

## 2022 POA NEGOTIATIONS PACKAGE PROPOSAL A

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### TERM

- July 1, 2022 – June 30, 2024

### WAGES

- Fiscal Year 2022-2023

3% general wage increase effective the first full pay period following Council approval in open session. Effective the first full pay period following Council approval in open session, all salary ranges for employees holding positions in classifications assigned to the POA shall be increased by approximately 3%.

- Fiscal Year 2023-2024

3% general wage increase effective the first full pay period of Fiscal Year 2023-2024. Effective the first full pay period of Fiscal Year 2023-2024, all salary ranges for employees holding positions in classifications assigned to the POA shall be increased by approximately 3%.

### HOURS OF WORK AND OVERTIME

- Eligibility for Overtime (See Attached)
- Overtime Eligibility for Captains (See Attached)
- Compensatory Time (See Attached Counterproposal)
- Voluntary Overtime (See Attached)
- Standby Duty (Proposal to follow at a later date)

### MODIFICATION OF BARGAINING UNIT WORK

- Modification of Bargaining Unit Work (As proposed on May 31, 2022 – See Attached)

### BEREAVEMENT LEAVE

- Bereavement Leave (As proposed on May 11, 2022 and agreed to by the POA on June 18, 2022)

### POLICE REFORM

- Police Reform Re-Opener (See Attached)

### INVESTIGATIONS OF POLICE OFFICER MISCONDUCT

- Investigations of Police Officer Misconduct (Proposal to follow at a later date)

### PAID PARENTAL LEAVE PILOT PROGRAM

- Paid Parental Leave Pilot Program (As proposed on May 11, 2022 and agreed to by the POA on June 18, 2022)

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### DISCIPLINE

- Disciplinary Actions – Salary Step Reductions (As proposed on May 31, 2022 - See Attached)

### DRUG AND ALCOHOL TESTING

- Drug and Alcohol Testing (As proposed on May 11, 2022 - See Attached)

### DISABILITY LEAVE AND SECONDARY EMPLOYMENT

- Disability Leave and Secondary Employment (See Attached)

### PHYSICAL EXAMINATIONS

- Physical Examinations (As proposed on May 31, 2022 – See Attached)

### LATERAL HIRING INCENTIVE PROGRAM

- Lateral Hiring Incentive Program (Proposal to follow at a later date)

### SIDE LETTERS

- Body Worn Camera Policy (See Attached)

### HOUSEKEEPING

- Housekeeping – Part 1 (As proposed on May 11, 2022 and agreed to by the POA on June 18, 2022)
- Housekeeping – Part 2 (See Attached)
- Retirement (See Attached)
- Health Insurance (See Attached)
- Dental Insurance and In Lieu (See Attached)
- Other Health Benefits (See Attached)

### CONTINUATION OF EXISTING SIDE LETTER AGREEMENTS

The Side Letter Agreements listed below will remain in effect through June 30, 2024:

- Biometric Timeclocks
- Letter of Intent – Calls for Service
- Early Intervention System

### OTHER TERMS

The terms contained in the Promotional Memorandum of Agreement shall remain status quo with a term of July 1, 2022 to June 30, 2024.

*\*This package proposal is submitted in an attempt to reach a settlement. In the event the package proposal is not accepted in its entirety, the City reserves the right to modify, amend and/or add proposals.*

**CITY PROPOSAL – ELIGIBILITY FOR OVERTIME**

**ARTICLE 13            HOURS OF WORK AND OVERTIME**

13.6 An employee authorized or required to work overtime who works in excess of eight (8) hours per day, or ten (10) hours per day if assigned to a work schedule of four/ten-hour work days, or in excess of forty (40) hours per workweek, shall be compensated at the rate of time and one-half the employee's base 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 his/her workweek requirement. All time worked shall be reported in fifteen (15) minute increments. The POA's agreement to Article 13.6 does not waive any rights it may have for claims related to reporting time worked in fifteen (15) minute increments under California law. Paid time off shall not be considered time worked for purpose of calculating eligibility for overtime.

**CITY PROPOSAL – ELIGIBILITY FOR OVERTIME FOR CAPTAINS**

**ARTICLE 13 HOURS OF WORK AND OVERTIME**

13.6.9 Effective as soon as practicable, employees in the Police Captain (2218) classification shall be excluded from receiving paid overtime or accruing compensatory time off for hours worked in excess of eight (8) hours per day or forty (40) hours per week.

In lieu of receiving paid overtime and compensatory time off, Captains shall be entitled to forty (40) hours of Executive Leave per calendar year. Executive Leave is not an accrued benefit, and may not be carried over to future calendar years. (Note: the calendar year begins the first day of pay period 1 and ends the last day of pay period 26.)

13.6.10.1 The Chief of Police may recommend to the City Manager or his/her designee additional hours of Executive Leave for Captains per the provisions of the Management Performance Program (City Policy Manual, Section 3.3.2).

CITY COUNTERPROPOSAL – COMPENSATORY TIME

ARTICLE 13

13.6.2 The outstanding amount of accrued compensatory time owed to an employee shall not exceed 240 hours by the end of each quarter in a calendar year. An employee may exceed the 240 limit during the quarter year but shall be responsible for bringing the balance back to the 240 hour maximum level by taking the time off prior to the end of the ~~calendar year~~quarter. This time off must be pre-approved by the supervisor.

13.6.2.1 Once an employee's compensatory time balance reaches 200 hours, all requested time off, other than for sick leave purposes, must be coded as compensatory time off, until the compensatory time balance is below 150 hours, at which point an employee may elect to use any available vacation leave or compensatory time.

13.6.3 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 such scheduled time off. In such event, the employee will remain credited with the compensatory time canceled.

13.6.4 Except as provided in Section 13.6.5 below, overtime worked by the employee for compensatory time shall remain compensatory time to be taken, subject to provision 13.6.2 and 13.6.3 above, so long as the employee continues his/her employment in a classification represented by the Organization. Any employee whose employment is terminated by reason of resignation, discharge, or retirement, and who, at the time thereof has accrued unused compensatory time, shall be paid for such time at the appropriate rate. In the event of the death of an employee who has accrued unused compensatory time, the appropriate payment shall be made to the executor of the will, the administrator of the estate or other representative, as authorized by law.

13.6.5 Notwithstanding the provisions of section 13.6.4 above, the City shall have authority to require employees to immediately take time off to reduce the outstanding amount of accrued compensatory time off above the 240 hour maximum level, with the following exceptions:

13.6.5.1 If an employee is unable to reduce his/her comp-time balance to 240 hours by the end of ~~the last pay period of the calendar year~~quarter, by December 1 of that year, an employee shall submit a written plan to his/her immediate supervisor outlining how the excess hours will be reduced. The plan shall be submitted by March 1, June 1, September 1, December 1, respectively. If the employee submits a plan by that date, the employee shall receive ~~a ninety (90)~~a thirty (30) day carryover ~~(to March 31 of the next calendar year)~~ of any accrued compensatory time hours above the 240 hour maximum level. The plan shall include the reason(s) for the carryover need and plan of action to bring the compensatory time balance back into compliance ~~the end of the 30 day carry over by March 31.~~ While on the plan, the employee will be ineligible for any voluntary

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overtime assignments, unless the overtime is authorized for pay; authorization for paid overtime shall be consistent with Department policy.

13.6.5.2 If an employee's compensatory time balance is above the 240 maximum level at the end of the ~~last pay period of the calendar year~~quarter and the employee complied with the provision of subsection 13.6.5.1 above but earned additional compensatory time hours above those previously identified for a ~~ninety (90)thirty (30)~~ day carryover or the employee did not submit a carryover plan because his/her compensatory time balance was at or below the 240 maximum level at the time the carryover plan was due for submittal; the employee shall submit either an amended or new plan to his/her immediate supervisor by the end of the first pay period of the new ~~calendar year~~quarter outlining how the excess hours will be reduced. If the employee submits the amended or new plan within the specified timeline, the employee shall receive a ~~ninety (90)thirty (30)~~ day carryover ~~(to March 31 of the new calendar year)~~ of any accrued compensatory time hours above the 240 hour maximum level. The plan shall include the reason(s) for the carryover need and plan of action to bring the compensatory time balance back into compliance within the ~~ninety (90)thirty (30)~~ day time frame. While on the plan, the employee will be ineligible for any voluntary overtime assignments, unless the overtime is authorized for pay.

