

Memorandum of Agreement

City of San José

and

**Association of Legal Professionals of San José
(ALP)**



July 1, 2017 – June 30, 2018

**Association of Legal Professionals of San José
Memorandum of Agreement**

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EXHIBITS:

EXHIBIT A Salary Ranges for Classifications Represented by ALP

This Memorandum of Agreement (“Agreement”) is entered into at San Jose, California, on this 16th day of June, 2015, between the City of San Jose (“City”) and the Association of Legal Professionals (“Association”).

ARTICLE 1 PURPOSE / BACKGROUND

Purpose: The parties agree that the purposes of this Agreement are:

- 1.1** To promote and provide harmonious relations, cooperation and understanding between the City and the employees covered herein,
- 1.2** To provide an orderly and equitable means of resolving differences which may arise under this Agreement, and
- 1.3** 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 Association.

ARTICLE 2 DEFINITIONS

- 2.1** For the purpose of this 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 Jose and in Part 2 – Definitions of Chapter 3.04 of Title III, of the San Jose Municipal Code unless it is apparent from the context or from the specific language that a different meaning is intended.
- 2.2** For purposes of this Agreement, “Domestic Partner” means a person registered as a domestic partner with the City’s Human Resources Department.

ARTICLE 3 PERIOD OF MEMORANDUM OF AGREEMENT

- 3.1** Except where a specific provision of this Agreement expressly provides otherwise, the Agreement shall become effective on July 1, 2017, (“Effective Date”), and shall remain in effect through June 30, 2018.
- 3.2** This Agreement expires on June 30, 2018. It is mutually agreed that the first meeting of the parties to negotiate a successor agreement will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current Agreement terminates.

ARTICLE 4 AGREEMENT CONDITIONS

- 4.1** Full Understanding, Modification and Waiver
 - 4.1.1** 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 Agreement, understandings and agreements, whether formal or informal, are hereby superseded and terminated in their entirety.

4.1.2 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.

4.1.3 Notwithstanding any other provision of this Agreement, this Agreement is subject to the following reopeners:

4.1.3.1 Medical Benefits Reopener: To the extent that they are a mandatory subject of bargaining, the parties agree to meet and confer over changes to City medical plans related to the Affordable Care Act and/or any change to healthcare providers. If there is a change in healthcare providers, the benefits provided by those providers will be substantially equivalent to those listed in Article 17 and those benefits provided by the displaced provider(s) but may involve a different group of licensed medical doctors/practitioners.

Either the City or ALP may provide notice to the other of its request to discuss changes to City medical benefits. The parties shall commence the discussions within ten (10) calendar days after the City or ALP receive notice from the other.

To the extent that any changes to City medical plans related to the Affordable Care Act and/or any change to healthcare providers is a mandatory subject of bargaining, the parties shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties reach impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the applicable provisions under the Employer-Employee Relations Resolution No. 39367 and/or the Meyers Milius Brown Act (“Act”) and, neither party hereby waives any of its rights under the Act.

4.1.4 To the extent that a market salary survey is conducted by Human Resources and the survey shows that the wages and/or salary ranges for ALP members are under market, the City and the Association shall begin the meet and confer process. The commencement of the meet and confer process shall not obligate either party to agree, or be construed as an agreement, to change anything related to the Deputy City Attorney and Senior Deputy City Attorney wages, classification structures and applicable benefits, and shall be subject to funding and Departmental input.

4.2 Separability. Notwithstanding any other provisions of this Agreement to the contrary, in the event that any Article, or subsections thereof, of this Agreement shall be declared invalid by any court of competent jurisdiction, or by any applicable State or Federal law or regulation, or should a decision by any court of competent jurisdiction or any applicable State or Federal law or regulation diminish the benefits provided by this Agreement, or impose additional obligations on the City, 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.

4.3 Concerted Activity. It is understood and agreed that:

4.3.1 No lockout of employees represented by the Association shall be instituted by the City during the term of this Agreement.

4.3.2 Participation by any employee represented by the Association in a strike, 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.

4.3.3 If the Association, its officers or its authorized representatives violate Subsection 4.3.2 above or tolerate the violation of Subsection 4.3.2 above and after notice to responsible officers or business representatives of the Association has been provided by the City, 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 Subsection 4.3.2 above, in addition to any other law, remedy or disciplinary action to which it or its officers or representatives may be subject, said Association shall, by action of the Municipal Employee Relations Officer, also be subject to suspension or revocation of the recognition granted to such Association and the Municipal Employee Relations Officer may suspend or cancel any or all payroll deductions payable to or in behalf of members of such Association, 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.

4.3.3.1 The Association complies with its obligations under this provision if, by 5:00 p.m. of the business day following receipt of the written notice provided by the City, the Association sends, or causes to be sent, to the Association member(s) allegedly violating Subsection 4.3.2 a written notice that:

- Identifies the alleged conduct in which the Association member(s) is/are engaged in violation of Subsection 4.3.2 of this Agreement; and
- Provides the Association member(s) with the language of Subsection 4.3.2; and
- States that the Association does not authorize any conduct violating Subsection 4.3.2; and
- States that the Association member(s) must comply with Subsection 4.3.2 and must immediately cease any violation of Subsection 4.3.2.

4.3.3.2 The written notice that the Association is required to provide in accordance with this provision may be in the form of an e-mail sent to the known e-mail address of the Association member(s) engaging in the alleged conduct and provided by the City to the Association.

4.4 Non-Discrimination

4.4.1 The parties agree that they, and each of them, shall not discriminate against any employee on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex, sexual orientation, physical or mental disability, pregnancy, actual or perceived gender identity and political affiliation.

4.4.2 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 Association.

ARTICLE 5 **RECOGNITION**

5.1 Pursuant to Resolution No. 39367 of the City Council of the City of San Jose and the provisions of applicable state law, the Association 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 Exhibit A, attached and incorporated by reference into this Agreement. Such classifications constitute an appropriate unit.

5.2 Deputy City Attorney or Senior Deputy City Attorney - Unrepresented.

5.2.1 As of July 11, 2012, no City employee represented by the Association was performing legal services on behalf of the City on labor relations and employment directly affecting the Association and employees represented by the Association.

