

Memorandum of Agreement

City of San José

and

Municipal Employees' Federation (MEF)
AFSCME Local No. 101
AFL-CIO



July 1, 2023 – June 30, 2026

**MUNICIPAL EMPLOYEES' FEDERATION
2023-2026 MEMORANDUM OF AGREEMENT
TABLE OF CONTENTS**

ARTICLE 1	PURPOSE	1
ARTICLE 2	PERIOD OF MEMORANDUM OF AGREEMENT	1
ARTICLE 3	AGREEMENT CONDITIONS	1
3.1	FULL UNDERSTANDING, MODIFICATION AND WAIVER.....	1
3.2	SEPARABILITY.	2
3.3	CONCERTED ACTIVITY	2
3.4	NON-DISCRIMINATION.....	2
ARTICLE 4	RECOGNITION	3
ARTICLE 5	MANAGEMENT RIGHTS	3
ARTICLE 6	UNION RIGHTS	3
6.1	AUTHORIZED REPRESENTATIVES.....	3
6.2	RELEASE TIME.....	3
6.2.2	DESIGNATED UNION REPRESENTATIVES.....	4
6.2.2.2	UNION PRESIDENT/VICE PRESIDENT	4
6.2.2.3	CHIEF STEWARD	5
6.2.2.4	DEPARTMENT STEWARDS.....	5
6.2.3	AUTHORIZATION FOR RELEASE TIME.....	6
6.2.4	NOTIFICATION.....	6
6.2.5	RELEASE TIME FOR STEWARD TRAINING.....	6
6.3	MAINTENANCE OF MEMBERSHIP.....	7
6.4	EMPLOYEE RIGHTS.....	7
6.4.1	EMPLOYEE RIGHTS.....	7
6.4.2	EMPLOYEE'S OBLIGATION TO EXCLUSIVE REPRESENTATION.....	8
6.4.3	PART-TIME UNBENEFITED EMPLOYEES	8
6.4.4	HOLD HARMLESS.....	8
6.5	DUES DEDUCTION.....	8
6.6	BULLETIN BOARD.....	9
6.7	ADVANCE NOTICE.....	10
6.8	NEW EMPLOYEE ORIENTATION.....	10
6.9	EMPLOYEE LISTS.....	10
ARTICLE 7	HOURS OF WORK AND OVERTIME	10
7.6	REST PERIOD FULL-TIME EMPLOYEES	12
7.6.1	REST PERIOD PART-TIME EMPLOYEES.....	13
7.6.2	LUNCH PERIODS FOR PART-TIME EMPLOYEES.....	13
7.7	PART-TIME EMPLOYEES	13
7.8	REDUCED WORKWEEK.....	15
7.9	ALTERNATIVE WORK SCHEDULE.....	15
7.10	OVERTIME AND COMPENSATORY TIME.....	16
7.10.5.4	COMPENSATORY TIME PAYOFF.....	17
7.10.5.6	PUBLIC SAFETY DISPATCHER CLASS SERIES.....	18
7.11	SHIFT SUBSTITUTIONS	18
ARTICLE 8	SHIFT BIDDING	18
8.3	COMMUNICATIONS EMPLOYEES' SHIFT ASSIGNMENTS.....	19
8.4	DENIAL OF SHIFT BID.....	19
ARTICLE 9	SENIORITY FOR SHIFT BIDDING AND SCHEDULING LEAVE PURPOSES.....	19
ARTICLE 10	LEAVES.....	20
10.1	HOLIDAYS.....	20
10.1.8	REDUCED WORKWEEK - HOLIDAY BENEFITS.....	22

10.1.9	ALTERNATIVE WORK SCHEDULE - HOLIDAY BENEFITS.....	22
10.1.10	PART-TIME EMPLOYEES - HOLIDAY BENEFITS.....	23
10.1.11	LIBRARY HOLIDAY SCHEDULE.....	24
10.1.12	HOLIDAY CLOSURE.....	24
10.1.13	HOLIDAY-IN-LIEU PAY FOR PUBLIC SAFETY DISPATCHER CLASS SERIES.....	24
10.2	VACATION AND PERSONAL LEAVE.....	25
10.2.1	ELIGIBLE FULL-TIME EMPLOYEE - VACATION.....	25
10.2.1.2	VACATION ACCRUAL LIMITS.....	25
10.2.1.3	PAYMENT FOR UNUSED ACCRUED VACATION LEAVE UPON TERMINATION OF EMPLOYEE... ..	25
10.2.2	VACATION LEAVE.....	25
10.2.3	COMPUTATION OF VACATION LEAVE.....	25
10.2.4	ELIGIBLE PART-TIME EMPLOYEES - VACATION.....	26
10.2.14	PERSONAL LEAVE.....	27
10.3	SICK LEAVE.....	27
10.3.1	SICK LEAVE - FULL-TIME EMPLOYEES.....	27
10.3.2	SICK LEAVE - PART-TIME EMPLOYEES.....	28
10.3.3	USE OF SICK LEAVE.....	28
10.3.6	SICK LEAVE PAYOUT.....	30
10.4	DISABILITY LEAVE.....	32
10.4.1	TERMINATION OF DISABILITY LEAVE.....	32
10.4.2	INTEGRATION.....	32
10.5	BEREAVEMENT LEAVE.....	32
10.6	JURY DUTY.....	33
10.7	WITNESS LEAVE.....	35
10.8	OTHER LEAVES OF ABSENCE.....	35
10.9	CITY-PAID PARENTAL LEAVE.....	36
ARTICLE 11	LAYOFF.....	37
11.2	ORDER OF LAYOFF.....	37
11.3	NOTICE OF LAYOFF.....	38
11.4	REASSIGNMENT IN LIEU OF LAYOFF.....	38
11.6	LAYOFF REINSTATEMENT ELIGIBLE LIST.....	39
11.8	PART-TIME EMPLOYEES AND LAYOFFS.....	39
ARTICLE 12	WAGES AND SPECIAL PAY.....	40
12.1	WAGES 2023-2026.....	40
12.2	WAGES FOR PART-TIME EMPLOYEES.....	41
12.3	SALARY STEPS.....	41
12.4	SHIFT DIFFERENTIAL.....	41
12.5	BILINGUAL PAY - FT/PT.....	42
12.6	WORKING IN A HIGHER CLASSIFICATION.....	43
12.7	CALL BACK.....	44
12.8	STANDBY PAY.....	44
12.9	VEHICLES AND MILEAGE REIMBURSEMENT.....	44
12.9.1	USE OF CITY AND PRIVATE VEHICLES.....	44
12.9.2	MILEAGE REIMBURSEMENT.....	45
12.9.3	AUTO LIABILITY INSURANCE.....	45
12.10	UNIFORM ALLOWANCE.....	45
12.11	PROTECTIVE FOOTWEAR.....	46
12.12	APPAREL ALLOWANCE.....	46
12.13	MEAL ALLOWANCE.....	47
12.14	SAFETY EQUIPMENT.....	47
12.15	NOTARY SERVICES.....	47
12.16	TRAINING PAYS.....	48
12.17	PUBLIC SAFETY RADIO DISPATCHER CERTIFICATION PAY.....	48
12.18	PROFESSIONAL ACHIEVEMENT INCENTIVE FOR PLANNER CLASSIFICATIONS.....	48
12.19	PROTECTIVE PRESCRIPTION SAFETY GLASSES.....	49
12.20	OVERPAYMENTS OF COMPENSATION.....	49
ARTICLE 13	BENEFITS.....	50
13.1	HEALTH INSURANCE.....	50
13.2	DENTAL INSURANCE.....	50