13.6.5.3 If emergency circumstances necessitate that an additional ~~sixty (60)thirty (30)~~ days (beyond the limits set forth in provision 13.6.5.1) is needed for an employee to bring his/her compensatory time balance into compliance with provision 13.6.2, the employee shall submit a written request to the Chief of Police, again outlining the reason(s) for the carryover need and plan of action to bring the compensatory time balance back into compliance. The approval of this request shall be at the discretion of the Chief of Police.

13.6.5.4 If at any time an employee's compensatory time balance reaches 300 hours, the City shall have authority to require employees to take immediate time off to reduce the amount of accrued unused compensatory time. The employee will be ineligible for any overtime assignments, unless the overtime is authorized for pay. Authorization for paid overtime shall be consistent with Department policy.  
~~No employee shall be required to reduce his/her individual number of accrued hours of compensatory time below 240 hours without the approval of the individual employee.~~

13.6.6 Supervisory approval or disapproval of compensatory time off shall be based on scheduling and staffing needs and not on an individual's reason for seeking to use the compensatory time.

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13.6.7 The City reserves the right to buy down any employee's outstanding balance of compensatory time, subject to the provision of subsection 13.6.5.3. Such buy down shall be uniform ~~by percentage~~, as to all employees within a bureau.

13.6.8 In the event the outstanding amount of accrued compensatory time owed to an employee exceeds 480 hours, the employee will automatically receive payment for any hours in excess of 480 hours.

CITY PROPOSAL – VOLUNTARY OVERTIME

ARTICLE 13 HOURS OF WORK AND OVERTIME

13.6.9 Employees who request to use sick leave will be ineligible to work any voluntary overtime assignments for a period of 24 hours beginning from the start of the shift they called in sick~~the day the sick leave is requested and the immediate day after (24 hours from the start of the shift)~~. In the event that time is worked during the 24-hour period, during this period~~the~~ employee will receive pay at the 1.0 rate for any hours actually worked.

Voluntary overtime shall be defined as any pre-planned, scheduled assignment apart from an employee's regular work assignment (i.e. a previously scheduled overtime Patrol shift).



**CITY PROPOSAL – HOUSEKEEPING - MODIFICATION OF BARGAINING UNIT WORK**

**ARTICLE 51            MODIFICATION OF BARGAINING UNIT WORK**

~~51.1 The City has the discretion to contract out and/or civilianize the following positions during the term of this Agreement:~~

#	Position	Number
1	Bureau of Field Operations Administrative Positions (BFO)	2
2	Public Information Officers (PIOs)	1
3	Crime Evidence/Warehouse Officer	2
4	Reserve Unit Officer	1
<b>Total</b>		<b>6</b>

The City and the POA further agree that during the term of this Agreement the City has the discretion to contract out/civilianize an additional five (5) positions except positions in patrol, investigations or Internal Affairs. Any discussion regarding the civilianization of positions in patrol, investigations or Internal Affairs will occur separately as part of the Police Reform discussions.

~~51.251.1~~ Any contracting out and/or further civilianization of positions represented by the POA during the term of this Agreement would be subject to the meet and confer process. The City will provide advance notice to the POA and the opportunity to demand to meet and confer regarding contracting out and/or further civilianization of work currently performed by bargaining unit members.

**CITY PROPOSAL – BEREAVEMENT LEAVE**

**ARTICLE 33 BEREAVEMENT LEAVE**

33.1 Each full-time employee shall be granted bereavement leave with full pay for a period of forty (40) work hours to attend 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. All leave must be used within ~~fourteen~~ ~~thirty~~ ~~(1430)~~ calendar days following the death of the eligible person. Under extreme circumstances, the ~~fourteen-thirty~~ ~~(1430)~~-day requirement may be waived by the Director of Employee Relations. The decision of the Director of Employee Relations regarding the waiver shall be final, with no process for further appeal:

- a) Parent/Step Parents
- b) Spouse
- c) Child/Step-Child
- d) Brother/Sister/Step-Brother/Step-Sister/Half-Brother/Half-Sister
- e) Grandparents/Step-Grandparents
- f) Great Grandparents/ Step- Great Grandparents
- g) Grandchildren
- h) Domestic Partner
- i) Sister in-law/Brother in-law/Daughter in-law/Son in-law

33.1.1 A domestic partner, as referenced in Section 33.1, must be the domestic partner registered with the Department of Human Resources.

33.2 No eligible employee shall be granted 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.



## **SIDE LETTER AGREEMENT**

BETWEEN  
THE CITY OF SAN JOSE  
AND  
THE SAN JOSE POLICE OFFICERS' ASSOCIATION (SJPOA)

### **City-Paid Parental Leave Pilot Program**

Effective as soon as practicable, the City of San Jose ("City") and the San Jose Police Officers' Association (SJPOA) agree to conduct a City-Paid Parental Leave Pilot Project ("Pilot Program").

The terms and conditions of the Pilot Program shall be as follows:

- Effective for births, adoptions or foster care placements that occur after the implementation of the Pilot Program, full-time employees shall be eligible for City-Paid Parental Leave for a maximum of one (1) week consisting of up to forty (40) hours of continuous paid time off for the following City-Paid Parental Leave reasons:
  - a) The birth of a child of the employee or the employee's registered domestic partner.
  - b) The placement, through adoption or foster care, of a minor child with the employee or the employee's registered domestic partner

In addition to the forty (40) hours of continuous paid time off, full-time employees shall also be eligible use up to 120 hours of their available sick leave for City-Paid Parental Leave reasons

- "Child" means a biological, adopted, or foster child who is under 18 years of age.
- An individual may be eligible for City-Paid Parental Leave on any day in which he or she is unable to perform his or her regular or customary work because of one or more City-Paid Parental Leave reasons.
- To be eligible for the City-Paid Parental Leave an employee must have passed probation and completed at least 2,080 hours of service from the most recent date of hire.
- Employees must complete a Leave of Absence Application 30 days prior to the commencement of leave where possible and submit required documentation upon request by the City. Requests for City-Paid Parental leave are subject to approval by the employee's Department Director/designee.
- City-Paid Parental Leave shall be provided once per payroll calendar year. City-Paid Parental Leave is not an accrued benefit and not subject to pay out upon termination of employment. Thus, employees are not paid out their City-Paid parental Leave when they leave the City and City-Paid Parental Leave may not be carried over beyond the end of the last day of pay period 26 for each payroll calendar year. City-Paid Parental Leave is a "use it or lose it" benefit based on the payroll calendar year. The payroll calendar year begins the first day of pay period one and ends the last day of pay period 26.
- All leave provided under this Pilot Program runs concurrently with qualifying leave under the federal Family and Medical Leave Act and California Family Rights Act.



CITY PROPOSAL – DISCIPLINARY ACTIONS

ARTICLE 25 GRIEVANCE PROCEDURE

25.8 Disciplinary Grievances

25.8.1 Employees in the bargaining unit shall only be disciplined for cause. Discipline is defined to include those matters that are cognizable before the Civil Service Commission plus disciplinary transfers.

25.8.1.1 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.

25.8.2 Persons on probationary status (entry-level or promotional) may not appeal under this agreement rejection on probation.

25.8.3 Letters of reprimand may be appealed under this section only to the ~~City Manager level~~Chief of Police or designee.

25.8.4 Documented Oral Counselings (DOCs) retained by the Internal Affairs Division may be appealed under this section only to the level of Assistant Chief of Police. However, should a particular DOC be the result of the Assistant Chief's having reduced a higher form of discipline to a DOC with which the affected officer is still dissatisfied, such DOC may be appealed to the level of the Chief of Police. DOCs received for preventable, automobile accidents shall not be appealable unless the officer contends that the accident was not preventable.

25.8.5 Nothing herein constitutes a waiver of rights of employees otherwise granted by law (e.g., Government Code Sections 3300 et. seq.).

