remedy or disciplinary action to which it or its officers or representatives may be subject, said Union shall, by action of the Municipal Employee Relations Officer or designee, also be subject to suspension or revocation of the recognition granted to such Union and the Municipal Employee Relations Officer or designee, may suspend or cancel any or all payroll deductions payable to or on behalf of members of such Union, and prohibit or restrict the use of any City facility of any nature whatsoever and prohibit or restrict access by said officers or representatives to work or duty stations of employees in the representation unit. Such action on the part of the Municipal Employee Relations Officer or designee shall not be subject to review under the provisions of Article 21, Grievance Procedure.

3.4 Non-Discrimination

3.4.1 The parties agree that they, and each of them, shall not discriminate against any employee on the basis of any protected category or status enumerated within City Administrative Policy Manual, Section 1.1.1, Discrimination and Harassment Policy. The parties further agree that this Section 3.4.1 shall not be subject to the Grievance Procedure provided in this Agreement.

3.4.2 The parties agree that they, and each of them, shall not discriminate against any employee because of membership or lack of membership in the Union, or because of any authorized activity on behalf of the Union. The parties further agree that this Section 3.4.2 may be subject to the Grievance Procedure provided in this Agreement.

## ARTICLE 4 RECOGNITION

Pursuant to Resolution No. 39367 of the City Council of the City of San José and the provisions of applicable state law, the San Jose Police Dispatchers' Association, hereinafter referred to as the Employee Organization or Union is recognized as the exclusive representative for the purpose of meeting and conferring on matters within the scope of representation for employees assigned to the classifications listed in the Exhibits attached and incorporated by reference into this Agreement. The classifications listed in the Exhibits and subsequent additions thereto or deletions there from shall constitute an appropriate unit.

## ARTICLE 5 MANAGEMENT RIGHTS

- 5.1 Except to the extent that the rights are specifically limited by the provisions of this Agreement, the City retains all rights, powers, and authority granted to it or which it has pursuant to any law or the City Charter, including, but not limited to: The right to direct the work force; increase, decrease or re-assign the work force; hire, promote, demote; discharge or discipline for cause; transfer or reclassify employees; provide merit increases; assign employees days of work, shifts, overtime and special work requirements, and to determine the necessity, merits, mission and organization of any service or activity of the City or of any City Department, Agency or Unit.
- 5.2 The City has the sole and absolute right to determine the nature and type of, assign, reassign, revoke assignments of or withdraw assignments of, City equipment, including motor vehicles, to or from employees during, after or before hours of duty, without consultation or meeting and conferring with the employees affected or the Union.

## ARTICLE 6 UNION RIGHTS

### 6.1 Authorized Representatives

6.1.1 For purposes of administering the terms and provisions of the various ordinances, resolutions, rules and regulations adopted pursuant to this Memorandum of Agreement:

6.1.1.1 Management's principal authorized agent shall be the Municipal Employee Relations Officer, or a duly authorized representative except where a particular Management representative is otherwise designated.

6.1.2 The Union's principal authorized agent shall be the President, Vice-President, or duly authorized representatives.

### 6.2 Release Time

6.2.1 Release time from regular City duties shall be provided to designated Union representatives in accordance with the following provisions.

6.2.2 Designated Union Representatives. The following designated Union representatives shall be eligible for release time to attend meetings as listed in this Article.

6.2.2.1 Union President/Vice President. The Union President or Vice President or one (1) designated representative shall be granted

release time from regular City duties to attend the following meetings:

- To attend Civil Service Commission meetings when matters affecting the Union are considered.
- To attend City Council meetings when matters affecting the Union are considered.
- To attend Federated Retirement Board meetings.
- To attend grievance meetings when used to facilitate settling of grievances.
- To attend Benefit Review Forum meetings.
- To attend meetings scheduled by Administration when attendance is requested.
- To attend other meetings and trainings approved by the Employee Relations Director, or designee.
- The designated representative may be the Union President or Vice President or another designated representative for functions allowing for one (1) representative to attend.

6.2.2.2 Grievances & Training. The President and/or designated representative(s) shall be granted release time from regular City duties to attend the following functions:

- To attend grievance meetings when used to facilitate the settling of grievances.
- To attend other meetings and trainings approved by the Employee Relations Director or designee.

6.2.3 Authorization For Release Time. If the designated Union representative finds it necessary to leave assigned duties to investigate or process a grievance, or attend a meeting as defined in this Article, the representative must inform the immediate supervisor of the general nature for the release time and receive authorization from the immediate supervisor prior to leaving assigned duties. Upon return to assigned duties, the representative must report back to the immediate supervisor.

6.2.3.1 Reasonable Release Time. Authorization for a Union representative, as defined above, to leave assigned duties shall not be unreasonably withheld by the supervisor.

6.2.3.2 Processing Grievances During Regular Work Hours. Although grievances may be investigated and/or processed during normally scheduled working hours, the Union agrees that the time spent by its designated representatives shall be kept to a minimum and that no Union representative shall be entitled to any additional compensation or premium pay for any time spent in processing grievances outside such representative's



regularly scheduled hours. The Union also agrees it will not process grievances during periods of overtime.

- 6.2.4 Notification. The Union agrees to notify the Employee Relations Manager, or designee, in writing of any changes of Officers or Stewards within thirty (30) days of such change.
- 6.2.5 Release Time For Union Representatives. The Union Representatives shall be granted a maximum of eight (8) hours paid release time during each calendar year to participate in training sessions related to the provisions of this agreement, jointly conducted by Union and City representatives according to an outline of such training activities to be submitted by the Union to Employee Relations for approval a minimum of 21 calendar days prior to the training session. In addition, each calendar year, newly appointed Union Representatives shall be granted an additional eight (8) hours paid release time to participate in basic training sessions conducted by Union and City representatives. If no jointly conducted trainings are offered in a particular calendar year, the Union may elect to rollover the allotted release time hours to the following year allowing up to sixteen (16) hours of paid release time for participation in training sessions.
- 6.2.6 The City will provide up to two (2) hours of paid release time per quarter for Officers designated by the Union for the purpose of attending the Union's Board meeting. A list of the designated employees and their supervisors shall be provided to the Office of Employee Relations at least five (5) working days in advance of the scheduled meeting. Employees are not eligible to receive overtime compensation for any portions of the meetings that fall either before or after the employee's regularly assigned workday.
- 6.2.7 Release Time Restrictions. Release time shall not be provided for lobbying or political purposes. Release time is provided only to the extent that any employee is required or authorized to attend meetings, trainings or other authorized events during said employee's normal work schedule/hours. Employees are not entitled to receive over-time or regular compensation for attendance of meetings, trainings or other authorized events occurring outside of their normal work schedule/hours.
- 6.2.8 City Paid Union Release Time (URT). The designated bargaining unit representative(s) shall use the City Paid Union Release Time (URT) payroll code for any paid time off eligible for release time from regular City duties to attend authorized meetings. Upon request by the City, the bargaining unit representative(s) shall provide the City with a general explanation of the business conducted when the URT code is used.

### 6.3 Maintenance Of Membership

- 6.3.1 Each employee who, on July 1, 2023, is a member in good standing of the Union shall thereafter, as a condition of employment, maintain such membership for the duration of the agreement outlined on the union membership application card signed by the employee.
- 6.3.2 Any employee who, on July 1, 2023, is not a member of the Union, nor any person who becomes an employee after July 1, 2023, shall not be required to become a member as a condition of employment. Any such employee who thereafter becomes a member of the Union shall thereafter maintain

such membership for the duration of the agreement outlined on the union membership card signed by the employee.

6.3.3 Any employee who is a member of the Union, may resign such membership according to the agreement outlined on the union membership application card, and thereafter, shall not be required to join as a condition of employment. The Union will notify the City's Municipal Employee Relations Officer, or designee, of any resignations of union membership.

6.3.4 The Union shall indemnify the City and hold it harmless to the extent provided by law against any and all suits, claims, demands and liabilities that may arise out of or by reason of the application of or implementation of the provisions of this Article.

#### 6.4 Employee Rights

##### 6.4.1 Employee Rights

6.4.1.1 The City and the Union recognize the right of employees to form, join and participate in lawful activities of employee organizations and the equal, alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall discriminate against an employee in the exercise of these alternative rights.

6.4.1.2 Accordingly, membership in the Union shall not be compulsory. An employee has the right to choose to become a member of the Union.

6.4.2 Employee's Obligation to Exclusive Representation. An employee who is a member of the Union on July 1, 2023, and any employee who becomes a member after July 1, 2023, shall maintain such membership.

6.4.3 Hold Harmless. The Union shall hold the City harmless and shall fully and promptly reimburse the City for any reasonable legal fees, court costs, or other litigation expenses incurred in responding to or defending against any claims against the City or any of its agents, or employees, in connection with the interpretation, application, administration or enforcement of any section in this Memorandum pertaining to membership fees. The existence of or extent of any indemnification obligation under this provision shall be subject to the grievance procedure spelled out in this Agreement.

#### 6.5 Dues Deduction

6.5.1 The City will deduct from the pay of each employee covered by this Agreement, while such employee is assigned to a classification included in a representation unit represented by the Union, dues uniformly required as a condition of membership, pursuant to the Union's constitution and by-laws provided that the employee has signed an appropriate Authorized Dues Deduction card. Such authorization shall be on a form approved by the Municipal Employee Relations Officer or designee.

6.5.1.1 The City agrees to deduct from the pay of each employee covered by this Agreement, while such employee is assigned to

a classification included in a representation unit represented by the Union, voluntary deductions in addition to those described in Section 6.5.1, provided that the employee has submitted written authorization for such additional voluntary deductions on an appropriate Authorized Dues Deduction card to the Municipal Employee Relations Officer or designee. Such additional voluntary deductions shall continue unless the employee provides written notice to the Municipal Employee Relations Officer or designee to cease the additional voluntary deductions

- 6.5.2 Payroll dues deductions shall be in the amount certified to the Municipal Employee Relations Officer or designee from time to time by the designated Officer of the Union as regular monthly dues.
- 6.5.3 Deductions shall be made from wages earned by the employee for the first two (2) pay periods in each month for dues for the preceding month. The City will remit to the designated Officer of the Union the amounts so deducted accompanied by a list of the employees for whom the deduction was made. The deductions and the list will be remitted to the Union not later than twenty-one (21) days following the pay period in which the deductions were made.
- 6.5.4 Properly executed dues deduction cards and an alphabetical list of the additional employees authorizing the deduction shall be submitted to the Municipal Employee Relations Officer or designee on or before the Monday of the week preceding the beginning of the pay period in which deductions are to be made.
- 6.5.5 If, through inadvertence or error, the City fails to make the authorized deduction, or any part thereof, the City shall assume no responsibility to correct such omission or error retroactively.
- 6.5.6 It is expressly understood and agreed that the Union will refund to the employee any Union dues erroneously withheld from an employee's wages by the City and paid to the Union. In the event the Union fails to refund the dues erroneously withheld within a reasonable period of time following notification, the City will make such refund and deduct the amount from the amount due to the Union.
- 6.5.7 The Union shall indemnify the City and hold it harmless to the extent provided by law against any and all suits, claims, demands and liabilities that may arise out of or by reason of any action that shall be taken by the City for the purpose of complying with the foregoing provisions of this Article, or in reliance on any list or certification which shall have been furnished to the City under the above provisions.

## 6.6 Bulletin Board

- 6.6.1 Recognized employee organizations may use designated portions of City bulletin boards in departments, which have employees in the representation units for which the Union is recognized.
- 6.6.2 Subject to the provisions contained herein, the following types of Union notices and announcements listed below may be posted on the bulletin boards:

- 6.6.2.1 Meetings, elections, welfare, recreational and social affairs and such other notices as may be mutually agreed upon between the Union and the Municipal Employee Relations Officer or designee.
- 6.6.3 All material shall identify the Union responsible for its posting. Copies of all material to be posted must be filed with the Municipal Employee Relations Officer or designee who shall have the sole and exclusive right to order the removal of any objectionable material.
- 6.6.4 The Municipal Employee Relations Officer or designee shall notify the Union of any material ordered removed. The Union shall be given the opportunity to revise the material to delete the objectionable section or sections.
- 6.6.5 The City reserves the right to determine where the bulletin boards shall be placed and what portion of such bulletin boards are to be allocated to employee organizations.
- 6.6.6 Failure of the Union to abide by the provisions of this Article shall result in the forfeiture of the Union's right to have materials posted on City bulletin boards. The City agrees it will not exercise its rights provided herein in an arbitrary and capricious manner.
- 6.7 Advance Notice
- 6.7.1 Whenever the City changes work rules or work place policies, or issues new work rules or work place policies, the Union will be given written notice at least ten (10) working days, absent emergency, before the proposed effective date of the rule or policy. This notice is provided in order that the Union may exercise any meet and confer rights regarding the proposed change in the rule or policy with the City before they become effective if the Union so requests.
- 6.7.2 In cases of emergency when the City Council, City Manager or Department Director determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice, City management shall provide such notice at the earliest practical time.
- 6.8 New Employee Orientation. The City shall provide designated SJPDA representative(s) up to one (1) hour to present to new employees during the new employee orientations for full-time and part-time employees to provide information on SJPDA. Attendance at any presentations by SJPDA shall be voluntary on the part of the new employee. The Human Resources Department shall work out arrangements with designated SJPDA representatives.

## **ARTICLE 7 HOURS OF WORK AND OVERTIME**

- 7.1 The work week shall be seven (7) days commencing at 12:01 a.m. Sunday and ending at 12:00 midnight the following Saturday.
- 7.2 The work day, for pay purposes, shall be a twenty-four (24)-hour period commencing with the beginning of the employee's regularly scheduled shift.
- 7.3 The normal work schedule shall be forty (40)-hours consisting of four (4) consecutive days of ten (10) hours each. Except for employees assigned to four days of ten-hour shifts, and employees assigned to five/eight-hour shifts other than Monday through Friday, the

normal work schedule shall be forty (40) hours per week, consisting of five (5) consecutive days of eight (8) hours each, Monday through Friday exclusive of a lunch period of at least thirty (30) minutes, Monday through Friday except as otherwise provided in section 7.6. Insofar as is possible, lunch periods shall be scheduled in the middle of the shift. The length of any lunch period is subject to supervisory approval.

