

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE CITY AND COUNTY OF SAN FRANCISCO**  
**AND**  
**SAN FRANCISCO DEPUTY PROBATION OFFICERS' ASSOCIATION**

**FISCAL YEAR**  
**JULY 1, 2012~~4~~- JUNE 30, 2014~~7~~**

**Revised Per Amendment #2**

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**ARTICLE I - REPRESENTATION**

**ARTICLE I — REPRESENTATION**

1. This Memorandum of Understanding (hereinafter "Agreement") is entered into by the City and County of San Francisco (hereinafter "City") through its designated representative acting on behalf of the City and the San Francisco Deputy Probation Officers Association (hereinafter "Union"). It is agreed that the delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the City, the Union, and represented employees. Such achievement is recognized to be a mutual obligation of the parties to this Agreement within their respective roles and responsibilities.

**I.A. RECOGNITION**

2. The City acknowledges that the Union has been certified by the Civil Service Commission as the recognized employee representative, pursuant to the provisions as set forth in the City's Employee Relations Ordinance for the following classifications:

8444 Deputy Probation Officer (PERS)  
8530 Deputy Probation Officer (SFERS)

3. The terms and conditions of this Agreement shall be automatically applicable to any classification which is accreted to the unit covered by this Agreement during its term. This Agreement shall not automatically extend to bargaining units for which the Union has established a representative status through affiliations or service agreements. Upon request of the Union, the City will meet and confer concerning proposed changes to bargaining units.

**I.B. INTENT**

4. It is the intent of the parties signatory hereto that the provisions of this Agreement shall not become binding until formally adopted by the Board of Supervisors in accordance with procedures, terms and provisions of the Charter applicable hereto.
5. Each existing ordinance, resolution, rule or regulation over which the Board of Supervisors has jurisdiction pursuant to provisions of the San Francisco Charter, and which is specifically changed or modified by the terms of this Agreement, shall be deemed incorporated in this Agreement in its changed or modified form from the effective date of this Agreement to and including the date of expiration thereof.

**I.C. NO STRIKE PROVISION**

6. It is mutually agreed and understood that during the period this Agreement is in force and effect, the Union will not authorize or engage in any strike, slowdown, or work stoppage.

## **ARTICLE I - REPRESENTATION**

7. As required by the Charter, represented employees are also bound by the above and to the extent required by the Charter, agree not to honor a strike or picket line of any other city employees.
8. The City agrees not to conduct a lockout against any of the employees covered by this Agreement during the term of this Agreement.

### **I.D. MANAGEMENT RIGHTS**

9. It is agreed that the delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the City and its employees. Such achievement is recognized to be a mutual obligation of the parties to this Agreement within their respective roles and responsibilities.
10. Except as otherwise provided herein, in accordance with applicable state law, nothing herein shall be construed to restrict any legal City rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the City.
11. The City shall also have the right to determine the mission of its constituent departments, officers, boards and commissions; set standards of services to be offered to the public and exercise control and discretion over the City's organization and operations. The City may also relieve City employees from duty due to lack of work or funds, and may determine the methods, means, and personnel by which the City's operations are to be conducted.
12. The Union recognizes the City's right to establish and/or revise performance levels, standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedures, may be used to determine acceptable performance levels, prepare work schedules, and to measure the performance of each employee or group of employees. The City shall meet and confer prior to the implementation of any production quotas.
13. Employees who work at less than acceptable levels of performance may be subject to disciplinary measures in accordance with applicable Charter provisions and rules and regulations of the Civil Service Commission.

### **I.E. NOTICE AND MEET AND CONFER**

14. The City recognizes that many actions within the scope of its managerial prerogative may have an impact on the wages, hours, benefits and other terms and conditions of employment of the Deputy Probation Officers. For this reason, the City agrees to provide

## **ARTICLE I - REPRESENTATION**

written notice to the Association of any proposed action that will impact the wages, hours, benefits and other terms and conditions of employment of the Deputy Probation Officers. The City will use its best efforts to provide this written notice to the Association at least seven (7) calendar days before the effective date of such proposed action.

15. If the Association submits a written request within four (4) calendar days of the City's written notice of a proposed action, the City shall meet and confer in good faith with the Association regarding the impact of the proposed action on the Deputy Probation Officers.
16. This provision does not require the City to agree to modify its planned action. The sole obligation of the City under this provision will be to provide written notice to the Association of any proposed action that will impact the wages, hours, benefits and other terms and conditions of employment of the Deputy Probation Officers, and to meet and confer about the proposed action in good faith with the Association if the Association timely submits a written request to meet and discuss the proposed action.

### **I.F. LABOR/MANAGEMENT COMMITTEE**

17. The City and the Association agree to establish a Labor/Management Committee at each department (one at Adult Probation and one at Juvenile Probation). The Adult Probation Committee will consist of up to three (3) management representatives from Adult Probation and up to three (3) Association representatives who work at Adult Probation. The Juvenile Probation Committee will consist of up to three (3) management representatives from Juvenile Probation and up to three (3) Association representatives who work at Juvenile Probation. Bargaining unit members selected to participate on the Committee will be given release time for up to two (2) hours to participate in each regularly scheduled Committee meeting.
18. In an effort to promote effective and efficient delivery of services by the Department, each Committee will meet, share information, and discuss issues including: proposed methods of fostering better cooperation and communication, areas of mutual concern and proposed solutions to those concerns, and matters relating to equipment and workplace health and safety.
19. The parties agree that the Committees will not have the authority to add to, subtract from, or in any way alter the terms and conditions set forth in this Agreement. The Committee shall have no right to determine issues under the exclusive jurisdiction of the Civil Service Commission. Finally, the parties agree that the Committee will not discuss matters relating to pending grievances, discipline or individual performance issues.
20. Each Committee will meet quarterly, or more frequently by mutual agreement. Each Committee will set its meeting schedule; however, absent mutual agreement by the

## **ARTICLE I - REPRESENTATION**

parties, each Committee's quarterly meetings shall be scheduled no later than the third week in months September, December, March and June in fiscal years 2012-2013 and 2013-2014.

21. The parties agree to exchange a written agenda of issues to be discussed at least seven (7) calendar days before the scheduled Committee meeting.
22. For the duration of the Agreement, the Labor/Management Committee at Juvenile Probation will address issues relative to the Department's interaction with the Court, the assignment of cases, specialized caseloads, and hold discussions on establishing partnerships with other law enforcement agencies. These discussions are only advisory in nature, and are not intended in any form or manner to infringe upon management's rights concerning direction of its work force, or consideration of the merits, necessity or organization of any service or activity provided by the City as pursuant to Article I.D of this Agreement.
23. The Union and the Departments may, upon mutual agreement, discuss at the Labor Management Committee bargaining unit issues that affect more than one employee that have already been submitted as a grievance.

### **I.G. GRIEVANCE PROCEDURES**

24. 1. The following procedures are adopted by the Parties to provide for the orderly and efficient disposition of grievances and are the sole and exclusive procedures for resolving grievances as defined herein.
25. 2. A grievance is defined as an allegation by an employee, a group of employees or the Union that the City has violated, misapplied or misinterpreted a term or condition of employment provided in this Agreement, or divisional departmental or City rules, policies or procedures subject to the scope of bargaining and arbitration pursuant to Charter Section A8.409 et. seq.
26. A grievance does not include the following:
  27. a. All civil service rules excluded pursuant to Charter Section A8.409-3.
  28. b. Performance evaluations, provided, however, that employees shall be entitled to submit written rebuttals to unfavorable performance evaluations. Said rebuttal shall be attached to the performance evaluation and placed in the employee's official personnel file.
29. In the event of an unfavorable performance rating, the employee shall be entitled to a performance review conference with the author and the reviewer of the performance evaluation. The employee shall be entitled to Union representation at said conference.

**ARTICLE I - REPRESENTATION**

30. c. Written reprimands, provided however, that employees shall be entitled to append a written rebuttal to any written reprimand. The appended rebuttal shall be included in the employee's official personnel file. Employees are required to submit written rebuttals within thirty (30) calendar days from the date of the reprimand.
31. 3. Grievance Description
- The Union and the City agree that the following guidelines will be used and information provided in the submission of grievances:
- a. The basis and date of the grievance as known at the time of submission;
  - b. The section(s) of the contract which the Union believes has been violated;
  - c. The remedy or solution being sought by the Grievant.
4. Time Limits
32. The parties have agreed upon this grievance procedure in order to ensure the swift resolution of all grievances. The time limits set forth herein may be extended by agreement of the parties. Any such extension must be confirmed in writing. For purposes of calculation of time a "day" is defined as a "calendar day," including weekends and holidays. In the event a grievance is not filed or appealed in a timely manner, it shall be dismissed. Failure of the City to timely reply to a grievance shall authorize appeal to the next grievance step.
5. Steps of the Procedure (for non-disciplinary grievances)
33. a. Except for grievances involving multiple employees or more than one department, all non-disciplinary grievances must be initiated at Step 1 of the grievance procedure. A grievance affecting more than one employee shall be filed at Step 2. Grievances affecting more than one department shall be filed with the Employee Relations Division at Step 3. In the event the City disagrees with the level at which the grievance is filed it may submit the matter to the Step it believes is appropriate for consideration of the dispute.
- b. Step 1:
34. An employee shall discuss the grievance informally with his/her immediate supervisor as soon as possible but, in no case, later than twenty



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(20) working days from the date of the occurrence of the act or the date the grievant might reasonably have been expected to have learned of the alleged violation being grieved. The grievant may have a Union representative present.