25.8.6 An employee challenging a suspension, demotion, dismissal, salary step reduction or disciplinary transfer shall have the option of choosing between the dispute-resolution provisions of this Agreement, or appeal to the Civil Service Commission. Any employee who wishes to preserve the right of appeal to the

Commission must comply with the time requirements for filing such appeal as specified in the Civil Service Rules. Within twenty (20) days of the date of a Notice of Discipline, the employee may file an appeal with the Civil Service Commission or pursue the grievance procedure or both. The grievance procedure shall begin at Step IV Arbitration for this process. Immediate arbitration shall not apply.

25.8.6.1 Employees who elect to use the dispute-resolution provisions of this Agreement, as opposed to electing their right to appeal their discipline to the Civil Service Commission, recognize and agree that any resulting arbitrator's award will be published. The published version of the arbitrator's award will redact the name and any other identifying features of the officer to preserve confidentiality. The opportunity to appeal to the Civil Service Commission shall fulfill the City's obligations to provide an administrative appeal pursuant to Government Code section 3304.

| 25.8.7 The employee shall confirm [his/her/their](#) election of remedies in writing to the Director of Employee Relations. If the employee files an appeal to the Civil Service Commission and also an appeal through the grievance procedure of this Agreement within the required timelines, the election of remedies must be made no later than 45 days from the date of the Notice of Discipline. The election of remedies must also be made prior to the submission of a request for a list of arbitrators and prior to scheduling a Civil Service Commission appeal hearing. As otherwise provided in this Agreement, for the matter to go to binding arbitration, the POA must agree (i.e., must be the party taking the matter to arbitration).

SIDE LETTER AGREEMENT  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
THE SAN JOSE POLICE OFFICERS' ASSOCIATION

**Drug and Alcohol Testing**

The City and the POA agree that Article 53 of the POA Memorandum of Agreement with the City of San Jose will be amended to remove and replace existing language with the provisions outlined below:

**ARTICLE 53                    DRUG AND ALCOHOL TESTING**

53.1 All bargaining unit members are subject to the [City's Substance Abuse Program and Policy \(City Policy Manual Section 1.4.2\)](#), which allows for reasonable suspicion testing for drugs and alcohol.

53.2 Random Drug and Alcohol Testing:

25% of the total bargaining unit members on a random basis each year will be tested for controlled substances and/or alcohol. The tests shall be unannounced, with all members selected from a random pool and will be administered by the City or a third-party administrator. The City shall determine the date, time, and location of each test and will be responsible for the cost of testing.

Refusal to comply with either form of testing, as provided in this section and 53.1 above, shall be considered a positive test result and this refusal, in and of itself, is subject to disciplinary action, up to and including dismissal from City service. Any other positive test result will also be subject to disciplinary action, up to and including dismissal from City service.

53.3 Post Work-Related Accident Testing:

The driver is responsible for providing a urine and breath sample for testing as soon as possible after a work-related vehicle accident (whether or not the driver was at fault). Alcohol and drug testing is to be completed as soon as possible, but not later than eight (8) hours following the accident for an alcohol test and thirty-two (32) hours following the accident for a drug test, unless testing cannot be completed due to a medical emergency. Tests for alcohol shall be administered on-duty by the Chief or their designee using a Department-issued Preliminary Alcohol Screening (PAS) device.

Except in medical emergencies, failure of the driver to remain readily available for drug and/or alcohol testing will be considered a refusal to submit to testing and subject to discipline.

53.5 Return to Duty and Follow-up Testing:

At the conclusion of treatment and/or any disciplinary action a return to duty test must be conducted immediately prior to the return to work of an individual who has violated the





CITY PROPOSAL – DISABILITY LEAVE AND SECONDARY EMPLOYMENT

ARTICLE 32 DISABILITY LEAVE AND SECONDARY EMPLOYMENT

32.1 ~~Subject to the terms, conditions, limitations and other provisions contained in this Article, a full-time employee of the City who is required to be absent from active service for the City as the result of injury arising out of and in the course of his/her full-time employment with the City, shall be deemed to be on Disability Leave of Absence from active City service from the time he/she is required because of such injury to be absent from such active City service, to the time it is no longer required by such injury to be absent from such active service or until his/her employment with the City ends or is terminated, whichever is the earlier time, and in such situation, such full-time City employee shall be entitled to receive, and shall be paid, in lieu of his/her regular salary, and in addition to such temporary disability compensation as he/she may be entitled to under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California, such temporary disability leave compensation, if any, as he/she may be entitled to under the following provisions of this Article for the periods of time hereinafter specified in this Article.~~

“Disability leave of absence” is provided for a full-time employee of the City who is required to be absent from active service for the City as the result of injury arising out of and in the course of an employee’s full-time employment with the City. Disability leave of absence from active City service extends from the time the employee is absent from City service due to an injury arising out of and in the course of full-time employment for the City to the time it is no longer required by such injury to be absent from such active service or until the employment with the City ends or is terminated, whichever is first. While on disability leave of absence, such employee shall be entitled to receive and be paid, in lieu of regular salary, and in addition to any temporary disability compensation to which the employee may be paid under the workers’ compensation provisions of the California Labor Code, such temporary disability leave of absence compensation, if any, to which the employee may be entitled, under the following provisions of this Article.

32.2 ~~Anything elsewhere to the contrary notwithstanding, no full-time employee of the City who is required to be absent from active service for the City as a result of any injury shall be deemed to be on disability leave of absence, or be entitled to any compensation or other benefits under the provisions of this Article unless such employee, as a result and because of such injury and absence from active City service, is entitled to temporary disability compensation from the City under and by virtue of the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California. If the Workers' Compensation Appeals Board of the State of California, or any judicial court having jurisdiction over the~~

~~matter, should determine that such employee is not entitled to temporary disability compensation from the City under said provisions of said Labor Code, said employee shall not be entitled to any benefits under the provisions of this Article, and any monies theretofore paid to him/her under the provisions of this Article shall be deemed to have been paid in error, and the City shall be entitled to recover the same.~~

~~Notwithstanding anything to the contrary, disability leave of absence and compensation or benefits as a result of disability leave of absence will only entitle a full-time employee of the City who is required to be absent from active service for the City as a result of injury to compensation or other benefits if the employee is entitled to temporary disability benefits as a result of the injury and absence from service. If any money has been paid to said employee as benefits under the provisions of this Article and it is determined that the employee is not entitled to temporary disability, the City shall be entitled to reimbursement of the benefits/monies paid in error.~~

- 32.3 ~~An employee of the City shall not be deemed to be on disability leave of absence and he/she shall not be entitled to any compensation or other benefits under the provisions of this Article if the injury as a result of which he/she is required to be absent from active City service results from (i) an act of gross negligence of such employee, or (ii) any work voluntarily undertaken by such employee which he/she had been prohibited from engaging in prior to the date of such injury by an examining physician of the City.~~

~~An employee shall not be deemed to be on disability leave of absence and shall not be entitled to any compensation or other benefits under the provisions of this Article in situations including but not limited to injuries caused by intoxication or unlawful use of drugs, injuries that were intentionally self-inflicted, injuries that arose from an altercation where the employee was the initial aggressor, injuries that occurred during a felony that the employee committed and was convicted for, or injuries that arose out of voluntary participation in an off-duty activity not part of the employee's work-related duties.~~

~~An employee shall not be deemed to be on disability leave of absence and shall not be entitled to any compensation or other benefits under the provisions of this Article if the injury results from any work voluntarily undertaken by the employee that is contrary to the work restrictions imposed by an examining physician.~~

- 32.4 ~~An employee of the City shall not be deemed to be on disability leave of absence and shall not be entitled to any compensation or other benefits under the provisions of this Article for any period of absence from active City service if he/she is offered alternative employment during such period of absence in a class of employment identical or substantially similar to that in which the employee worked immediately prior to the time he/she~~

~~was required to be absent, and if, in addition, such employee was physically qualified for such alternative employment and refused or failed to accept such employment.~~

- 32.5 ~~In no event shall any compensation or other benefits be payable under the provisions of this Article to any employee, because of absence resulting from an injury, for any period of time greater than the shortest of any of the following periods of time, to wit: (i) the time during which the employee is required to be absent from active City service as a result of injury arising out of and in the course of his/her full-time employment with the City, (ii) the period of time for which temporary disability compensation is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California, (iii) one year. Also, no employee shall be entitled to any benefits or compensation under the provisions of this Article because of absence resulting from an injury for any time after the expiration of five years immediately following the date of such injury.~~

Compensation or other benefits shall not be payable under the provisions of this Article to any employee during a disability leave of absence for any period greater than the following: i) the time the employee is required to be absent from active City service as a result of injury arising out of and in the course of employment with the City ii) the period of time for which temporary disability is payable under workers' compensation provisions of the California Labor Code or iii) one year, whichever is shortest. No employee is entitled to benefits or compensation under the provisions of this Article beyond five years of the date of injury.