- 7.3.1 Paid time off (excluding Sick Leave) shall be considered time worked for the purpose of calculating eligibility for overtime compensation.
- 7.4 The work period for purposes of the Fair Labor Standards Act may be designated for each employee as appropriate so that there is no overtime built into the regularly scheduled workweek.
- 7.5 Employees assigned to a five (5) day, eight (8) hour schedule or to a schedule including nine (9) hour days shall be given two (2) consecutive days off, and, employees assigned to a four (4) day, ten (10) hour shift shall be given three (3) consecutive days off, even though such days off are in different work weeks, except where, due to a change in the employee's work schedule, it is impossible to provide two (2) or three (3) consecutive days off, whichever is applicable. As an alternative to consecutive days off, an employee may work a schedule without consecutive days off when the schedule is mutually agreed upon between the department and the employee. Such agreements may be rescinded by the employee or the Department with reasonable notice to the employee or Department.
- 7.6 Rest Period Full-time Employees. Due to the critical nature of the position and the restrictions placed upon the employees, any shift of eight (8) hours or greater will include a 30-minute paid lunch break. The work schedules of Public Safety Communications Specialists and Public Safety Radio Dispatchers assigned to staff support positions do not include paid lunch breaks. A fifteen (15) minute rest period will be provided in each half of the regularly scheduled work shift. Insofar as is possible, rest periods shall be scheduled in the middle of each half of the shift. It is understood and agreed that the inability to permit an employee to take a rest period shall not be a basis for any claim for overtime compensation.
  - 7.6.1 Rest Period Part-time Employees. Part-time employees will be provided a fifteen (15) minute rest period during each uninterrupted work period of at least four (4) hours.
  - 7.6.2 Lunch periods for Part-time Employees. Part-time employees who are scheduled and/or work a shift of six (6) or more hours shall take at least a thirty (30) minute unpaid lunch period. Insofar as is possible, lunch periods shall be scheduled in the middle of the shift. The scheduling of lunch periods and the length of any lunch period is subject to supervisory approval.
- 7.7 An employee authorized or required to telecommute, which requires at least fifteen minutes of work shall be compensated for the time worked to the nearest fifteen minutes at the appropriate rate.
- 7.8 Part-time Employees
  - 7.8.1 The Department Director or designee, subject to regulation and control by the City Manager or designee, shall determine the number of hours of work per work day and work week for part-time employees. The normal work schedule for part-time employees shall be consistent with the position's designated benefit category as follows:

PT Employee Benefit Level	Work Schedule/Paid Hours
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75%	30-34 hours per week or 1560-1768 per year
62.50%	25-29 hours per week or 1300-1508 per year
50%	20-24 hours per week or 1040-1248 per year
Part-Time Non-Benefited Employees	Less than 20 hours per week or less than 1040 per year

7.8.1.1 If a part-time employee is scheduled and reports to work for a shift which is then cancelled, the employee shall, at the City's discretion, either work a minimum of two (2) hours or be credited with two (2) hours work at the employee's straight time pay rate. If the employee is notified prior to the start of the shift that the shift is canceled, the employee is not entitled to the two (2)-hour minimum.

7.8.1.2 For new hire non-benefited part-time employees, the following shall be the prorated hour limits for the payroll calendar year and month in which the employee is hired:

January 1st- April 30th	May 1st- Aug. 30th	Sept. 1st-Dec. 31st
1040	700	350

7.8.2 Part-time Employee Benefits Eligibility

7.8.2.1 Eligible part-time employees will receive benefits as specified in the appropriate sections of this MOA.

7.8.2.2 The scheduled hours pursuant to 7.8.1, may be reduced by a budgetary change to a position, subject to Budget Office approval, or through applicable due process.

7.8.2.3 As used in this Agreement, the term "indefinitely assigned" shall mean an assignment to a regularly scheduled part-time position without limitation of any kind as to duration. Nothing herein contained, however, shall be construed to limit the right of the Department Director or the City Manager or designee, as contained in Section 7.8 of this Agreement, to determine the days of the week and hours of each day when any such part-time non-benefited employee shall be required to work, or whether such part-time non-benefited employee shall work at all.

7.8.2.4 In the event Section 7.8.2.3 is invoked as to whether an employee shall be required to work at all, at the employee's written request to the Office of Employee Relations, they shall be provided a reason for its action in writing. The action and the reason given for the action shall not be subject to the grievance procedures of this agreement.

7.8.2.5 To the extent possible and with the exception of any shift changes, when a non-benefited part-time employee has worked six (6) consecutive days, the employee, in so much as possible,

shall be provided with one (1) scheduled day off. Nothing herein contained, however, shall limit the right of the Department Director or designee to determine the days of the week and hours of each day when any such part-time non-benefited employee shall be required to work, or whether such part-time non-benefited employee shall work at all.

- 7.8.3 Part-Time unbenefited employees with fifteen (15) or more years of service as a part-time unbenefited employee, who are unassigned hours or separated from City service may request a meeting with the Office of Employee Relations.
- 7.9 Reduced Workweek. Full time employees are eligible to apply for Reduced Workweeks subject to the provisions and conditions in the City of San Jose Reduced Workweek Schedules Policy. Neither the failure of a department to enter into a voluntary reduced workweek agreement with any employee nor the termination by a department of any such agreement, shall be subject to the Grievance Procedure provided in Article 21 of this Agreement.
- 7.10 Alternative Work Schedule. Employees may be eligible for an Alternative Work Schedule, subject to the provisions and conditions in the City of San Jose Alternative Work Schedules Policy. Neither the failure of the Department to enter into an alternative schedule agreement, nor the termination by the Department of any such agreement, shall be subject to the Grievance Procedure provided in Article 21.
- 7.11 Overtime and Compensatory Time
- 7.11.1 Hours assigned and worked in excess of forty (40) hours per week shall be compensated by overtime pay or compensatory time at 1.5 times the hourly rate for the number of overtime hours worked.
- 7.11.2 Part-time employees are only eligible for overtime pay or compensatory time if the employee works over twelve (12) consecutive hours in the same assignment or over forty (40) hours in one week, or if the overtime exceeds eight (8) hours and is scheduled without a twenty-four (24)-hour notice.
- 7.11.3 An employee who is assigned or elects and is approved for an alternative work schedule as defined by Section 7.10 and is authorized or required to work overtime in excess of forty (40) hours per the employee's designated work week shall be compensated at the rate of 1.5 times the employee's hourly rate, except when such excess hours result from a change in such employee's workweek or shift or from the requirement that such employee fulfill their workweek requirement.
- 7.11.4 If an employee is scheduled to work overtime on the employee's day off and the work is canceled within twenty-four (24) hours of the scheduled overtime, the employee is entitled to two (2) hours compensation at the appropriate rate. If the overtime is canceled at least twenty-four (24) hours before the work is scheduled, no compensation is due.
- 7.11.5 Overtime worked shall be compensated at the 1.5 times the hourly rate. An employee assigned to work overtime may elect to either be paid for such overtime or be credited with compensatory time off, except under the following circumstances:

- The employee's choice of compensatory time would interfere with a department's ability to recover the cost of the overtime;
- The employee's choice of compensatory time would interfere with the department's ability to have sufficient staffing or coverage;
- The employee's choice of pay cannot be accommodated within the department's overtime budget;
- If the work is being performed for another City department or outside agency, the employee's department may choose to compensate overtime with pay or compensatory time, provided the employee is notified of the method of payment prior to working the overtime; or
- If the employee fails to request an election during the pay period in which the overtime is worked.
  - If the employee is not allowed to make the election to be paid overtime or to be credited with compensatory time under one of the circumstances cited above, the employee shall be informed of the reason for not being allowed such choice. The explanation shall be provided before the overtime is worked.

7.11.5.1 Once compensatory time off has been approved and scheduled, the employee shall be permitted to take such time off, unless emergency circumstances necessitate cancellation of the time off. In such event, the employee will remain credited with the time cancelled.

7.11.5.2 Compensatory time off credited to an employee, which is not taken within twenty-six (26) pay periods following the pay period in which the overtime is worked, shall be paid to the employee at the appropriate rate. An employee may be required to take the compensatory time off prior to the expiration of this time period, if the Department's budget will not accommodate payment of such time. An employee shall not be required to take compensatory time off during the same pay period during which it is earned.

7.11.5.3 Notwithstanding any other provision of Section 7.11.5 to the contrary, the Department Director or designee, may announce the intent of the Department to pay employees the appropriate rate for accrued compensatory time that is not used as of a date specified by the department with reasonable notice provided to affected employees.

7.11.5.4 Compensatory Time Payoff. An employee who separates from employment by reason of resignation, discharge or retirement and who upon the effective date of such separation has accrued unused compensatory time shall be paid for such hours of unused compensatory time at the employee's appropriate rate. In the event the termination results from the death of the employee, the payment, if any, shall be made to the executor of the Will or the administrator of the estate.



- 7.11.5.5 For purposes of the FLSA, a 480-hour accrual limit shall apply to compensatory time accumulation. All compensatory time shall, however, be subject to being paid off if not used within twenty-six (26) pay periods after it is earned, pursuant to Section 7.11.5.2 of this Agreement.
- 7.11.6 Overtime compensation shall be calculated at 2.0 times the hourly rate for all hours worked past twelve (12) hours in a single shift.
- 7.11.7 Flex Time is defined as, on an occasional basis, allowing an employee to work less than their scheduled number of hours on one day and then more than their scheduled number of hours on another day(s) to complete a forty (40) hours work week. Flex Time may be suggested by either a supervisor or an employee, but an employee shall only be permitted to flex their time within the same work week, and only by mutual agreement between the employee and their supervisor. Flex Time Guidelines are posted on the City's intranet website at the following location:
- <https://www.sjcity.net/DocumentCenter/View/4825>
- 7.12 Shift Substitutions. Employees shall be permitted to substitute during scheduled work hours for another individual who is employed in the same capacity if approved by the Department and within guidelines set forth by the Department. Notwithstanding any other provision of this agreement, such substitution shall be excluded in the calculation of the hours for which the employee is otherwise entitled to overtime compensation.

## **ARTICLE 8 SHIFT BIDDING**

- 8.1 The work unit may determine the method for assigning shifts, subject to approval by the Department Director or designee and advance notice to the Union, pursuant to Section 6.7. Absent any existing method for shift bidding, seniority in class shall be used to assign shifts subject to:
1. operational needs,
  2. the Department Director's, or designee's, right to deny a shift assignment based upon the need to provide quality service to the public, or
  3. the need to assign employees based on special skills.
- 8.2 A shift vacancy which occurs outside the normal bidding process may be filled by an administrative placement.
- 8.3 Employees shall have the right on at least an annual basis to bid for shift assignments based upon seniority in class within department, subject to the right of the Department Director, or designee, to deny such bid based upon the need to provide quality service to the public. The denial of a bid for a shift assignment shall not be subject to the grievance procedure.
- 8.3.1 Shift trades shall be permitted. Shift trades shall be defined as trading an ongoing shift that was awarded based on seniority with another employee on a long-term basis. The denial of a shift trade shall not be subject to the grievance procedure.

8.4 Denial of Shift Bid. Any employee eligible to request a shift assignment whose request for assignment is denied, shall be entitled to a written explanation of the denial from the Department Director or their designee. Such request shall be made in writing within five working days following the denial. A written explanation shall be given to the employee within five (5) working days following receipt of the request.

8.4.1 In the event the matter is not resolved by the Chief of Police or their designee, the employee may within five (5) working days of receipt of the decision submit a written request for review to the City Manager or their designee. The request must include the reason or reasons why the employee is not satisfied with the decision previously rendered. A written decision shall be given to the employee within ten (10) working days following receipt of the request. The decision of the City Manager or their designee shall be final and binding.

## **ARTICLE 9 SENIORITY FOR SHIFT BIDDING AND SCHEDULING LEAVE PURPOSES**

9.1 Once employed by the City, employees shall accrue seniority in terms of service days, which are based upon hours of paid time. Unpaid time (e.g., unpaid leaves and suspensions) does not count as service days, except for authorized unpaid military leave, unpaid furlough and unpaid closure time.

9.2 A work unit may define seniority as time in class within department in lieu of time in class city-wide, subject to approval by the Department Director or designee and advance notice to the Union, pursuant to Section 6.7. All work units may develop other definitions of departmental or work unit seniority, subject to the aforementioned Department Director or designee approval.

9.2.1 Unless a Department or Division has defined seniority differently pursuant to Section 9.2, seniority shall be as defined in Section 9.1 for purposes of scheduling leave and shift bidding.

9.2.2 Seniority shall not be affected for those employees on temporary modified duty.

## **ARTICLE 10 LEAVES**

### **10.1 Holidays**

10.1.1 Effective March 30, 2014, all employees in the Public Safety Dispatcher class series listed below shall receive a 6.5% special pay adjustment in place of the Holiday-in-Lieu compensation. Beginning March 30, 2014, and continuing thereafter, the Holiday-in-Lieu compensation benefit shall cease to apply to all employees in the Public Safety Dispatcher class series. It is expressly understood that the 6.5% special pay adjustment is compensation for all employees in the Public Safety Dispatcher class series in lieu of holiday benefits. There shall be no additional holiday compensation.

10.1.2 Effective the first full pay period in Fiscal Year 2023-2024, employees in classifications assigned to SJPDA shall receive a special pensionable base pay increase of 0.46% for holiday-in-lieu in recognition of Juneteenth being added as a City-observed holiday. This will result in an increase to the top and bottom of the salary range of employees in these classifications.