35. If the grievance is not resolved within seven (7) calendar days after contact with the immediate supervisor, the grievant will submit the grievance in writing to the immediate supervisor on a mutually agreeable grievance form. The grievance will set forth the name(s) of the employee or group of employees, the basis and date of the grievance, the terms and conditions of employment claimed to have been violated, misapplied or misinterpreted, and the remedy or solution being sought by the grievant. The immediate supervisor shall respond in writing within fifteen (15) calendar days following receipt of the written grievance.
- c. Step 2:
36. If the Union is dissatisfied with the immediate supervisor's response at Step 2, it may appeal to the Appointing Officer, in writing, within fifteen (15) calendar days of receipt of the Step 1 answer. The Appointing Officer may convene a meeting within fifteen (15) days with the Union. The Appointing Officer shall respond in writing within fifteen (15) calendar days of the hearing or receipt of the grievance, whichever is later.
- d. Step 3:
37. If the Union is dissatisfied with the Appointing Officer's response at Step 2, it may appeal to the Director, Employee Relations, in writing, within twenty (20) calendar days of receipt of the Step 2 response. The Director may convene a grievance meeting within fifteen (15) calendar days with the Union. The Director shall respond to the grievance in writing within fifteen (15) calendar days of the meeting or, if none is held, within fifteen (15) calendar days of receipt of the appeal.
- e. Arbitration:
38. If the Union is dissatisfied with the Step 3 response, it may appeal by notifying the Director, Employee Relations, in writing, within thirty (30) calendar days of the 3rd Step response that arbitration is being invoked.
6. Selection of the Arbitrator (for non-disciplinary grievances)
39. a. The parties shall establish a list of seven (7) arbitrators to serve as the permanent panel to hear non-disciplinary grievances arising under the

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terms of this Agreement. In the event the parties cannot agree on the panel within thirty (30) calendar days following the effective date of this Agreement, either party may obtain a panel through the appointment process of the State Mediation and Conciliation Service. Provided, however, that an arbitrator may be removed from the panel by mutual consent at any time. Replacements, in the absence of mutual agreement, shall be made by the State Mediation and Conciliation Service. The parties, by lot, shall alternatively strike names from the list, and the name that remains shall be the arbitrator designated to hear the particular matter. The parties may, by mutual agreement, agree to an alternate method of arbitrator selection and appointment, including, the expedited appointment of an arbitrator from a list provided by the State Mediation and Conciliation Service.

40. b. The parties shall schedule the arbitration hearing within thirty (30) calendar days of selecting the arbitrator, which shall be no later than sixty (60) calendar days from the date ERD sends the letter acknowledging the Union's request to arbitrate. In the absence of a timely, written demand for arbitration, the grievance will be deemed withdrawn.

### Discipline/Discharge Grievances

#### 7. Steps of the Procedure (for disciplinary grievances)

41. a. The City shall have the right to discipline any non-probationary permanent, temporary civil service, or provisional employee who has served the equivalent of a probationary period for just cause. As used herein "discipline" shall be defined as discharge, suspensions and disciplinary demotion. In lieu of an unpaid suspension, the City may at its option impose a temporary reduction in pay by reducing an employee's pay by 5% or to the next lower pay step. The duration of such pay reduction shall depend on the seriousness of the offense. This section shall not apply to exempt employees.
42. b. The City of San Francisco subscribes to the policy of progressive discipline. Accordingly, in instances where the misconduct or poor performance is not in and of itself serious enough to warrant suspension or discharge, supervisors should follow a progressive approach to discipline. Time factors between infractions of a similar nature should be taken in account when disciplinary action is considered.
43. c. With the exception of exempt employees, suspensions, temporary reductions in pay, disciplinary demotions and discharges of non-probationary permanent, temporary civil service and provisional

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employees who have served the equivalent of a probationary period shall be subject to the following procedure:

44. 1. The employee shall receive written notice of the recommended disciplinary action, including the reasons and supporting documentation, if any, for the recommendation.
45. 2. The employee and any representative shall be afforded a reasonable amount of time to respond orally or in writing to the management official designated by the City to consider the reply.
46. 3. The employee shall be notified in writing of the decision based upon the information contained in the written notification, the employee's statements, and any further investigation occasioned by the employer's statements. The employee's representative shall receive a copy of this decision.
47. d. Step 1: The Union shall submit in writing to the Appointing Officer or designee a grievance appealing the disciplinary action within fifteen (15) calendar days of the mailing date of the written notice of imposing discipline. The grievance shall set forth the basis of the appeal. The Appointing Officer or designee shall respond within twenty (20) calendar days following receipt of the appeal.
48. e. Step 2: The Union may appeal the Appointing Officer's decision to the Director of Employee Relations in writing within fifteen (15) calendar days of the issuance of the decision. The Director, ERD, shall review the appeal and issue a ~~final City decision~~ written response no later than twenty (20) calendar days following receipt of the appeal.
49. f. If the ~~decision~~ response of the Director, ERD, is unsatisfactory only the Union may file a written appeal to arbitration with the ERD no later than twenty (20) calendar days following issuance of the Director's written response ~~final City decision~~. In the absence of a timely, written demand for arbitration, the grievance will be deemed withdrawn.
8. Selection of the Arbitrator (for disciplinary grievances)
50. The parties agree that disciplinary grievances shall be heard in accordance with the following procedures, as appropriate:

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### **a. Expedited Arbitration**

51. Suspensions up to and including fifteen (15) calendar days shall be processed through an expedited arbitration proceeding. By mutual written agreement entered into, before or during Step III of the grievance procedure, the parties may submit other grievances to this expedited arbitration process. The expedited arbitration shall be before an arbitrator to be mutually selected by the parties who shall serve until the parties mutually agree to remove him/her or for twelve (12) months, whichever comes first. Alternatively, at the time of the selection of the arbitrator, either party may request a list of seven (7) appropriately experienced arbitrators from the State Conciliation and Mediation Service from which the arbitrator will be selected by the method of striking names. The parties shall not use briefs. Every effort shall be made to have bench decisions followed up by written decisions. These decisions will be final and binding, and shall not be used in any other cases except those of the grievant involved. Transcription by a certified court reporter shall be taken but shall be transcribed only at the direction of the arbitrator.

52. Each party shall bear its own expenses in connection therewith. All fees and expenses of the arbitrator and court reporter and report, if any, shall be borne and paid in full and shared equally by the parties.

53. In the event that an expedited arbitration hearing is canceled resulting in a cancellation fee, the party initiating the request or causing the cancellation shall bear the full cost of the cancellation fee, unless a mutually agreed upon alternative is established.

54. b. Suspensions of more than fifteen (15) calendar days and discharge grievances shall be heard by an arbitrator selected in accordance with the procedures in Article I, Section G, "Selection of the Arbitrator" above, provided however that the parties may mutually agree to submit any grievance (contract interpretation or disciplinary) to the expedited procedure.

### **9. Authority of the Arbitrator**

55. The arbitrator shall have no authority to add to, ignore, modify or amend the terms of this Agreement.

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10. Fees and Expenses of Arbitration

56. The fees and expenses of the Arbitrator shall be shared equally by the parties. Transcripts shall not be required except that either party may request a transcript provided, however, that the party making such a request shall be solely responsible for the cost. Direct expenses of the arbitration shall be borne equally by the parties.

11. Hearing Dates and Date of Award

57. Except for the expedited procedure described above, hearing shall be scheduled within forty (40) calendar days of selection of an arbitrator. Awards shall be due within forty (40) calendar days following the receipt of closing arguments or closing briefs. As a condition of appointment to the permanent panel arbitrators shall be advised of this requirement and shall certify their willingness to abide by these time limits.

58. Any claim for monetary relief shall not extend more than thirty (30) calendar days prior to the filing of a grievance, unless the arbitrator decides that considerations of equity or bad faith justify a greater entitlement.

**I.H. OFFICIAL REPRESENTATIVES AND STEWARDS**

1. Official Representatives

59. The Union may select up to the number of employees as specified in the Employee Relations Ordinance for purposes of meeting and conferring with the City on matters within the scope of representation. If a situation should arise where the Union believes that more than five (5) employee members should be present at such meetings and the City disagrees, the Union shall take the matter up with the Employee Relations Director and the parties shall attempt to reach agreement as to how many employees shall be authorized to participate in said meetings.

60. a. The organization's duly authorized representative shall inform in writing the department head or officer under whom each selected employee member is employed that such employee has been selected.

61. b. No selected employee member shall leave the duty or work station, or assignment without specific approval of appropriate Employer representative.

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62. In scheduling meetings due consideration shall be given to the operating needs and work schedules of the department, division, or section in which the employee members are employed.
2. Stewards
63. a. The Union shall furnish the City with an accurate list of stewards. The Union may submit amendments to this list at any time. If a steward is not officially designated in writing by the Union, none will be recognized for that area or shift.
64. b. The Union recognizes that it is the responsibility of the steward to assist in the resolution of grievances at the lowest possible level.
65. c. Upon notification of an appropriate management person, stewards or designated officers of the Union subject to management approval which shall not be unreasonably withheld shall be granted reasonable release time to investigate and process grievances and appeals. Stewards shall advise their supervisors of the area or work location where they will be investigating or processing grievances. The Union will attempt to insure that steward release time will be equitably distributed.
66. In emergency situations, where immediate disciplinary action is taken because of an alleged violation of law or a City departmental rule (intoxication, theft, etc.) the steward shall not unreasonably be denied the right to leave his/her post or duty to assist in the grievance procedure.
67. d. Stewards shall not interfere with the work of any employee. It shall not constitute interference with the work of an employee for a steward, in the course of investigating or processing a grievance, to interview an employee during the employee's duty time.
68. e. Stewards shall orient new employees on matters concerning employee rights under the provisions of the Agreement.

### **II. AGENCY SHOP**

#### **1. Application**

69. Except as provided otherwise herein, the provisions of this section shall apply to all employees of the City in all classifications represented by the Union in

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represented units when on paid status. These provisions shall not apply to individual employees of the City in represented units who have been properly and finally determined to be management, confidential or supervisory employees pursuant to Section 16.208 of the Employee Relations Ordinance. Except when an individual employee has filed a challenge to a management, confidential or supervisory designation, the Employee Relations Director and the Union shall meet as necessary for the purpose of attempting to make such determinations by mutual agreement. The Employee Relations Director shall give the Union no less than ten (10) working days prior notice of any such proposed designation. Disputes regarding such designations shall be promptly resolved pursuant to Section 16.208 (B) of the Employee Relations Ordinance.

### **2. Implementation**

70. An agency shop shall be implemented within representation units or subunits when:

#### **a. Election**

71. The Union has requested, in writing, an election on the issue, to be conducted by the State Conciliation Service and 50% plus one of those voting favor agency shop; or

#### **b. 2/3 Membership**

72. The Union makes a showing that 2/3 of the employees within the unit or subunit are dues paying members of the Union; or

#### **c. New Employees**

73. The Union requests, in writing, an agency shop be implemented for all employees hired after a date to be agreed to by the Union and the Employee Relations Division.

### **3. Service Fee**

74. Upon such an event occurring, employees of the City in the particular unit or subunit, except as set forth below, shall, as a condition of continued employment, become and remain a member of the Union, or in lieu thereof, shall pay a service fee to the Union. The fair share service fee payment shall be established annually by the Union, provided that such fair share agency shop service fee will be used

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by the Union only for the purposes permitted by law.