- 32.6 ~~Unless and except to the extent otherwise expressly provided in this Article, an employee who becomes entitled, because of disability, to any leave of absence, compensation or other benefits under the provisions of this Article, shall not be entitled to any salary, leave of absence or other compensation under the provisions of any other Section or Sections of this Article, or under the provisions of Chapter 3.12 of Title III of the San Jose Municipal Code, or under the provisions of any other ordinance or resolution, for or because of his/her injury or absence from active service, the leave, compensation and benefits provided by this Article for disability of such employee, being in lieu of, and not in addition to, salary leaves of absence, or other compensation or benefits to which the employee might otherwise become eligible under the provisions of any other Section of this Article, or under the provisions of Chapter 3.12 of Title III of the San Jose Municipal Code.~~

An employee entitled to benefits or compensation pursuant to a disability leave of absence shall not be entitled to any salary, leave of absence or

other compensation under the provisions of this Article, the San Jose Municipal Code, any other ordinance or resolution due to an injury or disability leave of absence. The disability leave of absence, compensation and benefits provided are in lieu of, not in addition to, other compensation or benefits to which the employee might otherwise become eligible, and the employee is not entitled to a duplication of benefits.

32.7 ~~Subject to the terms, conditions, limitations and other provisions contained in this Article, a full-time employee of the City on disability leave of absence shall be entitled to the following temporary disability leave compensation, to wit:~~

Subject to the terms, conditions, limitations and other provisions contained in this Article, a full-time employee of the City on disability leave of absence shall be entitled to temporary disability leave compensation as follows:

32.7.1 ~~For the first 365 days of his/her disability leave of absence, or for such portion of such 365 days as he/she may be absent on such leave where he/she is absent for less than the full term of such 365 days, he/she shall be entitled to an amount of money which when added to the temporary disability compensation paid or payable to him/her for such period of time under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California, will equal one hundred (100%) percent of what would have been his/her regular salary for such period if he/she were in active service rather than on disability leave of absence.~~

The employee shall be entitled to an amount of money, paid as a supplement, for up to 2080 hours, which when added to the temporary disability compensation paid for that period of time, will equal 100% of what would have been the employee's regular salary had the employee been in active service.

32.7.2 ~~For any period of disability leave of absence following the expiration of the above-mentioned periods of time, he/she shall not be entitled to any compensation, except as provided by Article 31 hereof.~~

An employee shall not be entitled to any compensation except as provided by Article 31 of these provisions following expiration of the above-mentioned periods.

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- 32.8 No employee shall be entitled to any compensation or other benefits under the provisions of this Article unless the Director of Human Resources shall have determined that such employee is entitled to such compensation or benefits.
- 32.9 The Director of Human Resources in order to properly make any determination respecting an employee's claim to benefits hereunder, may require the employee to present evidence proving that such employee is entitled to the benefits claimed, including, but not limited to, proof of the injury, proof that it arose out of and in the course of his/her employment with the City, proof of the disability and of its duration, and proof of any other relevant matters. Also, said Director may require the employee to submit himself to medical and physical examinations by physicians selected by said Director.
- 32.10 The Director of Human Resources shall not make any determination holding that an employee is entitled to any compensation or leave of absence hereunder for any period of time because of an injury if the Workers' Compensation Appeals Board, or any judicial court having jurisdiction over the matter, shall have already determined that such employee is not entitled because of such injury to any temporary disability compensation whatsoever from the City, or to any such compensation from the City for said period of time, under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California. Any such determination by said Director in violation of this paragraph shall be null and void and the City shall be entitled to reimbursement for any compensation paid by the City to the employee for the injury/absence.

~~32.11 Also, in the event the Director of Human Resources should determine that an employee is entitled to any compensation or leave of absence hereunder for any period of time because of an injury, and, subsequently, the Workers' Compensation Appeals Board, or any judicial court having jurisdiction over the matter, should determine that the employee is not entitled, because of such injury, to any temporary disability compensation whatsoever from the City, or to any such compensation from the City for such period of time, under the Workers' Compensation provisions of Division 1 or Division 4 of said Labor Code, then in that event, the determination of said Director shall become null and void and the City shall be entitled to reimbursement for all monies, if any, theretofore paid by the City to said employee for or because of said injury and absence.~~

If a decision of the Director of Human Resources regarding entitlement to temporary disability compensation or any compensation from the City for a disability leave of absence, conflicts with a determination made by the Workers' Compensation Appeals Board, or any judicial court having jurisdiction over the matter, the determination of the Director of Human

Resources will become null and void and the City shall be entitled to reimbursement for any compensation paid by the City to the employee for the injury/absence.

32.12 Notwithstanding any other provisions of this Article, the San Jose Municipal Code, ordinance or resolution to the contrary, and in accordance with San Jose Police Department Duty Manual Section C 1535, an employee of the City who is placed on disability leave or modified duty shall not be authorized for secondary employment. Employees may appeal the suspension of their secondary employment authorization to the Chief of Police or designee and request they be granted an exemption.

Criteria for denying an exemption request include, but are not limited to the following: (i) the employee is on total disability and is unable to perform modified duty for the Department that is within work restrictions imposed by an examining physician, (ii) if the secondary employment is medically detrimental to the total recovery of the disabled member, or (iii) the secondary employment requires substantially the same physical ability as would be required in the employee's classification.



**CITY PROPOSAL – PHYSICAL EXAMINATIONS**

**ARTICLE 8 INSURANCE BENEFITS**

**8.7 Physical Examinations**

~~The City will provide adequate funding for the City Medical Services Division to conduct recurring physical examinations every two years for employees age forty-five (45) and over and every three years for employees under the age of forty-five (45). Exams for affected employees will be current by the end of the term of this Agreement.~~

~~If in the event there are any changes in the funding, structure, or staffing of Employee Health Services, the City and the Union agree to meet and confer regarding medical examinations~~

Employees shall receive annual physical examinations from their own medical provider. Proof of the annual physical examination shall be provided to the Police Department Safety Unit void of any medical information.



## SIDE LETTER AGREEMENT

BETWEEN  
THE CITY OF SAN JOSE  
AND  
THE SAN JOSE POLICE OFFICERS' ASSOCIATION (SJPOA)

### BODY WORN CAMERA POLICY

The City of San Jose ("City") and the San Jose Police Officers' Association (SJPOA) hereby agree to the following changes to the Body Worn Camera Policy. The parties further agree that the proposed changes to SJPD Duty Manual Section L 4444.2 shall be implemented as soon as practicable once the unit is formed that will oversee performance auditing.

**L 4444 ADMINISTRATIVE REVIEW OF BODY WORN CAMERA AUDITING DEFINED**

**FILES:**

Revised **DATE**

There are two methods of auditing body worn camera footage: compliance and performance.

Compliance auditing determines whether the body worn cameras are being activated in accordance with policy, whether the videos are being uploaded in a timely manner, whether the files are associated with the correct event numbers, and whether the files are tagged with the correct event type.

Performance auditing involves an evaluation of what is shown on the body worn camera footage.

~~It is not the intent of the Department to review body worn camera files, without cause, for the purpose of general performance review of individual officers or to proactively discover policy violations.~~

~~Supervisors and Internal Affairs personnel may, however, access body worn camera files for administrative investigations limited to the specific complaint against the officer.~~

~~Supervisors should, on a reasonable basis, review body worn camera files to ensure that body worn camera equipment is functioning properly and officers are adhering to the requirements of this policy. Inadvertent discovery of evidence of policy violations during this review shall require the supervisor or Internal Affairs personnel to articulate the reason for expanding the scope of the original audit or investigation.~~

~~Supervisors who inadvertently discover policy violations will continue to have discretion to resolve the violation with training or informal counseling. Should the policy violation rise to the level of more formal discipline, the supervisor will adhere to policies set forth in the Duty Manual C 1700 (Allegations, Complaints and Non-Misconduct Concerns Internal Affairs Unit).~~

~~Exception: Field Training Officers, Sergeants and the FTO Commander may view body worn camera files to evaluate the performance of recruit officer in the Field Training Program.~~

**L 4444.1 COMPLIANCE AUDITING:**

Added **DATE**

It is not the intent of the Department to review body worn camera compliance to discover policy violations. Rather, the purpose is to provide training where appropriate and ensure the highest levels of evidence tracking and file association. Only egregious and/or repetitive violations should be handled in accordance with Duty Manual chapter C 1700 INTERNAL AFFAIRS UNIT - GENERAL PROVISIONS.