10.2 Vacation and Personal Leave

10.2.1 Eligible Full-time Employee - Vacation. Each eligible full-time employee shall be granted vacation leave with pay in accordance with the following:

10.2.1.1 An employee shall accrue vacation leave at a rate specified below for each hour worked in each year of employment as specified:

<b>Years of Service</b>	<b>Hours of Vacation Per 26 Pay Period Cycle</b>
First 2 years	80 hours
3 – 5 years	100 hours
6 – 10 years	120 hours
11 – 12 years	136 hours
13 – 14 years	152 hours
15 – 20 years	168 hours
21 – 24 years	178 hours
25 or more years	188 hours

10.2.1.2 Vacation Accrual Limits. Employees shall not be allowed to accrue vacation in excess of two times their annual vacation accrual rate. Once the maximum accumulation has occurred, vacation will cease to accrue until the employee's vacation balance has fallen under their maximum vacation accrual amount. Each employee's current vacation balance is shown on the employee's paycheck stub and it is the responsibility of the employee to track for compliance with this provision.

10.2.1.3 Payment for Unused Accrued Vacation Leave Upon Termination of Employment. If the employment by the City of any full-time employee should cease, the employee shall be given, at the time of such separation from employment, full pay for any vacation leave which may then have accrued and is not used.

10.2.2 Vacation Leave. Use of accrued vacation or personal leave is subject to the advanced approval of the Department Director or designee. Any and all leaves granted pursuant to this Article shall be granted at such time or times as will not reduce the number of employees below that which is reasonably necessary for the efficient conduct of the public business of such department, except no employee who is authorized to take a leave for vacation purposes shall be required to commence such leave at a time other than the beginning of a work week, unless the employee elects or consents to commence such leave at another and different time. Employees shall submit written requests to their immediate supervisor or designee for all vacation leave in advance and as early as practical. Written response to the leave request will be provided back to the employee within ten (10) working days of the receipt of the written request. If a written response is not received by the employee within ten (10) working days, the request may be submitted to the Department Director or designees and/or the Office of Employee Relations. Nothing in this section shall interfere with an established vacation scheduling procedure.

10.2.3 Computation of Vacation Leave. For purposes of accruing vacation, paid leave of absence from duty by reason of sick leave, holiday leave, vacation leave, compensatory time-off, or any other paid leave, shall be deemed to be

time worked. Prior periods of employment shall be credited to the employee for purposes of determining vacation eligibility, provided that during each such prior employment period, the employee achieved permanent status.

- 10.2.4 Eligible Part-time Employees – Vacation. During the term of this Agreement, and subject to the same restrictions, conditions, and limitations applicable to full-time employees as provided in this Agreement, except as otherwise hereinafter provided, eligible part-time employees, as described in Section 7.8.2, shall accrue and be granted leave of absence with full pay for vacation purposes on the following basis:
- 10.2.5 During the employee's first 4,160 hours of employment in a regularly scheduled part-time position, the employee shall accrue vacation leave at the rate of 0.03875 hours of vacation leave for each hour worked, exclusive of overtime.
- 10.2.6 During the employee's first 6,240 hours following the employee's first 4,160 hours in a regularly scheduled part-time position, the employee shall accrue vacation leave at the rate of 0.04810 hours of vacation leave for each hour worked, exclusive of overtime.
- 10.2.7 During the employee's first 10,400 hours following the employee's first 10,400 hours in a regularly scheduled part-time position, the employee shall accrue vacation leave at the rate of 0.05875 hours of vacation leave for each hour worked, exclusive of overtime.
- 10.2.8 During the employee's first 4,160 hours following the employee's first 20,800 hours in a regularly scheduled part-time position, the employee shall accrue vacation leave at the rate of 0.06625 hours of vacation leave for each hour worked, exclusive of overtime.
- 10.2.9 During the employee's first 4,160 hours following the employee's first 24,960 hours in a regularly scheduled part-time position, the employee shall accrue vacation leave at the rate of 0.07375 hours of vacation leave for each hour worked, exclusive of overtime.
- 10.2.10 During each hour following completion of 29,120 hours of employment, in a regularly scheduled part-time position, the employee shall accrue vacation leave at the rate of 0.08125 hours of vacation leave for each hour worked, exclusive of overtime.
- 10.2.11 All part-time employees' maximum vacation accrual amount shall be 120 hours. Any employee who is at the maximum vacation amount of 120 hours, shall cease from accruing vacation until such time when employee uses enough vacation so that they are below their maximum vacation amount of 120 hours.
- 10.2.12 Any such part-time employee shall be entitled to paid vacation leave only for those days and number of hours the employee is in fact assigned to work or would have been required to work, notwithstanding the designation, scheduling and indefinite assignment made pursuant to this Article.
- 10.2.13 No eligible part-time employee shall be entitled to vacation leave with pay for any day or portion of a day during which the employee is absent, if in fact the employee is not assigned to work or would not have been required to work

on that day or portion of that day, notwithstanding the designation, scheduling and indefinite assignment made pursuant to this Article.

10.2.14 Personal Leave. Each full-time employee shall be entitled to a total of thirty-two (32) hours per payroll calendar year, eight (8) hours of which is granted in recognition that City employees may wish to observe a personal holiday that is not observed by the City. Such leave may be scheduled in fifteen minute increments, at any time, subject to approval of the supervisor. Personal leave does not accrue. Any such leave not taken by the date of separation for employees separating during the year, or by the end of the last pay period in the calendar year for other employees, shall not be paid out nor carried over to subsequent years. Under no circumstances, such as promotion, transfer, and/or rehire, shall an employee receive more than 32 hours of Personal Leave in any given calendar year.

10.2.14.1 Full-time employees hired on or after July 1<sup>st</sup> shall be entitled to only sixteen (16) hours of personal leave in the first payroll calendar year in which they were hired.

10.2.14.2 Each benefited part-time employee shall be entitled to annual personal leave of sixteen (16) hours per year except that, in the first payroll calendar year of employment, employees hired before July 1<sup>st</sup> will get sixteen (16) hours of annual personal leave and employees hired on or after July 1<sup>st</sup> will get eight (8) hours of annual personal leave.

10.2.14.3 An employee on a reduced work week schedule will receive Personal Leave as indicated in the chart below, even if the actual hours worked exceed that amount.

Scheduled Work Hours per Week	Benefit Level	Hours of Personal Leave
35 – 39.9 hours per week	100%	32 hours
30 – 34.9 hours per week	75%	24 hours
25 – 29.9 hours per week	62.5%	20 hours
20 – 24.9 hours per week	50%	16 hours
Less than 20 hours per week	Unbenefited	None

10.2.14.4 An employee who is promoted or demoted into an SJPDA-represented classification will have the number of Personal Leave hours they receive upon promotion or demotion reduced on an hour-for-hour basis based on their usage of Personal Leave and/or Executive Leave within the same payroll calendar year.

### 10.3 Sick Leave

10.3.1 Sick Leave – Full-time Employees. Each full-time employee shall be entitled to sick leave with pay in accordance with the following provisions:

10.3.1.1 Sick leave shall accrue in an amount equal to the number of hours worked, excluding overtime, multiplied by a factor of 0.04616. Paid leave for holidays, vacation, compensatory time off, or other paid leave shall be considered time worked for purposes of this section.

10.3.2 Sick Leave – Part-Time Employees

10.3.2.1 During the term of this Agreement, sick leave with pay shall be granted to part-time employees in the amount of 0.04616 hour of sick leave for each hour worked, exclusive of overtime, and shall be subject to the same restrictions, conditions and limitations as are applicable to paid sick leave for full-time employees.

10.3.2.2 Any such part-time employee shall be entitled to paid sick leave only for those days and number of hours the employee is in fact assigned to work or would have been required to work, notwithstanding the designation, scheduling and assignment made pursuant to this Article.

10.3.2.3 No part-time employee shall be entitled to sick leave with pay for any day or portion of a day during which the employee is absent, if in fact, the employee is not assigned to work or would not have been required to work on that day or portion of that day, inclusive of any hours an employee elects to work in addition to their assignment, notwithstanding the designation, scheduling and assignment made pursuant to this Article.

10.3.3 Use of Sick Leave. Accrued sick leave may be utilized if the employee is required to be absent from work on account of non-job related illness or injury; routine medical or dental appointments; or for the care related to the illness or injury of the employee's child, mother, father, spouse or domestic partner registered with the Department of Human Resources.

Up to a total of forty-eight (48) hours of accrued sick leave per calendar year may be utilized if the employee is required to be absent for the care related to the illness or injury of the employee's grandparent, grandchild, brother, sister, father-in-law, mother-in-law, stepfather, stepmother, stepchild, or designated person as defined in the City Policy Manual 4.2.1 Leaves of Absence Policy.

When an employee has exhausted all of their sick leave, the employee may be allowed to use accrued vacation, compensatory time or personal leave in lieu of unpaid time subject to the approval of the Department Director or designee and pursuant to 10.3.5.1 may be required to furnish medical verification.

10.3.3.1 Accrued sick leave may also be utilized for job-related illness or injury in accordance with the provisions of Section 10.4 Disability Leave, or if the employee is medically required to be absent from work between the date an examining physician determines the employee's condition to be "permanent and stationary" and the date the employee is so notified. Such accrued sick leave may not be utilized if the employee is otherwise entitled to temporary disability leave compensation for the above-referenced period of time. Accrued sick leave not to exceed three (3) working days may be granted at the discretion of the Director of Human Resources or designee, following the notification referred to above. Telephone notice or a notice mailed to the employee's last known address of record shall be determined notice to the employee.

- 10.3.3.2 Accrued sick leave not to exceed three working days may be granted in circumstances where an alleged job-related illness or injury is involved, but the employee fails to provide medical verification of such job-related illness or injury.
- 10.3.3.3 Anything in this Article to the contrary notwithstanding, an employee who, pursuant to the provisions of Section 10.4 of this Agreement, has been receiving temporary disability leave compensation and who has received the maximum allowable amount of such compensation pursuant to Section 10.4, and who is entitled to Workers' Compensation temporary disability benefits, and has exhausted all other available paid leave, shall be permitted to utilize accrued sick leave subject to the following restrictions: Sick Leave shall be utilized in fifteen minute increments, but in no event shall an employee receive an amount, including any Workers' Compensation temporary disability compensation, in excess of such employee's regular base pay.
- 10.3.3.4 Accrued sick leave may be used in accordance with the provisions of the Catastrophic Illness or Injury Time Donation Program.
- 10.3.4 Except as otherwise provided by resolution of the City Council, paid sick leave shall not be allowed for any absence from work occasioned by intoxication, chronic alcoholism or use of narcotics not prescribed by a licensed physician. If approved by the City, an employee who is enrolled and participating in a substance abuse treatment program may use sick leave for absences resulting from participation in such program. The City may require appropriate verification.
- 10.3.5 No employee shall be entitled to or be granted sick leave, either with or without pay, unless the employee notifies their immediate superior, Department Director or designee, of the employee's intent to take such sick leave due to a personal or family illness prior to the commencement of the sick leave where such notice is possible; provided, however, that the City Manager, or designee, may waive the requirement of such notice upon presentation of a reasonable excuse by such employee.
  - 10.3.5.1 Any time an employee is required to report to work and is unable to report due to illness or injury, an employee may be required to furnish medical verification or other substantiation for any such absences. Any such requirement for medical verification or other substantiation shall be made on a case-by-case basis. This does not limit the City's ability to require medical verification or other substantiation for a particular employee or employees for an extended period of time.
  - 10.3.5.2 A full-time employee of the City shall be entitled to sick leave without any pay if required to be absent from work on account of any non-job related illness, injury or disability, including absences related to pregnancy or childbirth, in all situations where such employee is not entitled to sick leave with pay. Any full-time employee who is unable to return to work after being absent on paid and/or unpaid sick leave for a maximum of eighteen (18) consecutive months or for a maximum of eighteen

(18) cumulative months in any period of twenty-four (24) consecutive months shall be separated from City service. Notwithstanding the foregoing, in no event shall an employee be entitled to a leave of absence without pay for a period in excess of twelve (12) cumulative months or for twelve (12) consecutive months in any period of twenty-four (24) consecutive months shall be separated from City service.

10.3.5.2.1 Pursuant to Article 10.8, an employee who is not otherwise entitled to any additional unpaid sick leave may request a leave of absence without pay, subject to approval of the appointing authority or designee.

10.3.5.3 A full-time or part-time employee on paid or unpaid medical leave, which extends for a period of thirty (30) or more calendar days may be required to inform the department of their medical status and probable date of return to work as requested.

### 10.3.6 Sick Leave Payout

10.3.6.1 Any employee hired on or after September 30, 2012, shall not be eligible for sick leave payout.

10.3.6.2 For employees hired on or before September 29, 2012, a sick leave payout shall be made to full-time and part-time benefitted employees who are members of the Federated City Retirement System at the time of retirement or death under one of the following scenarios:

10.3.6.2.1 Federated Retirement Plan. The employee is: a) a member of the Federated Retirement Plan, and; b) retired under the provisions cited in the plan, and; c) credited with at least 15 years of service in this retirement plan; or, d) credited with at least 10 years of service prior to a disability retirement.

10.3.6.2.2 Terminated Employee with Vesting Rights. The employee has terminated service with the City in good standing, retained vesting rights in a retirement system according to provisions in the San José Municipal Code, and following such termination, qualifies for retirement and retires under the provisions cited in the code and has at the time of retirement credit for at least fifteen (15) years of service in the applicable retirement plan.

10.3.6.2.3 Death During Service. The estate of any full-time employee who dies while in City service and prior to retirement, even though the employee is not credited with at least 15 years of service in any applicable retirement plan.