### **4. Financial Reporting**

75. Annually, the Union will provide an explanation of the fee and sufficient financial information to enable the fair share service fee payer to gauge the appropriateness of the fee. The Union will provide a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker not chosen by the Union and will make provision for an escrow account to hold amounts reasonably in dispute while challenges are pending.

### **5. Religious Exemption**

76. Any employee of the City in a classification described in Article 1 hereof, who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organizations and is recognized by the National Labor Relations Board to hold such objections to Union membership, shall upon presentation of membership and historical objection satisfactory to the City and the Union be relieved of any obligation to pay the required service fee.

### **6. Payroll Deduction**

77. The Union shall provide the Employee Relations Director and the City Controller with a current statement of membership fees. Such statement of membership fees shall be amended as necessary. The Controller may take up to thirty (30) days to implement such changes. Effective the second complete pay period commencing after the election or request or showing described in (b) and each pay period thereafter, the Controller shall make membership fee or service fee deductions, as appropriate, from the regular periodic payroll warrant of each City employee described in (a) thereof, and each pay period thereafter, the Controller shall make membership fee or service fee deductions, as appropriate, from the regular payroll warrant of each such employee. Nine (9) working days following payday the Controller will promptly pay over to the Union all sums withheld for membership or service fees.

### **7. Employee Lists**

78. The Controller shall also provide with each payment a list of employees paying membership fees and a list of employees paying service fees. All such lists shall contain the employee's name, employee number, classification, department



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number and amount deducted.

79. A list of all employees in represented classes shall be provided to the Union monthly. Nothing in this section shall be deemed to have altered the City's current obligation to make insurance program or political action deductions when requested by the employee.
8. Indemnification
80. The Union agrees to indemnify and hold the City harmless for any loss or damage arising from the operation of this section.
9. Hudson Compliance
81. The Union shall comply with the requirements set forth in Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986) for the deduction of agency shop fees. Annually, the Union shall certify in writing to the City that the Union has complied with the requirements set forth in this section and in Hudson, 475 U.S. 292.

### **I.J. PERSONNEL FILES**

82. Written reprimands will not be considered for purposes of promotions, transfer, special assignments, or discipline for future infractions after the employee has maintained a record without discipline for a period of two (2) years. Disciplinary suspensions will not be considered for purposes of promotion, transfer, or special assignments after the employee has maintained a record without discipline for a period of four (4) years.
83. This provision shall not apply to employees disciplined for: misappropriating public funds or property; misusing or destroying public property; using illicit drugs at work or being under the influence of illicit drugs or alcohol at work; engaging in acts that would constitute a felony or misdemeanor involving moral turpitude; engaging in acts that present an immediate danger to the public health and safety; or mistreatment of persons, including retaliation, harassment or discrimination of other persons based on characteristics protected under federal, state or local law.

### **I.K. UNION ACCESS**

**The Union shall have reasonable access to all work locations to verify that the terms and conditions of this Agreement are being carried out and for the purpose of conferring with employees, provided that access shall be subject to such rules and**

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regulations immediately below, as well as to such rules and regulations as may be agreed to by the department and the union. Union access to work locations will not disrupt or interfere with a department's mission and services or involve any political activities.

Union representatives shall also have a reasonable right of access to non-work areas (bulletin boards, employee lounges and break rooms), and to hallways in order to reach non-work areas, to verify that the terms and conditions of this Agreement are being carried out and for the purpose of conferring with employees.

Union representatives must identify themselves upon arrival at a City department. Union representatives may use department meeting space with a reasonable amount of notice, subject to availability.

In work units where the work is of a confidential nature and in which the department requires it of other non-employees, a department may require that union representatives be escorted by a department representative when in areas where said confidential work is taking place.

Nothing herein is intended to disturb existing written departmental union access policies. Further, departments may implement additional rules and regulations after meeting and conferring with the Union.

**ARTICLE II – EMPLOYMENT CONDITIONS**

**ARTICLE II — EMPLOYMENT CONDITIONS**

**II.A. PROBATIONARY PERIOD**

84. Except as provided herein, the probationary period shall be one year, as defined and administered by the Civil Service Commission.
85. An employee who has served at least one (1) continuous year of regular service as a Class 8444 or 8530 Deputy Probation Officer on a provisional basis and who, without a break in service and under the same appointing officer, obtains permanent status as a Class 8444 or 8530 Deputy Probation Officer, shall serve a six (6) month probationary period, as defined and administered by the Civil Service Commission.
86. A non-probationary permanent employee in class 8444 or 8530 who transfers to another department shall serve a six (6) month probationary period, as defined and administered by the Civil Service Commission. This probationary period may be extended by mutual agreement, in writing, by the employee and Appointing Officer, for a period not to exceed an additional six (6) month probationary period.

**II.B. BULLETIN BOARDS**

87. Reasonable space may be allowed on bulletin boards for use by the Union to communicate with its employees for Union-related matters.

**II.C. SUBCONTRACTING**

1. "Prop. J" Contracts

88. a. The City agrees to notify the Union no later than the date a department sends out Requests for Proposals when contracting out of a City service and authorization of the Board of Supervisors is necessary in order to enter into said contract.
89. b. Upon request by the Union, the City shall make available for inspection any and all pertinent background and/or documentation relating to the service contemplated to be contracted out.
90. c. Prior to any final action being taken by the city to accomplish the contracting out, the City agrees to hold informational meetings with the Union to discuss and attempt to resolve issues relating to such matters including, but not limited to,

## ARTICLE II – EMPLOYMENT CONDITIONS

91. 1. possible alternatives to contracting or subcontracting;
92. 2. questions regarding current and intended levels of service;
93. 3. questions regarding the Controller's certification pursuant to Charter Section 10.104;
94. 4. questions relating to possible excessive overhead in the City's administrative-supervisory/worker ratio; and
95. 5. questions relating to the effect on individual worker productivity by providing labor saving devices;
96. d. The City agrees that it will take all appropriate steps to insure the presence at said meetings of those officers and employees (excluding the Board of Supervisors) of the City who are responsible in some manner for the decision to contract so that the particular issues may be fully explored by the Union and the City.

### 2. Personal Services Contracts

97. a. Departments shall notify the Union of proposed personal services contracts (“PSCs”) where such services could potentially be performed by represented classifications. At the time the City issues a Request for Proposals (“RFP”)/Request for Qualifications (“RFQ”), or thirty (30) days prior to the submission of a PSC request to the Department of Human Resources and/or the Civil Service Commission, whichever occurs first, the City shall notify the Union of any PSC(s), including a copy of the draft PSC summary form, where such services could potentially be performed by represented classifications.
98. b. If the Union and member of the Public Employees’ Committee of the San Francisco Labor Council (“PEC”) wishes to meet with a department over a proposed PSC for services that could potentially be performed by represented classifications, the Union must make its request to the appropriate department within two (2) weeks after the Union’s receipt of the department’s notice.
99. c. Discussions shall include, but not be limited to, possible alternatives to contracting or subcontracting and whether the department staff has the expertise and/or facilities to perform the work. Upon request by the Union, the City shall make available for inspection any and all pertinent background

## **ARTICLE II – EMPLOYMENT CONDITIONS**

and/or documentation relating to the service contemplated to be contracted out.

100. d. In order to ensure that the parties are fully able to discuss their concerns regarding particular proposed contracts, the City agrees that it will take all appropriate steps to ensure that parties (excluding the Board of Supervisors and other boards and commissions) who are responsible for the contracting-out decision(s) are present at the meeting(s) referenced in the above paragraph.
101. e. The City agrees to provide the Union with notice(s) of departmental commissions and Civil Service Commission meetings during which proposed PSCs are calendared for consideration, where such services could potentially be performed by represented classifications.

### **II.D. NONDISCRIMINATION PROVISION**

102. The City and the Association acknowledge and agree that the City is required to comply with the California Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1963, and other applicable federal, state and local laws prohibiting discrimination, harassment and retaliation. The City and the Association agree that, pursuant to the City's obligations under those state, federal and local laws, no bargaining unit member employed by the City shall in any way be discriminated or retaliated against or harassed because of race, color, national origin, religion, sex, physical or mental disability, age, sexual preference, Association activity or membership, or other protected legal classification. The parties agree that this Memorandum shall be interpreted, administered and applied in a manner consistent with the California Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1963, and other applicable federal, state and local laws prohibiting discrimination, harassment and retaliation.
103. The City and the Association acknowledge and agree that allegations of discrimination in areas under the jurisdiction of the Civil Service Commission, as defined by the Charter, shall only be addressed through the Civil Service Commission and shall not be subject to the grievance provisions of this Agreement.
104. Except as set forth above, in the event that a member of the bargaining unit believes that the City has violated this nondiscrimination provision, that employee may grieve that claimed violation pursuant to the grievance procedures of this Agreement, subject to the following: The Association acknowledges and agrees that it will not advance any grievance under this provision to arbitration unless the employee knowingly and voluntarily executes a complete, mutually agreeable waiver of all claims and causes of

## **ARTICLE II – EMPLOYMENT CONDITIONS**

action arising from the same factual allegations, including but not limited to a waiver of claims under the California Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1963, and other applicable federal, state and local laws prohibiting discrimination, harassment and retaliation.

### **II.E. AMERICANS WITH DISABILITIES ACT**

105. The parties agree that they are required to provide reasonable accommodations for persons with disabilities in order to comply with the provisions of Federal, State and local disability anti-discrimination statutes and the Fair Employment and Housing Act. The parties further agree that this Agreement shall be interpreted, administered and applied so as to respect the legal rights of the parties. The City reserves the right to take any action necessary to comply therewith.

### **II.F. MAINTENANCE AND CHARGES**

106. Charges and deductions for all maintenance, such as housing, meals, laundry, etc., furnished to and accepted by employees shall be made on time rolls and payrolls in accordance with a schedule of maintenance charges fixed and determined in the Annual Salary Ordinance.

### **II.G. TRAVEL AND WORK-RELATED EXPENSES AND REIMBURSEMENTS**

107. Employees using their own vehicle for City business shall be reimbursed for expenses incurred at the rate and in accordance with the Internal Revenue Service guidelines.
108. For employees who are required by the Appointing Officer to expend personal funds in the course of performing their work duties and/or while traveling when on official City business, the City shall make a good faith effort to reimburse the employee for expenses that have been approved by the Appointing Officer in a timely manner but not to exceed forty-five (45) calendar days after the employee submits all the required and necessary documentation and signature(s) for approval.