The body worn camera system will produce a weekly report of metrics on body worn camera usage for supervisor review. This report will include, at minimum, the following metrics:

- Activations / deactivations
- Upload dates and times
- Event number association
- Event type tagging

All supervisors shall review the reports on their subordinates and ensure the body worn cameras are being used in accordance with policy.

Any files with no or incorrect event numbers shall be corrected by the Department member who made the recording within seven (7) days. Any files with no or incorrect event type tagging shall be corrected by the Department member who made the recording within seven (7) days.

**L 4444.2 PERFORMANCE AUDITING:**

Added **DATE**

It is not the intent of the Department to review body worn camera performance to discover policy violations. Rather, the purpose is to provide training where appropriate, assess the wellness of Department members, and ensure a culture of accountability for building trust and transparency with the community.

Any incidents of bias-based policing, excessive force, or egregious actions that likely rise to the level of significant discipline (above a documented oral counseling) shall be handled in accordance with Duty Manual chapter C 1700 INTERNAL AFFAIRS UNIT - GENERAL PROVISIONS.

The [name of unit] is responsible for conducting regular performance auditing. This does not relieve supervisors of the responsibility of being aware of their subordinates' actions while representing the Department. Supervisors should, as time and circumstances permit, review body worn camera files of their subordinates to look for training opportunities and monitor their wellness.

The [name of unit] shall conduct random body worn camera audits under the following parameters:

- Every Department member required to use a body worn camera in accordance with Duty Manual section L 4433 OFFICER RESPONSIBILITIES, regardless of assignment, will have at least two videos viewed per year.
- The videos will be randomly selected by the body worn camera system.
- The minimum length, maximum length, and event type will be determined by the Chief of Police or their designee.
- After reviewing the body worn camera footage, the [name of unit] will evaluate the observed performance and “tag” the video based on a predetermined set of factors including, but not limited to:
  - o Good performance
  - o No concern identified
  
  - o Poor audio / video
  - o Early activation
  - o Late activation
  - o Early deactivation
  - o Incorrect category
  
  - o Concern identified – see notes
- In the event of an identified concern, the [name of unit] will document the concern in the Notes section within the body worn camera system
- After reviewing the body worn camera footage, the [name of unit] will notify the Department member’s immediate supervisor the footage was reviewed and the results of that audit

When notified of an audit having been conducted of a subordinate’s body worn camera footage, supervisors shall address any observations, concerns, or equipment issues with the subordinate. Supervisors shall document the action taken to resolve any observations, concerns, or equipment issues in the Notes section within the body worn camera system.

Supervisors and Internal Affairs personnel may access body worn camera files for administrative investigations limited to a specific complaint against a Department member.

Field Training Officers, Sergeants, and the FTO Commander may view body worn camera files to evaluate the performance of a recruit officer in the Field Training Program.



**CITY PROPOSAL – HOUSEKEEPING**

**ARTICLE 5 WAGES AND PREMIUM PAY**

5.1 Recruitment and Retention Pay

In acknowledgement of the ~~current~~ recruitment and retention issues of classifications assigned to the POA, ~~effective January 3, 2016~~, all salary ranges for employees holding positions in classifications assigned to the POA shall receive an approximate 4% ongoing retention premium pay. This payment is not pensionable.

5.2 Crisis Intervention Training Pay

~~2.75% Crisis Intervention Training premium pay effective Fiscal Year 2018-2019. Effective June 17, 2018, the Crisis Intervention Training premium pay shall be a total of approximately 2.75%.~~ Employees who sign-up or have completed the Crisis Intervention Training premium ~~by June 17, 2018~~ will be eligible to receive the Crisis Intervention Training premium pay of a total of approximately 3.75%.

~~1% increase to the Crisis Intervention Training premium pay effective Fiscal Year 2019-2020. Effective June 16, 2019, the Crisis Intervention Training premium pay shall be a total of approximately 3.75%.~~

**ARTICLE 7 EDUCATION INCENTIVE AND REIMBURSEMENT**

7.1 Education Incentive

7.1.1 The City agrees to pay each person who is awarded the Intermediate Certificate given by the Commission on Peace Officer Standards and Training of the State of California additional compensation equal to the difference between his/her salary and the salary that is specified in the City's biweekly Salary Schedule at his/her salary rate in the salary range that is approximately five (5%) percent higher than his/her salary range for each biweekly pay period for which he/she is entitled to receive a salary under the provisions of this Agreement from and after the first day of the biweekly pay period following the earliest of either:

- a) He/she files with the Finance Department that he/she has been awarded the Intermediate Certificate from the Commission on Peace Officer Standards and Training, or
- b) Sixty (60) days after the Police Department certifies and informs the Finance Department that the person has completed all of the requirements for the Intermediate Certificate and the application for the Intermediate certificate has been filed with the Commission on Peace Officer Standards and Training.

1. Proof of Intermediate Certificate must be submitted to the Finance Department as soon as it has been received.
2. If within (180) days of the Police Department certifying and informing the Finance Department that the person has completed all of the requirement for the Intermediate Certificate and the application has been filed with the Commission on Peace Officer Standards and Training proof is not filed with the Finance Department that said Intermediate certificate has been awarded or if it is determined by the Commission on Peace Officer Standards and Training that the person is ineligible for the Intermediate Certification, any compensation provided pursuant to this agreement shall be terminated and he/she will be required to repay to the City all compensation awarded pursuant to this agreement and any future compensation required by this agreement will start from and after the first day of the biweekly pay period following the filing of proof with the Finance Department that he/she has been awarded said Intermediate Certificate. Once a determination is made that a repayment is due to the City, the full amount shall be due and payable to the City. Should an employee not make immediate payment in full any amounts due and payable will be deducted pursuant to Section 11.3.

7.1.2 The City agrees to pay each person who is awarded the Advanced Certificate additional compensation equal to the difference between his/her salary and the salary that is specified in the City's biweekly Salary Schedule at his/her salary range that is approximately seven and one-half (7 1/2%) percent higher than his/her salary range for each biweekly pay period for which he/she is entitled to receive a salary under the provisions of this Agreement from and after the first day of the biweekly pay period following the earliest of either:

- a) He/she files with the Finance Department that he/she has been awarded the Advanced Certificate from the Commission on Peace Officer Standards and Training, or
- b) Sixty (60) days after the Police Department certifies and informs the Finance Department that the person has completed all of the requirements for the Advanced Certificate and the application for the Advanced certificate has been filed with the Commission on Peace Officer Standards and Training.

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1. Proof of Advanced Certificate must be submitted to the Finance Department as soon as it has been received.
2. If within 180 days of the Police Department certifying and informing the Finance Department that the person has completed all of the requirement for the Advanced Certificate and the application has been filed with the Commission on Peace Officer Standards and Training proof is not filed with the Finance Department that said Advanced certificate has been awarded or if it is determined by the Commission on Peace Officer Standards and Training that the person is ineligible for the Advanced Certification, any compensation provided pursuant to this agreement shall be terminated and he/she will be required to repay to the City all compensation awarded pursuant to this agreement and any future compensation required by this agreement will start from and after the first day of the biweekly pay period following the filing of proof with the Finance Department that he/she has been awarded said Advanced Certificate. Once a determination is made that a repayment is due to the City, the full amount shall be due and payable to the City. Should an employee not make immediate payment in full any amounts due and payable will be deducted pursuant to Section 11.3.