10.3.6.2.4 Death of Terminated Employee. The estate of any full-time or eligible part-time employee who had terminated service with the City in good standing but had retained vesting rights in a retirement system according to provisions in the San José Municipal Code, and dies (on or after July 10, 1977) prior to becoming eligible for retirement allowances as cited under provisions of the San José Municipal Code, and has at the time of death credit for at least fifteen (15) years of service in the applicable retirement plan.

10.3.6.3 Effective June 22, 2013, for purposes of calculating a sick leave payout, employees' sick leave balances and hourly rates shall be frozen. This means that an employee will receive no more for a sick leave payout, after having met the requirements set forth above, than the employee would have been entitled to on June 22, 2013. Any sick leave usage after June 22, 2013, will come first from the sick leave balance accrued after June 22, 2013. An employee will continue to accrue sick leave after June 22, 2013, but it may not be used for sick leave payout purposes.

For example, if an employee's hourly rate is \$20 and the employee's sick leave balance is 250 hours on June 22, 2013, then if the employee meets the eligibility requirements contained herein, the payout of a sick leave balance at the time of retirement will be based on the formula below, and shall be based earned on no more than 250 hours and an hourly rate of no more than \$20. This will occur even if the employee has subsequently earned more than 250 hours in sick leave or received a pay increase to an hourly rate higher than \$20. In this example, if the employee does not have available sick leave to use that was accrued after June 22, 2013, and uses sick leave and reduces their sick leave balance on June 22, 2013, to 50 hours, they will only be entitled to a sick leave payout of 50 hours, regardless of any sick leave accrued after June 22, 2013. This means that if sick leave payout hours are reduced by usage, they are not able to be re-established in the sick leave balance subject to payout.

10.3.6.4 Payout shall be determined as follows.

10.3.6.4.1 Payout shall be determined as follows: If a full-time or eligible part-time employee at the time of retirement or death has earned unused sick leave hours, the employee or Estate shall be paid the equivalent of a specified percent of their hourly rate of pay as of June 22, 2013, multiplied by the total number of accumulated and unused hours of sick leave as of June 22, 2013 (minus any sick leave hours as of June 22, 2013, which were used), as follows:

10.3.6.4.2 Less than 400 hours - Hours accumulated x 50% of final hourly rate;

or 400 - 799 hours - Hours accumulated x  
60% of final hourly  
rate;

or 800 - 1200 hours - Hours accumulated x  
75% of final hourly  
rate.

10.3.6.5 Use of previously accumulated sick leave hours. For purposes of determining the total number of accumulated and unused hours of sick leave of a full-time employee at the time of retirement or death, unused sick leave from prior periods of employment before June 22, 2013, with the City shall be used. However, previously accumulated sick leave shall be credited to the employee for use during an employee's current employment period.

#### 10.4 Disability Leave

10.4.1 Termination of Disability Leave. An employee who is unable to return to full time regular duty following the expiration of any and all leave (and the integration of Sick Leave as provided in Section 10.3.3.3), including the integration of accrued vacation, compensatory time off, and sick leave as provided in Article 10.4.2, with Workers' Compensation may be considered to have separated from City service.

10.4.1.1 An employee who exhausts all leave shall be notified that they are subject to the above provision upon expiration of all remaining paid leave.

10.4.2 Integration. The integration of an employee's available leave will occur in the following order: (a) accrued Vacation hours, (2) earned Compensatory Time once Vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both been exhausted.

10.4.2.1 In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

10.5 Bereavement Leave. Employees shall be entitled to use bereavement leave for up to five (5) days due to the death of a qualifying relative. The days of bereavement leave need not be consecutive. Each full-time or benefited part-time employee shall be granted bereavement leave with full pay for up to forty (40) work hours to attend to the customary obligations arising from the death of any of the following relatives of such employee or employee's spouse or employee's domestic partner. Due to the employee's regular work schedule, if the five (5) day entitlement exceeds forty hours, employees may supplement the remaining time off using the accrued leave balances, including, but not limited to, sick leave. All leave must be used within three (3) months following the death of an eligible person. Under extreme circumstances, the 3-month requirement may be waived by the Director of Employee Relations. The decision of the Director of Employee Relations shall be final, with no process for further appeal. Bereavement leave compensation shall be granted to eligible part-time employees on the same basis and subject to the same restrictions, conditions and limitations as apply to such leave with pay and such compensation for full-time employees; provided, however, that each eligible part-time employee shall be entitled to bereavement leave with pay for a number of hours based on

the number of hours per week such part-time employee is indefinitely assigned to work in the employee's regularly scheduled part-time position.

Such number of hours shall be in accordance with the following hours per week scheduling:

Regularly Scheduled Hours Per Week	Hours of Bereavement Leave with Pay
30-34 Hours	Up to 30 Hours
25-29 Hours	Up to 25 Hours
20-24 Hours	Up to 20 Hours

a.	Parents/Step-parents
b.	Spouse
c.	Child/Step-child (including miscarriage or stillbirth)
d.	Brother/Sister/Step-brother/Step-sister/Half-brother and Half-sister
e.	Grandparents/Step-grandparents
f.	Great grandparents/Step-great grandparents
g.	Grandchildren
h.	Sister-in-law/Brother-in-law/Daughter-in-law/Son-in-law
i.	Domestic partner

Each unbenefited part-time employee shall be granted unpaid bereavement leave for five (5) days and may use their accrued leave balances, including, but not limited to sick leave.

10.5.1 A domestic partner, as referenced in Section 10.5, must be the domestic partner registered with the Department of Human Resources.

10.5.2 Anything herein above to the contrary notwithstanding, no such employee shall be entitled to compensation for bereavement leave in the event of the death of any of the above relatives, if such employee is not scheduled to work when such bereavement leave is required.

10.6 Jury Duty. Each full or part-time employee who is eligible for benefits under Article 7.8.2 of this Agreement who is required to take time off from duty to serve as a juror in any Court of this State, or of the United States of America, shall receive their regular base compensation less all jury fees received excluding mileage. Each employee receiving a notice to report for jury service shall immediately notify their immediate supervisor.

*Employees assigned to regular shifts:*

10.6.1 Jury Selection Process and Jury Empanelment. Employees assigned to a Monday through Friday day shift which includes all employees regularly assigned to work any shift scheduled to begin between 6:00 a.m. and 1:59 p.m. shall be subject to the following for both the jury selection process and jury empanelment:

1. If the employee spends five (5) or more hours in either the selection process or jury empanelment, the employee need not return to work. For this, the employee receives the regular base pay for that shift and shall pay to the City the amount received from the court, excluding mileage.

2. If the employee spends less than five (5) hours in either the selection or jury empanelment processes, they must report to work and complete their shift, minus the time spent in the selection process. For this, the employee will receive their regular base pay rate for that shift and shall pay to the City the amount received from the court, excluding mileage.
3. If the employee spends less than five (5) hours in either the selection or jury empanelment processes and does not return to work, the employee will receive no pay from the City for that day, but will be entitled to keep the jury fee.
4. Employees are not eligible for overtime due to time spent in the jury selection process or jury empanelment.

*Employees assigned to shifts other than regular shifts (as defined above):*

10.6.2 Jury Selection Process. Employees assigned to a shift regularly scheduled to start between the hours of 2:00p.m. and 5:59 a.m., or to other alternative shifts (a shift other than Monday through Friday), who are required to appear for jury selection process shall be subject to the following:

1. For purposes of providing employees adequate rest before appearing for jury selection, employees shall be allowed to adjust their shift to an end time no later than 1:00 a.m. on the morning they are required to appear for jury selection.
2. If the employee spends five (5) or more hours in the selection process, the employee need not report to work for the following shift if it is the next calendar day. For this, the employee receives the full day's pay for that shift and shall pay to the City the amount received from the court, excluding mileage.
3. If the employee spends less than five (5) hours in the selection process, the employee shall report to work for their next scheduled shift. Hours spent in the selection process will be deducted from either the beginning or end of the next shift, pending supervisor's approval. For this, the employee will receive a full day's pay and shall pay to the City the amount received from the court, excluding mileage.
4. Employees are not eligible for overtime due to time spent in the jury selection process.

10.6.3 Jury Empanelment for Employees Assigned to a Swing or Night Shift. Employees assigned to a shift regularly scheduled to start between the hours of 2:00 p.m. and 5:59 a.m., or to other alternative shifts (a shift other than Monday through Friday), who are selected to serve on a jury shall be subject to the following:

1. Employees shall be temporarily assigned to a day shift of 8:00 a.m. - 5:00 p.m., Monday through Friday. This temporary schedule change shall only apply to employees who are selected to serve on a jury, not those who are called to jury selection.
2. The temporary schedule change shall begin on the first day of the work week following jury empanelment. Until the temporary shift change takes effect, the provisions applicable to jury selection for employees on alternate shifts shall apply.

3. Once an employee is temporarily assigned to a day shift of 8:00 a.m. - 5:00 p.m. Monday through Friday, the provisions applicable to jury duty for employees on regular Monday through Friday day shifts shall apply.
4. Upon completion of jury duty, the employee will resume their normal work schedule on the first day of the workweek following release from jury duty.

10.7 Witness Leave. Each full-time employee of the City who is required, under subpoena, to take time off duty with the City, to appear as a witness, by reason of their employment with the City, in any case or proceeding in any Court of this State or of the United States of America, shall receive their regular salary during the term of their service as a witness under subpoena, less any and all witness fees which the employee may receive therefore. Compensation will not be paid if the employee is a plaintiff to the action or a witness called on behalf of an adverse party to the City.

10.7.1 Each employee of the City who is called from off-duty status to testify in any court, under subpoena, on any subject connected with their employment, shall be credited with overtime for the time spent in court, or shall be entitled to the compensation provided by Section 12.7, whichever is greater, less any and all witness fees which the employee may receive therefore. Compensation will not be paid if the employee is a plaintiff to the action or a witness called on behalf of an adverse party to the City.

10.7.2 Upon service of subpoena, an employee shall immediately advise their Department Director, or designee, or supervisor thereof, and of the time when the employee is required to appear in Court.

10.7.3 Employees who are required to perform standby duty for Witness Leave shall be entitled to the compensation provided by Section 12.8. In the event the employee is called from off-duty to testify in any court, under subpoena, on any subject connected with their employment, the employee shall be entitled to the compensation provided by Section 10.7.1 above, in lieu of the compensation provided by Section 12.8.

## 10.8 Other Leaves of Absence

10.8.1 Paid and/or unpaid leaves of absence may be granted by the City as designated in the City Policy Manual Section Leaves of Absence. The Leaves of Absence Policy provides information related to paid and/or unpaid leaves of absence, including leaves provided by Federal or State law, and provides eligibility requirements, guidelines and procedures for paid and/or unpaid leaves of absence. Leaves provided by Federal or State law are not subject to the grievance procedure of this agreement.

10.8.2 All requests for leaves of absence without pay, pursuant to City Policy Manual Section Leaves of Absence, shall be made in writing. The appointing authority, or designee, may grant an employee a leave of absence without pay for good and sufficient reason, not to exceed twelve (12) months. Such leaves may, however, be extended, not to exceed an additional six (6) months, upon written request of the employee, subject to approval of the appointing authority, or designee. Written requests for an extension of a leave shall be submitted prior to the expiration of the leave.

- 10.8.2.1 The Appointing Authority may grant leaves of absence without pay for an employee to work on union business. Such leaves are subject to all of the provisions in this Article.
- 10.8.3 Any leave granted pursuant to the provisions contained herein may be canceled by the appointing authority, or designee, by notice in writing mailed to the employee at the employee's address on file in the Human Resources Department or such other address as the employee may designate. Such notice shall be by registered mail, return receipt requested and shall be mailed not later than thirty (30) days prior to the effective date of the cancellation of the leave. Failure of the employee to return to work on the first scheduled work day after the effective date of the cancellation, or on the first scheduled work day following the expiration of a leave, shall be considered a voluntary resignation, unless the failure to return is due to extenuating circumstances beyond the control of the employee. Each employee who is granted a leave pursuant to the provisions of this Article shall, upon return from leave, be entitled to a position in the department within the classification held by the employee at the time the leave commenced.
- 10.8.4 If the position to which an employee would otherwise be entitled pursuant to the above has been deleted from the department's budget during the term of the employee's leave of absence, the employee shall, upon return from leave, be entitled to a position within the classification held by the employee at the time the leave commenced, provided there is either a vacancy in such classification or an employee in the classification with less seniority whose duties the returning employee is qualified to perform.
- 10.8.5 The employee is responsible for coordinating the return to work following a leave of absence. Prior to returning from a leave of absence, the employee shall contact the supervisor to ensure that all necessary documents have been completed and steps taken.
- 10.8.6 For purposes of this Section 10.8, seniority shall be defined in accordance with Section 11.1.1 of Article 11, entitled Layoff.
- 10.8.7 Any employee who is absent without notification to their Department Director, or designee, for two consecutive work shifts, shall be separated from City service, unless the failure to report is due to extenuating circumstances beyond the control of the employee. An employee will be considered to be absent without notification pursuant to this Section, if notification is not provided prior to the commencement of the second consecutive shift.
- 10.8.8 Employees who have been separated from City service for failure to return from leave, or failure to report, and whose failure is determined by the City to be the result of extenuating circumstances beyond the employee's control shall be reinstated.
- 10.9 City-Paid Parental Leave. Full-time employees shall be eligible for City-paid parental leave and are subject to the terms and conditions of the City of San Jose's Paid Parental Leave Policy.

Effective January 1, 2023, for eligible births, adoptions, or foster care placements, full-time employees will receive a maximum total of three hundred and twenty (320) hours of paid time off and shall be eligible to use up to a maximum total of one-hundred and twenty (120) hours of their available sick leave for City-Paid Parental Leave reasons.

- For the period of January 1, 2023, through August 15, 2023, no retroactive timecard adjustments will be allowable and any additional City-paid parental leave hours as provided for herein may only be used on a prospective basis.

