

City → Union  
11.6.19

**CITY COUNTER-PROPOSAL TO POPRA – GRIEVANCE PROCEDURE**

City Proposed Language:

**ARTICLE XX GRIEVANCE PROCEDURE**

XX.1 Any dispute between the City and an Employee, or, where provided, the appropriate representative of the Union, regarding the interpretation or application of the written Memorandum of Agreement, or the interpretation or application of the Employer-Employee Resolution No. 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 representative may file a grievance on behalf of such employee(s).

XX.2 Grievances involving Resolution No. 39367, as amended, shall be filed in writing with the Municipal Employee Relations Officer and shall be processed in accordance with applicable provisions of the Resolution.

XX.3 Alternative to the Grievance Procedure.

As an alternative to the formal grievance procedure, the City and the Union may by mutual agreement meet and attempt to informally resolve problems which arise involving contract interpretations and other matters affecting the relationship between the City and the Union. Agreement to use the alternative to the grievance procedure must comply with timelines set forth in this article. A grievance must be presented within the timelines set forth in Articles XX.4.2 and XX.5.1. However, once the parties mutually agree to informally resolve problems, the formal grievance procedure timelines are tolled pending the informal resolution process. If, in an attempt to informally resolve issues, the parties discuss matters that are not otherwise subject to the grievance procedure, such matters shall not be eligible to be grieved under the grievance provisions of this MOA.

XX.4 Step I.

XX.4.1 An employee may present the grievance orally or in writing either directly or through the Union representative to the immediate supervisor.

XX.4.2 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 necessary to obtain the facts pertaining to the grievance. Within five (5) working days after receiving the oral grievance, the immediate supervisor shall give the employee an oral or written reply.

XX.4.3 If the employee is not satisfied with the reply of the immediate supervisor, the employee may appeal the grievance to XX.5 - Step II.

XX.5 Step II.

XX.5.1 If the employee desires to appeal the grievance to XX.5 - Step II, the grievance shall be reduced to writing, ~~on forms provided,~~ and presented to the Department

## 2019 CITY OF SAN JOSE – POPRA NEGOTIATIONS

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Director or designee, within five (5) working days following receipt of the immediate supervisor's oral reply.

XX.5.2 The written grievance shall contain a complete statement of the grievance, the alleged facts upon which the grievance is based, the reasons for the appeal, the section or sections of the Memorandum of Agreement relied upon or claimed to have been violated, and the remedy requested. The grievance shall be signed and dated by the employee. If an employee is unavailable to sign the grievance, the Business Representative may sign on behalf of the employee. In that event, the grievance must include the name of the employee on whose behalf the grievance is being filed.

XX.5.3 The Department Director, or designee, may arrange a meeting between the Department Director or designee, 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 XX.5 - Step II.

XX.5.4 If the employee is not satisfied with the decision, the employee may appeal the grievance to XX.6 - Step III.

### XX.6 Step III.

XX.6.1 If the employee desires to appeal the grievance to XX.6 - Step III, the employee shall ~~complete the appropriate appeal section of the grievance form, sign the appeal, and present the~~ submit the written grievance to the Municipal Employee Relations Officer or designee, within five (5) working days following receipt of the written decision at XX.5 - Step II. If an employee is unavailable to sign the grievance, the Business Representative may sign on behalf of the employee. In that event, the grievance must include the name of the employee on whose behalf the grievance is being filed.

XX.6.2 Within ten (10) working days after receipt of the appeal to XX.6 - Step III, the Municipal Employee Relations Officer or designee, shall schedule a meeting with the employee, the appropriate Union representative, the Department Director or designee, to discuss the matter. A written decision shall be given to the employee or the appropriate Union representative within five (5) working days following the meeting.

XX.6.3 If the employee is not satisfied with the decision of the Municipal Employee Relations Officer or designee, the appropriate Union representative may appeal the grievance to XX.7 - Step IV - Arbitration.

### 12.7 Step IV.

12.7.1 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 14

## 2019 CITY OF SAN JOSE – POPRA NEGOTIATIONS

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calendar days following receipt by the employee of the written answer at 12.6 - Step III.

- 12.7.2 Within 14 calendar days following receipt of the notice of appeal to 12.7, Step IV, a meeting shall be arranged by the Municipal Employee Relations Officer with the appropriate Union representative to prepare a joint statement of the issue, or issues, *to be presented to the arbitrator. If the parties are unable to agree upon the issue, or issues each party will prepare its statement of the issue or issues, and 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.
- 12.7.3 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 (7) 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.
- 12.7.4 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 name remains, and that person shall be the arbitrator.
- 12.7.5 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.
- 12.7.6 The decision shall be sent to the Municipal Employee Relations Officer or designee, and to the appropriate representative of the Union.
- 12.7.7 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.
- 12.7.8 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.
- 12.7.9 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.