5.2.2 In the event that the City desires to utilize the legal services of an employee represented by the Association to perform legal services on labor relations and employment matters where the employee will be privy to decisions of City management, the City and the Association agree that the City Attorney may designate up to one (1) Deputy City Attorney or Senior Deputy City Attorney to perform these types of legal services. Any employee so designated will become an unrepresented employee in the Executive Management and Professional Employees unit (Unit 99).

5.2.3 The designation of the Deputy City Attorney or Senior Deputy City Attorney shall be at the discretion of the City Attorney with the express prior written consent of the selected employee. The designated employee shall become exempt upon receipt of written notification to the Association by the City of the name and classification of the employee so exempted. The job specification will not change for this position. The designated employee will be unrepresented and subject to the benefits and compensation for Unit 99.

5.2.4 The City Attorney may change the employee designated for the exempt position at any time pursuant to the notice and consent provisions above. Immediately upon such designation, the newly designated employee shall be transferred to Unit 99 and the employee who no longer performs such legal services for the City shall be represented by the Association and subject to the benefits and compensation for ALP.

ARTICLE 6 MANAGEMENT RIGHTS

- 6.1** Except to the extent that the rights are specifically limited by the provisions of this Agreement or by any applicable law, the City retains all rights, powers and authority granted to it pursuant to any law or the City Charter, including, but not limited to, the right: (a) to direct the work force, (b) to increase, decrease or re-assign the work force, (c) to hire, promote, demote, discharge or discipline for cause, (d) to transfer or reclassify employees, (e) to provide merit increases, (f) to assign employees special work requirements, and (g) to determine the necessity, merits, mission and organization of any service or activity of the City or of any City Department, Agency or Unit. The City's failure to exercise a management right does not preclude the City from exercising it at some time in the future.
- 6.2** Except to the extent that the rights are specifically limited by the provisions of this Agreement or by any applicable law, the City has the sole and absolute right to determine the nature and type of, assign, re-assign, 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 Association representing such employee.
- 6.3** For purposes of administering the terms and provisions of the various ordinances, resolutions, rules and regulations adopted pursuant to this Agreement, the City's principal authorized agent shall be the Municipal Employee Relations Officer, or his/her duly authorized representative, except where a particular City representative is otherwise designated.

ARTICLE 7 ASSOCIATION RIGHTS

- 7.1** Except to the extent that the rights are specifically limited by the provisions of this Agreement or by any applicable law, the Association retains all rights, powers and authority granted to it pursuant to any law, including, but not limited to, the right to be the exclusive representative of employees in the Association on all matters relating to employer-employee relations, including but not limited to wages, hours, and other terms and conditions of employment.
- 7.2** The Association's elected President, or his/her duly authorized representative, is the Association's principal authorized agent.
- 7.3** The City shall recognize up to three (3) Association representatives who are properly designated by the Association. The Association agrees to properly notify the Municipal Employee Relations Officer of any changes of employees designated as representatives. The Association may also designate different representatives and alternates for the purposes of labor negotiations.
- 7.4** The City recognizes that members of the bargaining unit represented by the Association are paid on a salary basis and have ethical responsibilities with regard to the completion of their workload. Due to the nature of this employment, the parties agree that release time is generally not necessary as Association officials already have the flexibility to manage their time within the limits set forth in this Agreement and the City's rules.

In the event the Association believes that release time is necessary for some specific purpose, it shall request release time from the City Attorney, including (1) the reason release time is needed, (2) the individual(s) for whom release time is sought, and (3) the amount of time requested. The City Attorney may allow reasonable requests for release time unless the City Attorney believes that the request would negatively impact the ability of the City Attorney's office to perform its work in a timely and effective manner.

ARTICLE 8 AGENCY SHOP

8.1 Effective July 19, 2012, the City and the Association entered into an agreement to implement an Agency Shop agreement pursuant to California Government Code section 3502.5 and other applicable rules or law, including Section 14 entitled "Payroll Deductions" of the City's Employer-Employee Relations Resolution No. 39367 which is incorporated as though set forth in its entirety herein.

8.2 Definitions:

(a) "Agency Shop," as used in this Article, means "an arrangement that requires an employee, as a condition of employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues and general assessments of the organization, as may be amended from time to time by the Association." The "service fee" may also be referred to as an "Agency Fee" or "Agency Shop Fee" under the applicable rules and law and in this Article 8.

(b) "Agency Fee" collected from non-member bargaining unit employees pursuant to this Agreement shall be limited to the Association's annual costs for representing such employees. Such amount shall be those amounts for full-time and part-time employees as are certified to the City's Municipal Employee Relations Officer or designee, from time to time, by the designated officer of the Association as the Agency Fee.

The Agency Fee does not include the amounts used for the Association's political activity or other categories of expenses deemed as non-chargeable to Association members by applicable law.

8.3 This Agency Shop agreement was effective on August 19, 2012, thirty (30) calendar days following execution by the Association and the City, and after notice of the Agency Fee was provided to employees in classifications represented by the Association.

8.4 Unless otherwise agreed, all applicable dues deductions, Agency Fee, or charitable contributions (if eligible), for the month shall be deducted by the City from wages earned by the employee while in a classification represented by the Association from the first two (2) bi-weekly pay periods each month. All deductions shall be in the bi-weekly amount certified to the City's Municipal Employee Relations Officer or designee, from time to time by the designated officer of the Association as the regular bi-weekly dues and Agency Fee. Dues deductions shall be as follows:

- (a) The City will deduct from the wages of each employee covered by Article 8, while such employee is assigned to a classification represented by the Association, dues uniformly required as a condition of membership, pursuant to the Association's constitution and by-laws provided that the employee has signed a dues deduction card in a form approved by the Association and the City.
- (b) Effective August 19, 2012, (or within thirty (30) calendar days of hire for employees hired after July 19, 2012), covered employees will execute written authorization for either Association dues deductions, Agency Fee, or, if eligible, the charitable contribution. In the absence of written authorization, the employee will be deemed an Agency Fee payer and City will deduct the Agency Fee from the employee's paycheck pursuant to this Article 8.
- (c) Once initiated, dues deductions shall continue until the authorization is revoked in writing by the employee. An employee may only revoke a dues authorization by delivering the written notice of revocation to the City's Municipal Employee Relations Officer or designee, with a copy to the Association. The written notice of revocation shall be delivered to the Municipal Employee Relations Officer or designee either in person at the Office of Employee Relations or by regular U.S. Mail, with a copy to the Association.