City-Paid Parental Leave and the use of available sick leave balances for City-Paid Parental Leave reasons must be used and completed no later than 12 months from the birth or placement of a child.

## ARTICLE 11 LAYOFF

11.1 As used in this Article, the following words and phrases shall be defined as follows:

- 11.1.1 Seniority as defined in the Layoff and Reassignment Policy contained in the City Policy Manual.
- 11.1.2 A lower class shall mean a class with a lower salary range.
- 11.1.3 A position in a lateral class shall mean a position in a class with the same salary range.
- 11.1.4 A position in a higher class shall mean a position in a class with a higher salary range.

11.2 Order of Layoff. When one or more employees in the same class in a City department are to be laid off for lack of work, purposes of economy, curtailment of positions or other reason, the order of layoff shall be as follows:

- 11.2.1 Provisional employees in the order to be determined by the appointing authority.
- 11.2.2 Probationary employees in the order to be determined by the appointing authority.
- 11.2.3 Permanent employees in inverse order of seniority within the classification being reduced, or in a higher class.
  - 11.2.3.1 The City will notify the Union within three (3) working days when a new or updated seniority list for each and every classification pertaining to any employee(s) represented by the Union has been posted or updated. The determination of seniority based on Sections 11.2.3.2 and 11.2.3.3, if applicable, shall be made prior to the publication of a seniority list.
  - 11.2.3.2 If two or more permanent employees have the same class seniority, then ranking is based on Citywide seniority.
  - 11.2.3.3 If two (2) or more permanent employees have the same class and the same Citywide seniority, then ranking is based on the scores on the eligible list that was used for the original hiring in the classification or the quantitative examination scores used for the original hiring in the classification. In the absence of eligible list scores or quantitative examination scores used in the original hiring, ranking on the seniority list shall be determined as follows:

- (a) The sum total of the last four (4) digits of the employee's social security number will determine seniority, with the lowest sum total being the least senior and the highest sum total being the most senior on the established list.
- (b) In the event that the sum total of the last four (4) digits of the employee's social security number should result in a tie, a random draw shall be conducted consisting only of the employees with the sum total tie. The first drawn name will be the least senior and the last name drawn will be the most senior on the established list.

11.2.4 Permanent employees shall be given every opportunity for transfer to other departments when layoff is pending.

11.3 Notice of Layoff. Employees subject to the provisions of this Article shall, wherever possible, be given at least thirty (30) calendar days' notice in writing prior to the effective date of layoff. The appropriate Unions shall receive concurrent notice, and upon written request within seven (7) calendar days after the notice is given shall be afforded an opportunity to meet with the appropriate City representatives to discuss the circumstances necessitating the layoff and any proposed alternatives to such layoff.

11.4 Reassignment in Lieu of Layoff. In the event of layoff, any employee so affected may elect to:

11.4.1 Accept a position in a lateral or lower class in which the employee has previously served, or a position in a lateral or lower class within the series containing the class from which the employee is being laid off, provided the employee is otherwise qualified and is more senior than the least senior employee in such lateral or lower class.

11.4.2 Accept a vacant position in a lateral or lower class for which the employee has the necessary education, experience, and training as determined by the Director of Human Resources or designee. An employee may also accept a vacant position in a higher class, provided the employee has held permanent status in such higher class, and further provided that the employee's removal from the higher class was voluntary and occurred during the employee's most recent period of employment. Adverse decisions of the Director regarding necessary education, experience, and training shall be subject to the grievance procedure including arbitration. The employee may file the grievance at Step III within ten working days of the date of being notified of the adverse decision.

11.4.3 Any employee entitled to an option noted above, which involves assignment to a lower classification, may elect to be placed on layoff in lieu of accepting such assignment to the lower class. In the event the employee elects to be placed on layoff, such employee will only be recalled to the classification from which the employee elected to be placed on layoff or to any higher classification to which the employee may be entitled pursuant to the provisions of this Article.

11.5 Except as otherwise provided herein, no employee shall be entitled to a position in a higher class as a result of the application of the provisions of this Article.



## 11.6 Layoff Reinstatement Eligible List

- 11.6.1 The names of such persons who are laid off or who elect reassignment in lieu of layoff in accordance with the provisions of Section 11.5 of this Article shall be placed upon a Reinstatement Eligible List in inverse order of seniority, i.e., the person with the greatest seniority on the Reinstatement Eligible List for the classes affected shall be offered reinstatement when a vacancy exists in the affected class. In the event the person refuses the offer of reinstatement, such person's name shall be removed from the Reinstatement Eligible List, unless such person has reinstatement rights under the provisions of this Article to a higher class than the one in which the reinstatement is being refused.
- 11.6.2 In the event an employee accepts reinstatement to a lower class to which the employee is entitled, such person's name shall remain on the Reinstatement Eligible List for reinstatement to a lateral class, provided such person, except for lack of seniority, would have been otherwise entitled to such lateral class at the time of the most recent layoff.
- 11.6.3 Any person who is reinstated to a class which is the highest class to which they would have been entitled at the time of the layoff shall have the employee's name removed from the Reinstatement Eligible List.
- 11.6.4 In the event a person on layoff cannot be contacted by the City through usual and customary channels within ten (10) working days, such person's name shall be removed from the Reinstatement Eligible List, providing, however, that such person within the three-year period specified herein may request that their name be replaced on the Reinstatement Eligible List and such person's name may, in the sole discretion of the Director of Human Resources, or designee, be returned to the Reinstatement Eligible List.
- 11.6.5 In no event shall the names of any person laid off pursuant to the provisions of this Article remain on a Reinstatement Eligible List for a period longer than three years from the effective date of such person's most recent layoff.
- 11.7 Upon reinstatement to any classification to which the employee is entitled pursuant to the provisions of this Article, all benefits acquired by the employee prior to layoff shall also be reinstated. An employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

## 11.8 Part-Time Employees and Layoffs

- 11.8.1 Part-time benefited employees. When identifying part-time benefited positions for elimination, Departments shall consider the following factors in determining the employee(s) to be displaced:
- Seniority (as determined by total hours worked in current classification) and;
  - Department and/or program needs inclusive of special skills
- 11.8.1.1 Departments shall make available a written explanation of the factors and methods applied to determine displacements for their department and a written explanation to an affected employee upon request.

- 11.8.1.2 Employees impacted by the displacements may appeal the decision to the Director of Human Resources. The written response of the Director shall be final and binding.
- 11.8.1.3 Any employees displaced by layoffs may elect to be placed in the part-time employee rehire pool and if selected for rehire in their former classification may return through the non-competitive process.

## ARTICLE 12 WAGES AND SPECIAL PAY

- 12.1 All employees holding positions assigned to SJPDA (Union Code 131) receive an approximate 5% ongoing non-pensionable compensation increase.
  - 12.1.1 Effective June 25, 2023, all salary ranges for employees holding positions in classifications assigned to SJPDA shall be increased by approximately 5.00%. Effective September 17, 2023, all salary ranges for employees holding positions in classifications assigned to SJPDA shall be increased by 1.00% for a total pensionable general wage increase of 6.00%. The 1.00% increase shall be based on the rate of pay as of June 24, 2023.
  - 12.1.2 Effective the first pay period in Fiscal Year 2024-2025, all salary ranges for employees holding positions in classifications assigned to SJPDA shall be increased by approximately 4.00%.  
  
Effective the first full pay period in January 2025, all salary ranges for employees holding positions in classifications assigned to SJPDA shall be increased by approximately 1.00%.
  - 12.1.3 Effective the first pay period in Fiscal Year 2025-2026, all salary ranges for employees holding positions in classifications assigned to SJPDA shall be increased by approximately 3.50%.  
  
If the revised 5-Year Forecast included as part of the 2025-2026 Proposed Operating Budget includes a \$10 million dollar surplus or more in Fiscal Year 2025-2026, the general wage increase effective the first full pay period of Fiscal Year 2025-2026, for employees holding positions in classifications assigned to SJPDA shall be 4.00%.
- 12.2 Wages for part-time employees. Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classifications.
- 12.3 Salary Steps. The salary steps for all classifications represented by SJPDA shall be approximately 2.5%.
- 12.4 Shift Differential
  - 12.4.1 A swing shift differential of two dollars (\$2.25) an hour shall be paid to employees for each regularly scheduled hour worked after 2:00 p.m. if at least four (4) hours of a regularly assigned schedule of continuous work hours are worked after 5:00 p.m.
  - 12.4.2 A night shift differential of two dollars and thirty-five cents (\$2.50) per hour shall be paid to employees for each regularly scheduled hour worked after 11:00 p.m. and prior to 8:00 a.m. if at least four (4) hours of a regularly

assigned schedule of continuous work hours are worked after 11:00 p.m. and before 8:00 a.m.

- 12.4.3 Shift differential shall be paid to an employee for the hours worked when assigned to cover another employee's temporary absence and when the absent employee would have otherwise qualified for shift differential as defined above.
  - 12.4.4 Paid leave time does not qualify for payment of shift differential except when an employee uses a minimum of forty (40) consecutive hours of vacation, compensatory time or personal leave. The employee will continue to be paid shift differential as though they had worked their assigned shift during the period of vacation. City observed holiday hours may be credited towards meeting the forty (40) consecutive vacation hours requirement, however, holiday leave hours do not qualify for payment of shift differential.
  - 12.4.5 Except as otherwise required by State or Federal law, shift differential pay shall not be included as regular compensation in computing other benefits.
- 12.5 Bilingual Pay – FT/PT. To be eligible for a bilingual premium pay, an employee must meet at least one of the following eligibility requirements and must be certified as bilingual for oral communication, written translation or sign language duties according to the current established procedure. Before changing the current procedure, the City agrees to discuss any proposed change with the Union.
- 1. The employee is currently assigned to a position selectively certified based on bilingual ability by the Director of Human Resources, or designee; or
  - 2. The duties currently assigned/currently being performed by an employee have been designated by the Department Director or designee as requiring utilization of a non-English language on a regular basis.

Each department is responsible for ensuring that employees receiving a bilingual pay premium meet the requirements set forth herein.

- 12.5.1 Each full-time employee who meets the above eligibility requirements shall be compensated for performing oral communication, sign language duties or written and oral translation duties at the rate of sixty dollars (\$60) per biweekly pay period for each pay period actually worked.
- 12.5.2 Each part-time benefited employee who meets the above eligibility requirements shall be compensated for performing oral communication sign language duties, or written and oral translation duties at the rate of fifty dollars (\$50) per biweekly pay period for each pay period actually worked.
- 12.5.3 Each part-time unbenefited employee who meets the above eligibility requirements shall be compensated for performing oral communication, sign language duties, or written and oral translation duties at the rate of fifty cents (\$0.50) per hour.
- 12.5.4 If an eligible employee is on paid leave for a period of one (1) full pay period or more, the employee will not receive bilingual pay for that period.
- 12.5.5 If an employee is denied bilingual pay under the requirements set forth in this article, the employee may appeal in writing to the Department Director, or designee, for reconsideration. If the employee is dissatisfied with the

decision of the Department Director, or designee, the employee may apply in writing for reconsideration with the Director of Human Resources. The written decision of the Director of Human Resources shall be final, with no process for further appeal.

- 12.5.6 If an employee who receives bilingual pay refuses to provide interpretation or translation services for which they are certified, the employee shall no longer be eligible to receive bilingual pay.
- 12.6 Working in a Higher Classification. Upon specific assignment by the Department Director, or designee, with prior written approval, a full-time or part-time employee who is not on probation may be required to perform the duties of a full-time or benefited part-time position in a higher classification. Such assignments may be made to existing authorized positions which are not actively occupied due to the temporary absence of the regularly appointed employee or a vacant position. Assignments to a higher classification due to a vacancy shall not exceed six (6) months.
- 12.6.1 An employee assigned to work in a higher classification may be extended in their specific assignment past the aforementioned six (6) month limitation.
- 12.6.2 Employees specifically assigned to duties of a higher classification shall be compensated at the rate in the salary range of the higher class which is at least five percent (5%) higher in the salary range schedule than the rate received by the employee in the employee's present class. Notwithstanding any other provision of this section, in no event shall an employee receive any amount in excess of the top of the salary range of the higher classification. The employee shall not receive any compensation, however, unless the assignment is for a minimum of twenty-four (24) cumulative work hours within one pay period and a minimum of four (4) consecutive work hours within each work day. In the event the assignment is for a minimum of twenty-four (24) cumulative work hours within one (1) pay period and a minimum of four (4) consecutive work hours within one (1) work day, the employee shall be compensated at the appropriate rate for all the eligible hours worked in the higher class within the pay period.
- 12.6.3 Employees assigned to the duties of a higher classification due to a vacancy, and not due to the temporary absence of an employee, shall be compensated at the rate in the salary range of the higher class, pursuant to section 12.6.2 above, for City observed holidays.
- 12.7 Call Back. An employee who is called back to work in response to an emergency or other unforeseen circumstance shall be credited for the time worked, or for three (3) hours, whichever is greater, at the appropriate rate (1.5). This section shall apply on either a workday after the employee has departed from their place of employment or on a day off. It shall not apply to scheduled overtime or during a regular shift. Employees who are called back multiple times during a standby shift shall not receive additional pay until the employee has worked a total of three hours, after which time the employee would be eligible for additional pay, but only for actual hours worked.
- 12.7.1 To the extent possible, when an employee has worked in excess of sixteen (16) hours, upon request by the employee, the Department Director or designee may approve the time off using an employee's available leave, excluding sick leave, to provide the employee with a rest period prior to their next shift.
- 12.8 Standby Pay. Employees who are required to perform standby duty shall be credited with one hour compensation at the appropriate rate (1.5) for each eight (8) hour shift or portion

thereof the employee performs standby duty. In the event the employee is called back to work, the employee shall be entitled to the compensation provided by Section 12.7 above, in lieu of the one hour of standby compensation for that eight (8) hour shift.