### **II.H. SUBSTANCE ABUSE PREVENTION POLICY**

109. Attached as Appendix B is the Substance Abuse Prevention Policy (SAPP). Also attached is a side letter related to the implementation of the SAPP. If pursuant to the side letter the parties proceed to arbitration, then Arbitrator Joe Henderson shall be retained by the parties for that arbitration proceeding.

ARTICLE III – PAY, HOURS AND BENEFITS

ARTICLE III — PAY, HOURS AND BENEFITS

III.A. WAGES

110. Represented employees will receive the following wage increases:

~~111. a. Effective July 1, 2013 1%~~

~~112. b. Effective January 4, 2014 1%~~

~~113. c. Effective March 29, 2014 1%~~

**a. Effective October 11, 2014 3%**

**b. Effective October 10, 2015 3.25%**

**c. Effective July 1, 2016, represented employees will receive a base wage increase between 2.25% and 3.25%, depending on inflation, and calculated as  $(2.00\% < \text{CPI U} < 3.00\%) + 0.25\%$ , which is equivalent to the CPI-U, but no less than 2% and no greater than 3%, plus 0.25%.**

**In calculating CPI-U, the Controller's Office shall use the Consumer Price Index – All Urban Consumers (CPI-U), as reported by the Bureau of Labor Statistics for the San Francisco Metropolitan Statistical Area. The growth rate shall be calculated using the percentage change in price index from February 2015 to February 2016.**

~~114. Effective July 1, 2012, class 8444 Deputy Probation Officers shall receive a base wage increase of seven and fifteen hundredths of a percent (7.15%) in exchange for their agreement to resume paying the total nine percent (9%) employee retirement contribution amount to PERS. **Effective July 1, 2014, represented employees will receive a base wage increase of 1.25%. This 1.25% adjustment to wage resolves all compensation issues stemming from Proposition B (2008).**~~

115. Class 8530 Deputy Probation Officer (SFERS) base wages shall be the same as class 8444 Deputy Probation Officer (CalPERS).

116. All base wage calculations shall be rounded to the nearest salary schedule.

III.B. WORK SCHEDULES

1. NORMAL WORK SCHEDULES

**ARTICLE III – PAY, HOURS AND BENEFITS**

117. a. Unless otherwise provided, a normal work day is a tour of duty of eight (8) hours completed within not more than nine (9) hours.
118. b. All classifications of employees having a normal work day of eight (8) hours within nine (9) hours may voluntarily work in flex-time programs authorized by appointing officers and may voluntarily work more than or less than eight (8) hours within twelve (12) hours, provided, that the employee must work five (5) days a week, eighty (80) hours per payroll period, and must execute a document stating that the employee is voluntarily participating in a flex-time program and waiving any rights he or she may have on the same subject.
119. c. Subject to meet and confer, the City and the Association may enter into cost equivalent alternative work schedules for some or all represented employees. Such alternate work schedules may include a full-time work week of less than five (5) days; or a combination of features mutually agreeable to the parties. Such changes in the work schedule shall not alter the basis for, nor entitlement to, receiving the same rights and privileges as those provided to employees on a normal work week as described in paragraph 1.d. below.
120. d. A normal work week is a tour of duty on each of five consecutive days. However, employees who are moving from one shift or one work schedule to another may be required to work in excess of five consecutive working days in conjunction with changes in their work shifts or schedules.
- e. Exceptions:
121. 1. ~~The 20-20 Educational Program.~~
122. 2. Specially funded training programs approved by the Department of Human Resources.
123. 3. Educational and Training Courses - Regular permanent civil service employees may, on a voluntary basis with approval of appointing officer, work a forty-hour week in six days when required in the interest of furthering the education and training of the employee.
124. 4. Employees shall receive no compensation when properly notified



**ARTICLE III – PAY, HOURS AND BENEFITS**

(2hr. notice) that work applicable to the classification is not available because of inclement weather conditions, shortage of supplies, traffic conditions, or other unusual circumstances. Employees who are not properly notified and report to work and are informed no work applicable to the classification is available shall be paid for a minimum of two hours.

125. 5. Employees who begin their shifts and are subsequently relieved of duty due to the above reasons shall be paid a minimum of four hours, and for hours actually worked beyond four hours, computed to the nearest one-quarter hour.

126. 6. Work schedules: 1) On operations conducted at remote locations where replacements are not readily available, or on operations involving changes in shifts, or when other unusual circumstances warrant, the appointing officer with the approval of the Civil Service Commission, may arrange work schedules averaging five (5) days per week over a period of time, but consisting of more than five (5) consecutive days per week with the accumulation of normal days off to be taken at a later date. Such schedules shall be the normal work schedules for such operations.

127. 7. Citywide Voluntary Reduced Work Week: Employees in any classification, upon the recommendation of the appointing officer and subject to the approval of the Human Resources Director, may voluntarily elect to work a reduced work week for a specified period of time. Such reduced work week shall not be less than twenty (20) hours per week nor less than three (3) continuous months during the fiscal year. Pay, Vacation, Holidays and Sick Pay shall be reduced in accordance with such reduced work week.

128. 8. Voluntary Time off Program. The mandatory furlough provisions of the CSC Rules shall not apply to covered employees.

a) General Provisions:

129. Upon receipt of a projected deficit notice from the Controller, an appointing officer shall attempt to determine, to the extent feasible and with due consideration for the time constraints which may exist for eliminating the

**ARTICLE III – PAY, HOURS AND BENEFITS**

projected deficit, the interest of employees within the appointing officer's jurisdiction in taking unpaid personal time off on a voluntary basis.

130. The appointing officer shall have full discretion to approve or deny requests for voluntary time off based on the operational needs of the department and any court decrees or orders pertinent thereto. The decision of the appointing officer shall be final except in cases where requests for voluntary time off in excess of ten (10) working days are denied.

b) Restrictions of Use of Paid Time Off While On Voluntary Time Off:

131. (1) All voluntary unpaid time off granted pursuant to this section shall be without pay.

132. (2) Employees granted voluntary unpaid time off are precluded from using sick leave with pay credits, vacation credits, compensatory time off credits, floating holidays, training days or any other form of pay for the time period involved.

c) Duration and Revocation of Voluntary Unpaid Time Off:

133. Approved voluntary time off taken pursuant to this section may not be changed by the appointing officer without the employee's consent.

2. PART-TIME WORK SCHEDULE

134. A part-time work schedule is a tour of duty of less than forty hours per week.

3. ALTERNATIVE WORK SCHEDULE PROGRAM

135. Participation in the Alternative Work Program is a privilege, not a right. The Appointing Officer shall consider operational needs and requirements and may grant or deny an employee's request for an Alternative Work Schedule at his or her sole discretion. Employees must meet all of the following criteria in order to participate in the Program:

**ARTICLE III – PAY, HOURS AND BENEFITS**

- a. Have at least 4.5 years’ probation experience with the City.
- b. Not be on sick leave restriction.
- c. Have obtained a satisfactory or higher score on the employee’s most recent performance evaluation. The employee must also maintain a satisfactory or higher score on all performance evaluations during participation in the Program.
- d. Have completed all required training.
- e. Have no sustained punitive Order to Show Cause in the last two years prior to or during participation in the Program that the employee’s supervisor believes the Court should have sustained.
- f. Have no discipline imposed within two years prior to applying for participation in the Program, and maintain a clean disciplinary record during the participation in the Program.

136. The Appointing Officer may terminate or alter an alternative work schedule at any time for any non-arbitrary or capricious reason, and with at least two (2) weeks’ notice to the participating employee except under exigent circumstances or when an employee fails to meet any of the eligibility requirements outlined above.

**III.C. COMPENSATIONS FOR VARIOUS WORK SCHEDULES**

1. Normal Work Schedule

137. Compensation fixed herein on a per diem basis are for a normal eight hour work day; and on a bi-weekly basis for a bi-weekly period of service consisting of normal work schedules.

2. Part-Time Work Schedules

138. Salaries for part-time services shall be calculated upon the compensation for normal work schedules proportionate to the hours actually worked.

**III.D. ADDITIONAL COMPENSATION**

139. Each premium shall be separately calculated against an employee's base rate of pay. Premiums shall not be pyramided.

## **ARTICLE III – PAY, HOURS AND BENEFITS**

### **1. NIGHT DUTY**

140. Employees shall be paid eight (8%) percent more than the base rate for hours worked between 5:00 P.M. and 7:00 A.M., for the hours actually worked between 5:00 P.M. and 7:00 A.M., excepting those employees participating in an authorized flex-time program who voluntarily work between the hours of 5:00 P.M. and 7:00 A.M. The above night shift compensation shall only apply when employees are required, as part of their regularly scheduled work shift, to work at least three (3) hours of their shift between the hours of 5:00 P.M. and 7:00 A.M.

### **2. INTERPRETER - TRANSLATOR PAY**

141. a. Employees who are assigned by their Department to a "Designated Bilingual Position", and approved by the Department of Human Resources, shall be granted additional compensation of twenty-five (\$25.00) dollars per week. A "Designated Bilingual Position" is one designated by the Department which requires translating to and from a foreign language including sign language as used by the deaf, a minimum of five (5) hours weekly.

142. b. Consistent with and subject to the provisions of a Memorandum of Understanding between any recognized employee organization and the City and County of San Francisco, this additional compensation may instead be paid to employees who are assigned by their Department to a "Designated Bilingual Position", and approved by the Department of Human Resources, at the rate of fifty (\$50) dollars bi-weekly for translating (as defined) a minimum of ten (10) hours bi-weekly.

143. c. The additional compensation provided for in this section shall apply only during time actually worked and shall not be paid for translation or interpreter services that are an expected duty of an employee's job classification.

### **3. SUPERVISORY DIFFERENTIAL ADJUSTMENT**

144. The Human Resources Director is hereby authorized to adjust the compensation of a supervisory employee whose schedule of compensation is set herein subject to the following conditions:

145. a. The supervisor, as part of the regular responsibilities of his/her class,

**ARTICLE III – PAY, HOURS AND BENEFITS**

supervises, directs, is accountable for and is in responsible charge of the work of a subordinate or subordinates.