8.5 All applicable dues deductions and/or Agency Fee withheld by the City will be transmitted by the City to the treasurer of the Association, or its other designated officer, at the address specified by the Association in writing and accompanied by a list of the employees for whom the deduction was made. The Association agrees that such information and lists will be treated in a confidential manner. The deductions and the list will be remitted to the Association not later than twenty-one (21) calendar days following the pay period in which the deductions were made.

8.6 Employee Rights:

- (a) The parties recognize that employees in a classification represented by the Association have the right to join and/or participate, or, alternatively, the equal right to refuse to join and/or participate, in the Association or its lawful activities. Neither party shall discriminate against an employee in the exercise of these alternative rights.
- (b) Pursuant to an Agency Shop agreement, as provided under State law and this section, employees must either voluntarily join the Association or must pay the Agency Fee; membership in the Association shall not be compulsory. An employee has the right to choose either to:
 - (1) Become a member of the Association; or
 - (2) To pay the Association a fee for representation services as described in Subsection 8.2(b) above. The amount of the Agency Fee will be a uniform amount established by the Association and limited as provided by law. The amount of the Agency Fee and any changes in the fee will be certified in writing to the City's Municipal Employee Relations Officer or designee by the President of the Association; or
 - (3) To refrain from either of the above courses of action upon the grounds set forth in Section 8.7 below.

8.7 Employees Exempted from Obligation to Pay Association: Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment; however:

(a) The employee will be required, in lieu of periodic dues, initiation fees, or agency fees, to pay sums equal to dues, initiation fees, or agency fees to a non-religious and non-labor charitable fund exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code, as follows:

(1) The employee may choose the organization from the following list of qualifying organizations designated by the City and Association:

(i) Legal Aid Society of Santa Clara County; or

(ii) Any charity jointly agreed upon by the City and the Association, which charity cannot be affiliated in any manner with the Association or be related to an established religious organization.

(2) If the employee refuses to choose a qualified charity, the employee will be deemed to have selected the Legal Aid Society of Santa Clara County.

(3) Charitable contributions, if applicable, will be transmitted to the applicable charity by the Association.

(b) Employees requesting an exemption from paying an agency fee pursuant to this Subsection 8.7 must submit a request in writing and provide verification of such membership in a qualifying bona fide religion, body or sect to the City's Municipal Employee Relations Officer or designee. The Municipal Employee Relations Officer or designee shall provide notification to the Association of the determination within five (5) calendar days.

8.8 The Association will keep an adequate itemized record of its financial transactions and shall make available annually, upon request, to the City and to employees in classifications represented by the Association, within sixty (60) calendar days after the end of its fiscal year, a detailed financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or a certified public accountant, as provided in Government Code section 3502.5(f).

8.9 Notice of Objection to Association Expenditures: The Association shall provide an annual written notice to each employee in a classification represented by the Association who is required to pay the Agency Fee. The notice shall include:

(a) The amount of the Association dues (if applicable) and the Agency Fee; and

(b) The percentage of the Agency Fee amount that is attributable to chargeable expenditures and the basis for this calculation.

Any employee who is required to pay an Agency Fee may object to the payment of an Agency Fee amount that includes non-chargeable expenditures, and challenge the calculation of the non-chargeable expenditures. An Agency Fee objection must be filed with the Association within thirty (30) calendar days following distribution of the annual written notice.

8.10 The City and the Association may agree upon a process for the collection and remittance of voluntary dues deductions from represented employees that are in addition to those specified in Article 8.

8.11 Rescission of Agency Shop Agreement / Agency Fee: Pursuant to Government Code Section 3502.5, following implementation, this section (including the Agency Shop) may be rescinded by a majority of all votes cast by the employees in the bargaining unit. Rescission will be subject to all of the following conditions:

(a) A request for such a vote must be supported by a petition, filed with the City's Municipal Employee Relations Officer or designee, containing the signatures of at least thirty (30) percent of the employees in the bargaining unit;

(b) The vote is by secret ballot; and

(c) The vote may be taken at any time during the term of this Agreement, but, in no event, shall there be more than one (1) vote taken during such term.

8.12 Indemnification, Defense, and Hold Harmless:

(a) The Association shall indemnify, defend, and hold the City harmless against any and all suits, claims, demands and any other liabilities that may arise out of or by reason of any action that shall be taken or not taken by the City in connection with the City's interpretation, application, administration, or enforcement of any section in this Agreement pertaining to dues deductions and/or Agency Fee. The existence of or extent of any indemnification obligation under this Section shall be subject to the City's grievance procedure or, upon adoption of an agreed-upon grievance procedure in this Agreement, in accordance with such agreement's grievance procedure, if any.

(b) 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. It is expressly understood and agreed that the Association will refund to the employee any Association dues deductions and/or Agency Fee erroneously withheld from an employee's wages by the City and paid to the Association. In the event the Association fails to refund the dues deductions or Agency Fee 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 Association.

8.13 The City and the Association have reached an agreement on the above terms in response to the Association's request for an agency fee agreement and majority support of employees represented by the Association at the City and Association monitored agency shop election on May 2, 2012.

ARTICLE 9 WAGES

9.1 Effective June 18, 2017, all salary ranges for employees holding positions in classifications represented by the Association shall be increased by 3%.¹ This will result in the top and bottom of the range of all classifications represented by the Association being 3% higher. All employees will receive a 3% base pay increase. Salary ranges for classifications represented by the Association as of the effective date of the wage increase in this Section 9.1 are set forth in Exhibit A and shall remain in effect during the term of this Agreement.

9.1.1 For Fiscal Year 2017-2018, in the event that the City reaches an agreement with any other non-sworn employee unit during the term of the Memorandum of Agreement with ALP, and such agreement with any other non-sworn employee unit includes an aggregate general wage increase or lump-sum one-time payment on a bargaining unit wide basis greater than those negotiated herein, this Agreement will reopen on the subject of wages only, and the parties will meet and confer over wages. This provision will not apply to any changes made to any classification(s) due to a market survey or classification study, any leave payout or any settlement of a grievance or other administrative proceeding.

9.2 The wage increase in Section 9.1 does not preclude any employee merit increases in accordance with the Management Performance Program in Article 10 of this Agreement.