~~7.1.3 Each person who, as of July 1, 1969, had been continuously employed as a San Jose Police Officer for a period of ten (10) years or more, who was awarded the Basic Certificate given by the Commission on Peace Officer Standards and Training of the State of California on or before February 15, 1970, and who, on or before March 1, 1970, filed with the Director of Finance proof that he/she had been awarded said Basic Certificate on or before February 15, 1970, shall be entitled to the compensation provided in Section 7.1.1.~~

~~7.1.4 A person holding a position in the classification of Police Artist (2244) is entitled to benefits under this Article only if such person is a sworn Police Officer.~~

7.1.35 Notwithstanding anything to the contrary contained in this Article, no person shall be entitled to receive additional compensation under the provisions of more than one section of this Article, provided, however, that in the event that any person would otherwise be entitled to such additional compensation as is specified in two or more Sections, he/she shall be paid such additional compensation at the highest rate to which he/she is entitled, and no more.

**ARTICLE 9 UNIFORM ALLOWANCE**

9.1 Employees shall receive a uniform allowance not to exceed \$675 annually. Payment shall be made during the first two pay periods of each month, in the amount of \$28.12 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 uniform allowance pay for that period.

~~9.2 In the event new classifications are established during the term of this Agreement and assigned to Representation Units 011, 012 and 013 which consist solely of sworn personnel, such employees shall be paid an annual uniform allowance in accordance with the provisions of this Section.~~

9.3 The City agrees to pay the prorated cost of replacement or repair for uniforms damaged in the ordinary course of performance of regular job duties. Schedules adopted by the City for such reimbursement shall be kept reasonably current.

**ARTICLE 17 ASSIGNMENTS**

17.1 It is recognized and agreed that the primary obligation of the Department is to provide service of the highest quality to the public. The right to assign personnel is inherent to providing such quality service.

Management also recognizes the desire of employees to periodically request changes in work assignments. In ~~March and/or September~~ May of each year, requests for shift and beat assignments based on seniority shall be accepted from the employees in the representation unit, subject to the rights of the Assistant Chief of Police or in his/her absence his/her specifically designated representative to deny such request if, in his/her opinion, the obligation of the Department to provide the public with police service of the highest quality would not be fulfilled.

~~The annual shift change shall be implemented as follows:~~

- ~~• In March 2018, or once sworn staffing reaches 1009, whichever comes first, one-third of the biddable patrol spots shall convert to one-year long assignments and shall be subject to officers, sergeants and lieutenants requests in accordance with section 17.1 annually. The parties shall meet and confer regarding which biddable patrol spots shall be one-year long assignments.~~
- ~~• Once sworn staffing reaches 1059, at the following shift change, a further one-third of the biddable patrol spots shall convert to one-year long assignments and shall be subject to officers, sergeants and lieutenants requests in accordance with section 17.1 annually. The parties shall meet and confer regarding which biddable patrol spots shall be one-year long assignments.~~



- ~~• Once sworn officer staffing reaches 1109 officers, at the following shift change, all remaining biddable patrol spots shall convert to one-year long assignments and shall be subject to officers, sergeants and lieutenants requests in accordance with section 17.1 annually. The parties shall meet and confer regarding which biddable patrol spots shall be one-year long assignments.~~

- 17.1.1 Any employee otherwise eligible to request a shift and beat assignment as specified in paragraph 17.1 above whose request for such assignment is denied, shall be entitled upon request to an explanation of the denial from the Assistant Chief of Police or the Assistant Chief's specifically designated representative. Such request shall be made to the Assistant Chief or his/her specifically designated representative within five working days following the denial.
- 17.1.2 In the event the matter is not resolved by the Assistant Chief or his/her specifically designated representative, the employee may within five (5) working days of the receipt of the Assistant Chief's decision appeal to the Employee Relations Director by submitting a written request for review. Within ten (10) working days following the receipt of the written request for review, the Employee Relations Director or designee shall hold a meeting with the employee and/or the appropriate employee Organization representative. A written decision shall be given to the employee and/or the appropriate employee representative within five (5) working days following such meeting.
- 17.1.3 In the event that the matter is not resolved as a result of the meeting referenced in 17.1.2 above, the employee may request a review by the City Manager or his/her designated representative. Such request shall be in writing and shall include the reason or reasons why the employee is not satisfied with the decisions previously rendered. Within ten (10) working days of the receipt of such written request for review, the City Manager or his/her designated representative shall notify the employee of the results of such review. The decision of the City Manager or his/her designated representative shall be final and binding.

## **ARTICLE 18            TRANSFER POLICIES**

### **18.1    Police Officer Transfer Policy**

Specialized assignment transfers of Police Officers shall be governed by the Police Officer Transfer Policy, ~~updated April 22, 2014,~~ which is hereby incorporated by this reference. ~~Copies of that Policy shall be disseminated to Unit Commanders, and to the Police Officers Association. A copy of the policy shall be kept in the Police Department Personnel Unit.~~

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### 18.2 Sergeants Transfer Policy

The transfer of Sergeants shall be governed by the Sergeants' Transfer Policy ~~dated December 6, 2005~~, as modified by the parties, incorporated herein. ~~Copies of that policy shall be kept in the Police Department Personnel Unit.~~

## ARTICLE 19 FULL UNDERSTANDING, MODIFICATION AND WAIVER

- 19.1 This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any or all prior or existing Memorandum of Understanding, understandings and agreements, whether formal or informal, are hereby superseded and terminated in their entirety.
- 19.2 Existing benefits within the scope of representation, provided by ordinance or resolution of the City Council or provided in the San Jose Municipal Code, or provided in the Memorandum of Agreement shall be continued without change during the term of this Agreement.
- 19.3 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.
- 19.4 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer or negotiate 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 or negotiate on the subject matter covered herein. This provision shall not apply to matters covered by the provisions entitled "Consolidated Arbitration," in the Grievance Procedure herein.
- 19.5 ~~The parties agree to re-open Article 18 of the agreement to address changes in the Sergeants' Transfer Policy.~~

## ARTICLE 37 LABOR MANAGEMENT COMMITTEE

- 37.1 ~~Upon request by either party, there shall be a Department Labor/Management Committee consisting of three (3) representatives of the Department at the rank of Lieutenant and above, and three (3) members of the Association. The Chief of Police, or his/her designee, shall sit as one of the Department representatives and any of the six (6) members may be replaced with an alternate from time to time. The Director of Employee Relations shall be requested to attend Labor/Management meetings and shall be provided an agenda in advance. The Director of Employee Relations shall sit at these meetings and attempt to resolve concerns to mutual satisfaction.~~

The Labor/Management Committee shall meet no less than quarterly and shall consider and discuss matters of mutual concern pertaining to the improvement of

## 2022 CITY OF SAN JOSE – POA NEGOTIATIONS

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the Department and the welfare of its employees. Accordingly, the Labor/Management Committee will not discuss grievances properly the subject of the procedural process except to the extent that such discussion may be useful in suggesting improved department policies. Either the Association representatives or the Department representatives may initiate discussion of any subject of a general nature affecting the operation of the Department or its employees.

An agenda describing the issue(s) to be discussed shall be prepared by the initiating party and distributed at least three days in advance of each meeting, and minutes shall be kept and maintained.

All persons representing both parties sit as equals with the Director of Employee Relations sitting as the facilitator. Nothing in this section shall be construed to limit, restrict or reduce the management prerogatives outlined elsewhere in this agreement.

### ~~ARTICLE 45~~ ~~COPIES OF AGREEMENT~~

~~The City will provide one hundred (100) 8.5 x 11" copies of this agreement to the POA. The City will also provide an electronic file of this agreement for the POA to use to make additional copies. Additionally, this agreement will be available on the City's Intranet and Internet websites.~~

### ARTICLE 46 PERFORMANCE EVALUATION

46.2 ~~Effective March 2022, t~~The performance evaluation rating period will coincide with annual shift change.