13.3	PAYMENT-IN-LIEU OF HEALTH AND DENTAL INSURANCE.....	51
13.4	PART-TIME EMPLOYEES – HEALTH AND DENTAL INSURANCE BENEFITS.....	52
13.5	LIFE INSURANCE.....	53
13.6	EMPLOYEE ASSISTANCE PROGRAM (EAP).....	53
13.6.1	EMPLOYEE ASSISTANCE REFERRAL.....	53
13.7	SUBSTANCE ABUSE PROGRAM.....	53
13.8	DEPENDENT CARE ASSISTANCE PROGRAM.....	53
13.9	LEGAL SERVICE.....	54
13.10	EDUCATIONAL AND PROFESSIONAL PROGRAM.....	54
13.10.2	PART-TIME EMPLOYEES - EDUCATIONAL AND PROFESSIONAL INCENTIVES.....	55
13.11	VISION CARE.....	56
13.12	EMPLOYEE WELLNESS.....	56
ARTICLE 14	RETIREMENT.....	56
14.2	INDIVIDUAL RETIREMENT ACCOUNT FOR EMPLOYEES NOT COVERED BY CITY RETIREMENT PLAN.....	57
14.3	RETIREMENT - PUBLIC SAFETY DISPATCHERS CLASS SERIES.....	57
ARTICLE 15	RETIREE HEALTHCARE FUNDING AND BENEFITS.....	57
ARTICLE 16	SAFETY.....	59
ARTICLE 17	PROBATIONARY PERIODS.....	59
17.1	PROBATIONARY PERIOD CALCULATION.....	59
17.3	PART-TIME PROBATION.....	59
ARTICLE 18	ANNUAL PERFORMANCE EVALUATION.....	59
18.2	KEY ELEMENT REVIEW.....	60
18.3	OVERALL RATING APPEAL.....	60
ARTICLE 19	DISCIPLINARY ACTION.....	60
19.3	STEP REDUCTION.....	61
19.4	POLICE DEPARTMENT EMPLOYEES.....	61
ARTICLE 20	PERSONNEL FILES.....	61
ARTICLE 21	GRIEVANCE PROCEDURE.....	62
21.2	PROCEDURES.....	62
21.2.3	ALTERNATIVE TO THE GRIEVANCE PROCEDURE.....	62
21.3	STEP I.....	62
21.4	STEP II.....	62
21.5	STEP III.....	63
21.6	STEP IV - ARBITRATION.....	63
21.7	GENERAL PROVISIONS.....	64
ARTICLE 22	DEFINITION OF THE MARKET.....	65
ARTICLE 23	CONTRACTING OUT.....	65
ARTICLE 24	HIRING POLICY.....	65
ARTICLE 25	EMPLOYEE COMMUTE BENEFIT PROGRAM.....	66
ARTICLE 26	TIME DONATION PROGRAM.....	66
ARTICLE 27	COMMITTEES.....	67
27.1	DEPARTMENT LABOR MANAGEMENT COMMITTEES.....	67
27.1.1	PURPOSE.....	67
27.1.2	STRUCTURE.....	67
27.1.3	AUTHORITY.....	67
27.2	CITY-WIDE LABOR MANAGEMENT COMMITTEE.....	67
27.2.1	PURPOSE.....	67
27.2.2	STRUCTURE.....	67

27.2.3 AUTHORITY	68
27.2.4 RELEASE TIME	68
ARTICLE 28 POSITION REALLOCATION REQUEST PROCESS	68
SIGNATURE PAGE	70
EXHIBIT I PROCESS FOR LAYOFF DISPUTE RESOLUTIONS.....	71

For information regarding the classifications assigned to MEF 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>

The Memorandum of Agreement hereinafter referred to as the Agreement or MOA is made and entered into at San José, California, this 15th day of August, 2023, by and between the City of San José, hereinafter referred to as the City or Management and the Municipal Employees' Federation, American Federation of State, County, and Municipal Employees (AFSCME), Local No. 101, AFL-CIO, hereinafter referred to as the Employee Organization, Municipal Employees' Federation (MEF), 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 Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO.

ARTICLE 2 PERIOD OF MEMORANDUM OF AGREEMENT

2.1 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

- 4.1 Pursuant to Resolution No. 39367 of the City Council of the City of San José and the provisions of applicable state law, the Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO, 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, 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 In lieu of the release time afforded to the President and Chief Steward in Articles 6.2.2.2 and 6.2.2.3, 1.00 FTEs of paid union release time shall be allocated as follows for the MEF President and Chief Steward:

Position	FTEs
MEF President	0.50
MEF Chief Steward	0.50
Total	1.00

The release time described in this article must be coded as URT (Union Release Time), and may only be used for purposes described in Article 6 and the Employer-Employee Relations Resolution No. 39367.

The above shall not apply for any MEF President and/or MEF Chief Steward if they are employed in critical positions within the Police or Fire Departments, such as Public Safety Radio Dispatchers. In such cases, the parties agree that the release time described above may be provided to another employee designated by MEF. Any request for the re-assignment of union release time as provided in this section must be made in writing.

6.2.2.2 Union President/Vice President. The Union President or Vice President or one (1) designated representative, except where noted below, up to two (2) designated representatives, 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 (up to two (2) designated representatives).
- To attend City Labor Alliance meetings held with the City Manager or Employee Relations (up to two (2) designated representatives).
- 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, and may be the Union President or Vice President and one additional representative or two (2) designated representatives for meetings allowing for up to two (2) attendees.

6.2.2.3 Chief Steward. The Chief Steward 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.

6.2.2.4 Department Stewards. Department Stewards shall be granted release time from regular City duties to attend the following functions:

- To investigate and/or process a grievance only on the shift in the department(s) or section of a department(s) for which designated.
- To attend other meetings and trainings as approved by the Employee Relations Director or designee.

6.2.2.4.1 Department Steward Authority. A Department Steward shall function under the terms of the grievance procedure and only on the shift and in the department(s) or sections of a department(s) designated. Exceptions to this section may be made by mutual agreement of the parties.

6.2.2.4.2 Ratio of Department Stewards. Department Stewards shall be designated in the ratio of approximately one (1) Steward for every 50 full-time equivalent (FTE) positions in the representation units. Shift and geographical locations may require an adjustment to the above ratio as approved by the Employee Relations Director or designee and the Union.

6.2.2.4.3 The Union shall designate as Stewards only full-time or part-time benefited employees who have satisfactorily completed an initial probationary period during the employee's current term of employment.

6.2.2.4.4 In the event the parties agree that a Steward or other representative of the Union is permitted to investigate and/or process a grievance other than as provided in 6.2.2.4.1 above, such representative shall continue to investigate and/or process the grievance, even if the department or section of a department in which the grievance arose is subsequently assigned to another representative.

- 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 Outside Department. If it is necessary for a Steward or Officer to handle a grievance in a department other than the regularly assigned department, the Steward or Officer shall report to the immediate supervisor of the aggrieved employee, the employee involved in the grievance, or the function being investigated.
- 6.2.3.2 Reasonable Release Time. Authorization for a Union representative, as defined above, to leave assigned duties shall not be unreasonably withheld by the supervisor.
- 6.2.3.3 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 Steward Training. Department Stewards shall be granted a maximum of sixteen (16) 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.
- 6.2.6 The City will provide up to two (2) hours of paid release time per month for Officers, Stewards, or MAT Captains designated by the Union for the purpose of attending the Union's monthly Stewards' meeting or MAT 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 Employees formerly represented by the Confidential Employees' Organization, AFSCME Local 101 (CEO) as of October 6, 2018, will be granted release time in order to donate blood at City sponsored blood drives. Employees will be granted two (2) hours of release time per calendar quarter to donate platelets.

- 6.2.8 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.
- 6.2.9 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.
- 6.2.10 The Union shall be allowed a maximum of eight (8) representatives to attend negotiations sessions over successor memorandum of agreements where such negotiations are conducted between the City and MEF only. The Union shall also be allowed to bring up to two (2) subject matter experts to negotiation sessions on an as needed basis, and with advance notification to the City.

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 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 Part-time Unbenefited Employees. All part-time unbenefited employees hired on or after August 12, 1984, are subject to the provisions of this Article.

6.4.4 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 Agency 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 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.

6.6.7 The City agrees to send e-mail communications to employees represented by the Union to announce membership meetings and ratification votes upon request by the Union.

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 effective date of the rule or policy. This notice is provided in order that the Union may discuss 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 MEF representative(s) reasonable access to new employees during the new employee orientations for full-time and part-time employees, which will be held in person where possible, to provide information on MEF. Attendance at any presentations by MEF shall be voluntary on the part of the new employee. The Human Resources Department shall work out arrangements with designated MEF representatives.

6.9 Employee Lists. The City shall provide, at no charge to the Union, a monthly electronic document (xls) listing bargaining unit employees alphabetically by employee name, department and position, worksite location (to the extent available), employment date, full-time equivalency, benefit status, employee address, work email address, personal email address where available, employee mobile phone number where available, standard hours worked per week, leave status, leave of absence effective date (to the extent available), and MEF dues status including any additional voluntary deductions.

The City shall provide, at no charge to the Union, a monthly electronic document (xls) listing bargaining unit employees that have been separated from employment and the date their separation became effective.