ARTICLE 10 MANAGEMENT PERFORMANCE PROGRAM

Performance reviews and merit increases, including bonuses (if applicable), shall be provided at the sole discretion of the City Attorney and shall occur consistent with the City's Management Performance Program, as set forth in Section 3.3.2 of the City Policy Manual as of the Effective Date.

ARTICLE 11 BILINGUAL PAY

An employee who is required to use a non-English language on a regular basis may be eligible to receive a bi-weekly payment of \$29 for oral only bilingual or \$40 per pay period for oral/written translation. Employee must be certified as bilingual by the Human Resources Department.

ARTICLE 12 PROFESSIONAL DEVELOPMENT PROGRAM (PDP)

12.1 The City will reimburse each eligible Association employee for up to at least \$1,000 per fiscal year for certain professional development costs in accordance with City's "Professional Development Program – Association of Legal Professionals of San Jose ("ALP"), as set forth in Section 4.3.6 of the City Policy Manual on the Effective Date. The amount set forth for professional materials shall increase to \$500 per fiscal year.

12.2 Temporary employees *are not eligible* for this benefit.

¹ With regard to the increase in salary ranges and base pay, the actual increase may be slightly higher or slightly lower than 3% due to the rounding of numbers when performing the calculations.

ARTICLE 13 PROFESSIONAL MEMBERSHIPS

- 13.1** The City shall pay for each Association member who is an “active” attorney and who is in a classification requiring membership in good standing with the California State Bar the dues for membership in the California State Bar Association and one (1) section.
- 13.2** The City shall pay the membership dues for the Santa Clara County Bar Association for each Association member who is an “active” attorney and who is in a classification requiring membership in good standing with the California State Bar, and subject to the availability of funds in the budget of the Office of the City Attorney as determined by the City Attorney.
- 13.3** For each Association member who is not covered by Sections 13.1 and 13.2 above, for any membership other than those covered by Sections 13.1 and 13.2 above, he/she is eligible for reimbursement for membership fees or dues paid for the maintenance of a license required to perform employee’s job and for dues paid for membership in one (1) additional job-related professional association. Employees represented by the Association who are “active” attorneys and who are in a classification requiring membership in good standing with the California State Bar are not eligible for reimbursement under this section.
- 13.4** Temporary employees *are not eligible* for this benefit.

ARTICLE 14 RETIREMENT

Employees represented by the Association are covered by the Federated City Employees’ Retirement System. Retirement benefits shall be provided in accordance with the provisions of the plan, City Charter and/or Municipal Code.

ARTICLE 15 RETIREE HEALTHCARE

- 15.1** The City and Association agree that they must address a number of issues regarding the retiree healthcare benefit. For this reason, the retiree healthcare benefit is subject to the reopener in Subsection 4.1.3 of this Agreement, and the parties intend to continue negotiating and working together to address these issues. This provision reflects the current status of the retiree healthcare benefit pending an interim and/or long term resolution of the issues.
- 15.2** Eligibility for the retiree healthcare benefit is determined in accordance with the San Jose Municipal Code.
- 15.3** On April 21, 2009, the City started implementing a plan to transition to full pre-funding of the retiree healthcare benefit for unrepresented Executive Management employees (Unit 99). At the time, all of the member classifications currently in ALP were unrepresented and in Unit 99. ALP was formed as a bargaining unit after the City’s imposition of the full pre-funding plan. The full pre-funding plan that the City currently is implementing is set forth in Resolution No. 74882, entitled “A Resolution of the Council of the City of San Jose Approving Agreements Between the City of San Jose and Several Bargaining Units Regarding Retiree Healthcare Funding, and Implementing Retiree Healthcare Funding for Units 99 and 82,” and the April 7, 2009, Memorandum to the Mayor and City Council attached as Attachment A thereto.

- 15.4** The City and employees represented by the Association began to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition began on June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this section.
- 15.5** The City and the Association agree that the Municipal Code and/or applicable plan documents shall be amended to the extent necessary in accordance with this agreement and that the Association will support such amendments.
- 15.6** The phase-in to the ARC shall be effective on the first pay period of the City's fiscal year in each succeeding year, the first increment which was effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of the ARC may vary upward or downward. The City and the Association agree that the retiree healthcare contribution rates as of June 20, 2015 will remain in effect until December 19, 2015. Notwithstanding the limitations on the incremental increases, the City and plan members shall be contributing the contribution rate based upon the full Annual Required Contribution, beginning on December 20, 2015. In subsequent fiscal years, the City and the plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code.
- 15.7** The City has established a qualified 115 trust ("Trust"). Employee contributions will begin going into the Trust in time to avoid any potential of reaching IRS limits on the existing medical benefits account or upon receipt of a ruling from the IRS that the contributions can be treated as pre-tax, whichever occurs first.
- 15.8** If employee contributions are deposited into the Trust prior to receiving a ruling from the IRS that the contributions can be treated as pre-tax and the City subsequently receives an IRS determination that the contributions should be treated as post-tax, the City agrees to indemnify any employee as to any IRS liability arising solely from the contributions that were taken as pre-tax prior to the IRS determination. The City and the Association will immediately meet and confer over an alternative trust vehicle for the prospective contributions should the IRS determine that the contributions are post-tax.
- 15.9** It is the objective of the parties that the Trust created pursuant to this Agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions, under the current plan, or other applicable law.

15.10 Employees hired into full-time benefited positions on or after September 29, 2013, ("Effective Date") will not participate in or be eligible for the defined benefit retiree healthcare program. The City will pay the unfunded liability contribution that these employees and the City would have otherwise paid had they gone into the retiree healthcare defined benefit program. By agreeing to this provision, neither the City nor the Association have committed to closing the retiree healthcare plan.

15.11 Neither the City nor the Association waives any rights or assertions, each may have, related to the retiree healthcare benefit through any of the provisions of this Agreement. This Agreement shall not be considered a waiver by the City, the Association or the employees represented by the Association, of any rights or assertions each may have regarding the retiree healthcare benefit, including but not limited to any rights or assertions related to any of the following:

- Any vested rights employees may or may not have related to the retiree healthcare benefit,
- The meaning of any San Jose Municipal Code provisions or provisions of other documents related to the scope and/or implementation of the retiree healthcare benefit,
- The retiree healthcare benefit funding plan implemented by the City,
- The member contribution rates established by the Retirement Board and the deductions made by the City from employee payroll checks for the retiree healthcare benefit, or
- Any other issue related to the retiree healthcare benefit, including but not limited to any issue under the Meyers-Milias-Brown Act ("MMBA") regarding matters within the scope of representation.