### XX.8 Designated Job Representative.

## 2019 CITY OF SAN JOSE – POPRA NEGOTIATIONS

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XX.8.1 The City shall recognize no more than 17 Job Representatives who are properly designated by the Union for such work places or areas or groups of employees as shall be approved in writing by the Municipal Employee Relations Officer or designee.

XX.8.2 Such designated Job Representatives shall be responsible for maintaining the bulletin board areas which are assigned for the exclusive use of the Union and they shall have during working hours, in urgent matters, the right to make reasonable telephone calls to the Business Representative of the Union for the purpose of reporting breaches of the Memorandum of Agreement or working conditions, except that they shall not have the right to stop any work nor to tell any employee that they cannot work on a particular assignment nor shall they conduct any Union business during working hours except as otherwise provided by provisions of this Agreement or as may be mutually agreed to by the parties.

XX.8.3 ~~No more than four (4) of the Job Representatives referenced in Section XX.8.1 may be designated as Chief Stewards. Chief Stewards shall be selected from the following three (3) departments and shall not exceed one (1) designation per department: Department of Transportation, General Services and Environmental Services. One (1) at-large Chief Steward may also be designated by the Union for Parks, Recreation and Neighborhood Services issues this bargaining unit and.~~

~~XX.8.3.1 Either one (1) designated Chief Steward or one (1) regular steward or except where otherwise noted below, up to two (2) designated representatives, shall be authorized release time from regular City duties to attend the following functions:~~

- 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 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 the City Manager, or designee, when attendance is requested.

OE#3 shall notify the Office of Employee Relations with the name of the attending Chief Steward or regular steward at least seven (7) calendar days prior to the function, or as early as practical.

XX.8.4 Release Time for Chief Steward and Job Representative Training. The Chief Steward and Job Representatives shall be granted a maximum of eight (8) hours paid release time during each calendar year to participate in training sessions related to the provisions of this agreement. The training shall be jointly

## 2019 CITY OF SAN JOSE – POPRA NEGOTIATIONS

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conducted by the Union and City representatives according to an outline of such training activities to be submitted by the Union to the Office of Employee Relations for approval a minimum of 21 calendar days prior to the training session.

XX.8.5 The City agrees to provide up to two (2) hours of paid release time every month for up to two (2) ~~four (4)~~ Stewards/~~Chief Stewards~~ designated by the Union for the purpose of attending the Union's Stewards meeting only, if such a meeting is scheduled. A list of the designated employees shall be provided to the Office of Employee Relations at least five (5) working days in advance of the scheduled meeting.

XX.8.6 Notification. The Union agrees to notify the Office of Employee Relations in writing of any changes of Chief Stewards or Job Representatives within 30 days of such change.

XX.8.7 Release Time Restrictions. Release time shall not be provided for lobbying or political purposes. Release time is provided only to the extent that any employee is required or authorized to attend meetings, trainings or other authorized events during said employee's normal work schedule/hours. Employees are not entitled to receive overtime or regular compensation for attendance of meetings, trainings or other authorized events occurring outside of their normal work schedule/hours.

XX.8.8 City Paid Union Release Time (URT). The designated bargaining unit representative(s) shall use the City Paid Union Release Time (URT) payroll code for any paid time off eligible for release time from regular City duties to attend authorized meetings. Upon request by the City, the bargaining unit representative(s) shall provide the City with a general explanation of the business conducted when the URT code is used.

### XX.9 General Provisions.

XX.9.1 Although grievances may be processed during normally scheduled working hours, the Union agrees that the time spent by its designated representative 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 that it will not process grievances during periods of overtime.

XX.9.2 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 or appropriate Union representative may appeal the grievance to the next higher step within the time limits provided.

XX.9.3 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 provision of this Article, including arbitration, has been utilized.

## 2019 CITY OF SAN JOSE – POPRA NEGOTIATIONS

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XX.9.4 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.

XX.9.5 If an employee desires to file a grievance involving separation from City employment pursuant to the application of Article XX 13 entitled Leaves of Absence, the employee shall file the grievance in writing at XX.4 - Step II within ten (10) calendar days following the date of separation.

XX.9.6 Any of the time limits specified in XX.4 - Step I through XX.6 - Step III may be extended by written mutual agreement of the parties.