The Union agrees that such information listed above will be treated in a confidential manner.

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 five (5) consecutive days of eight (8) hours each, exclusive of a lunch period of at least thirty (30) minutes, Monday through Friday. 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 Full-time employees in the Airport Operations Specialist Series (including Senior) in the Airport Department, and full-time employees in the Animal

Services Officer Series (including Senior) in the Public Works Department, shall work either a straight eight (8) hour shift without an unpaid lunch five (5) days a week or a straight ten (10) hour shift without an unpaid lunch four (4) days a week.

Beginning in Fiscal Year 2023-2024, a swing and/or graveyard shift may be added to Animal Care and Services in the Public Works Department. Employees in the Animal Health Technician series and/or Animal Care Attendant series may be assigned to work the swing or graveyard shift on a regular basis and/or based on operational need. Employees assigned to these shifts may be eligible to receive shift differential as provided for and defined in Section 12.4.

7.3.1.1 Employees in the classifications listed in 7.3.1 will be required to perform activities that are work related during their entire work shift. If an employee needs to be relieved of active work time for any period of time during their work shift, they must request to use their own leave and such requests are subject to supervisory approval prior to the use of such leave.

An employee is not required to use their leave to take their two (2) fifteen (15) minute breaks (or rest period), which cannot be combined. Insofar as is possible, breaks (or 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 the basis for any claim for overtime compensation.

7.3.1.2 Full-time employees in the Senior Airport Operations Specialist classification (3514) may not leave Airport property, unless performing work off-site as directed by their supervisor, and must be available to perform activities that are work related during their entire work shift. If an employee needs to leave Airport property and/or is unavailable to perform activities that are work related for any reason during their work shift, they must request to use their own leave and such requests are subject to supervisory approval prior to the use of such leave.

7.3.1.3 Full-time employees in the Animal Services Officer classification (3252), and/or full-time employees in the Senior Animal Services Officer classification (3251) may be required to respond to emergency calls and must be available to perform activities that are work related during their entire work shift. If an employee is unavailable to perform activities that are work related for any reason during their work shift, they must request to use their own leave and such requests are subject to supervisory approval prior to the use of such leave.

7.3.2 Full-time employees in the Community Service Officer I/II classification (6131/6132) and/or in the Senior Community Services Officer classification (6133) will work without an unpaid lunch period during their shift, including but not limited to working a straight ten (10) hour shift for four (4) days a week without an unpaid lunch.

7.3.2.1 For the duration of their work shift, full-time employees in the Community Service Officer I/II classification (6131/6132) and in

the Senior Community Service Officer classification (6133) will be required to perform activities that are work related and, during their work shift, they may not be relieved of active work time. If an employee needs to be relieved of active work time for any period of time during their work shift, they must request to use their own leave and such requests are subject to supervisory approval prior to the use of such leave.

An employee is not required to use their leave to take their two (2) fifteen (15) minute breaks (or rest periods), which cannot be combined. Insofar as is possible, breaks (or 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.

7.3.2.2 For the duration of their shift, full-time employees in the Community Service Officer I/II classification (6131/6132) and in the Senior Community Service Officer classification (6133) may be required to respond to emergency calls and must be available to perform activities that are work related during their entire work shift. If an employee is unavailable to perform activities that are work related for any reason during their work shift, they must request to use their own leave and such requests are subject to supervisory approval prior to the use of such leave.

7.3.3 Paid time off (excluding Sick Leave) shall be considered time worked for the purpose of calculating eligibility for overtime compensation for employees in the classifications listed below:

- Public Safety Radio Dispatcher
- Public Safety Radio Dispatcher (PT)
- Public Safety Radio Dispatcher Trainee
- Public Safety Radio Dispatcher Trainee (PT)
- Senior Public Safety Dispatcher
- Senior Public Safety Dispatcher (PT)
- Supervising Public Safety Dispatcher

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 The City may establish a work schedule other than Monday through Friday where the interests of, or service to, the public requires. 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. 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.

7.6.2.1 Part-time employees in the Library Department who are scheduled or have a work shift of six (6) hours.

By mutual agreement between the employee and the supervisor, an employee who is scheduled or has a work shift of six (6) hours may elect one (1) of the following break/rest period options during their six (6) hours shift:

- One fifteen (15) minute paid break and one thirty (30) minute unpaid lunch/rest period; OR
- One twenty (20) minute paid break/rest period with no other paid or unpaid breaks.

7.6.2.2 The break/rest period option elected by the part-time employee as described in Article 7.6.2.1, above will be effective at the beginning of the pay period after the employee's election and will remain in effect for all similarly scheduled six (6) hour shifts. Employees with varying work schedules who begin a six (6) hour shift at different times on different days may elect a break/rest period option specific to that shift which will be effective at the beginning of the pay period after the employee's election and will remain in effect for similarly scheduled six (6) hour shifts; and may be changed by mutual agreement of the employee and the supervisor provided that any change remain in effect for no less than two (2) full pay periods in which the employee is scheduled to work.

7.7 Part-time Employees

7.7.1 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
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

7.7.1.1 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.

7.7.1.2 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

7.7.1.3 Before hiring additional part-time employees, the City will offer additional hours of work to existing part-time employees who have the skills and experience to perform the work. The City will develop a process to distribute the hours of work among those existing part-time employees.

Nothing herein contained, however, shall be construed to limit the right of the Department Director or designee, to determine the days of the week and hours of each day when such part-time employee shall be required to work. Further, nothing herein contained, 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.

This section shall not be construed to require the City to offer a part-time employee any additional hours of work if it would result in the part-time employee being eligible for overtime compensation at 1.5 times their regular rate of pay or any other additional benefits that said employee is not otherwise eligible.

7.7.2 Part-time Employee Benefits Eligibility

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

7.7.2.2 The scheduled hours pursuant to 7.7.1, may be reduced by a budgetary change to a position, subject to Budget Office approval, or through applicable due process.

7.7.2.3 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 7.7 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.

7.7.2.4 In the event Section 7.7.2.3 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.

7.7.2.5 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.

7.7.3 A "Seasonal Employee" is defined as a part-time unbenefited employee who is assigned to work in a specific program or to specific job duties, including seasonal programs, that are scheduled to be no more than four (4) consecutive months in duration. Designating an employee who is in a part-time unbenefited classification as a "Seasonal Employee" shall only be used for recordkeeping purposes related to an employee's assignment to a seasonal program or a position with a duration of less than four (4) consecutive months. Employees will be designated as "Seasonal" at the time of hire, and it is dependent upon the department and employee to update the designation should the employee transition to a position of longer duration. MEF understands that designating an employee as "Seasonal" shall not otherwise effect an employee's employment status or the terms or conditions of their employment.

7.7.4 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.

7.8 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.

7.9 Alternative Work Schedule

7.9.1 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.

7.9.1.1 Whenever possible, employees elected and approved for 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.

7.9.2 Employees assigned to radio dispatch operations in either the Fire or Police Departments may work alternate work schedules, based upon the needs of the department and the need to provide quality service to the public. 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.

7.10 Overtime and Compensatory Time

7.10.1 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. With the exception of Holiday Leave, paid time off shall not be considered time worked for the purpose of calculating eligibility for overtime.

7.10.2 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.

7.10.3 An employee who is assigned or elects and is approved for an alternative work schedule as defined by Section 7.9 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.

7.10.4 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.

7.10.5 Overtime worked shall be compensated at the 1.5 times 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.

7.10.5.1 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.

7.10.5.2 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.

7.10.5.3 Notwithstanding any other provision of Section 7.10.5 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. This announced intent may apply to an entire department or to a specified section(s) of a department.

7.10.5.4 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 straight time hourly 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.

7.10.5.5 Compensatory Time Accrual Limit. Except as provided in Article 7.10.5.6, for purposes of the FLSA, a 240-hour accrual limit shall apply to employees on 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 7.10.5.2 of this Agreement.

7.10.5.6 Public Safety Dispatchers Class Series. For purposes of the FLSA, a 480-hour accrual limit shall apply to Dispatchers on 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 7.10.5.2 of this Agreement.