Nothing in this section is intended to expand either party's rights, which each may have, regarding retiree healthcare.

15.12 The parties acknowledge that, on June 12, 2012, the City unilaterally imposed the "Kaiser 1500" healthcare plan referred to in Article 17 of this Agreement for bargaining unit employees.

ARTICLE 16 DEFERRED COMPENSATION PLAN

16.1 The City will provide full-time Association employees with the option of participating in the City's deferred compensation plan as set forth in Chapter 3.48 of Title 3 of the San Jose Municipal Code on the Effective Date.

16.2 Part-time Association employees participate in the City's PTC plan as set forth in Chapter 3.50 of Title 3 of the San Jose Municipal Code on the Effective Date.

ARTICLE 17 HEALTH INSURANCE

17.1 **Plans:** The City will provide health coverage for eligible employees and their dependents in accordance with whichever one of the plans set forth in Subsections 17.1.1 through 17.2.4 that is selected by the employee.

17.1.1 High Deductible HMO. As of the date of this Agreement, the City makes available the Kaiser Permanente \$1500 Deductible HMO Benefit Plan.

17.1.2 Non-Deductible HMO: As of the date of this Agreement, the City makes available the Kaiser \$25 HMO Plan, the Blue Shield \$25 HMO Plan, and the Blue Shield \$45 HMO Plan.

17.1.3 Non-Deductible POS. As of the date of this Agreement, the City makes available the Blue Shield POS Plan.

17.1.4 Non-Deductible PPO. As of the date of this Agreement, the City makes available the Blue Shield \$3500 PPO Plan and the Blue Shield \$100 PPO Plan.

17.2 Rate Structure: Each of the health coverage plans provided by the City will have a 4-tier rate structure as follows: (1) employee, (2) employee plus spouse/domestic partner, (3) employee plus child(ren), and (4) family.

17.3 Premiums: For full time employees, the monthly premium is as follows for whichever one of the health coverage plans, at whichever tier of the rate structure, an employee selects:

17.3.1 The City pays eighty-five percent (85%) of the cost of the lowest priced Non-Deductible HMO plan (as of the date of this Agreement, the Kaiser \$25 HMO Plan) for the tier of the rate structure selected by the employee, and the employee pays the remaining fifteen percent (15%).² The City currently pays one hundred percent (100%) of the High Deductible HMO because the cost of the High Deductible HMO (as of the date of this Agreement, the Kaiser Permanente \$1500 Deductible HMO Benefit Plan) is equivalent to eighty-five percent (85%) of the cost of the lowest priced Non-Deductible HMO plan, the Kaiser \$25 HMO plan. This is subject to change on an annual basis based on changes to the premiums.

If the employee selects the Non-Deductible POS plan or the Non-Deductible PPO 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 plan.

17.4 Dual Coverage: 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.

ARTICLE 18 DENTAL INSURANCE

18.1 The City will provide dental insurance for eligible employees and their dependents in accordance with one of the two available plans, one of which is an indemnity plan and the other of which is a dental health maintenance organization plan. Both of these plans are described in detail in the City of San Jose Employee Benefits Handbook and in pamphlets available in the

² The City's contribution is prorated as follows for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

Human Resources Department. In the event that the City is unable to make one of the foregoing types of plans available, the parties will meet and confer over a replacement plan.

- 18.2** All available plans will have a 4-tier rate structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren) and Family).
- 18.3** For full-time employees, the City will pay 100% of the lowest priced plan for the employee or the employee and dependent coverage.³ For any other plan, the City will pay 95% for the employee or the employee and dependent coverage.
- 18.4** 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.

ARTICLE 19 HEALTH AND DENTAL IN LIEU

- 19.1** The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have alternative health and/or dental insurance coverage to drop the City’s insurance and receive a payment in lieu. Effective January 1, 2016, payment-in-lieu of health and/or dental insurance will have a 4-tier rate structure (Employee, Employee plus Spouse/Domestic Partner, Employee plus Child(ren) and Family). The payment-in-lieu amounts will be adjusted effective the first pay period in payroll calendar year 2016, which starts December 20, 2015.
- 19.2** An employee may choose, during open enrollment or within thirty (30) days of a qualifying event, to drop health and/or dental coverage and receive a payment in-lieu equal to the amounts described in Section 19.3 below.
- 19.3** Employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following payments per pay period:

Health Insurance Tier*	Health-in-Lieu	Dental –in-Lieu
Employee	\$89.09	\$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.*

³ The City’s contribution is prorated as follows for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

19.4 If the alternative health coverage is lost prior to the annual open enrollment period, the employee must notify the City immediately. The City must receive the required enrollment form and written verification of lost coverage from the former provider (employer, group or insurer) **within 30 days of the loss of coverage. Also within this 30-day period the employee must pay all unpaid premiums and refund any excess in-lieu payments which were received** to be restored to a City health insurance plan of his or her choice on the date when alternate coverage terminated. Proof of eligibility will be required for any dependent that was not previously covered by a City health or dental insurance plan. Re-enrollment in the plan shall be in accordance with the carriers' enrollment procedures.

19.5 If the alternative dental coverage is lost prior to the annual open enrollment period, the employee must notify the City immediately. The City must receive the required enrollment form and written verification of lost coverage from the former provider (employer, group or insurer) **within 30 days of the loss of coverage. Also within this 30-day period the employee must pay all unpaid premiums and refund any excess in-lieu payments which were received** to be restored to a City dental insurance plan of his or her choice on the date when alternate coverage terminated. Proof of eligibility will be required for any dependent that was not previously covered by a City health or dental insurance plan. Re-enrollment in the dental insurance plan shall not be retroactive.

ARTICLE 20 LIFE INSURANCE

20.1 The City shall pay the full premium for employee coverage equal to two (2) times the employee's annual salary. Additional employee coverage equal to two (2) times the employee's annual salary, up to \$750,000 of total coverage, is available at employee cost. Dependent coverage from \$2,000 up to \$10,000 for spouse and/or dependent children is also available at employee cost.