### ARTICLE 54 TIME DONATION PROGRAMS

Employees may donate time to eligible employees as outlined in the Time Donation Programs Section in the City Policy Manual ~~as of June 1, 2007.~~

**CITY PROPOSAL – HOUSEKEEPING**

**ARTICLE 35 MAINTENANCE OF MEMBERSHIP**

- 35.1 Except as otherwise provided herein, each employee who, on July 1, 2022~~December 10, 2013~~, is a member in good standing of the Organization shall thereafter, as a condition of employment, maintain such membership for the duration of this Agreement, to the extent of paying the periodic dues uniformly required by the Organization as a condition of retaining membership.
- 35.2 Any employee who, on July 1, 2022~~December 10, 2013~~, is not a member of the Organization or any person who becomes an employee after December 10, 2013, shall not be required to become a member as a condition of employment. Any such employee who thereafter becomes a member of the Organization shall thereafter maintain such membership for the duration of the Agreement except as otherwise provided herein.
- 35.3 Any employee who, on July 1, 2022~~December 10, 2013~~, was a member of the Organization, and any employee who subsequently becomes a member may, during the period beginning July 1, 2022~~December 1, 2015~~ through June 30, 20XX~~December 31, 2015~~, resign such membership and thereafter shall not be required to join as a condition of employment. Resignations shall be in writing addressed to the Director of Employee Relations with a copy to the Organization.
- 35.4 The Organization 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.

**ARTICLE 10 PERSONAL PROPERTY REIMBURSEMENT**

- 10.1 The City will reimburse any Officer for the repair and/or the prorata cost of the replacement of personal property when such personal property is damaged or destroyed in the performance of his/her duties; provided, however, the amount of such reimbursement for items set forth in the City schedule covering personal property reimbursement shall not exceed the amounts listed in the schedule.
- 10.2 The above-described schedule shall be kept reasonably current.
- 10.3 Personal rings and watches shall be included on the above described schedule but the amounts shall be a subject of the 1983 contract negotiations and in the absence of agreement shall be submitted to an arbitrator for decision as to the amounts.
- 10.4 The above-described reimbursement shall not apply to any personal property issued by the Department.

10.5 City may prohibit wearing or possession of jewelry other than watches and rings (described above) and/or exclude reimbursement therefor, in the performance of an Officer's duties.

10.6 These provisions shall not apply so as to require reimbursement for personal property not normally associated with an employee's daily work activity.

~~10.7 Pending litigation on personal property reimbursement shall be dismissed. Such dismissal shall be without prejudice. Provided, however,~~ The reimbursement hereunder shall be the exclusive remedy and the Organization, on behalf of its members, waives any and all claims for personal property reimbursement under Labor Code Section 2802 so long as the provisions of this agreement are in effect and Organization members are permitted to seek reimbursement in accordance herewith.

~~10.8 Any claims paid for personal property reimbursement in connection with pending litigation are in full satisfaction of such claims.~~

CITY PROPOSAL – HOUSEKEEPING - RETIREMENT

**ARTICLE 49 RETIREMENT**

~~Article 49 may be subject to change by the Alternative Pension Reform Settlement Framework dated July 15, 2015, between the City and the Union and the San Jose Police Officers' Association.~~

49.1 ~~Pension b~~Benefits of the ~~Police and Fire Retirement Plan System~~ are to be paid set forth and governed in accordance with the provisions of the City Charter, plan, Police and Fire Department Retirement Plan Municipal Code Sections, Alternative Pension Reform Framework, and Tripartite Retirement Memorandum of Agreement.

49.2 ~~The City shall provide an annual pre-retirement advisory program covering benefits and rights of retired employees. The program shall include retiree tax information, workers' compensation and rehabilitation benefits, and available alternatives to retirement.~~

49.3 Permanent employees represented by the POA who transfer to Fire service shall remain in the Police and Fire Retirement plan while they are in the Fire Academy.

49.4 ~~The current formula for calculating retirement benefits is two and one half (2 ½%) percent of final compensation for each year of service with the City up to twenty (20) years, plus four (4%) percent of final compensation for each year of service with the City between 21 – 30 years subject to a maximum of ninety (90%) percent.~~

~~Service from a reciprocal agency may not be combined with the City service in order to earn four (4%) percent per year.~~

49.5 ~~Effective July 1, 2006, the following employee paid plan changes will be in effect for all employees represented by the organization;~~

~~49.5.1 Elimination of the thirty (30)-day window for the redeposit of withdrawn contributions, allowing for redeposit at anytime for active employees. Total impact to the plan to be paid by affected employee.~~

~~49.5.2 Elimination of the thirty (30)-day window for the purchase of service credit for previous Federated Retirement service credit, allowing for purchase at any time for active employees. Total impact to the plan to be paid by affected employee.~~

~~49.5.3 The ability to purchase service credit for time on unpaid leave of absence. Total impact to the plan to be paid by affected employee.~~

## 2022 CITY OF SAN JOSE – POA NEGOTIATIONS

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~~49.6 In lieu of an enhancement to the current retirement formula (2.5% of final compensation per year for up to 20 years and 4% of final compensation per year for 21-30 years of service), effective June 29, 2008, employees in classifications represented by the POA shall receive a 1.75% base pay increase. The 1.75% base pay increase shall be added to the general wage increase effective on June 29, 2008, and shall not be compounded.~~

~~49.7 Second Tier Retirement Benefits – Employees Hired, Rehired, or Reinstated on or After August 4, 2013:~~

~~It is hereby acknowledged that the City of San Jose (“City”) and the San Jose Police Officers’ Association (“POA”) have met and conferred and reached an agreement over a second tier retirement benefit (“Tier 2”).~~

~~The retirement benefits for employees in Tier 2 are limited to those specifically defined in the second tier agreement and set forth in the City Charter. Tier 2 employees will receive the Tier 1 retiree healthcare benefits, including retiree healthcare survivorship benefits, unless otherwise modified through the meet and confer process.~~

~~For additional information, please see the Police and Fire Department Retirement Plan – Police Benefits Tier 2 Fact Sheet:~~

~~<http://www.sanjoseca.gov/DocumentCenter/View/21133>~~

## ARTICLE 50 RETIREE HEALTHCARE FUNDING

~~Article 50 may be subject to change by the Alternative Pension Reform Settlement Framework dated July 15, 2015, between the City and the Union and the San Jose Police Officers’ Association.~~

~~50.1 Retiree Healthcare benefits of the Police and Fire Retirement Plan System are set forth and governed to be paid in accordance with the provisions of the City Charter, Police and Fire Department Retirement Plan Municipal Code Sections, Alternative Pension Reform Framework, and Tripartite Retirement Memorandum of Agreement. The City and the Employee Organization agree to transition from the current partial pre-funding of police retiree medical and dental healthcare benefits (referred to as the “policy method”) to pre-funding of the full Annual Required Contribution (ARC) for the police retiree healthcare benefits plan (“Plan”). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning 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 3.36.575 (C) (1) and (2) 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 three-to-one. 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.~~

~~50.2—~~

~~50.3— The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.~~

~~50.4—~~

~~50.5— It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Police and Fire Department Retirement Plan 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 divided in five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than 1.25% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than 1.35% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 5.25% of pensionable pay.~~

~~50.6—~~

~~50.7— If, at any time the calculated Plan member cash retiree healthcare contributions exceed 10% of pensionable pay or the calculated City cash retiree healthcare contributions exceed 11% of pensionable pay for the City (excluding implicit subsidy), the parties shall meet and confer on how to address any retiree healthcare contributions above 10% of pensionable pay for Plan members or 11% of pensionable pay for the City in order to fund the full ARC. Such discussions shall include alternatives to reduce retiree healthcare costs. If the parties are unable to agree on the manner in which to fully fund the retiree healthcare ARC (contributions exceeding 10% of pensionable pay for Plan members or 11% of pensionable pay for the City, excluding implicit subsidy), applicable impasse dispute resolution procedures shall apply.~~

~~50.8—~~

~~50.9— Nothing in this Article shall be construed to obligate Plan members to pay more than 10% of pensionable pay or the City to pay more than 11% of pensionable pay to fund retiree healthcare.~~

~~50.10—~~



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~~50.11 The City will establish a qualified trust (“Trust”) before June 28, 2009. If the Trust can not be established before June 28, 2009, then the City will hold in a separate reserve any required contributions over the policy method and then deposit, with interest actually earned, into the Trust as soon as practical after the Trust is established.~~

~~50.12—~~

~~50.1350.1 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Police retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.~~

**CITY PROPOSAL – HOUSEKEEPING - HEALTH INSURANCE**

The changes below are to incorporate the terms of the [Side Letter Agreement](#) dated July 11, 2018, and signed by the POA on August 2, 2018, related to the City Healthcare Program.