7.10.6 Overtime compensation shall be calculated at 2.0 times the hourly rate for all hours worked past twelve (12) hours in a single shift for employees in the following classifications:

- Public Safety Radio Dispatcher
- Public Safety Radio Dispatcher (PT)
- Public Safety Radio Dispatcher Trainee
- Public Safety Radio Dispatcher Trainee (PT)
- Senior Public Safety Dispatcher
- Senior Public Safety Dispatcher (PT)
- Supervising Public Safety Dispatcher

7.10.7 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>

7.11 Shift Substitutions. Employees assigned and working in the Communications Division or the Operations Support Division of the San Jose Police Department, or the Communications Division of the San Jose Fire Department or the Airport Communications Center of the Norman Y. Mineta San Jose International Airport, 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 Communications Employees' Shift Assignments. 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 For Police Department personnel, 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.
- 8.5 As of the date of this agreement, shift bidding guidelines exist for, but are not limited to, the following classifications:
- Animal Services Officers
 - Community Service Officer Series
 - Senior Airport Operations Specialist Series
 - Latent Fingerprint Examiner Series
 - Police Data Specialist Series
 - Public Safety Radio Dispatcher Series (Fire Department)
- 8.5.1 The City shall provide the Union a copy of the shift bid policy for these job classifications. Upon the completion of a shift bid, upon request, the Union shall be provided the results of the shift bid.

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, suspensions, etc.) 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 Except as otherwise provided, each full-time employee who is on paid status before and after the holidays specified below shall be eligible for paid holiday leave on each of the following specified holidays, and on no other day, during the term of this Agreement:

New Year's Day	Labor Day
Martin Luther King Day	Indigenous Peoples' Day
Lunar New Year	Veterans Day
President's Day	Thanksgiving Day
Cesar Chavez Day	Day After Thanksgiving
Memorial Day	Christmas Eve Day
Juneteenth	Christmas Day
Independence Day	

Effective calendar year 2024, Lunar New Year shall be observed in accordance with the State of California's holiday schedule, and New Year's Eve Day shall no longer be a City-observed holiday.

10.1.1.1 Any other day proclaimed or designated by the Council of the City of San Jose as a holiday for which full-time employees will be entitled to holiday leave. Should additional holidays be provided, or should an existing holiday be traded for a different holiday observance for other represented employees on a Citywide basis, such holidays shall apply to employees in this unit.

10.1.2 Except as otherwise designated, any holiday specified herein, including any other day proclaimed or designated by the City Council as a holiday for which full-time employees are entitled to holiday leave, which falls on a Sunday shall be observed for purposes of this Article on the following Monday. Such holidays which fall on a Saturday shall be observed on the preceding Friday.

10.1.2.1 In continuous operations and those which require employees to work on Saturdays and Sundays, when a holiday falls on a Saturday or Sunday, the actual holiday will be observed rather than the city-observed holiday.

10.1.3 Except as otherwise provided, no such full-time employee shall be required to work on any of said holidays; provided, however, that subject to regulation and control by the City Manager, or designee, the Director of any department of the City government may specify the days of the week and the hours of

such days when any such employee in their department or under their jurisdiction shall be required to work, and may require any such employee to work on any or all of said holidays. Each full-time employee who is required to work on any of said holidays shall receive the salary that the employee would be entitled to for that day at the employee's regular rate of pay, and in addition thereto, the employee shall receive compensatory time off duty equal to 1.5 times the number of hours the employee works on said holiday.

10.1.4 If any of said holidays falls on a full-time employee's regular day off, during which the employee is not required to work, such employee shall be entitled to compensatory time off duty equal to the number of regularly scheduled hours which the employee works during their assigned work day. Said compensatory time off duty shall be credited to such employee in accordance with Article 7, Section 7.10 provided, however, that upon written request by the employee to the Department Director, or designee, within not more than 30 calendar days after the holiday when such compensatory time was earned, such employee shall receive and be given, in lieu of such compensatory time off, such additional compensation as shall equal the number of hours of compensatory time credited to the employee multiplied by the employee's equivalent hourly rate.

10.1.4.1 The parties have agreed to the language contained in the Side Letter Agreement linked below through the term of this Agreement.

<https://www.sanjoseca.gov/home/showpublisheddocument/106422/638340128862070000>

At the conclusion of the term of this Agreement, this provision shall revert to the language below, absent mutual agreement between the City and MEF.

Full-time employees in the Library Department, and who are regularly scheduled to work Tuesday through Saturday.

When a City holiday, as described in Section 10.1, observed by the Library falls on a Monday, full-time employees who are scheduled to work Tuesday through Saturday shall:

- Observe the holiday (i.e. not be required to report to work) on the Tuesday immediately following the Monday holiday. Section 10.1.4 shall not apply to employees covered by Section 10.1.4.1 and they will not receive compensatory time for the Monday holiday, but shall code holiday leave on the Tuesday immediately following the Monday holiday for the number of regularly scheduled hours which the employee works during their assigned work day.
- Employees covered by Section 10.1.4.1 will not be able to code holiday leave any other day of the week and shall only code holiday leave on the Tuesday immediately following the Monday holiday.
- In the event an employee covered by Section 10.1.4.1 is required to work by the Department on the Tuesday

immediately following a Monday holiday, the employee shall be compensated pursuant to Section 10.1.3.

- 10.1.5 Said compensatory time off duty shall be credited to such employee in accordance with Section 7.10 of this Agreement; provided, however, that upon written request by the employee to the Department Director, or designee, within not more than 30 calendar days after the holiday when such compensatory time was earned, such employee shall receive and be given, in addition to their regular pay for such holiday and in lieu of such compensatory time off, such additional compensation as shall equal the number of hours of compensatory time credited to the employee multiplied by the employee's equivalent hourly rate.
- 10.1.6 The compensation above provided to any employee who may be required to work on any or all of said holidays shall be inclusive of any overtime compensation or other benefits to which such employee may be entitled under the provisions of any other ordinance or resolution of the City of San José, or other applicable law, and not in addition thereto.
- 10.1.7 An employee who is scheduled to work on a holiday, and who does not work due to illness or injury for which they would otherwise be eligible for sick leave, shall receive sick leave pay if available and shall not be eligible for holiday leave.
- 10.1.8 Reduced Work Week - Holiday Benefits. Paid holiday leave shall be granted to employees on a reduced work schedule based on the number of hours per week the employee is regularly scheduled to work under the reduced schedule. Holiday compensation for such employees shall be as follows:

<u>Regularly Scheduled Hours per Week</u>	<u>Hours of Paid Leave for Each Holiday</u>
35-39	8 Hours
30-34	6 Hours
25-29	5 Hours
20-24	4 Hours
Less than 20	0

- 10.1.8.1 If a holiday falls on a day in which the employee is regularly scheduled to work a number of hours in excess of the paid holiday leave listed above, the employee shall arrange in advance with their supervisor to either work additional hours on another day of the week or to take vacation, compensatory time off or lost time for the excess hours.
- 10.1.9 Alternative Work Schedule – Holiday Benefits. The following provisions for holiday and other paid leave shall apply to employees on an alternative work schedule.
- 10.1.9.1 If an employee takes paid leave (e.g. holiday, sick leave, vacation, compensatory time off, etc.) on a scheduled workday, the employee shall be entitled to pay for the number of hours the employee was scheduled to work that day.
- 10.1.9.2 If an employee on an alternate schedule works on a holiday, the employee shall receive eight (8) hours of compensatory time at the 1.0 rate for a full day holiday, and in addition shall receive

pay or compensatory time off at the 1.5 rate for the number of hours actually worked. Said compensatory time off duty shall be credited to such employee in accordance with Section 7.10 provided, however, that upon written request by the employee to the Department Director or designee, within not more than thirty (30) calendar days after the holiday when such compensatory time was earned, such employee shall receive and be given, in lieu of such compensatory time off, such additional compensation as shall equal the number of hours of compensatory time credited to the employee multiplied by the employee's equivalent hourly rate.

10.1.9.3 If any of said holidays falls on a full-time employee's regular day off, during which the employee is not required to work, such employee shall be entitled to receive eight (8) hours of compensatory time off duty at the 1.0 rate. Said compensatory time off duty shall be credited to such employee in accordance with Section 7.10 provided, however, that upon written request by the employee to the Department Director, or designee, within not more than thirty (30) calendar days after the holiday when such compensatory time was earned, such employee shall receive and be given, in lieu of such compensatory time off, such additional compensation as shall equal the number of hours of compensatory time credited to the employee multiplied by the employee's equivalent hourly rate.