20.2 Part-time and temporary employees *are not eligible* for this benefit.

ARTICLE 21 FLEXIBLE SPENDING ACCOUNTS

The City shall offer Association members the option of participating in either of the following flexible spending accounts as in effect on the Effective Date: (1) Dependent Care Assistance and (2) Medical Reimbursement Programs.

ARTICLE 22 OPTIONAL BENEFITS

Optional benefits are available for employee, spouse, Domestic Partner and children at employee expense. The City shall continue to make available at least the following three optional benefits: vision insurance, personal accident insurance and long-term care insurance.

ARTICLE 23 VISION CARE

- 23.1** The City will contribute towards vision care benefits for eligible full-time employees up to \$16.00 per month (\$8.00 for 24 bi-weekly 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.
- 23.2** 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) unless and until any other bargaining unit group receives greater contribution from the City. When the 4-tier structure is in effect, the premiums will be adjusted effective the first pay period of that payroll calendar year.

ARTICLE 24 LONG-TERM DISABILITY

- 24.1** The City will continue to offer employees the option to purchase long-term disability insurance which will subsidize their income in the event of a non-work related injury or illness. The City does not participate in the State Disability Insurance plan. Therefore, if an employee suffers a non-work related injury or illness and is unable to work, the employee would not receive any City compensation.
- 24.2** The City shall continue to offer employees a choice of two long-term disability plans, one with a 30-day waiting period and another with a 60-day waiting period. Employees must use accrued leave balances to receive compensation during the thirty (30) or sixty (60) day waiting period when using the long-term disability benefit.
- 24.3** Temporary employees *are not eligible* to purchase long-term disability insurance.

ARTICLE 25 EMPLOYEE ASSISTANCE PROGRAM

- 25.1** The City will continue to provide an Employee Assistance Program (EAP) at the level of benefit provided as of the Effective Date.
- 25.2** Part-time and temporary employees *are not eligible* for this benefit.

ARTICLE 26 SUBSTANCE ABUSE PROGRAM

- 26.1** The Substance Abuse Policy prohibits employees from reporting to work under the influence of alcohol or drugs, exhibiting symptoms of alcohol or drug use, using, possessing, selling or providing drugs or alcohol while on duty, and employees shall not have the ability to work or be on paid standby when impaired as a result of the use of alcohol or drugs. Additionally, employees are required to notify their supervisor when any medication or drug they are taking could create an unsafe and dangerous situation. Employees may be requested to submit to a drug and/or alcohol analysis when there is reasonable suspicion that an employee is intoxicated

or under the influence of drugs or alcohol. Employees represented by the Association shall comply with the City's Substance Abuse Policy.

26.2 The City shall offer to Association members self-referral and rehabilitation/treatment options and benefits in accordance with, the City's Substance Abuse Policy, as set forth in Section 1.4.2 of the City Policy Manual in effect on the Effective Date.

ARTICLE 27 HOLIDAYS

27.1 Each calendar year full-time employees shall receive (14) paid holidays, which include:

- | | |
|------------------------|------------------------|
| New Years Day | Columbus Day |
| Martin Luther King Day | Veterans Day |
| Presidents' Day | Thanksgiving Day |
| Cesar Chavez Day | Day After Thanksgiving |
| Memorial Day | Christmas Eve Day |
| Independence Day | Christmas Day |
| Labor Day | New Years Eve Day |

27.2 Reimbursement/contribution for holidays is prorated for part-time employees based on hours scheduled as follows:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

ARTICLE 28 VACATION

28.1 Vacation accrues at the following rates for each paid hour (either worked or paid absence):

Years of Service	Annual Hourly Accrual (Full Time)
1 – 5	120 hours
6 – 14	160 hours
15+	200 hours

28.2 Employees may only accrue vacation up to a maximum of two (2) times their annual accrual rate. Once an employee reaches their maximum accrued vacation limit, the employee will not accrue vacation until their vacation balance falls below the maximum limit, or until they have sold back an amount that brings them below their maximum accrual amount.

Years of Service	Maximum Accrued Vacation
1 – 5	240 hours
6 – 14	320 hours
15+	400 hours

- 28.2.1** Subject to tax counsel approval, effective calendar year 2016, employees may sell back up to a maximum of twenty (20) hours of accrued vacation after July 1, 2016.
- 28.2.2** Internal Revenue Service (IRS) regulations require the City to report and withhold taxes on the value of the vacation time an employee is eligible to sell back. In order to ensure compliance with the IRS requirements and to avoid unanticipated tax consequences:
- 28.2.3** Employees must elect the number of vacation hours they will sell back during a calendar year, up to a maximum of twenty (20) hours, by the end of November of the prior year. If the employee does not submit an irrevocable election form to Payroll on or before the end of November, the employee will not be eligible to sell back any vacation hours during the next calendar year. The election made in 2015 cannot be sold back until after July 1, 2016.
- 28.2.4** The election to sell back vacation hours in any year is irrevocable. This means that employees must sell back the elected number of accrued vacation hours during that year. If the accrued vacation hours are not sold back within the designated calendar year the employee will be deemed to have received the value of the vacation hours elected in that calendar year and will be taxed by the IRS accordingly.
- 28.2.5** Employees can elect to sell back only vacation hours accrued during any given year, and any vacation hours accrued and carried over prior to that year are not eligible for sell back during that year.
- 28.2.6** Any vacation hours accrued during that year will not be available for use until the employee's accrued vacation hours in that year equal the number of hours the employee has elected to sell back. Those vacation hours accrued in the given year over the number of hours the employee elected to sell back in the given year will be available for use by the employee. This means that hours elected for sell back may only be used for sell back purposes and cannot be used for vacation time off purposes.
- 28.2.7** Employees may use any vacation hours accrued and carried over prior to the given year, subject to the normal rules of requesting use of vacation.

ARTICLE 29 EXECUTIVE LEAVE

- 29.1** Employees will receive forty (40) hours of executive leave per payroll calendar year with supervisor approval. Forty (40) additional hours may be available, upon City Attorney approval, for recognition of outstanding performance as part of the Management Performance Program. Executive leave that is not used by the end of the payroll calendar year does not accrue or carry over to the following year.
- 29.2** When an employee is hired into a position eligible for executive leave, the leave may be prorated during the first year dependent upon the hire date.