146. b. The organization is a permanent one approved by the appointing officer, Board or Commission, where applicable, and is a matter of record based upon review and investigation by the Department of Human Resources.
147. c. The classifications of both the supervisor and the subordinate are appropriate to the organization and have a normal, logical relationship to each other in terms of their respective duties and levels of responsibility and accountability in the organization.
148. d. The compensation schedule of the supervisor is less than one full step (approximately 5%) over the compensation schedule, exclusive of extra pay, of the employee supervised. In determining the compensation schedule of a classification being paid a flat rate, the flat rate will be converted to a bi-weekly rate and the compensation schedule the top step of which is closest to the flat rate so converted shall be deemed to be the compensation schedule of the flat rate classification.
149. e. The adjustment of the compensation schedule of the supervisor shall be to the nearest compensation schedule representing, but not exceeding, one full step (approximately 5%) over the compensation schedule, exclusive of extra pay, of the employee supervised.
150. f. If the application of this Section adjusts the compensation schedule of an employee in excess of his/her immediate supervisor, the pay of such immediate supervisor covered by this agreement shall be adjusted to an amount \$1.00 bi-weekly in excess of the base rate of his/her highest paid subordinate, provided that the applicable conditions under paragraph "F" are also met.
151. g. The decision of the Department of Human Resources as to whether the compensation schedule of a supervisory employee shall be adjusted in accordance with this section shall be final and shall not be subject to grievance.
152. h. Compensation adjustments are effective retroactive to the beginning of the current fiscal year of the date in the current fiscal year upon which the employee became eligible for such adjustment under these provisions.

**ARTICLE III – PAY, HOURS AND BENEFITS**

153. To be considered, requests for adjustment under the provisions of this section must be received in the offices of the Department of Human Resources not later than the end of the current fiscal year.
154. i. In no event will the Human Resources Director approve a supervisory salary adjustment in excess of 2 full steps (approximately 10%) over the supervisor's current basic compensation. If in the following fiscal year a salary inequity continues to exist, the Appointing Officer may again review the circumstances and may grant an additional salary adjustment not to exceed 2 full steps (approximately 10%).
155. j. It is the responsibility of the appointing officer to immediately notify the Department of Human Resources of any change in the conditions or circumstances that were and are relevant to a request for salary adjustment under this section either acted upon by or pending.
156. k. An employee shall be eligible for supervisory differential adjustments only if they actually supervise the technical content of subordinate work and possess education and/or experience appropriate to the technical assignment.

4. **STANDBY PAY**

157. Employees who, as part of the duties of their positions are assigned in writing by the appointing officer to standby when normally off duty to be instantly available on call to perform their regular duties, shall be paid twenty-five (25) percent of their regular straight time rate of pay for the period of such standby service, except that employees shall be paid ten (10) percent of their regular straight time rate of pay for the period of such standby service when outfitted by their department with an electronic paging device. When such employees are called to perform their regular duties in emergencies during the period of such standby service, they shall be paid while engaged in such service at the usual rate of pay. However, standby pay shall not be allowed in positions whose duties are primarily administrative in nature.

5. **CALL BACK**

158. Employees (except those at remote locations where city supplied housing has been offered, or who are otherwise being compensated) who are called back to their work locations following the completion of his/her work day and departure from his/her place of employment, shall be granted a minimum of four (4) hours

### **ARTICLE III – PAY, HOURS AND BENEFITS**

compensation (pay or compensatory time off as appropriate - "Z" employees can only take overtime in the form of compensatory time off) at the applicable rate or shall be compensated for all hours actually worked at the applicable rate, whichever is greater. This section shall not apply to employees who are called back to duty when on standby status. The employee's work day shall not be adjusted to avoid the payment of this minimum.

#### **6. ACTING ASSIGNMENT PAY**

159. a. An employee assigned in writing by the Appointing Officer (or designee) to temporarily perform the normal day to day duties and responsibilities of a higher classification of an authorized position shall be entitled to acting assignment pay, no earlier than the fifth (5<sup>th</sup>) work day of such an assignment, after which acting assignment pay shall be retroactive to the first (1<sup>st</sup>) day of the assignment. No person shall be assigned an acting assignment for periods of less than five (5) days for purposes of evading acting assignment pay under this section. In making an acting assignment, seniority will be a factor, not the factor, in the decision-making process by which acting assignments are made.
160. The Department shall notify the Union's shop steward, in writing, of all acting assignments.
161. b. Upon written approval, as determined by the City, an employee shall be authorized to receive an increase to a step in an established salary schedule that represents at least 5% above the employee's base salary and that does not exceed the maximum step of the salary schedule of the class to which temporarily assigned. Premiums based on percent of salary shall be paid at a rate which includes the acting assignment pay.
162. c. If each of the above criteria are met, but an employee does not receive the acting assignment pay, an employee acting assignment grievance, to be valid, must be filed no later than thirty (30) calendar days after the ending date of the acting assignment.
163. d. In accordance with the provisions in the preceding three paragraphs, the City shall make a good faith effort to pay an employee acting assignment pay in a timely manner but not to exceed forty-five (45) calendar days after the employee submits all the required and necessary documentation and signature(s) for approval.

## ARTICLE III – PAY, HOURS AND BENEFITS

### III.E. OVERTIME COMPENSATION

164. 1. Appointing officers may require employees to work longer than the normal work day or longer than the normal work week. Any time actually worked under proper authorization of the appointing officer or his/her designated representative or any hours suffered to be actually worked by an employee in excess of eight hours per day or forty (40) hours per work week shall be designated as overtime and shall be compensated at a rate of time and one half of the base hourly rate which may include a night differential if applicable. However, if an employee works a longer regular workday pursuant to MOU Articles III.B.1.c. or III.B.3. (Alternative Work Schedules), daily overtime shall not begin until the employee works more hours than the number of hours normally scheduled. For example, if an employee is on an approved alternative work schedule with a ten (10) hour day, he/she shall begin earning overtime rates after working ten (10) hours. Only legal holidays designated in MOU Section III.G. (Holidays and Holiday Pay) shall count as hours worked for the purpose of computing overtime. **Overtime opportunities shall be distributed on an equitable basis among qualified and available employees.**
165. This definition of overtime supersedes any conflicting language in this Agreement.
166. 2. There shall be no eligibility for overtime assignment if there has been sick pay, sick leave or disciplinary time off on the preceding workday, or if sick pay, sick leave or disciplinary time off occurs on the workday following the last overtime assignment. Additionally, employees placed on sick leave restriction pursuant to Civil Service Rule 120.11 are ineligible for voluntary overtime assignments.
167. 3. No appointing officer shall require an employee not designated by a "Z" symbol in the Annual Salary Ordinance to work overtime when it is known by said appointing officer that funds are legally unavailable to pay said employee, provided that an employee may voluntarily work overtime under such conditions in order to earn compensatory time off at the rate of time and one-half, pursuant to the provisions herein.
168. 4. Those employees subject to the provisions of the Fair Labor Standards Act who are required or suffered to work overtime shall be paid in salary unless the employee and the Appointing Officer mutually agree that in lieu of paid overtime, the employee shall be compensated with compensatory time off. Compensatory time shall be earned at the rate of time and one half. Employees occupying non "Z" designated positions shall not accumulate a balance of compensatory time



**ARTICLE III – PAY, HOURS AND BENEFITS**

earned in excess of 240 hours calculated at the rate of time and one half.

169. The provisions set forth above do not intend to waive, alter, nor restrict the exercise of individual rights under the FLSA.

**III.F. RECORDATION OF OVERTIME**

170. 1. All overtime worked which is authorized by the appointing officer shall be recorded on separate time rolls.
171. 2. Compensation for overtime worked as provided in this Section shall be paid on an hourly basis.
172. 3. When improved methods of payroll processing are implemented and with the approval of the Human Resources Director and the Controller, such overtime may be recorded on the regular time rolls.

**III.G. HOLIDAYS AND HOLIDAY PAY**

173. 1. A holiday is calculated based on an eight hour day. The following days are designated as holidays:
- January 1 (New Year's Day)
  - the third Monday in January (Martin Luther King, Jr.'s birthday)
  - the third Monday in February (Presidents' Day)
  - the last Monday in May (Memorial Day)
  - July 4 (Independence Day)
  - the first Monday in September (Labor Day)
  - the second Monday in October (Columbus Day)
  - November 11 (Veterans' Day)
  - Thanksgiving Day
  - the day after Thanksgiving
  - December 25 (Christmas Day)
174. Provided further, if January 1, July 4, November 11 or December 25 falls on a Sunday, the Monday following is a holiday.
175. 2. In addition, any day declared to be a holiday by proclamation of the Mayor after such day has heretofore been declared a holiday by the Governor of the State of California or the President of the United States.

## **ARTICLE III – PAY, HOURS AND BENEFITS**

### **III.H. FLOATING HOLIDAYS**

176. Employees shall receive four (4) floating holidays totaling thirty-two (32) hours at the beginning of each fiscal year (pro-rated for eligible part-time employees) to be taken on days or in hourly increments selected by the employee, subject to the approval of the Appointing Officer and subject to an accrual maximum of sixty-four (64) hours. Employees (both full time and part-time) must complete six (6) months continuous service to establish initial eligibility for the floating holidays. Employees hired on an as-needed, intermittent or seasonal basis shall not receive the additional floating holidays. Remaining floating holidays shall be carried forward from one fiscal year to the next; provided, however, that after an employee has accrued 64 hours, the employee will receive no further floating holiday hours until his or her accrued balance is reduced below 64 hours. No compensation of any kind shall be earned or granted for floating days off not taken off.
- ~~177. Effective July 1, 2012, for Fiscal Year 2012-2013, employees shall receive an additional one time award of two (2) floating holidays for one year only, to be administered in the same manner as the floating holidays in the paragraph above.~~
178. Any unused floating holidays accrued from July 1, 2010 through June 30, 2013 may be carried over to be used in Fiscal Years 2012-13, 2013-14 and 2014-15.
179. ~~During Fiscal Years 2012-13, 2013-14 and 2014-15, floating holidays must be used before vacation days or hours are taken; provided however that this limitation (i.e., use of floating holidays before vacation) will not apply in cases in which use of the floating holiday will cause a loss of vacation due to the accrual maximums. Floating holidays are to be scheduled per mutual agreement, based on operational needs of the department.~~

### **III.I. HOLIDAY PAY FOR EMPLOYEES WHO SEPARATE**

180. Employees who have established initial eligibility for floating days off and who subsequently separate from City employment, may, at the sole discretion of the appointing authority, be granted those floating day(s) off to which the separating employee was eligible and had not yet taken off.