12.8.1 Standby pay is not deemed as actual hours worked for the purpose of calculating eligibility for overtime.

## 12.9 Vehicles and Mileage Reimbursement

12.9.1 Use of City and Private Vehicles. The City and the Union agree that the use of a vehicle is essential to performing the duties of some jobs. Therefore, the Union recognizes the City's right to require employees to use their own vehicles when no City vehicle is available, and/or to use City vehicles when available.

12.9.2 Mileage Reimbursement. Each employee of the City authorized or required by the City Manager or designee to use the employee's private automobile in the performance of the duties of the employee's position, shall be entitled to receive and shall be paid as a travel allowance for such use of their private automobile a "mileage reimbursement rate" consistent with the City's rate. The City will review the rate annually.

12.9.3 Auto Liability Insurance. No employee shall be required, as a condition of employment, or continued employment, to maintain automobile liability insurance in excess of the minimum required by the State of California.

12.10 Uniform Allowance. An annual Uniform Allowance not to exceed five-hundred dollars (\$500) shall be paid to eligible employees regularly assigned to the classifications listed below, provided that such eligible employees are required, in the performance of the assigned duties of such classifications, to wear an approved uniform.

8578	Supervising Police Dispatcher
8576	Senior Police Dispatcher
8577	Senior Police Dispatcher (PT)
8574	Police Radio Dispatcher
8515	Police Communication Specialist
8575	Police Radio Dispatcher (PT)
8535	Police Communication Specialist (PT)
8571	Police Radio Dispatcher Trainee
8575	Police Radio Dispatcher Trainee (PT)

\$100 increase to the Uniform Allowance effective Fiscal Year 2024-2025. Effective the first full pay period in Fiscal Year 2024-2025, an annual Uniform Allowance not to exceed six-hundred dollars (\$600) shall be paid to eligible employees regularly assigned to the classifications listed above, provided that such eligible employees are required, in the performance of the assigned duties of such classifications, to wear an approved uniform.

12.10.1 Full-time employees in the classifications listed in Section 12.10 above who are eligible for the uniform allowance shall receive a uniform allowance not to exceed \$500.00 annually. Payment shall be made during the first two (2) pay periods of each month, in the amount of \$20.83 per biweekly pay period. If an eligible employee is on unpaid leave for a period of one (1) full pay period or more, the employee will not receive the uniform allowance for that pay period(s).

12.10.2 Part-time employees in the classifications listed in Section 12.10 above who are eligible for the uniform allowance shall receive a uniform allowance not to exceed \$250.00 annually. Payment shall be made during the first two (2) pay periods of each month, in the amount of \$10.41 per biweekly pay period. If an eligible employee is on unpaid leave for a period of one (1) full pay period or more, the employee will not receive the uniform allowance for that pay period(s).

12.11 Meal Allowance. In the event an employee is assigned to work 16 or more consecutive hours, the City, at its option, will either provide the employee ten dollars (\$10) as a meal allowance or provide a meal to the employee.

12.12 Training Pays. Police Communication Specialists or Police Radio Dispatchers shall be eligible for additional pay equal to approximately seven and one-half percent (7.5%) of the employee's current rate of pay for each hour the employee is assigned and is actually engaged in one-on-one training of a Dispatcher trainee.

12.13 Crisis Intervention Training Pay. Effective September 17, 2023, the Crisis Intervention Training non-pensionable premium pay shall be a total of approximately 3.75%. Employees who sign-up or have completed the Crisis Intervention Training by September 17, 2023, will be eligible to receive the Crisis Intervention Training non-pensionable premium pay.

12.14 Prevention, Awareness, and Wellness Support Program (PAWS). Under PAWS:

- A therapy dog is assigned to a single handler in the Communications Division.
- A set number of alternate handlers will be identified to assist with the PAWS program as deemed necessary by SJPDA.
- Interested Dispatchers or Communications Specialists undergo a selection process as determined by SJPDA.
- The primary handler is responsible for the regular training, care, grooming, feeding, and maintenance of the dog.
- The primary handler and any identified alternate handlers will complete all required training as determined by Operation Freedom Paws (OFP) and/or SJPDA.
- The therapy dog will accompany the assigned handler to work on their regularly scheduled shift and overtime assignments.
- Any use of the therapy dog outside of the assigned handler's regularly scheduled shift and overtime assignments is at the discretion of the Chief of Police, Communications Division Director or their designee.

In recognition of the duties and responsibilities of the PAWS handler assignment, including the care and maintenance of the therapy dog while on or off duty, the primary handler assigned to the therapy dog shall be eligible for additional pay equal to approximately two and one-half percent (2.5%) of the employee's current rate of pay. Such additional compensation shall not be paid for any biweekly period or portion thereof where the therapy dog is not assigned to the primary handler.

Alternate handlers who are assigned to the dog while the primary handler is unavailable shall be eligible for additional pay equal to approximately two and one-half percent (2.5%) of the employee's current rate of pay for the duration of the assignment.

12.15 Overpayments of Compensation

When the City determines an overpayment has been made to an employee, it shall notify the employee of the overpayment and afford the employee an opportunity to respond prior to commencing recoupment actions. The City will endeavor to reach mutual agreement

with the employee regarding repayment terms, which may be in lump sum cash payment(s) or installment(s) through payroll deduction(s). Absent mutual agreement on a method of reimbursement within 30 days, the City shall proceed with recoupment via Payroll deductions over a number of pay periods equivalent to the term of overpayment, unless the maximum deduction per pay period is insufficient to repay the balance of the overpayment. In this case, the payments shall continue for as many pay periods is necessary to repay the balance of the overpayment. In no event shall amounts deducted from payment of salary or wages exceed 15% of the employee's net disposable earnings.

12.15.1 An employee who separates from City employment prior to full repayment of the amount owed to the City shall have any money owed to the City withheld from their final paycheck(s). If the amount of money owed upon separation is insufficient to provide full reimbursement to the City, the City shall have the right to exercise any and all other legal means to recover the additional amount owed.

## ARTICLE 13 BENEFITS

13.1 Health Insurance. Eligible employees may elect health insurance coverage under one of the available plans for employee only or employee and dependents. All available plans have a 4-tier rate structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren) and Family).

13.1.1 **Medical Insurance Provider with the Second Highest Overall Employee Enrollment.** The City pays ninety percent (90%) of the cost of the lowest priced Non-Deductible HMO. Co-Pay Plan of the medical insurance provider with the second highest overall employee enrollment for the employee or the employee and dependent coverage, and the employee pays ten percent (10%) of the full premium cost of the lowest priced Non-Deductible Co-Pay Plan of the medical insurance provider with the second highest overall employee enrollment.

Any deductible plans offered by the medical insurance provider with the second highest overall employee enrollment and whose cost is below ninety percent (90%) of the full premium cost of the lowest priced Non-Deductible HMO Co-Pay Plan will be offered to full-time employees at no cost.

13.1.2 **Medical Insurance Provider with the Highest Overall Employee Enrollment.** The City will pay eighty-five percent (85%) of the full premium cost of the lowest priced Non-Deductible HMO Co-Pay Plan of the medical insurance provider with the highest overall employee enrollment for the employee or the employee and dependent coverage, and the employee pays fifteen percent (15%) of the full premium cost of the lowest priced Non-Deductible Co-Pay Plan of the medical insurance provider with the highest overall employee enrollment.

13.1.3 If the employee selects a plan other than the lowest priced Non-Deductible HMO Co-Pay Plan, the employee pays the difference between the total cost of the selected plan and the City's contribution toward the lowest priced Non-Deductible HMO Co-Pay Plan.

13.1.4 An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee or retiree.

13.1.5 **Default Healthcare Plan.** New full-time employees and current employees not previously eligible to receive benefits who are hired into a full-time

benefits eligible position and who do not sign up for a healthcare plan within thirty (30) calendar days from their hire date, will be automatically enrolled in the lowest cost HMO Deductible plan offered by the medical insurance provider with the second highest overall employee enrollment at the time the employee is automatically enrolled.

- 13.2 Dental Insurance. The City will offer dental coverage for eligible full-time employees and their dependents. As of the date of this agreement the plans include a PPO plan and a DHMO plan. These plans are described in the City of San Jose Employee Benefits Handbook available on the City’s website and in pamphlets available in the Human Resources Department. All available plans have a 4-tier rate structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren) and Family).

The City will provide dental coverage in the lowest priced plan for eligible full time employees and their dependents. If an employee selects a plan other than the lowest priced plan, the City will pay ninety-five (95%) of the full premium cost for the selected dental coverage for eligible full time employees and their dependents and the employee shall pay five percent (5%) of the full premium cost for the selected plan.

- 13.2.1 Each eligible, full-time employee and dependents shall receive Orthodontia coverage in the Delta Dental Plans; the PPO plan must be medically necessary and has a lifetime maximum amount of \$2,000, the DHMO plan will include a copayment of \$1,000, and orthodontia coverage (both medically and non-medically necessary) is limited to once per eligible member per lifetime.

- 13.2.2 Retirees who meet the eligibility requirements defined in Ordinance No. 22261 amending Sections 3.24, Part 24, and 3.28, Part 17, Title 3 of the San José Municipal Code are entitled to dental insurance coverage as a benefit of the Federated Retirement System.

- 13.2.3 An employee may not be simultaneously covered by City-provided dental benefits as a City employee and as a dependent of another City employee or retiree.

- 13.2.4 The City will use actual rather than blended premium.

- 13.3 Payment-in-Lieu of Health and Dental Insurance. The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu. Effective as soon as practicable in Fiscal Year 2023-2024, the payment in lieu amount for employee only will be adjusted as provided for in section 13.3.1

- 13.3.1 Employees who qualify for and participate in the payment-in-lieu health and/or dental insurance program will receive the following per pay period:

<u>Health Insurance Tier</u>	<u>Health-in-Lieu</u>	<u>Dental-in-Lieu</u>
Employee	\$102.00	\$6.65
Employee plus Spouse/Domestic Partner	\$147.87	\$13.30
Employee plus Child(ren)	\$129.39	\$11.64
Family	\$221.84	\$19.95

A City employee who receives health and/or dental coverage as a dependent of another City employee or retiree shall be eligible for the employee only coverage for the payment-in-lieu of health and/or dental program.



- 13.3.2 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek of less than thirty-five (35) regular work hours per week or unpaid leave and have alternate group health and/or dental coverage. To qualify, a new employee must attest that the employee and all covered dependents have or will have minimum essential coverage under an alternative group medical/dental plan and an employee who has a life qualifying event must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.
- 13.3.3 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first thirty (30) days of employment, during the annual open enrollment period or within thirty (30) days of a qualifying event as defined in the Human Resources Benefits Handbook, occurring anytime during the year. Employees who miss the thirty (30)-day time limit after a qualifying event must wait until the next open enrollment period to enroll in the payment-in-lieu of insurance program. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.
- 13.3.4 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations, employment status changes from full to part-time, employee is on an unpaid leave of absence, employee is on a reduced work week of less than thirty-five (35) regular work hours per week, or employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.
- 13.3.5 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible the employee must provide verification that alternate coverage has been lost.
- 13.3.5.1 Health Insurance. To enroll in a City health insurance plan following loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu-payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carriers' enrollment procedures.
- 13.3.5.2 Dental Insurance. To enroll in a City dental insurance plan following the loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carrier's enrollment procedures.
- 13.4 Part-Time Employees – Health and Dental Insurance Benefits. During the term of this Agreement, the City shall pay for each eligible part-time employee who is a subscriber to benefits provided for individual coverage, or for individual coverage plus coverage of

dependents, under one of the health and dental insurance plans provided for full-time employees, sums of money equal to the percentage of the City's contribution for full-time employees for such individual coverage, or individual plus coverage of dependents, based on the number of hours per week such part-time employee is indefinitely assigned to work in their regularly scheduled part-time position. Such sums of moneys shall be determined in accordance with the following such hours per week and percentages:

<u>Regularly Scheduled Hours Per Week</u>	<u>City Contribution For P/T Employees As Percentage Of City Contribution For Full-Time Employees</u>
30-34 hours	75.0%
25-29 hours	62.5%
20-24 hours	50.0%

- 13.5 Life Insurance. The City shall continue to pay premiums on existing life insurance for full-time employees during the term of this Agreement and the face value of such insurance shall be \$20,000 per employee. For employees on reduced schedules, the City's contribution for premiums will be provided in accordance with Section 7.10.
- 13.6 Employee Assistance Program. The City recognizes that professional counseling is an important benefit to assist employees in resolving personal and family problems which may otherwise affect the employee's job performance and well-being. Through the EAP, licensed counselors are available to help employees resolve problems and identify strategies for coping with difficult situations. The City will provide an EAP for full-time employees and for part-time employees eligible for benefits under Section 7.8.2 of this Agreement, and will continue such benefits at their current level during the term of this Agreement.

Employees are encouraged to contact the Employee Benefits Division at 535-1285 for details regarding this benefit, or contact the plan provider for appointments or further information.

13.6.1 Employee Assistance Referral. Performance problems are sometimes related to personal or work-related problems which may be improved through the Employee Assistance Program (EAP). Therefore, if a supervisor believes that an employee's work performance or behavior while on duty is impaired and can be improved through the EAP, the employer, with Department Director or designee approval, may require the employee to attend an initial screening session with the Employee Assistance Program. The employee shall provide proof of attending the initial appointment. Failure to attend or to provide proof of such attendance may subject the employee to disciplinary action. Actual results of the initial screening shall be subject to normal confidentiality provisions, unless the employee voluntarily signs a release of information form. The employee's decision to attend or not attend follow-up sessions shall be voluntary.

13.6.2 Nothing in this Article shall preclude an employee voluntarily agreeing to different conditions as part of a disciplinary settlement agreement.