- 29.3** Executive leave is not an accrued benefit and unused leave does not carry over from year-to-year.
- 29.4** The City Attorney shall administer executive leave in accordance with the City’s Executive Leave and Absence policy, as set forth in Section 4.2.4 of the City Policy Manual in effect on the Effective Date.
- 29.5** Reimbursement/contribution is prorated for part-time employees based on hours scheduled as follows:
- 30 – 39 hours = 75%
 - 25 – 29 hours = 62.5%
 - 20 – 24 hours = 50%
 - Less than 20 hours = none

ARTICLE 30 SICK LEAVE

Each full-time employee shall be entitled to sick leave with pay in accordance with the following provisions:

- 30.1** 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, disability, or other paid leave shall be considered as time worked for purposes of this section.
- 30.2** Accrued sick leave may be utilized if the employee is required to be absent from work for the following reasons:
- 30.2.1** The employee is absent from work on account of non-job related illness or injury, including absences of female employees related to pregnancy or childbirth.
 - 30.2.2** The employee is absent from work on account of routine medical or dental appointments of the employee or any of the following persons who need assistance: a child/stepchild for which the employee is legally responsible, or the employee’s mother/stepmother, father/stepfather, spouse or Domestic Partner.
 - 30.2.3** The employee is absent from work for the care related to the illness or injury of a child/stepchild for which the employee is legally responsible, mother/stepmother, father/stepfather, spouse or Domestic Partner.
 - 30.2.4** Up to 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, or mother-in-law.
- 30.3** Accrued sick leave not to exceed three (3) 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.

- 30.4 Accrued sick leave also may be used in accordance with the Catastrophic Illness Time Donation Program as set forth in Section 4.2.10 of the City Policy Manual in effect as of the Effective Date.
- 30.5 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, or use of narcotics not prescribed by a licensed physician.
- 30.6 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.
- 30.7 No employee shall be entitled to or be granted sick leave, either with or without pay, unless he or she, or someone on his or her behalf notifies his or her immediate superior or the City Attorney, of his or her 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 Attorney may waive the requirement of such notice upon presentation of a reasonable excuse by such employee.
- 30.8 An employee may be required to furnish substantiation for any absence for which sick leave payment is requested.
- 30.9 Any eligible part-time employee shall be entitled to paid sick leave only for those days and number of hours the employee is in fact regularly assigned to work or would have been required to work, notwithstanding the designation, scheduling and indefinite assignment made pursuant to this Article 30.

ARTICLE 31 SICK LEAVE PAYOUT

31.1 Members of the Federated City Employees’ Retirement System hired on or before September 29, 2012, who retire with at least fifteen (15) years of service are eligible to receive, upon retirement, payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
0 – 399 Hours	50% of final hourly rate
400 – 799 Hours	60% of final hourly rate
800 – 1,200 Hours	75% of final hourly rate

31.2 Effective June 22, 2013, for the purposes of sick leave payout, an employee’s sick leave balance and hourly rate shall be frozen. This means that an employee will receive no more in sick leave payout after having met the requirements contained herein than they 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 \$40 and their sick leave balance is 1000 hours on June 22, 2013, if they meet eligibility requirements, they shall receive payout of their sick leave

balance at the time of retirement using the formula above, but no more than 1000 hours and at an hourly rate of no more than \$40. This will occur even if the employee has subsequently earned more than 1000 hours in sick leave or received a pay increase so that their hourly rate is higher than \$40. 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 800 hours, they will only be entitled to a sick leave payout of 800 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 reestablished in the sick leave balance subject to payout.

- 31.3** If an employee's sick leave balance as of June 22, 2013, is greater than 1,200 hours, the employee may also be eligible for a payout of 75% of the value of sick leave in excess of 1,200 hours earned prior to June 23, 2013, but unused in the prior two (2) years to retirement. In order to receive a payout of hours greater than 1,200, the sick leave hours must be earned prior to June 23, 2013, and unused in the prior two (2) years to retirement. All sick leave hours will be paid out at the employee's hourly rate as of June 22, 2013. No employee will be eligible for a sick leave payout over 1,200 hours after June 22, 2013.

For example, if an eligible employee retires on June 22, 2014 (one year after the sick leave payout was frozen), the employee would receive a payout of 75% of the sick leave earned but unused from June 22, 2012 to June 22, 2013. The employee would only receive one year of payment because, during the second year period prior to retirement (June 23, 2013 – June 22, 2014), the employee would not have earned any sick leave eligible for payout.

- 31.4** Employees hired on or after September 30, 2012, shall not be eligible for any sick leave payout.
- 31.5** Part-time and temporary employees *are not eligible* for this benefit.
- 31.6** Agreement to the changes to Sick Leave Payout in this Article 31 shall not be considered a waiver by the City, the Association or the employees represented by the Association, of any rights or assertions each may have regarding any issue related to Sick Leave Payout, including but not limited to any rights or assertions related to any vested rights employees may or may not have related to Sick Leave Payout as modified herein and/or before such modification.
- 31.7** Nothing in this section is intended to expand either party's rights, which each may have, regarding Sick Leave Payout.

ARTICLE 32 MILITARY LEAVE

Association members are entitled to military leave in accordance with the City's Military Leave policy, as set forth in Section 4.2.2 of the City Policy Manual in effect on the Effective Date.

ARTICLE 33 DISABILITY LEAVE SUPPLEMENT

Effective June 24, 2012, the disability leave supplement was eliminated. Employees will be allowed to integrate accrued vacation leave and then accrued sick once vacation leave has been exhausted.

ARTICLE 34 LEAVES OF ABSENCE

- 34.1** All requests for leaves of absence without pay shall be made in writing. The City Attorney, or his/her designated representative, 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 City Attorney, or his/her designated representative. Written requests for an extension of a leave shall be submitted prior to the expiration of the leave.
- 34.2** The City Attorney shall otherwise administer leaves of absences, and Association members shall have the right to leaves of absence, in accordance with the City's Leave of Absence policy, as set forth in Section 4.2.1 of the City Policy Manual in effect on the Effective Date.