### **III.J. HOLIDAYS THAT FALL ON A SATURDAY**

181. For those employees assigned to a work week of Monday through Friday, and in the event a legal holiday falls on Saturday, the preceding Friday shall be observed as a holiday; provided, however, that except where the Governor declares that such preceding Friday shall be a legal holiday, each department head shall make provision for the

### **ARTICLE III – PAY, HOURS AND BENEFITS**

staffing of public offices under his/her jurisdiction on such preceding Friday so that said public offices may serve the public as provided in the Charter. Those employees who work on a Friday which is observed as a holiday in lieu of a holiday falling on Saturday shall be allowed a day off in lieu thereof as scheduled by the appointing officer in the current fiscal year.

#### **III.K. HOLIDAY COMPENSATION FOR TIME WORKED**

182. Employees required by their respective appointing officers to work on any of the above specified or substitute holidays, excepting Fridays observed as holidays in lieu of holidays falling on Saturday, shall be paid extra compensation of one additional day's pay at time-and-one-half the usual rate in the amount of 12 hours pay for 8 hours worked or a proportionate amount for less than 8 hours worked provided, however, that at the employee's request and with the approval of the appointing officer, an employee may be granted compensatory time off in lieu of paid overtime pursuant to the provisions of Section III.E. herein.
183. Executive, administrative and professional employees designated in the Annual Salary Ordinance with the "Z" symbol shall not receive extra compensation for holiday work but may be granted time off equivalent to the time worked at the rate of-one-and-one-half times for work on the holiday.

#### **III.L. HOLIDAYS FOR EMPLOYEES ON WORK SCHEDULES OTHER THAN MONDAY THROUGH FRIDAY**

184. Employees assigned to seven-day operation departments or employees working a five-day work week other than Monday through Friday shall be allowed another day off if a holiday falls on one of their regularly scheduled days off. Employees whose holidays are changed because of shift rotations shall be allowed another day off if a legal holiday falls on one of their days off. Employees regularly scheduled to work on a holiday which falls on a Saturday or Sunday shall observe the holiday on the day it occurs, or if required to work shall receive holiday compensation for work on that day. Holiday compensation shall not be paid for work on the Friday preceding a Saturday holiday nor on the Monday following a Sunday holiday.
185. If the provisions of this Section deprive an employee of the same number of holidays that an employee receives who works Monday through Friday, he/she shall be granted additional days off to equal such number of holidays. The designation of such days off shall be by mutual agreement of the employee and the appropriate supervisor with the approval of the appointing officer. Such days off must be taken within the fiscal year. In no event shall the provisions of this Section result in such employee receiving more or

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less holiday entitlement than an employee on a Monday through Friday work schedule.

#### **III.M. HOLIDAY PAY FOR EMPLOYEES LAID OFF**

186. An employee who is laid off at the close of business the day before a holiday who has worked not less than five previous consecutive work days shall be paid for the holiday.

#### **III.N. EMPLOYEES NOT ELIGIBLE FOR HOLIDAY COMPENSATION**

187. Persons employed for holiday work only, or persons employed on a part-time work schedule which is less than twenty (20) hours in a bi-weekly pay period, or persons employed on an intermittent part-time work schedule (not regularly scheduled), or persons working on an "as-needed" basis and work on a designated legal holiday shall be compensated at the normal overtime rate of time and one-half the basic hourly rate, if the employee worked forty (40) hours in the pay period in which the holiday falls. Said employees shall not receive holiday compensation.

#### **III.O. PART-TIME EMPLOYEES ELIGIBLE FOR HOLIDAYS**

188. 1. Part-time employees, including employees on a reduced work week schedule, who regularly work a minimum of twenty (20) hours in a bi-weekly pay period shall be entitled to holidays as provided in Section III.G. on a proportionate basis.
189. 2. Regular full-time employees, are entitled to 8/80 or 1/10 time off when a holiday falls in a bi-weekly pay period, therefore, part-time employees, as defined in the immediately preceding paragraph, shall receive a holiday based upon the ratio of 1/10 of the total hours regularly worked in a bi-weekly pay period. Holiday time off shall be determined by calculating 1/10 of the hours worked by the part-time employee in the bi-weekly pay period immediately preceding the pay period in which the holiday falls. The computation of holiday time off shall be rounded to the nearest hour.
190. 3. The proportionate amount of holiday time off shall be taken in the same fiscal year in which the holiday falls. Holiday time off shall be taken at a time mutually agreeable to the employee and the appointing officer.

#### **III.P. TIME OFF FOR VOTING**

191. If an employee does not have sufficient time to vote outside of working hours, the employee may request so much time off as will allow time to vote, in accordance with the State Election Code.

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**III.Q. SALARY STEP PLAN AND SALARY ADJUSTMENTS**

192. 1. Subject to the Controller’s certification of available funds and procedures established by the Human Resources Director, the Appointing Officer shall have the discretion to make entrance or promotive appointments at any step in the compensation grade. The step placement determination by the Appointing Officer may be based on such factors as:
193. a. The reappointment of a former permanent City employee, following resignation with service satisfactory, to a permanent position in his/her former classification.
194. b. The determination of the Appointing Officer that there would be a resulting loss of compensation should the appointee accept the position at a lower step.
195. c. A recruiting and retention problem exists, such that all City appointments in the particular class should be above the normal step.
196. d. A determination by the Appointing Officer that the appointee possesses special expertise, qualifications and/or skills that warrant an appointment at an advanced step.
197. e. When it is determined by the Appointing Officer that appointments of all new hires need to be in a classification at a step above the entrance rate, the Human Resources Director may advance to that step incumbents in the same classification who are below that step.
2. **PROMOTIVE APPOINTMENT IN A HIGHER CLASS**
198. An employee or officer who is a permanent appointee following completion of the probationary period or six months of permanent service, and who is appointed to a position in a higher classification, either permanent or temporary, deemed to be promotive by the Department of Human Resources shall have his/her salary adjusted to that step in the promotive class as follows:
199. a. If the employee is receiving a salary in his/her present classification equal to or above the entrance step of the promotive class, the employee's salary in the promotive class shall be adjusted to two steps in the compensation schedule over the salary received in the lower class but not above the maximum of the salary range of the promotive classification.

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200. b. If the employee is receiving a salary in his/her present classification which is less than the entrance step of the salary range of the promotive classification, the employee shall receive a salary step in the promotive class which is closest to an adjustment of 7.5% above the salary received in the class from which promoted. The proper step shall be determined by the bi-weekly compensation schedule and shall not be above the maximum of the salary range of the promotive class.
201. c. If the appointment deemed promotive described herein is a temporary appointment, and the employee, following a period of continuous service at least equal to the prescribed probationary period is subsequently given another appointment either permanent or temporary, deemed promotive from the prior temporary appointment class, the salary step in the subsequent promotive appointment shall be deemed promotive in accordance with Sections herein.
202. For purpose of this Section, appointment of an employee as defined herein to a position in any class the salary schedule for which is higher than the salary schedule of the employee's permanent class shall be deemed promotive.
203. d. If the appointment is to a craft apprentice class, the employee shall be placed at the salary step in the apprentice class pursuant to this section. However, advancement to the next salary step in the apprentice class shall not occur until the employee has served satisfactory time sufficient in the apprenticeship program to warrant such advancement.

3. NON-PROMOTIVE APPOINTMENT

204. An employee or officer who is a permanent appointee following completion of the probationary period or six months of permanent service, and who accepts a non-promotive appointment in a classification having the same salary schedule, or a lower salary schedule, the appointee shall enter the new position at that salary step which is the same as that received in the prior appointment, or if the salary steps do not match, then the salary step which is immediately in excess of that received in the prior appointment, provided that such salary shall not exceed the maximum of the salary schedule. Further increments shall be based upon the seniority increment anniversary date in the prior appointment.

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### Exempt Appointive Position

205. An employee who holds an exempt appointive position whose services are terminated, through lack of funds or reduction in force, and is thereupon appointed to another exempt appointive position with the same or lesser salary schedule, shall receive a salary in the second position based upon the relationship of the duties and responsibilities and length of prior continuous service as determined by the Department of Human Resources.

#### 4. REAPPOINTMENT WITHIN SIX MONTHS

206. A permanent employee who resigns and is subsequently reappointed to a position in the same classification within six (6) months of the effective date of resignation shall be reappointed to the same salary step that the employee received at the time of resignation.

#### 5. COMPENSATION ADJUSTMENTS

##### a. Prior Fiscal Year

207. When an employee promoted to a higher class during a prior fiscal year receives a lesser salary than if promoted in the same class and from the same schedule step during the current fiscal year his/her salary shall be adjusted on July 1, to the rate he/she would have received had he/she been promoted in the current fiscal year.

208. The Department of Human Resources is hereby authorized to adjust the salary and anniversary increment date of any employee promoted from one class to a higher classification who would receive a lesser salary than an employee promoted at a later date to the same classification from the same salary step in the same base class from which the promotional examination was held.

##### b. Salary Increase in Next Lower Rank

209. When a classification that was formerly a next lower rank in a regular civil service promotional examination receives through salary standardization a salary schedule higher than the salary schedule of the classification to which it was formerly promotive, the Department of Human Resources

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shall authorize a rate of pay to an employee who was promoted from such lower class equivalent to the salary he/she would have received had he/she remained in such lower class, provided that such employee must file with the Department of Human Resources an approved request for reinstatement in accordance with the provisions of the Civil Service Commission rule governing reinstatements to the first vacancy in his/her former classification, and provided further that the increased payment shall be discontinued if the employee waives an offer to promotion from his/her current classification or refuses an exempt appointment to a higher classification. This provision shall not apply to offers of appointment which would involve a change of residence.

210. The special rate of pay herein provided shall be discontinued if the employee fails to file and compete in any promotional examination for which he/she is otherwise qualified, and which has a compensation schedule higher than the protected salary of the employee.

c. Flat Rate Converted to Salary Range

211. An employee serving in a class in the prior fiscal year at a flat rate which is changed to a compensation schedule number during the current fiscal year, shall be paid on the effective date of such change the step in the current salary schedule closest to, but not below, the prior flat rate and shall retain the original anniversary date for future increments, when applicable.

d. Continuation of Salary Step Plan Earned Under Temporary Appointment

212. When an employee is promoted under temporary appointment to a higher classification during a prior fiscal year and is continued in the same classification without a break in service in the current fiscal year, or is appointed to a permanent position in the same classification, such appointment shall be in accordance with the provisions of this Agreement, provided that the salary shall not be less than the same step in the salary schedule the employee received in the immediately prior temporary appointment.

e. Credit for Temporary Service

213. A temporary employee, one with no permanent status in any class, certified from a regular civil service list who has completed six months or



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more of temporary employment within the immediately preceding one year period before appointment to a permanent position in the same class shall be appointed at the next higher step in the salary schedule and to successive steps upon completion of the six months or one year required service from the date of permanent appointment. These provisions shall not apply to temporary employees who are terminated for unsatisfactory services or resign their temporary position.

f. Salary Anniversary Date Adjustment

214. Permanent employees working under provisional, exempt or temporary appointments in other classifications shall have their salary adjusted in such other classifications when such employees reach their salary anniversary date in their permanent class.