13.6.3 The EAP provisions applicable to sworn employees shall cover the following classifications.

- Police Communications Specialist
- Police Communications Specialist (PT)
- Police Radio Dispatcher
- Police Radio Dispatcher (PT)

Senior Police Dispatcher  
 Senior Police Dispatcher (PT)  
 Supervising Police Dispatcher

13.7 Substance Abuse Program. Full-time employees, and part-time employees eligible for benefits under Section 7.8.2 of this agreement, shall be eligible for substance abuse treatment benefits and are subject to the terms and conditions of the City of San Jose Substance Abuse Program & Policy.

13.8 Educational and Professional Program. The City will reimburse each employee one-hundred percent (100%) of expenses incurred, up to \$1000.00 per fiscal year, for registration, tuition, fees, and textbooks for college accredited courses which are either related to or beneficial for the employee’s current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service as approved by the Department Director or designee. Of the \$1000.00 amount, up to \$600.00 may be used for non-college accredited courses, online courses, Continuing Education Units, Adult Education Classes, workshops, membership dues in professional associations, professional licenses, and professional certificates which are either related to or beneficial for the employee’s current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service, as approved by the Department Director or designee. City Policy Manual Section 4.3.1, Education Reimbursement Policy, outlines additional details of the program.

13.8.1 Part-Time Employees—Educational and Professional Incentives. The City will reimburse each eligible employee one-hundred percent (100%) of expenses incurred, up to the maximum amounts per fiscal year listed below. Eligible expenses shall be limited to registration, tuition, fees and textbooks for college accredited courses which are either related to or beneficial for the employee’s current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service as approved by the Department Director or designee. Of the eligible amount indicated in the chart below, a prorated amount may be used for non-college accredited courses, Continuing Education Units, Adult Education Classes, workshops, membership dues in professional associations, professional licenses, and professional certificates which are either related to or beneficial for the employee’s current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service, as approved by the Department Director or designee. City Policy Manual Section 4.3.1, Education Reimbursement Policy, outlines additional details of the program. The maximum amounts for eligible benefited employees are based on the employee’s established benefit category as follows:

<u>Regularly Scheduled Hours Per Week</u>	<u>Maximum Reimbursement for Part-Time Employees</u>	<u>Maximum Reimbursement for Part-Time Employees for non-college accredited courses and others as listed above.</u>
30-34.9 hours	\$750.00	\$225.00
25-29.9 hours	\$625.00	\$190.00
20-24.9 hours	\$500.00	\$150.00
10-19.9 hours	\$250.00	\$100.00

13.8.1.1 Because part-time unbenefited employees are at-will, may not work regular scheduled hours, and are not entitled to any specific hours worked, a part-time unbenefited employee shall

be deemed to be within the 10-19.9 hours benefit level if they have worked at least 520.00 hours within the previous fiscal year (July 1 – June 30).

For example, for a part-time unbenefited employee to be eligible for the education reimbursement described in Article 13.10.2 in Fiscal Year 202321-202422, the employee must have worked at least 520.00 hours between July 1, 202320, and June 30, 202421.

- 13.8.2 If an employee is denied educational and professional incentives under the requirements set forth in Section 13.10 and 13.10.1 above, the employee may appeal in writing to the Department Director, or designee, for reconsideration. If the employee is dissatisfied with the decision of the Department Director, or designee, the employee may apply in writing for reconsideration with the Director of Human Resources, or designee. The written decision of the Director of Human Resources, or designee shall be final, with no process for further appeal.
- 13.9 Vision Care. The City will contribute towards vision care for eligible full-time employees up to sixteen dollars (\$16) per month (\$8.00 for 24 biweekly pay periods) or the cost of the premium, whichever is less, for coverage under a vision plan sponsored by the City. The employee shall pay the difference between the City contribution and the total premium of the vision care plan selected by the employee.
- 13.9.1 Effective January 1, 2016, all available plans will have a 4-tier structure (Employee, Employee plus Spouse/Domestic Partner, Employee plus Child(ren), and Family). The premiums will be adjusted effective the first pay period in payroll calendar year 2016, which starts December 20, 2015.
- 13.10 Employee Wellness. Each calendar year, employees represented by SJPDA shall be eligible to purchase one (1) annual fitness membership or up to twelve (12) monthly fitness memberships at a 20% discount off of the advertised resident fee. This membership provides access to fitness rooms at various Community Center locations and access to a variety of drop-in programs in gymnasiums.

## **ARTICLE 14 RETIREMENT**

- 14.1 Current retirement benefits will continue during the term of this Agreement, except as described herein, and shall be set forth in the Municipal Code.
- 14.2 Individual Retirement Account for Employees Not Covered by City Retirement Plan. All employees in the bargaining unit who are not covered by a city retirement system shall participate in a qualified individual retirement account, such as an Internal Revenue Code Section 457 plan, in lieu of Social Security when such individual account is established and implemented by the City. Such participation shall be in accordance with the plan's requirements and with federal Social Security legislation.
- 14.2.1 An amount of 3.75% from both the City and such employee in the bargaining unit shall be contributed to such plan. Withholding of 3.75% from both the City and such employees shall begin on June 26, 1991. Contributions shall be placed into an interest-bearing escrow account until the final federal Social Security regulations are issued and an IRS 457 plan is established pursuant to such regulations. Upon establishment of such IRS plan, all contributions and earnings in the plan shall be one-hundred percent (100%) vested with

the employee. If the employee leaves the City after June 26, 1991 but before the IRS 457 plan is established, the employee is entitled to both City and Employee contributions, to be paid once an IRS 457 plan is established.

14.2.2 Monthly administrative cost of processing 457 Plan contributions shall be split equally between the City of San José and the employee.

14.2.3 Contributions to the IRS 457 plan shall continue as long as the federal Social Security legislation qualifies an IRS 457 Plan as an allowable alternative to Social Security. In no event shall the City contribute to both an IRS 457 Plan and Social Security for employees affected by this Agreement.

14.3 Retirement – Public Safety Dispatchers Class Series. Only City service shall be credited toward retirement under the Federated City Employees' Retirement System (FCERS) and eligibility for retiree medical insurance.

14.3.1 Retirement benefits defined in the Municipal Code are guaranteed and shall include vesting after two years of service for employees who are hired at age fifty (50) or older and the right to buy back prior City service credit for employees who had \$500.00 or more in contributions to FCERS.

14.3.2 After an employee has completed one (1) year of full-time service the employee shall be eligible to go to part-time status without loss of participation in the FCERS.

## **ARTICLE 15 RETIREE HEALTHCARE FUNDING AND BENEFITS**

15.1 Retiree Healthcare benefits are set forth and governed in accordance with the provisions of the City Charter, Federated City Employees' Retirement System Municipal Code Sections and Alternative Pension Reform Framework.

## **ARTICLE 16 SAFETY**

16.1 The City shall provide a safe and healthy working environment in accordance with applicable State and Federal laws and regulations. The Union agrees that where safety devices or protective equipment is required or furnished, its use shall be mandatory.

16.2 An employee who believes their work assignment is unsafe or believes a safety violation exists and for that reason refuses to perform such assignment, will first report such unsafe conditions to their immediate supervisor and try and resolve it at that level. The employee may at any time request that a Union representative be present for any part of the process.

16.3 If the employee is not satisfied with the response of the immediate supervisor, the employee may request that the City make a determination as to the safeness of the work assignment in accordance with Cal/OSHA regulations. If the City is asked to make a determination, an employee will be assigned other duties if other duties are available while an investigation is underway. If no other duties are available, the employee may be placed on a leave of absence without pay, pending the above determination. No other employee shall be assigned the work assignment in dispute until after a determination is made by the City's designated safety official. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to the refusal to perform.

16.4 No provisions of this Article shall be subject to the grievance procedures of this Agreement. If the Union is not satisfied with the City's determination, the Union can request to meet with the Office of Employee Relations to discuss the City's determination.

## ARTICLE 17 PROBATIONARY PERIODS

- 17.1 Probation Period Calculation. Probationary periods shall not be less than twelve (12) months of actual service as determined by the Civil Service Commission. Actual service shall mean regular hours worked, paid holidays and up to eighty (80) hours of other cumulative or consecutive paid or unpaid absences.
- 17.2 An employee's probationary period may be extended at the discretion of the City up to a maximum of three (3) months of actual and continuous service. The employee will be notified in writing of the length and reason for the extension.
- 17.3 Part-time Probation. The probation period for part-time employees will be considered complete after the employee has worked 1040 regular hours of service. Regular hours do not include paid leave or overtime hours. Part-time non-benefited employees are considered to be "at will" employees with no permanent status and do not serve a probationary period.

## ARTICLE 18 ANNUAL AND SPECIAL PERFORMANCE EVALUATION

- 18.1 The City of San Jose Non-Management Performance Program Policy provides guidelines for evaluating the work performance of non-management employees.
- 18.2 Key Element Review. If the employee formally receives an overall performance rating of meets standard on either an annual or special performance evaluation, but receives a below meets standard in an individual key element rating, the employee may request a review of that individual key element by the Department Director or designee. The employee must submit a written request to the Director or designee specifying the reasons for such request, within thirty (30) calendar days from the date the employee received the final performance appraisal. The Director or designee shall look into the request and provide a written response to the employee within thirty (30) calendar days of receipt. The written response of the Director or designee shall be final and binding.
- 18.2.1 All employees represented by the Union shall be evaluated using the standard performance evaluation form as designated by Human Resources and the Office of Employee Relations. Any changes to the performance evaluation form shall be provided in advance to the Union pursuant to Article 20 of this agreement.
- 18.3 Overall Rating Appeal. If the employee formally receives an overall performance rating that is below meets standard on either an annual or special performance evaluation, the employee may appeal the rating. Such appeal shall be made to the Department Director or designee within thirty (30) calendar days from the date the employee receives the final performance appraisal. The Director or designee shall look into the appeal request and provide a written response to the employee within thirty (30) calendar days of receipt of appeal or meeting, if one is held. If the employee is dissatisfied with the decision of the Director or designee, the employee may, within thirty (30) calendar days from the Director's or designee's response, request a hearing with the City Manager or designee. Such request shall be in writing and shall include the reason(s) the employee is not satisfied with the decisions previously rendered.
- 18.4 The City Manager, or designee, shall hold a hearing within a reasonable time, and within twenty (20) calendar days of the hearing shall inform the employee of the decision. The decision of the City Manager, or designee, shall be final. This will be the only appeal

process applicable to review a performance appraisal. The employee shall have the right to Union representation at the hearing with the Department Director, City Manager or designees.

- 18.5 If the employee formally receives an overall performance rating that is at or above "meets standard" on either an annual or special performance evaluation and is not satisfied with the appraisal, the employee may write a rebuttal within thirty (30) calendar days from the date the employee receives the final performance appraisal. The rebuttal, along with the performance appraisal, will be included in the employee's personnel file. The rebuttal may be in response to the entire appraisal or any particular section(s).
- 18.6 If the employee indicates to their supervisor of the employee's intent to appeal or rebut the evaluation, the employee may request and receive a copy of the evaluation.
- 18.7 Annual Performance Appraisals: Employees shall not receive an automatic salary step increase if they have an Annual Performance Appraisal with an overall rating below that of "Meets Standard" dated within twelve (12) months prior to the salary step increase.

## **ARTICLE 19 DISCIPLINARY ACTION**

- 19.1 The City of San Jose discipline policy applies to both regular permanent (non-probationary) full-time and regular permanent (non-probationary) part-time benefited employees and is described in the Discipline Policy, contained in the City Policy Manual. When the need for disciplinary action arises, disciplinary action will be taken commensurate with the seriousness of the offense. The levels of discipline include informal actions, which are oral counseling, documented oral counseling and written reprimand. Formal disciplinary actions are suspension, salary step reduction, demotion and dismissal.
- 19.2 When an employee is being interviewed and the employee reasonably believes that the investigative interview is likely to result in disciplinary action, the employee has the right to request to have a union representative present during the investigative interview.
- 19.3 Step Reduction. The San José Municipal Code defines disciplinary action as dismissal, demotion and suspension. In addition, the appointing authority may reduce an employee's salary step. The salary may be reduced to no lower than step one (1) of the salary range, and the amount and length of time of the salary reduction will be specified in the Notice of Intended Discipline. The salary may be reduced either for a specified period of time or until the condition which caused the salary reduction has been corrected. The employee may appeal this action, including the amount and the length of time, to the Civil Service Commission according to the same rules as apply to other formal disciplinary appeals.
- 19.4 Disciplinary actions and internal investigations involving non-sworn employees who are subject to the Police Department Duty Manual will be administered in accordance with section C1811 of the Duty Manual and the Police Department Discipline Procedures Handbook for Employee Relations Liaisons.
- 19.5 No provisions of this Article shall be subject to the grievance procedures of this Agreement. The appeal process for any disciplinary action shall only be those described in the San Jose Municipal Code and City of San Jose Discipline Policy in the City Policy Manual and are not subject to appeal through the grievance procedure of this Agreement.

## **ARTICLE 20 PERSONNEL FILES**

20.1 The City Human Resources Director shall keep a central personnel file for each employee; departments, at their option, may keep a duplicate departmental personnel file. An employee, or with written authorization by the employee, the employee's designee, shall be permitted to examine their own personnel file on appointment during normal business hours. Employees shall be provided copies of materials in their personnel files at a cost not to exceed the actual cost of duplication, unless such materials are to be used in conjunction with the processing of a grievance or appeal filed by the employee.

20.1.1 Items excluded from the examination of the personnel file are:

1. Items obtained prior to the employment of the person involved, such as reference checks and pre-employment examinations.
2. Items obtained in connection with a promotional and/or interview examination.

20.2 Adverse comments, except material mentioned above, shall not be entered or filed unless the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right to enter and have attached to any such adverse comments their own written comments within thirty (30) calendar days of receipt.