**ARTICLE 8 INSURANCE BENEFITS**

~~Article 8 may be subject to change by the Alternative Pension Reform Settlement Framework dated July 15, 2015, between the City and the Union and the San Jose Police Officers' Association.~~

8.1 Health Insurance Coverage

8.1.1 Eligible employees may elect health insurance coverage under one of the available plans for employee only or employee and dependents.

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

8.1.3 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.

8.1.4 **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 ~~cost plan~~ for the employee or the ~~for~~ employee and dependent coverage and the employee will pay fifteen percent (15%) of the full premium cost of the ~~premium for the lowest priced Non-Deductible Co-Pay Plan of the medical insurance provider with the priced plan of the medical insurance provider with the~~ ~~for employee or for employee and dependent coverage~~ highest overall employee enrollment.-

8.1.5 If a fulltime employee selects a plan other than the lowest priced Non-deductible HMO Co-pay plans, the employee ~~shall~~ pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced Non-deductible HMO Co-pay plan and the City's contribution toward the lowest priced Non-deductible HMO Co-pay plan of the medical insurance provider with the highest overall employee enrollment (as described in Section 8.1.4 above).~~for employee or for employee and dependent coverage.~~

8.1.6 **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.

~~8.1.1~~

~~8.1.2~~ A ~~\$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:~~

- ~~a. Office Visit Co-pay shall be increased to \$25.~~
- ~~b. Prescription Co-pay shall be increased to \$10 for generic and \$25 - \$30 for brand name.~~
- ~~c. Emergency Room Co-pay shall be increased to \$100.~~
- ~~d. Inpatient/Outpatient procedure copay shall be increased to \$100.~~

8.1.7~~8.1.4~~ An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

CITY PROPOSAL – HOUSEKEEPING - DENTAL PLAN AND IN LIEU

ARTICLE 8 INSURANCE BENEFITS

8.2 Dental Plan

8.2.1 The City will ~~offer provide~~ dental coverage for eligible full-time employees and their dependents in accordance with one of the two available plans. ~~Copies of each Both plans document shall be available upon request in the are described in detail in the City of San Jose Employee Benefits Handbook available on the City's website and in pamphlets available in the Human Resources Department. This includes the payment by the City of any increases in the premiums during the term hereof.~~

~~8.2.1.1~~ Effective during the term of this agreement, all active, eligible, full-time employees and their dependents that have the Delta Dental PPO Plan, may receive a lifetime maximum of \$2,000 per eligible full-time employee and their dependents for orthodontic coverage (must be medically necessary) and a maximum for dental coverage of \$2,11,500 per person per calendar year with a Delta Dental in-network provider, and \$2,000 for out of network.

~~8.2.1.1~~

~~8.2.2~~

~~8.2.2.1~~ Effective during the term of this agreement, all active, eligible, full-time employees and their dependents that have the Delta Dental HMO Plan may receive both medically and non-medically necessary orthodontia coverage once per eligible member per lifetime and no annual dollar maximums on general dental services.

~~8.2.2.28.2.1.2~~

~~8.2.38.2.2~~ The City will ~~pay for provide~~ dental coverage in the lowest priced plan for eligible full-time employees and their dependents who enroll. If an employee selects a plan other than the lowest priced plan, the City will pay ninety-five (95%) percent of the full premium cost for the selected dental coverage for eligible full-time employees and their dependents, and the employee shall pay five (5%) percent ~~of~~ the full premium cost for the selected plan.

~~8.2.48.2.3~~ 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.

8.3 Payment-in-Lieu of Health and/or Dental Insurance Program

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8.3.1 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.

8.3.2 Employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per payperiod.

	Health in-lieu	Dental in-lieu
If eligible for family coverage	\$221.84	\$19.95
If NOT eligible for <u>employee plus dependent family</u> coverage	\$89.09	\$19.95

8.3.3 A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

8.3.4 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek 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.

8.3.5 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 Benefit Handbook) occurring anytime during the year. Employees who fail to enroll in the payment-in-lieu program during 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. The employee may cancel enrollment in the payment-in-lieu of insurance program 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.

8.3.6 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, or employee loses or does not have alternate insurance coverage. An employee ~~whose~~who's in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.

8.3.7 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period but within thirty (30) days of the loss of alternate coverage. To be eligible the employee must provide verification that alternate coverage has been lost.

8.3.7.1 **HEALTH INSURANCE:** To enroll in a City health insurance plan following the loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu-payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the health plan shall be in accordance with the carrier's enrollment procedures.

8.3.7.2 **DENTAL INSURANCE:** ~~Enrollment in a City dental insurance plan following loss of alternate coverage will become effective the first of the month following payment of two dental premiums through the City's payroll process. Re-enrollment in the dental insurance plan shall not be retroactive. To enroll in a City dental insurance plan following the loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carrier's enrollment procedures~~

CITY PROPOSAL – HOUSEKEEPING – OTHER HEALTH BENEFITS

ARTICLE 8 INSURANCE BENEFITS

8.4 Psychological Counseling – Employee Assistance Program (EAP)

The City agrees to continue the Psychological Counseling Program (EAP) with the provider of services being subject to the approval of the Organization, with maintenance of Doctor-Patient relationship, and with supplementary counseling services available including an alcoholic counseling component. ~~Service provider shall meet insurance needs for City coverage.~~

~~The existing benefits to the members relative to the Doctor-Patient relationship, as contained in the contract between the City and the current provider, shall be maintained as a minimum.~~

~~8.5 Diagnostic Psychiatric Service~~

~~The City shall provide, when deemed required, diagnostic psychiatric service in addition to the counseling described in 8.4 above.~~

8.6 Life Insurance

The City agrees to provide life insurance coverage in the amount of \$10,000 for each full-time employee who is eligible for ~~and a subscriber to~~ life insurance benefits ~~in accordance with the City's self-insured plan.~~

8.6.1 Employees may apply to purchase additional Life Insurance coverage in increments at the rate available to the City in amounts equal to 1x, 2x, 3x or 4x annual salary, not to exceed \$750,000.

~~8.8 Wellness and Lifecheck~~

~~The City agrees to provide \$60,000 per year for the duration of this contract, which will allow for the appropriate testing, re-check and specific counseling of all persons represented by the bargaining unit. The City may change the present provider after consultation with the Association.~~

~~8.8.1 The parties agree that the Wellness and Lifecheck program will not be funded for the term of this agreement. However, because this is a matter of mutual value and benefit, the parties will examine reinstating this benefit for the subsequent MOA.~~

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### 8.9 Critical Incident Stress Debriefing (CISD)

The City agrees to provide adequate funding for the duration of this contract so as to make available the necessary Critical Incident Stress Debriefing (CISD) counseling utilizing the services of the present provider, except that the City may change providers after consultation with the Association.

### 8.10 Inoculations and Immunization

If an employee while carrying out his/her duty ~~contracts is exposed to a contagious disease the City agrees to pay the related medical expenses for inoculation and immunization for officer and members of his/her family. The City further agrees to reimburse any officer covered by one of the City's insurance programs any co-payment required for inoculation and/or immunization required due to the exposure to a contagious disease as a result of the officer carrying out his/her duties. Any applications for the above are~~ subject to the review and approval of the City on the basis of oral and/or written evidence presented by the employee.

8.11 Hepatitis B: As part of the pre-employment physical, the ~~The~~ City shall provide an inoculation/immunization program to all sworn members for the Hepatitis "B" virus at no cost to the employee. This program is in recognition of the fact that Police Officers are exposed to the Hepatitis "B" virus and it is presumed that exposure is job related for purposes of Workers' Compensation ~~benefits. If the officer does not want to take the Hep. B vaccine, they are required to sign a declination.~~

### 8.12 Employee Assistance Program Referrals

~~Employee Assistance Program Referrals:~~ 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 Police Chief or designee (at the rank of Captain or above or the supervisor of the CMU) may require the employee to attend an initial screening session through 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. Nothing in this article shall preclude an employee from voluntarily agreeing to different conditions as part of a disciplinary settlement agreement. Employees may only be sent for a mandatory EAP session once per issue and the initial screening session shall be on work time.



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- 8.13 Consistent with Section L 7501 et seq., of the Duty Manual, employees involved in a critical incident shall undergo a counseling session with the Employee Assistance Program as soon as practicable following the incident. The counseling session 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.