10.1.10 Part-Time Employees – Holiday Benefits. Holiday leave with pay and compensation for time worked on a holiday 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 holiday leave with pay for a number of hours each holiday 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:

<u>Regularly Scheduled Hours Per Week</u>	<u>Hours of Leave with Pay Each Holiday</u>
30-34 Hours	6 Hours
25-29 Hours	5 Hours
20-24 Hours	4 Hours

10.1.10.1 Compensation for holidays shall be according to the above schedule regardless of the number of hours any eligible part-time employee may have been scheduled to work or would have been required to work on any designated holiday.

10.1.10.2 Each part-time employee who is not eligible to receive supplemental benefits provided by this Article and who is required to work on any of said holidays shall receive the salary that the employee would be entitled to for the hours worked on that day at the employee's regular rate of pay, and in addition thereto, shall receive compensation in a sum equal to one-half times the employee's regular hourly pay multiplied by the number of hours worked by the employee on such holiday,

provided and excepting, however, that no part-time employee who is required to work on any of said holidays and who received a flat daily rate of pay, plus room and board shall be entitled to or shall be paid any compensation in addition to the employee's regular flat daily rate of pay plus room and board.

- 10.1.11 The parties have agreed to the language contained in the Side Letter Agreement linked below through the term of this Agreement.

<https://www.sanjoseca.gov/home/showpublisheddocument/106422/638340128862070000>

At the conclusion of the term of this Agreement, this provision shall revert to the language below, absent mutual agreement between the City and MEF.

Library Holiday Schedule. Due to the scheduling needs of the public library the above listed holidays may be observed on a day other than the date designated by the City. A calendar listing the dates of holiday observance for the library shall be provided to library employees in a timely manner, but at a minimum by October 31st for the upcoming calendar year. Library employees regularly scheduled for a Tuesday through Saturday work week shall work Monday through Friday when December 25th and January 1st fall on a Saturday.

- 10.1.12 Holiday Closure. The City Manager, or designee, may determine that all non-essential City operations close for a Holiday Closure during the Christmas and New Year holidays. In such event, employees shall be encouraged to take time off, however, it shall not be a requirement. Employees electing to take time off may choose to take vacation, compensatory time, personal leave or lost time during the closure period. Employees taking lost time during the closure shall continue to receive vacation, sick leave, city-wide and department seniority accruals.

- 10.1.13 Holiday-In-Lieu Pay For Public Safety Dispatchers Class Series. 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 listed below. It is expressly understood that the 6.5% special pay adjustment is compensation for all employees in the Public Safety Dispatcher class series listed below in lieu of holiday benefits. There shall be no additional holiday compensation.

- Public Safety Radio Dispatcher (8514)
- Public Safety Radio Dispatcher (PT) (8534)
- Public Safety Radio Dispatcher Trainee (8532)
- Senior Public Safety Dispatcher (8513)
- Senior Public Safety Dispatcher (PT) (8533)
- Supervising Public Safety Dispatcher (8512)

- 10.1.13.1 Effective March 5, 2023, in recognition of the City adding Juneteenth as a 15th City-observed holiday, the classifications listed above received a 0.46% base pay increase.

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 Effective the first full pay period of 2022, an employee shall accrue vacation leave at a rate specified below for each hour worked in each year of employment as specified:

Years of Service	Hours of Vacation Per 26 Pay Period Cycle
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 7.7.2, 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 1st 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 1st will get sixteen (16) hours of annual personal leave and employees hired on or after July 1st 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 MEF-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 their 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 <u>Hours Per Week</u>	Hours of Bereavement Leave with <u>Pay</u>
30-34 Hours	Up to 30 Hours
25-29 Hours	Up to 25 Hours
20-24 Hours	Up to 20 Hours

a.	Parent/Step-parent
b.	Spouse
c.	Child/Step-child (including miscarriage or stillbirth)
d.	Brother/Sister/Step-brother/Step-sister/Half-brother and Half-sister
e.	Grandparent/Step-grandparent
f.	Great grandparent/Step-great grandparent
g.	Grandchild
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 7.7.2 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 Leave of Absence. The Leave 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 Leave 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 Wages 2023-2026. A full list of salary steps for MEF-represented classifications can be found at the following link:

<https://www.sanjoseca.gov/home/showpublisheddocument/76852/637666043581770000>

- 12.1.1 Fiscal Year 2018-2019. Effective July 1, 2018, all employees holding positions assigned to MEF (Union Code 050/051/052) shall receive an approximate 5% ongoing non-pensionable compensation increase.
- 12.1.2 Fiscal Year 2023-2024. Effective September 17, 2023, all salary ranges for employees holding positions in classifications assigned to MEF shall be increased by approximately 6.00%.
 - 12.1.2.1 In lieu of retroactivity, employees represented by MEF shall receive a one-time, non-pensionable lump sum payment based on their benefit level as follows:

Benefit Level	Amount of One-Time Non-Pensionable Lump Sum Payment
35.00+ Hour Benefit Level	\$1,200.00
30.00 – 34.00 Hour Benefit Level	\$900.00
25.00 – 29.00 Hour Benefit Level	\$750.00
20.00 – 24.00 Hour Benefit Level	\$600.00
Part-Time Unbenefited Employees	\$300.00

To receive this lump sum payment as a benefited employee, the employee (1) must have been employed by the City on June 25, 2023, and (2) must be employed as of the date the payment is made. To receive this lump sum payment as a part-time unbenefited employee, the employee (1) must have been employed by the City on June 25, 2023, (2) must have worked at least 100 hours of regular time between June 25, 2023, and September 2, 2023, and (3) must be employed as of the date the payment is made. This payment shall be made during the

second full pay period following Council approval in open session.

- 12.1.3 Fiscal Year 2024-2025. Effective the first full pay period of Fiscal Year 2024-2025, all salary ranges for employees holding positions in classifications assigned to MEF 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 MEF shall be increased by approximately 1.00%.

- 12.1.4 Fiscal Year 2025-2026. Effective the first full pay period of Fiscal Year 2025-2026, all salary ranges for employees holding positions in classifications assigned to MEF 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 MEF 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 MEF shall be approximately 2.5%.

- 12.4 Shift Differential.

- 12.4.1 A swing shift differential of two dollars and twenty-five cents (\$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 fifty 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.

12.4.6 The hours for the classifications provided below, as determined by the department to coincide with a Swing or Grave shift, shall be paid using the given shift differential as outlined in Section 12.4.

- Public Safety Radio Dispatcher Trainee (8532)
- Public Safety Radio Dispatcher (8514)
- Senior Public Safety Dispatcher (8513)
- Supervising Public Safety Dispatcher (8512)
- Senior Airport Operations Specialist I/II/III (3514/3516/3518)

12.5 Bilingual Pay – FT/PT. To be eligible for a bilingual pay 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 pay 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. This determination shall be made

by the City Manager or designee in consultation with the Department Director.

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 initial 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 By mutual written agreement between the City and the Union, 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.

12.6.4 Part-Time Unbenefited Employees

12.6.4.1 Part-time unbenefited employees with less than five (5) calendar years of City service may only be required to perform the duties of a higher classification if they meet the minimum qualifications for the higher classification.

12.6.4.1.1 By mutual written agreement the requirements of Article 12.6.4.1 may be waived, and a part-time unbenefited employee with less than five (5) calendar years of service may be required to perform the duties of a higher classification for which they do not meet the minimum qualifications.

12.6.4.2 Part-time unbenefited employees with more than five (5) calendar years of service may be required to perform the duties of a higher classification regardless of whether they meet the minimum qualifications of the higher classification.