6. COMPENSATION UPON TRANSFER OR RE-EMPLOYMENT

a. Transfer

215. An employee transferred in accordance with Civil Service Commission rules from one Department to another, but in the same classification, shall transfer at his/her current salary, and if he/she is not at the maximum salary for the class, further increments shall be allowed following the completion of the required service based upon the seniority increment anniversary date in the former Department.

b. Reemployment in Same Class Following Layoff

216. An employee who has acquired permanent status in a position and who is laid off because of lack of work or funds and is re-employed in the same class after such layoff shall be paid the salary step attained prior to layoff.

c. Reemployment in an Intermediate Class

217. An employee who has completed the probationary period in a promotive appointment that is two or more steps higher in an occupational series than the permanent position from which promoted and who is subsequently laid off and returned to a position in an intermediate ranking classification shall receive a salary based upon actual permanent service in the higher classification, unless such salary is less than the employee would have been entitled to if promoted directly to the intermediate classification.

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Further increments shall be based upon the increment anniversary date that would have applied in the higher classification.

d. **Reemployment in a Formerly Held Class**

218. An employee who has completed the probationary period in an entrance appointment who is laid off and is returned to a classification formerly held on a permanent basis shall receive a salary based upon the original appointment date in the classification to which the employee is returned. An employee who is returned to a classification not formerly held on a permanent basis shall receive a salary in accordance with this Agreement.

#### **III.R. METHODS OF CALCULATION**

1. **BI-WEEKLY**

219. An employee whose compensation is fixed on a bi-weekly basis shall be paid the bi-weekly salary for his/hers position for work performed during the bi-weekly payroll period. There shall be no compensation for time not worked unless such time off is authorized time off with pay.

2. **PER DIEM OR HOURLY**

220. An employee whose compensation is fixed on a per diem or hourly basis shall be paid the daily or hourly rate for work performed during the bi-weekly payroll period on a bi-weekly pay schedule. There shall be no compensation for time not worked unless such time off is authorized time off with pay.

3. **CONVERSION TO BI-WEEKLY RATES**

221. Rates of compensation established on other than bi-weekly basis may be converted to bi-weekly rates by the Controller for payroll purposes.

#### **III.S. SENIORITY INCREMENTS**

1. **ENTRY AT THE FIRST STEP**

222. ~~Effective July 1, 2012:~~ Employees ~~appointed on or after July 1, 2012,~~ entering at the first step shall advance to the second step and to each successive step upon completion of the one (1) year required service.

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### **2. ENTRY AT OTHER THAN THE FIRST STEP**

223. Employees who enter a classification at a rate of pay at other than the first step shall advance one step upon completion of the two thousand eighty (2,080) hours required service. Further increments shall accrue following completion of the required service at this step and at each successive step.

224. An employee appointed to a position in a classification, the compensation for which was fixed in the prior fiscal year pursuant to the Charter, shall receive in the current fiscal year a compensation within the salary range fixed in this Agreement based upon the employee's service in said classification.

### **3. DATE INCREMENT DUE**

225. Increments shall accrue and become due and payable on the next day following completion of required service as a permanent employee in the class, unless otherwise provided herein.

### **4. EXCEPTIONS**

226. a. Satisfactory Performance. For all employees hired on or after July 1, 2006, an employee's scheduled step increase may be denied if the employee's performance has been unsatisfactory. The Appointing Officer shall provide an affected employee at least sixty (60) calendar days notice prior to the employee's salary anniversary date of any intent to withhold a step increase. However, if unsatisfactory performance occurs within the sixty days before the employee's salary anniversary date, the Appointing Officer shall provide notice of intent to withhold a step increase within a reasonable time. The notice shall be in writing and shall provide reason(s) and/or explanation for the denial.

227. The denial of a step increase is subject to the grievance procedure. An employee's performance evaluation(s) may be used as evidence by either party in a grievance arbitration; provided, however, that nothing in this Section is intended to or shall make performance evaluations subject to the grievance procedure.

228. If an employee's step advancement is withheld, that employee shall next be eligible for a step advancement on the employee's salary anniversary date the following fiscal year. However, at any time before that date, the Appointing Officer, in his or her sole discretion, may grant the employee

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the withheld step increase, to be effective on or after the first pay period following the Appointing Officer's decision, with no retroactive payment allowed.

229. An employee's salary anniversary date shall be unaffected by this provision.
230. In administering this subsection (a), the City affirms its commitment to a meaningful employee performance evaluation and notice process.
231. b. An employee shall not receive a salary adjustment based upon service as herein provided if he/she has been absent by reason of suspension or on any type of leave without pay (excluding a military, educational, or industrial accident leave) for more than one-sixth of the required service in the anniversary year, provided that such employee shall receive a salary increment when the aggregate time worked since his/her previous increment equals or exceeds the service required for the increment, and such increment date shall be his/her new anniversary date; provided that time spent on approved military leave or in an appointive or promotive position shall be counted as actual service when calculating salary increment due dates.
232. c. When records of service required for advancement in the step increments within a compensation schedule are established and maintained by electronic data processing, then the following shall apply:
233. (1) An employee certified to permanent appointment or appointed to a permanent position exempt from Civil Service, shall be compensated under such appointment at the beginning step of the compensation schedule plan, unless otherwise specifically provided for in this Agreement. Employees under permanent Civil Service appointment shall receive salary adjustments through the steps of the compensation schedule plan by completion of actual paid service in total scheduled hours equivalent to one thousand forty (1,040) hours or two thousand eighty (2,080) hours, whichever is applicable.
234. (2) Paid service for this purpose is herein defined as exclusive of any type of overtime but shall include military or educational leave without pay.

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235. (3) Advancement through the increment steps of the compensation schedules shall accrue and become due and payable on the next day following completion of required service as a permanent appointee in the class; provided that the above procedure for advancement to the compensation schedule increment steps is modified as follows:
236. (a) An employee who during that portion of his/her anniversary year is absent without pay for a period less than one-sixth of the time required to earn the next increment will have such absence credited as if it were paid service for the purposes of calculating the date of the increment due during calendar the year.
237. (b) An employee who during that portion of his/her anniversary year is absent without pay for a period in excess of one-sixth of the time required to earn the next prior increment will be credited with actual paid service.
238. (4) An employee who (1) has completed probation in a permanent position, (2) is "Laid Off" from said position, (3) is immediately and continuously employed in another classification with the City either permanent or temporary, and (4) is thereafter employed in his/her permanent position without a break in service, shall, for the purposes of determining salary increments, receive credit for the time served while laid off from his/her permanent position.

#### **III.T. SICK LEAVE WITH PAY LIMITATION**

239. An employee who is absent because of disability leave and who is receiving disability indemnity payments may request that the amount of disability indemnity payment be supplemented with salary to be charged against the employee's sick leave with pay credits so as to equal the net amount the employee would have earned for a regular work schedule. If the employee wishes to exercise this option, the employee must submit a signed statement to the employee's department no later than thirty (30) days following the employee's release from disability leave.

#### **III.U. ADDITIONAL BENEFITS**

##### **1. EMPLOYEE HEALTH CARE COVERAGE**

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240. The City shall maintain the level of health insurance and dental benefits as determined by the Health Service System Board and shall contribute the applicable amount per month for employee coverage and, as appropriate, for dependent coverage.

~~\_\_\_\_\_ a. Health Coverage Effective Through December 31, 2013~~

~~\_\_\_\_\_ 1) MEDICALLY SINGLE EMPLOYEES~~

~~241. From July 1, 2012 to December 31, 2013 for “medically single employees” (Employee Only) (i.e., benefited employees not receiving contributions paid by the City for dependent health care benefits), the City shall contribute all of the premium for the employees’ own health care benefit coverage.~~

~~\_\_\_\_\_ 2) DEPENDENT HEALTH CARE COVERAGE~~

~~242. From July 1, 2012 to December 31, 2013, for Dependent Coverage (Employee Plus One; Employee Plus Two More), the City shall contribute 75% of the dependent rate charged by the City to employees for Kaiser coverage at the employee plus two or more level.~~

a. Health Coverage Effective January 1, 2014 Through December 31, 2014

1) MEDICALLY SINGLE EMPLOYEES

243. Effective January 1, 2014 through December 31, 2014, for “medically single employees” (Employee Only) enrolled in any plan other than the highest cost plan, the City shall contribute ninety percent (90%) of the “medically single employee” (Employee Only) premium for the plan in which the employee is enrolled; provided, however, that the City’s premium contribution will not fall below the lesser of: (a) the “average contribution” as determined by the Health Service Board pursuant to Charter Sections A8.426 and A8.428(b)(2); or (b), if the premium is less than the “average contribution,” one hundred percent (100%) of the premium.

244. For the period January 1, 2014 through December 31, 2014 only, for “medically single employees” (Employee Only) who elect to enroll in the highest cost plan, the City shall contribute ninety percent (90%) of the premium for the second highest cost plan, plus fifty percent (50%) of the difference between: (a) ninety percent (90%) of the premium for the second highest cost plan, and (b) one hundred percent (100%) of the premium for the highest cost plan.

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2) DEPENDENT HEALTH CARE COVERAGE

245. Effective January 1, 2014 through December 31, 2014, for Dependent Coverage (Employee Plus One; Employee Plus Two More), the City shall contribute 75% of the dependent rate charged by the City to employees for Kaiser coverage at the employee plus two or more level.

b. Health Coverage Effective January 1, 2015

246. Effective January 1, 2015, the contribution model for employee health insurance premiums will be based on the City's contribution of a percentage of those premiums and the employee's payment of the balance (Percentage-Based Contribution Model), as described below:

1) Employee Only:

247. For medically single employees (Employee Only) who enroll in any health plan offered through the Health Services System, the City shall contribute ninety-three percent (93%) of the total health insurance premium, provided however, that the City's contribution shall be capped at ninety-three percent (93%) of the Employee Only premium of the second-highest-cost plan.