## **ARTICLE 21 GRIEVANCE PROCEDURE**

21.1 Any dispute between the City and the Union regarding the interpretation or application of the written Memorandum of Agreement, or the interpretation or application of the Employer-Employee Resolution #39367, as amended, shall be considered a grievance. A grievance may be initiated only by the employee directly affected except as otherwise provided herein. Where the dispute directly affects a significantly large group of employees in the representation unit, the Union may file a grievance on behalf of such employee(s).

### 21.2 Procedures

21.2.1 Grievances involving the interpretation or application of Resolution #39367, as amended, including any grievance filed pursuant to Section 22 of that Resolution, shall be filed in writing with the Municipal Employee Relations Officer, or designee, and shall be processed in accordance with applicable impasse resolution procedures of that Resolution.

21.2.2 Grievances involving the interpretation or application of this Agreement shall be processed in accordance with the procedures set forth in this Article 21.

21.2.3 Alternative to the Grievance Procedure. As an alternative to the formal grievance procedure, SJPDA and Employee Relations may, through mutual agreement, meet and attempt to resolve on an informal basis, problems which arise involving contract interpretation, Civil Service rules, or other matters affecting the relationship between the Union and the City.

21.2.4 The Office of Employee Relations and SJPDA may review an issue on an ad hoc basis on its merits and its relationship to the contract. The result of these discussions may be:

1. To create a side agreement for immediate implementation.
2. To continue the current practice for discussions during the next contract period.
3. To change practice to conform to the contract language.
4. To maintain the status quo.



If the issue cannot be resolved through this process, the Union maintains the option to proceed through the appropriate grievance procedure.

21.3 Step I

21.3.1

An employee may present the grievance orally either directly or through the Union representative to the immediate supervisor. The grievance must be presented within twenty one (21) calendar days following the event or events on which the grievance is based. The immediate supervisor shall make whatever investigation is necessary to obtain the facts pertaining to the grievance. Within twenty one (21) calendar days after receiving the oral grievance, the immediate supervisor shall give the employee a verbal reply.

21.3.2

If the employee is not satisfied with the reply of their immediate supervisor, the employee may appeal the grievance to Step II.

21.4 Step II

21.4.1

If the employee desires to appeal the grievance to Step II, the grievance shall be reduced to writing and presented to the Department Director or designee within five (5) working days following the receipt of the immediate supervisor's verbal reply.

21.4.2

To ensure clear communication and assist in resolving the grievance, the written grievance shall contain the following information:

- A clear statement of the problem.
- The alleged facts upon which the grievance is based.
- The section of the MOA claimed to have been violated and the specific violation claimed.
- The remedy requested by the grievant.

21.4.3

The Department Director or designee, may arrange a meeting between the Director, the employee, the appropriate Union representative, and the immediate supervisor to attempt to resolve the grievance. In any event the Department Director or designee, shall give a written decision to the employee within ten (10) working days following receipt of the written appeal to Step II.

21.4.4

If the employee is not satisfied with the decision, the employee may appeal the grievance to Step III.

21.5 Step III

21.5.1

If the employee desires to appeal the grievance to Step III, the employee shall indicate in writing the reason for the appeal and present it along with the original written grievance to the Municipal Employee Relations Officer or designee within ten (10) working days following receipt of the written decision at Step II.

21.5.2

Within ten (10) working days after receipt of the appeal to Step III, the Municipal Employee Relations Officer or designee shall schedule a meeting with the employee, the appropriate Union representative, and the Department Director or designee to discuss the matter. A written decision shall be given to the employee or the appropriate Employee Organization representative within ten (10) working days following the meeting.

- 21.5.3 If the decision of the Municipal Employee Relations Officer or designee is unsatisfactory, the appropriate Employee Organization representative may appeal the grievance to Step IV - Arbitration.

21.6 Step IV – Arbitration

- 21.6.1 if the grievance has been properly processed through the previous steps of the procedure and not resolved, the appropriate Union representative may appeal the grievance to Arbitration. The appropriate Union representative shall notify the Municipal Employee Relations Officer or designee in writing, within ten (10) working days following receipt by the employee of the written answer at Step III.
- 21.6.2 Within ten (10) working days following the receipt of the notice of appeal to Step IV, a meeting shall be arranged by the Municipal Employee Relations Officer or designee with the appropriate Union representative to prepare a joint statement of the issue, or issues, to be presented to the arbitrator. The employee may also be permitted to attend. If the parties are unable to agree upon the issue, or issues, each party will prepare its statement of the issue, or issues, and jointly submit the separate statement of issue, or issues, to the arbitrator. At the beginning of the hearing referred to herein, the arbitrator shall determine what the issue, or issues, are.
- 21.6.3 The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Mediation and Conciliation Service to provide a list of seven persons qualified to act as arbitrators. Any costs associated with the mutually agreed upon joint request for a list of persons qualified to act as arbitrators from the State of California Mediation and Conciliation Service shall be divided equally between the parties. The City will process the joint request after receiving the Union's share of the cost for obtaining the list.
- 21.6.4 Within ten (10) working days following receipt of the above referenced list, the parties shall meet to select the arbitrator. The right to strike the first name shall be determined by lot and the parties shall alternately strike one name from the list until only one (1) name remains, and that person shall be the arbitrator.
- 21.6.5 The parties shall meet at least ten (10) working days prior to the arbitration hearing date for the purpose of pre-arbitration settlement or narrowing issues for arbitration, discussing possible stipulations and exchanging documents intended for use at the hearing.
- 21.6.6 The arbitrator shall hold a hearing on the issue, or issues, submitted, or as determined by the arbitrator, if the parties have not mutually agreed upon the issue, or issues, and render a written decision and reasons for the decision as soon after the hearing as possible. The decision shall be binding on both parties, and shall be limited to the issue, or issues, involved.
- 21.6.7 The decision shall be sent to the Municipal Employee Relations Officer or designee and to the employee or appropriate representative of the Union.
- 21.6.8 Each of the parties shall pay for the time and expenses of its representatives and witnesses through all stages of the arbitration procedure and shall

contribute equally to the fee and expenses of the arbitrator. The arbitrator's fee shall be determined in advance of the hearing. Court reporter fees are also shared equally among the parties.

21.6.9 The parties agree that the arbitrator shall not add to, subtract from, change or modify any provision of this agreement and shall be authorized only to apply existing provisions of this Agreement to the specific facts involved and to interpret only applicable provisions of this agreement, except that in the event it is a dispute concerning the arbitrability of the grievance, the arbitrator shall have the authority to rule on the issue of arbitrability, to wit: Whether or not the grievance involved an interpretation of the Agreement. However, the arbitrator will have no authority to rule on the issue of whether or not the grievance is a matter that is within the scope of representation, as defined under the Meyers-Milias-Brown Act.

21.6.10 The parties agree that the time limits set forth herein are of the essence of this procedure and are to be strictly complied with. Time limits may be extended only by written mutual agreement of the parties.

## 21.7 General Provisions

21.7.1 Any grievance not filed or appealed within the time limits specified shall be considered settled on the basis of the last disposition given. In the event the grievance is not answered within the time limits set forth herein, either the employee, except for appeals to Step IV, or the appropriate Union representative may appeal the grievance to the next higher step within the time limits provided.

21.7.2 The Union agrees that it will not initiate or pursue any other avenue of redress on any matter properly within the scope of representation until the provisions of this Article, including arbitration, have been utilized.

21.7.3 Working days as used in this Article shall be defined as the regularly scheduled working days of the employee or appropriate Union representative filing or appealing the grievance and the regularly scheduled working days of the appropriate representative of the City responsible for replying to the grievance.

21.7.4 If an employee desires to file a grievance involving separation from City employment pursuant to the application of Section 10.8, entitled Other Leaves of Absence, the employee shall file the grievance in writing at Step II within ten calendar days following the date of separation.

21.7.5 Any of the time limits specified in Steps I through IV may be extended by written mutual agreement of the parties.

## **ARTICLE 22 DEFINITION OF THE MARKET**

22.1 Comparable classifications in cities and counties in Santa Clara, San Mateo, Contra Costa, San Francisco and Alameda Counties serving populations of 100,000 or more will be used to compare classifications. Population figures will be used from the U.S. Census Bureau.

22.2 Compensation information from the private sector will be gathered from existing published sources, and used to supplement public sector data as deemed appropriate.

22.3 Based on the April 1, 2000, U.S. Census Bureau, 2000 Census of Population, the following agencies currently meet the definition of the market:

Alameda County	Berkeley
Concord	Contra Costa County
Daly City	Fremont
Hayward	Oakland
San Francisco City/County	San Mateo County
Santa Clara	Santa Clara County
Sunnyvale	

**ARTICLE 23 EMPLOYEE COMMUTE BENEFIT PROGRAM**

The Employee Commute Benefit Program shall be as follows:

- 23.1 Full-time, and part-time employees who worked an average of twenty (20) or more hours per week within the previous calendar month, shall be eligible to participate in the Employee Commute Benefit Program. Seasonal workers and Airport employees are not eligible to participate in the Employee Commute Benefit Program; the Airport provides its own separate employee commute program.
- 23.2 Participation in an Employee Commute Benefit Program through the Santa Clara Valley Transit Authority (“VTA”) will be available to eligible employees, subject to the terms of the Employee Commute Benefit Program, as defined in Article 26.1.
- 23.3 Pursuant to the Employee Commute Benefit Program, eligible employees shall be allowed to use pre-tax dollars (“Pre-Tax Payroll Deduction Program”) to pay for transit service beyond those provided by VTA. The administrative fees of the Pre-Tax Payroll Deduction Program will be paid for by the City. The Pre-Tax Payroll Deduction Program shall enable employees to use pre-tax dollars to pay for non-VTA transit services, which may include, but are not limited to, Caltrain, the Hwy 17 Express Bus, and BART.


**ARTICLE 24 TIME DONATION PROGRAMS**

- 24.1 Employees may donate time to eligible employees as outlined in the Time Donation Programs Section in the City Policy Manual.

THIS AGREEMENT executed on the 24<sup>th</sup> day of May, 2023 between the City of San José and the San Jose Police Dispatchers' Association, IN WITNESS THEREOF, the appropriate representatives of the parties have affixed their signature thereto.


This Memorandum of Agreement was approved by the City Council of the City of San Jose on June 6, 2023.

FOR THE CITY OF SAN JOSE:

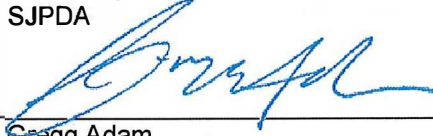
  
8/26/2024  
Date  
Jennifer Maguire  
City Manager

  
8/26/2024  
Date  
Jennifer Schembri  
Director of Employee Relations  
Director of Human Resources

FOR THE SAN JOSE POLICE DISPATCHERS' ASSOCIATION:

  
6-12-24  
Date  
Mary Sunzeri  
President / Rent  
SJPDA

  
Apr 26, 2024  
Date  
Tom Saggau  
Labor Negotiator  
SJPDA

  
06-12-24  
Date  
Gregg Adam  
Attorney  
SJPDA

## EXHIBIT I

### PROCESS FOR LAYOFF DISPUTE RESOLUTIONS

In lieu of the traditional process for handling grievances, the following process is recommended for handling specified disputes related to the layoff process.

#### Step One: Research and Discovery

1. Employee contacts Human Resources regarding concern. Employee fills out a form describing issue and requesting research.
2. Human Resources researches concern, and, based on data, makes a decision.

#### Step Two: Review and Resolution

If the employee is not satisfied with Human Resources' ruling, and the issue is appealable through the dispute process, the employee can request an additional review by the Director of Employee Relations or designee and a Union Representative (Business Agent or high ranking Officer).

1. Employee contacts their Union regarding the concern.
2. The Union notifies Employee Relations of the situation.
3. Employee Relations schedules a meeting date in Human Resources to review documents in question.
4. The Director of Employee Relations or designee, Union Representative and employee meet in the Human Resources Department to review documents. An Human Resources representative is available for background and information.
5. Based on data, and after discussion and consultation the Union representative, the Director of Employee Relations or designee makes a bench decision. If the Union does not agree with the decision, the issue can continue through the dispute process and appeal may be filed to Step 3.

#### Step Three: Appeal Process

If the employee is still not satisfied, and the issue is appealable through the dispute process, the employee can appeal to a Review Board. The Review Board is comprised of:

- Director of Employee Relations or one designee.
- One Union Representative - Business Agent or high ranking Officer (one from each affected Union).
- One Outside Neutral Party (same individual for all cases to ensure consistency).

The outside neutral party will decide the final ruling only if the Director of Employee Relations or designee and Union Representative have opposing positions. All Review Board rulings are final.

1. Employee contacts Union regarding appeal.
2. Union notifies Employee Relations of situation.
3. Employee Relations schedules hearing date with outside neutral party.
4. Employee presents their case to the Review Board.
5. Human Resources presents their case to the Review Board.
6. Review Board hears testimony, reviews document, and makes a final bench decision.

#### Deadlines

**Step I Request for Step 1:** An employee has five (5) working days, following receipt of a layoff notice, to complete a request for information form in Human Resources. This action will result in Step 1, Research and Discovery.

**Response to Request:** Human Resources has three (3) days, from the date of the request, to investigate records and respond to the employee.

**Step II Request for Step 2:** An employee has two (2) working days, following Step I response from Human Resources, to file a request for Step 2 with Employee Relations.

**Response to Request:** Employee Relations has three (3) working days, from the date of the request, to schedule the review meeting with Human Resources, a Union representative and the employee.

**Step III Request for Step 3:** An employee has three (3) working days, following the Step II decision, to file a request for Step 3 with Employee Relations.

**Response to Request:** Employee Relations has three (3) working days, from the date of the request, to schedule a hearing date with the Review Board.