- 12.6.5 The City shall provide the Union with a list of all MEF-represented employees currently working in a higher-class assignment. The list shall be provided no more frequently than every other month, and shall include employee names, permanent classification, the name of the higher classification where work is being performed, and the employee's department.
- 12.6.5.1 Once an automated workflow that tracks all non-management higher class assignments and approvals within the City's Human Resources Information System has been rolled out Citywide, the City will provide the Union with the start and anticipated end dates on a prospective basis when requests are made pursuant to Article 12.6.5.
- 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.
- 12.7.2 Employees authorized or required by their supervisor to conduct work remotely in response to an emergency or other unforeseen circumstance, including, but not limited to, via a remote connection (telephone or computer), after the employee has departed from their place of employment or on a day off shall be compensated at the appropriate rate of pay for actual time worked rounded to the nearest fifteen-minute increment.
- 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.
- 12.8.2 Employees required to work standby duty on a holiday, as outlined in Article 10.1, shall receive Standby Pay in accordance with Article 12.8 in addition to any pay or compensatory time for which the employee may be eligible under Article 10.1.
- 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.
- 1181 Police Data Specialist I
 - 1182 Police Data Specialist I (PT)
 - 1183 Police Data Specialist II
 - 1184 Police Data Specialist II (PT)
 - 1185 Police Data Specialist Supervisor
 - 2416 Senior Security Officer
 - 2431 Security Officer
 - 2432 Security Officer (PT)
 - 2441 School Crossing Guard (PT)
 - 2443 School Crossing Guard Coordinator
 - 8026 Supervising Police Data Specialist
 - 8512 Supervising Public Safety Dispatcher
 - 8513 Senior Public Safety Dispatcher
 - 8533 Senior Public Safety Dispatcher (PT)
 - 8514 Public Safety Radio Dispatcher
 - 8534 Public Safety Radio Dispatcher (PT)
 - 3252 Animal Services Officer
 - 3251 Senior Animal Services Officer
 - 8532 Public Safety Radio Dispatcher Trainee
 - 8534 Public Safety Radio Dispatcher Trainee (PT)
 - 6131 Community Service Officer I
 - 6132 Community Service Officer II
 - 6133 Senior Community Service Officer
- 12.10.1 The City will provide School Crossing Guards with the initial jacket and patches at no cost to the employee.
- 12.10.2 Employees in the classifications of: 1181 Police Data Specialist I, 1182 Police Data Specialist I (PT), 1183 Police Data Specialist II, 1184 Police Data Specialist II (PT), and 1185 Police Data Specialist Supervisor hired or promoted on or after January 1, 1995, are required to wear an approved uniform. Employees in said classes hired prior to January 1, 1995, are not required to wear a uniform, however, once an employee chooses to wear a uniform, an employee may not revert to non-uniformed status.
- 12.10.3 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). Effective the first pay period in payroll calendar year 2024, this payment shall be made in a single lump sum payment in Pay Period 2 of each payroll calendar year.

12.10.4 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, except for those employees in the classification of School Crossing Guard. 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). Effective the first pay period in payroll calendar year 2024, this payment shall be made in a single lump sum payment in Pay Period 2 of each payroll calendar year.

12.10.4.1 Part-time employees in the classification of School Crossing Guard eligible for the uniform allowance who work over 600 hours during the payroll calendar year shall receive the full gross uniform allowance of \$500.00; payment shall be made in January of the following year. In no event will any employee receive a total gross uniform allowance in excess of \$500.00.

12.10.4.2 Part-time employees in the classification of School Crossing Guard eligible for the uniform allowance who work 600 hours or less during the payroll calendar year shall receive a uniform allowance based on the hours worked by the employee as prorated to 600 hours; payment shall be made in January of the following year. In no event will any employee who works 600 hours or less during the payroll calendar year receive the full gross uniform allowance of \$500.00.

12.11 Protective Footwear. The City agrees to provide a voucher for the purchase of protective footwear, which may include sole inserts, for up to \$275 for employees in Fiscal Year 2023-2024 when it is determined by the Director of Human Resources or designee that protective footwear is required for the employee. In Fiscal Year 2024-2025, the voucher shall be up to \$300, and in Fiscal Year 2025-2026, the voucher shall be up to \$325. Protective footwear shall meet established Occupational Safety and Health Administration's (OSHA) standards, current American National Standard for Personal Protection- Protective Footwear standards and requirements as determined by the City Safety Officer or designee. The City will replace protective footwear as needed, but no more than once per calendar year. The City will replace the employee's safety shoes if they are damaged beyond use due to a workplace incident. An individual may select an approved style that is more expensive than the City maximum by paying the difference. Employees in classifications who are entitled to receive a uniform allowance as provided in Article 12.10 above are not eligible to receive a voucher for protective footwear under this provision.

12.12 Apparel Allowance. An annual Apparel Allowance shall be paid to eligible employees regularly assigned to the classifications listed below, provided that such employees are required, in the performance of the assigned duties of such classifications, to wear approved apparel.

12.12.1 Apparel Allowance not to exceed one-hundred dollars (\$100) annually shall be paid to the following classifications:

- Code Enforcement Inspector I (3938)
- Code Enforcement Inspector II (3939)
- Senior Airport Operations Specialist I (3514)
- Senior Airport Operations Specialist II (3516)
- Senior Airport Operations Specialist III (3518)
- Zoo Keeper FT (6353)

12.12.1.1 Employees in the Zoo Keeper FT (6353) classification will be responsible for providing their own pants. The City will not provide pants for employees in the Zoo Keeper FT (6353) classification.

12.13 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 fifteen dollars (\$15) as a meal allowance or provide a meal to the employee.

In the event an Airport employee is assigned to work 16 or more consecutive hours, the City, at its option, will either provide the employee twenty dollars (\$20) as a meal allowance or provide a meal to the employee.

12.14 Safety Equipment. Employees in the classification of Security Officer (2431), Security Officer (PT) (2432) or Sr. Security Officer (2416) and who are required, while on duty, to wear the following, shall be provided each of said items: baton, baton holder, gun belt cartridge case, flashlight (3-cell), handcuffs, handcuff case, rainwear including raincoat, rain pants and hat cover. Such items shall remain property of the City and shall be returned to the City upon termination of the employee.

12.15 Notary Services. Employees commissioned by the Secretary of State for the State of California to perform notary services and who are directed to perform notary services on behalf of the City of San José, shall be compensated at the rate of twenty-five dollars (\$25) for each bi-weekly pay period, subject to Departmental approval.

12.15.1 Any employee who leaves a position in which they are receiving notary services pay will cease to receive notary services pay. This will occur whenever an employee is transferred, promoted, reassigned, or otherwise leaves the specific position in which the employee was authorized to receive premium pay.

12.15.2 At the time that an employee either obtains their notary commission or renews their notary commission, the employee shall make an election as outlined in Articles 12.15.2.1 and 12.15.2.2 as to how the fees associated with their notary commission shall be paid.

12.15.2.1 Department Reimbursement

- (a) Employee shall own all documents and equipment required to perform notary services.
- (b) Employee shall not be approved to have an outside work permit to conduct outside employment as a Notary Public.
- (c) Employee shall be granted release time to attend required training courses to obtain or renew their notary commission, and to file all required documents with Santa Clara County.

- (d) Should the employee relinquish their notary commission, the employee shall be granted one (1) hour of release time to return all required documents and equipment to Santa Clara County.

12.15.2.2 Education Reimbursement

- (a) Employee shall own all documents and equipment required to perform notary services
- (b) Employee may apply for an outside work permit in accordance with City policy, and will not under any circumstances be permitted to conduct personal business while on City time.

12.16 Training Pays

12.16.1 Public Safety Radio Dispatchers Training Pay. Public Safety 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.

12.16.2 Police Data Specialist Training Pay. Police Data Specialists shall be eligible for additional pay equal to approximately five percent (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 Data Specialist trainee.

12.16.3 Community Service Officer Training Pay. Community Service Officers (CSOs) shall be eligible for an additional pay equal to approximately five percent (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 Community Service Officer trainee during the CSO Academy and field training.

12.16.4 Animal Services Officer Training Pay. Animal Services Officers shall be eligible for an additional pay equal to approximately five percent (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 an Animal Services Officer trainee.

12.17 Public Safety Radio Dispatcher Certification Pay. Effective September 17, 2023, incumbents in the following classifications who possess an Emergency Fire Dispatch (EFD) certification and an Emergency Medical Dispatch (EMD) certification shall be eligible to receive a 3.75% non-pensionable premium pay.