ARTICLE 35 BEREAVEMENT LEAVE

- 35.1** Each full-time or benefited part-time employee shall be granted bereavement leave with full pay for up to forty (40) 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.
- Parent/Step parent
 - Spouse/Domestic partner
 - Child/Step child
 - Brother/Sister
 - Step Brother/Step Sister
 - Half Brother/Half Sister
 - Grandparent/Step-grandparent
 - Grandchild
 - Great grandparent
 - Son/daughter in-law
 - Brother/sister in-law
 - Step-great grandparents
- 35.2** All leave must be used within fourteen (14) calendar days following the death of an eligible person as described in Section 35.1. Under extreme circumstances, the fourteen (14) day requirement may be waived by the City Attorney. The decision of the City Attorney shall be final with no process for further appeal.
- 35.3** The City Attorney shall otherwise administer bereavement leave, and Association members shall have the right to bereavement leave, in accordance with the City's Bereavement Leave policy, as set forth in Section 4.2.5 of the City Policy Manual in effect on the Effective Date.

ARTICLE 36 TIME DONATION PROGRAMS

Association employees are entitled to make time donations in accordance with the City's Time Donation Programs policy, as set forth in Section 4.2.10 of the City Policy Manual in effect on the Effective Date.

ARTICLE 37 JURY DUTY

Each full-time employee, or each part-time employee who is eligible for benefits, 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 the regular base compensation less all jury fees received, excluding mileage. Each employee receiving a notice to report for jury service shall immediately notify his/her immediate supervisor.

ARTICLE 38 WITNESS LEAVE

- 38.1** 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 his/her employment with the City, in any case or proceeding in any Court of this State, or of the United States of America, shall receive his/her regular salary during the terms of his/her service as a witness under subpoena, less any and all witness fees which he/she may receive therefore. Compensation will not be paid if the employee is a party to the action and/or was not acting in the course and scope of his/her employment.
- 38.2** Upon service of a subpoena, an employee shall immediately advise his/her supervisor and of the time when he/she is required to appear in Court.

ARTICLE 39 EMPLOYEE TRAVEL/MILEAGE

Association members shall be eligible for payment and/or reimbursement for travel and mileage in accordance with the City's Use of City and Personal Vehicles policy, Employee Travel policy, and Mileage Reimbursement policy, as set forth respectively in Sections 1.8.1, 1.8.2 and 1.8.3 of the City Policy Manual in effect on the Effective Date. Notwithstanding the foregoing, the mileage reimbursement rate shall be whatever reimbursement rate is applicable Citywide on the date reimbursement is requested.

ARTICLE 40 CONTRACTING OUT

Without limiting Section 803 of the City Charter, the City agrees to meet and confer with the Association prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by Association members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.

ARTICLE 41 TELECOMMUTING

Representatives of the City Attorney's Office management team will meet with representatives of the Association for the purposes of discussing telecommuting and alternative work schedules for employees represented by the Association in the City Attorney's Office, in a Labor Management Committee (LMC). LMCs are not authorized to meet and confer, to create contractual obligations, to modify the Memorandum of Agreement, or to authorize any practice in conflict with existing contracts, rules, City policies, or the City Attorney's discretion.

ARTICLE 42 EMPLOYEE COMMUTE BENEFIT PROGRAM

The Employee Commute Benefit Program shall be as follows:

- 42.1** 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.
- 42.2** Participation in the Santa Clara Valley Transit Authority (“VTA”) Eco Pass Program will be available to eligible employees, subject to the terms of the Employee Commute Benefit Program, as defined in Article 26.1.
- 42.3** 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.

THIS AGREEMENT executed on the 30th day of May 2017, between the City of San Jose and the Association of Legal Professionals of San Jose (ALP), 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 13, 2017.

For the City of San Jose:

For the Association of Legal Professionals (ALP):



Norberto Dueñas
City Manager

9/5/17



Elizabeth Klotz
President

9/5/17



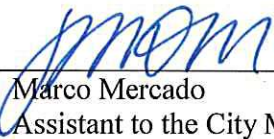
Jennifer Schembri
Director of Employee Relations

9/5/17



Terra Chaffee
Vice President

9/5/17



Marco Mercado
Assistant to the City Manager
Office of Employee Relations

9/5/17

City of San Jose – Association of Legal Professionals

Exhibit A

Effective June 18, 2017

Job Code	JobCode Title	Sal Adm Plan	Union Code	FLSA	HRLY RATE Min	HRLY RATE Top	BiWkly Min	BiWkly Top
2199	Assoc Deputy City Atty U	ALP	311	E	36.59	48.21	2,927.31	3,856.83
2151	Deputy City Attorney I U	ALP	311	E	42.38	49.6	3,390.30	3,968.17
2161	Deputy City Attorney I U PT	ALP	311	E	42.38	49.6	3,390.30	3,968.17
2152	Deputy City Attorney II U	ALP	311	E	47.12	56.83	3,769.76	4,546.03
2162	Deputy City Attorney II U PT	ALP	311	E	47.12	56.83	3,769.76	4,546.03
2191	Deputy City Attorney III U	ALP	311	E	53.98	64.05	4,318.73	5,123.89
2163	Deputy City Attorney III U PT	ALP	311	E	53.98	64.05	4,318.73	5,123.89
2192	Deputy City Attorney IV U	ALP	311	E	60.85	71.27	4,867.70	5,701.75
2164	Deputy City Attorney IV U PT	ALP	311	E	60.85	71.27	4,867.70	5,701.75
8012	Legal Services Manager U	ALP	311	E	46	60.58	3,680.12	4,846.45
2196	Senr Deputy City Atty	ALP	311	E	54.09	95.55	4,326.90	7,643.87
2165	Senr Deputy City Atty I PT U	ALP	311	E	54.09	64.45	4,326.90	5,156.12
2195	Senr Deputy City Atty I U	ALP	311	E	54.09	64.45	4,326.90	5,156.12
2166	Senr Deputy City Atty II PT U	ALP	311	E	61.34	74.82	4,907.55	5,985.35
2197	Senr Deputy City Atty II U	ALP	311	E	61.34	74.82	4,907.55	5,985.35
2167	Senr Deputy City Atty III PT U	ALP	311	E	71.08	85.18	5,686.08	6,814.57
2137	Senr Deputy City Atty III U	ALP	311	E	71.08	85.18	5,686.08	6,814.57
2168	Senr Deputy City Atty IV PT U	ALP	311	E	80.92	95.55	6,473.84	7,643.87
2193	Senr Deputy City Atty IV U	ALP	311	E	80.92	95.55	6,473.84	7,643.87
2127	Senr Legal Analyst U	ALP	311	E	39.75	52.4	3,180.01	4,191.71