- Public Safety Radio Dispatcher Trainee (8532)
- Public Safety Radio Dispatcher FT/PT (8514/8534)
- Senior Public Safety Dispatcher FT/PT (8513/8533)
- Supervising Public Safety Dispatcher (8512)

12.18 Professional Achievement Incentive for Planner Classifications. Employees shall receive a professional achievement incentive of 1% (paid biweekly) in addition to their base wages as follows:

- 12.18.1 Employees are eligible for one (1) professional achievement incentive for certification through the American Institute of Certified Planners (AICP). The professional achievement incentive is subject to approval by Department Director or designee.
- 12.18.2 Eligible classifications are Planner I, Planner II and Planner III.
- 12.18.3 Incentives are payable effective the first pay period following receipt of the approved form and certificate by Finance/Payroll.
- 12.19 Protective Prescription Safety Glasses. The City agrees to reimburse eligible employees in the classifications listed below who require the use of prescription lenses and are in positions that require the use of protective safety glasses for the purchase of protective prescription safety glasses for up to \$200.00 for full-time employees when it is determined by the Director of Human Resources, or designee, that protective prescription safety glasses are required. The City will replace protective prescription safety glasses as needed, but no more than once per calendar year. The City will replace the employee's protective eyewear if they are damaged beyond use due to a workplace incident. An individual may select an approved style that is more expensive than the City maximum by paying the difference.
- Aquatic Toxicologist
 - Biologist
 - Chemist
 - Associate Construction Inspector
 - Senior Construction Inspector
 - Lab Technician I/II
 - Water Meter Reader
 - Microbiologist
 - Industrial Process Control Senior Specialist I/II
- 12.20 The City shall provide to all employees in the Community Service Officer class series, a bulletproof vest at no expense to the employee. The wearing of said vest shall be mandatory. All bulletproof vests shall be replaced before or at the expiration of the warranty period of the vest at the expense of the City.
- 12.21 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.
- 12.21.1 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.
- 13.1.2 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.
- 13.1.3 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.
- 13.1.4 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.
- 13.1.5 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.
- 13.1.6 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, following union ratification and Council approval in open session, 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 alternative 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%

- 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 7.8.
- 13.6 Employee Assistance Program (EAP). The City recognizes that professional counseling is an important benefit to assist employees in addressing personal and family issues, which may be adversely affecting the employee's job performance and well-being. Through the EAP, licensed counselors are available to help employees address issues and identify strategies for coping with difficult situations. The City will provide an EAP benefit plan for full-time employees, for part-time employees eligible for benefits under Section 7.7.2 of this Agreement, and for part-time unbenefited employees in MEF during the term of this Agreement. Effective January 1, 2024, the City will provide each part-time unbenefited employee in MEF, up to five (5) visits per issue type per 12-month period.

Employees are encouraged to contact the Employee Benefits Division at 535-1285 or email HRBenefits@sanjoseca.gov for details regarding this benefit, or visit the Human Resources benefits webpage.

- 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.
- Public Safety Radio Dispatcher
Public Safety Radio Dispatcher (PT)
Senior Public Safety Dispatcher
Senior Public Safety Dispatcher (PT)
Supervising Public Safety Dispatcher
- 13.7 Substance Abuse Program. Full-time employees, and part-time employees eligible for benefits under Section 7.7.2 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 Dependent Care Assistance Program. During the term of this Agreement, the City will continue to provide a Dependent Care Assistance Program at the level of benefit provided on the effective date of this Agreement.

- 13.9 Legal Service. The City agrees to pay to the Municipal Employees Federation, AFSCME, Local No. 101, AFL-CIO Legal Trust Fund the sum of four dollars and twenty-five cents (\$4.25) per month for each full-time employee on the payroll for the last pay period ending prior to the first of each month for private legal service benefits for such employees and their dependents subject to the following:
- 13.9.1 No portion of the sums heretofore paid or subsequently paid shall be used to provide legal services for any employee or dependents in any action or proceeding in which the Union is a party or in which the City is a party, and
 - 13.9.2 No portion of the sums heretofore paid or subsequently paid shall be used in connection with any matter, action or proceeding involving employer-employee relations involving the City, its commissions, officers, or employees; except
 - 13.9.3 The provisions of 13.9.1 and 13.9.2 notwithstanding, a portion of the sum so paid may be used to pay the Union's portion of the cost of the arbitrator, including the arbitrator's legitimate expenses, and the Union's share of the transcript(s) of the arbitration proceeding. Further, a portion of the sum so paid may be used to reimburse City employees for time spent as witnesses in arbitration proceedings involving the Union and the City provided such time is spent during regularly scheduled working hours. The compensation, however, shall not include any payment for any such time spent in arbitration proceedings involving the Union and the City which falls outside the employee's regularly scheduled working hours.
 - 13.9.4 The City shall have the right, through independent auditors selected by the City, upon written request to periodically review and audit the books and records of the fund in San José at reasonable times, to determine whether the Union has complied with the conditions contained herein. The Union shall, upon completion of any such reviews and audits, reimburse the City for half of the costs thereof within ten (10) days after receipt of a statement of such costs from the City.
 - 13.9.5 Failure of the Union to maintain such books and records or to make such books and records available in San José or to permit such inspection, or to pay half of the costs of such review and audit shall constitute grounds for the City to terminate or suspend, in its discretion, the payment of further payments; and
 - 13.9.6 If upon inspection of the books and records the City determines that any portion of the sum contributed has been diverted to purposes not permitted by the provisions of this Article, the City may, in addition to any other remedies available to it under law, suspend or terminate further payments.
 - 13.9.7 As used herein, action or proceedings shall include, but not be limited to, court proceedings, proceedings or hearings or appearances before legislative, administrative, or quasi-judicial agencies or bodies and arbitration, except to the extent provided in paragraph 13.9.1 herein above, fact-finding, mediation, or other similar dispute resolving procedures.
- 13.10 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.

13.10.1 For employees formerly represented by the Confidential Employees' Organization, AFSCME Local 101 (CEO) as of October 6, 2018, only:

13.10.1.1 The City supports special training and professional opportunities for the former bargaining unit of CEO or major subgroups of CEO, e.g., Analysts or Administrative Staff. Ideas for training and professional development may be proposed by bargaining unit groups to be developed in conjunction with a liaison appointed by the City Manager.

13.10.1.2 Each employee will be allowed a minimum of eight (8) hours paid release time per year to attend training and/or professional development classes developed under Article 13.10.1.1. Additional subjects proposed by the bargaining unit not covered under the eight (8) hour allotment may be incorporated into regular training programs provided by the City.

13.10.1.3 If an employee is denied educational and professional incentives under the requirements set forth 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.

13.10.2 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:

Regularly Scheduled Hours Per Week	Maximum Reimbursement for Part-Time Employees	Maximum Reimbursement for Part-Time <u>Employees</u> for non-college <u>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

13.10.2.1 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 2021-2022, the employee must have worked at least 520.00 hours between July 1, 2020, and June 30, 2021.

13.10.3 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.

13.11 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.

13.11.1 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.

13.12 Employee Wellness. Each calendar year, employees represented by MEF 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.

- 14.1.1 Administrative costs of the Federated Retirement System, including staff salaries and indirect costs, are to be paid from the retirement fund. Costs to the fund for salaries and indirect costs shall not exceed 0.17% of assets in the fund per year.
- 14.1.1.1 In the event the administrative costs of the Federated Retirement System exceed the administrative cost limit as list above, representatives from the Office of Employee Relations, MEF, and the Office of Retirement Services will meet to discuss the increase in administrative costs.
- 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 The City and the Employee Organization have agreed 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 Article.

- 15.2 The City and the Employee Organization further 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 Employee Organization will support such amendments.
- 15.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. 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 Employee Organization agree that the retiree healthcare contributions rates as of June 20, 2015, will remain in effect until December 19, 2015. 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.
- 15.4 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.
- 15.5 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 Employee Organization will immediately meet and confer over an alternative trust vehicle for the prospective contributions should the IRS determine that the contributions are post-tax. The parties agree that the foregoing resolves the issues underlying unfair practice charge no. SF-CE-972-M filed by the Employee Organization on June 18, 2012. Therefore, the Employee Organization agrees to withdraw the charge no later than fifteen (15) calendar days after the execution of this agreement.
- 15.6 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.
- 15.7 Employees hired into full-time benefitted positions on or after September 27, 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.

- 15.8 Neither the City nor the Employee Organization waives any rights or assertions, each may have, related to the retiree healthcare benefit through any of the provisions of this Article.

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 six (6) or 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.

- 19.1.1 Employees may submit a rebuttal to a Letter of Reprimand within thirty (30) days. The rebuttal will be kept in the employee's permanent personnel file.
- 19.1.2 Part-time unbenefited employees subject to separation due to disciplinary action may request a meeting with the Office of Employee Relations.
- 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 Police Department Employees. 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, MEF 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 MEF 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 against City classifications. Population figures will be based on data from the U.S. Census Bureau.
- 22.2 Compensation information from the private sector will be gathered from existing published sources and will be used to supplement public sector data as deemed appropriate by the City.
- 22.3 Based on the April 1, 2020, U.S. Census Bureau, 2020 Census of Population, the following agencies currently meet the definition of the market:

Alameda County	Berkeley
Milpitas	Contra Costa County
Daly City	Fremont
Hayward	Oakland
San Francisco City/County	San Mateo County
Santa Clara (City)	Santa Clara County
Sunnyvale	Mountain View

- 22.4 When conducting a salary survey, if less than six (6) classification matches are available, the City may utilize classifications at jurisdictions outside of those listed in Article 22.3, which may include special districts, as appropriate and will obtain feedback from the Union in these cases.

- 22.5 If the Union believes that a long-term vacancy issue exists in an MEF represented classification, the Union may request information and/or raise these matters for discussion at a Labor Management Committee meeting.

ARTICLE 23 CONTRACTING OUT

The City agrees to meet and confer with the Union prior to contracting out work currently performed by bargaining unit members whenever such contracting out, including the use of volunteers, would result in material reduction of work done by bargaining unit 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 24 HIRING POLICY

The City of San Jose Hiring Policy contained in the City Policy Manual contains the procedures and policies for hiring. The Hiring Policy shall include a reference to Salary Resolution #51870, which contains definitions of various terms including, but not limited to, step placement, promotion, lateral transfer, and demotion.

ARTICLE 25 EMPLOYEE COMMUTE BENEFIT PROGRAM

The Employee Commute Benefit Program shall be as follows:

- 25.1 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.
- 25.2 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.
- 25.3 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 26 TIME DONATION PROGRAMS

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

ARTICLE 27 COMMITTEES

27.1 Department Labor Management Committees

- 27.1.1 Purpose. To serve as an advisory committee and to facilitate employee involvement in issues which affect the immediate work environment and to facilitate positive Union-management relations. These collaborative efforts between labor and management have proven successful in the past and are encouraged when appropriate.
- 27.1.2 Structure. Labor Management Committees will be established in departments by mutual agreement. Management and the Union shall each select their own representatives and in an equal number. Each side is encouraged to propose issues for discussion, and the committee will jointly set priorities. Decision-making within this forum will be by consensus. The LMCs will set up regular meetings and a means for calling additional meetings to handle issues on an ad hoc basis.
- 27.1.3 Authority. Guidelines will be issued by the Office of Employee Relations on the types of subjects that might be appropriate for discussion, e.g., alternate work week, shift bidding, vacation bidding, internal transfer policies, clarification of rules and departmental procedures, rumor control, etc. Training is necessary for the success of this effort and will be provided jointly by the City and the Union as needed. LMCs might serve as a preliminary review of department-initiated changes to policies or practices. The LMCs are not authorized to meet and confer to create contractual obligations nor are they to change the MOA to authorize any practice in conflict with existing contracts or rules. The Office of Employee Relations and MEF Business Agent will be involved in LMC meetings upon request, and the LMCs should keep both parties informed of their discussions and any written material they generate. This process is not designed for individual grievances, disciplines, or to replace the Steward system.
- 27.1.4 The City will provide up to one (1) hour of paid release time for up to five (5) Union representatives for the purpose of preparing for Department Labor Management Committee meetings, and time for attending Department Labor Management Committee meetings when such meetings are scheduled, for any portion of the employee's assigned workday that coincides with this time, except during a normally assigned lunch period. 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.

27.2 City-Wide Labor Management Committee

- 27.2.1 Purpose. To provide regular communication between the Union and the City, to solve workplace issues, to provide training for and support to the departmental labor management committees, and to facilitate positive Union-management relations.
- 27.2.2 Structure. Management shall include up to two representatives from Employee Relations and one representative from Human Resources. Labor shall include two Officers and one Business Agent. Additional representatives may be requested to participate on specific issues. Issues for discussion and the meeting schedule will be mutually agreed upon. Decision-making will be by consensus.

- 27.2.3 Authority. The City-Wide Committee will coordinate and provide training and support to department labor management committees as requested, and shall address city-wide issues. The City-Wide Labor Management Committee is authorized to enter into tentative agreements pending usual authority and/or ratification processes. This process is not designed or intended to address individual grievances, review personnel issues, appeal disciplines, replace the steward system, or appeal decisions of department Labor Management Committees.
- 27.2.4 Release Time. The City will provide up to two (2) hours of paid release time for up to three (3) Union representatives for the purpose of preparing for the City-Wide Labor Management Committee meeting, and time for attending the City-Wide Labor Management Committee meeting when such meetings are scheduled, for any portion of the employee's assigned workday that coincides with this time, except during a normally assigned lunch period. To the extent possible, Union Representatives will schedule preparatory meetings during their normally assigned lunch period. 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.
- 27.3 The Library Safety and Security Committee ("Committee") shall be maintained by the Library Department to discuss employee and patron safety and security at the City's library branches. The Committee will be an employee working group responsible for reviewing current safety and security practices and procedures, evaluating reported data, and providing feedback on policy/procedure improvements. MEF shall have one representative on the Committee, which shall meet at least once quarterly.

ARTICLE 28 POSITION REALLOCATION REQUEST PROCESS

- 28.1 The parties agree that San Jose Municipal Code 3.04.540 provides that the Director of Human Resources has the authority to determine if a Reallocation Program should be in place at any given time and may establish procedures for allowing an individual employee to request reallocation of their position, if it is determined by the Director of Human Resources that providing a means for individual employees' job classifications to be reviewed and changed, if appropriate, is beneficial to the quality of the City of San Jose's employment systems.

The Director of Human Resources will review any reallocation requests on a case-by-case basis, provided that such request is (1) made directly by the Department Director or the Union, (2) is based on extenuating circumstances, and (3) is supported by the Department Director. Any such requests should be made prior to the submission of the Position Reallocation Request Form.


The Director of Human Resources will analyze relevant job information and approve or deny the Department Director and/or Union's request to review the reallocation. If the review request is approved, the Department may then submit the Position Reallocation Request Form to Human Resources for processing. Approval to review a position reallocation request does not guarantee approval of the request itself.

In the event the reallocation request has been approved for review and was subsequently denied by the Director of Human Resources, the Union may submit the matter to mediation with the California State Mediation and Conciliation Service (SMCS). The mediator shall be provided as determined by SMCS. This mediation process shall be the only resolution process and there shall be no appeal process such as an appeal to the Civil Service


Commission. The parties further agree that this Section 28.1 shall not be subject to the Grievance Procedure provided in this Agreement.

THIS AGREEMENT executed on the 15th day of August, 2023, between the City of San José and the Municipal Employees Federation, AFSCME, Local No. 101, AFL-CIO, IN WITNESS THEREOF, the appropriate representatives of the parties have affixed their signature thereto.

FOR THE CITY OF SAN JOSE:



Jennifer A. Maguire
City Manager
Date 1/11/2024



Jennifer Schembri
Director of Employee Relations
Director of Human Resources
Date 1/11/2024

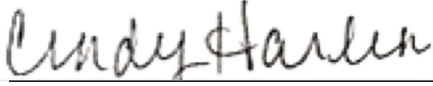


Elsa Cordova
Assistant to the City Manager
Office of Employee Relations
Date 1/11/2024



Bill Gold
Senior Executive Analyst
Office of Employee Relations
Date 1/11/2024

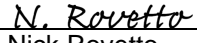
FOR THE MUNICIPAL EMPLOYEES' FEDERATION, AFSCME LOCAL NO. 101:



Cindy Harlin
President, MEF, AFSCME, Local 101
Date 1/3/24




John Tucker
Business Agent, AFSCME, Local 101
Date 1/9/2023



Nick Rovetto
Team Member, MEF, AFSCME, Local 101
Date 1/3/24




Benjamin Martinez
Team Member, MEF, AFSCME, Local 101
Date 1/3/2024



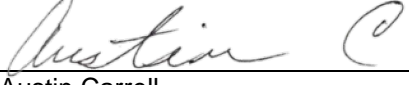
Rachel Atkins
Team Member, MEF, AFSCME, Local 101
Date 1/17/24




Dan Gibson
Team Member, MEF, AFSCME, Local 101
Date 1/3/24



Kevin Johnson
Team Member, MEF, AFSCME, Local 101
Date 1/3/24



Austin Carrell
Team Member, MEF, AFSCME, Local 101
Date 1/3/24



Juliette Licon
Team Member, MEF, AFSCME, Local 101
Date 1/3/24



David Parker
Team Member, MEF, AFSCME, Local 101
Date 1/3/24

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.