2) Employee Plus One:

248. For employees with one dependent who elect to enroll in any health plan offered through the Health Services System, the City shall contribute ninety-three percent (93%) of the total health insurance premium, provided however, that the City's contribution shall be capped at ninety-three percent (93%) of the Employee Plus One premium of the second-highest-cost plan.

3) Employee Plus Two or More:

249. For employees with two or more dependents who elect to enroll in any health plan offered through the Health Services System, the City shall contribute eighty-three percent (83%) of the total health insurance premium, provided however, that the City's contribution shall be capped at eighty-three percent (83%) of the Employee Plus Two or More premium of the second-highest-cost plan.

4) Contribution Cap

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250. In the event HSS eliminates access to the current highest cost plan for active employees, the City contribution under this agreement for the remaining two plans shall not be affected.

5) Average Contribution Amount

251. For purposes of this agreement, and any resulting agreements under paragraph 252, to ensure that all employees enrolled in health insurance through the City's Health Services System (HSS) are making premium contributions under the Percentage-Based Contribution Model, and therefore have a stake in controlling the long term growth in health insurance costs, it is agreed that, to the extent the City's health insurance premium contribution under the Percentage-Based Contribution Model is less than the "average contribution," as established under Charter section A8.428(b), then, in addition to the City's contribution, payments toward the balance of the health insurance premium under the Percentage-Based Contribution Model shall be deemed to apply to the annual "average contribution." The parties intend that the City's contribution toward employee health insurance premiums will not exceed the amount established under the Percentage-Based Contribution Model.

c. Agreement Not to Renegotiate Contributions in 2014

252. The terms described in paragraphs 246 through 251 above will be effective in calendar year 2015, and the parties agree not to seek to modify this agreement through the term of any MOU entered into prior to, or in the spring of, 2014.

d. Other Terms Negotiable

253. While the parties have agreed in paragraph 252 not to negotiate any changes to the Percentage-Based Contribution Model, the parties are free to make economic proposals to address any alleged impact of the health contribution levels described above or other health related issues not involving the percentage-based contribution model (e.g. wellness and transparency).

e. Other Agreements

254. Should the City and any recognized bargaining unit reach a voluntarily bargained agreement that results in City contributions to health insurance premiums exceeding those provided by the Percentage-Based Contribution Model, the City agrees to offer the entire alternate model to the Union as a substitute.



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### **2. DENTAL COVERAGE**

255. Each employee covered by this agreement shall be eligible to participate in the City's dental program.
256. Employees who enroll in the Delta Dental PPO Plan shall pay the following premiums for the respective coverage levels: \$5/month for employee-only, \$10/month for employee + 1 dependent, or \$15/month for employee + 2 or more dependents.
257. The aforesaid contributions shall not be considered as part of an employee's compensation for the purpose of computing straight time earnings, compensation for overtime worked, premium pay, or retirement benefits, nor shall such contributions be taken into account in determining the level of any other benefit which is a function of or percentage of salary.

### **3. CONTRIBUTIONS WHILE ON UNPAID LEAVE**

258. As set forth in Administrative Code section 16.701(b), covered employees who are not in active service for more than twelve (12) continuous weeks, shall be required to pay the Health Service System for the full premium cost of membership in the Health Service System, unless the employee shall be on sick leave, workers' compensation, mandatory administrative leave, approved personal leave following family care leave, disciplinary suspensions or on a layoff holdover list where the employee verifies he/she have no alternative coverage.

### **4. PARENTAL LEAVE**

259. Represented employees shall be granted up to two (2) hours per semester of paid leave to attend parent teacher conferences for the employee's child or a child for whom the employee has child rearing responsibilities (excluding paid child care workers). The Department may request written verification of the attendance at the parent teacher conference.
260. In addition, an employee who is a parent or who has child rearing responsibilities (including domestic partners but excluding paid child care workers) of one or more children in kindergarten or grades 1 to 12 shall be granted unpaid release time of up to forty (40) hours each fiscal year, not exceeding eight (8) hours in any calendar month of the fiscal year, to participate in the activities of the school of any child of the employee, providing the employee, prior to taking the time off, gives reasonable notice of the planned absence. The employee may use vacation,

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floating holiday hours, or compensatory time off during the planned absence. The Department may request written verification of the attendance at the parent teacher conference.

**III.V. RETIREMENT**

261. For the duration of this agreement, 8530 Deputy Probation Officers shall pay their own employee retirement contributions to SFERS.
262. For the duration of this agreement, 8444 Deputy Probation Officers shall pay the employee share of mandatory retirement contributions effectuated via a pre-tax reduction in salary. These mandatory retirement contributions:
263. (i) will be paid by the City to CalPERS, effectuated via a pre-tax reduction in salary pursuant to Internal Revenue Code Section 414(h)(2);
264. (ii) will not be included in the gross income of the bargaining unit members for certain tax reporting purposes, that is, for federal, state, or local income tax withholding, unless and until distributed either through a pension benefit or a lump sum payment;
265. (iii) will be considered as part of the bargaining unit member's compensation for the purpose of computing straight-time earnings, compensation for overtime worked, premium pay, and retirement benefits, and shall be taken into account in determining the level of any other benefit which is a function of, or a percentage of, salary; and
266. (iv) the affected bargaining unit members shall not be entitled to receive any of the contributions described above directly instead of having them paid to CalPERS.
267. Rule changes by the City's Retirement Board regarding the crediting of accrued sick leave for retirement purposes shall be incorporated herein by reference. Any such rule change, however, shall not be subject to the grievance and arbitration provisions of this Agreement or the impasse procedures of Charter Section A8.409.

**III.W. PROPOSITION C**

268. The parties recognize the requirement under Charter Section A8.409-9 to negotiate cost sharing provisions that produce comparable savings and costs to the City and County as

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are produced through the Charter’s SFERSA employee contribution rate adjustment formulae. The parties intend this Section to effectuate the cost sharing provisions of San Francisco Charter Section A8.409-9. The parties further acknowledge that: (i) the annual SFERS employer contribution rate is determined by the SFERS actuary and approved by the SFERS Board for each fiscal year; and (ii) the annual employer contribution rate for SFERS for Fiscal Year 2012-2013 is 20.71%.

269. The parties agree that, when the applicable SFERS annual employer contribution rate is more than 12.00%, bargaining unit members in CalPERS shall make the mandatory statutory employee contribution described in paragraph 252, plus an additional mandatory contribution to effectuate San Francisco Charter Section A8.409-9 (the “Prop. C Contribution”). The Prop. C Contribution is determined, as set forth in the chart below, based on the employee contribution rate which corresponds to the SFERS annual employer contribution rate for that fiscal year. For example, for FY 2012-2013, based on the employer contribution rate of 20.71%, the Prop. C Contribution will be 2.5% of covered compensation for miscellaneous safety bargaining unit members in CalPERS earning at the annual rate of less than \$100,000, and 3% of covered compensation for such bargaining unit members earning at the annual rate of \$100,000 or more.

Employer Contribution Rate for Comparable SFERS Employees	Misc Safety < \$100k	Misc Safety > \$100k
0%	(4.0%)	(5.0%)
0.01% - 1.0%	(4.0%)	(4.5%)
1.01% - 2.5%	(3.75%)	(4.25%)
2.51% - 4.0%	(3.5%)	(4.0%)
4.01% - 5.5%	(2.5%)	(3.0%)
5.51% - 7.0%	(2.0%)	(2.5%)
7.01% - 8.5%	(1.5%)	(2.0%)
8.51% - 10.0%	(1.0%)	(1.5%)
10.01% - 11.0%	(0.5%)	(0.5%)
11.01% - 12.0%	0%	0%
12.01% - 13.0%	0.5%	0.5%
13.01% - 15.0%	1.0%	1.5%
15.01% - 17.5%	1.5%	2.0%
17.51% - 20.0%	2.0%	2.5%
20.01% - 22.5%	2.5%	3.0%
22.51% - 25.0%	3.5%	4.0%
25.01% - 27.5%	3.5%	4.0%
27.51% - 30.0%	3.75%	4.25%

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30.01% - 32.5%	3.75%	4.25%
32.51% - 35.0%	4.0%	4.5%
35.01% +	4.0%	5.0%

270. The Prop. C Contribution:

- (i) will be paid by the City to CalPERS, effectuated via a pre-tax reduction in salary pursuant to Internal Revenue Code Section 414(h)(2);
- (ii) will not be included in the gross income of the bargaining unit members for certain tax reporting purposes, that is, for federal, state, or local income tax withholding, unless and until distributed either through a pension benefit or a lump sum payment;
- (iii) will be included in the gross income of the bargaining unit members for FICA taxes when they are made;
- (iv) will be reported to CalPERS as City contributions to be applied against the City's CalPERS reserve, and will not be applied to the bargaining unit member's individual CalPERS account;
- (v) will be included in the bargaining unit member's compensation as reported to CalPERS and the affected bargaining unit members shall not be entitled to receive any of the contributions described above directly instead of having them paid by the City to CalPERS; and
- (vi) will be considered as part of the bargaining unit member's compensation for the purpose of computing straight-time earnings, compensation for overtime worked, premium pay, and retirement benefits, and shall be taken into account in determining the level of any other benefit which is a function of, a percentage of, salary.

271. In the event that the Prop. C Contribution is zero, i.e., the annual SFERS employer contribution rate is between 11-12%, Section C above will not apply. In the event that the Prop. C Contribution is a negative number, i.e., the annual SFERS employer contribution rate is less than 11%, Section C above will not apply and the Prop. C Contribution will be treated as a City pick up of the bargaining unit members' mandatory CalPERS retirement contribution under paragraph 252 to the extent of the Prop. C Contribution.

272. Any City pick up of an employee's mandatory retirement contribution shall not be considered as part of an employee's compensation for the purpose of computing straight-time earnings, compensation for overtime worked, premium pay, or retirement benefits;

### ARTICLE III – PAY, HOURS AND BENEFITS

nor shall such contributions be taken into account in determining the level of any other benefit which is a function of our percentage of salary. The City reserves the right to take said contributions into account for the purpose of salary comparisons with other employers.

273. Notwithstanding the above paragraphs, in the event that a change in state law causes the implementation, during the term of this Agreement, of an increase in the employee contribution to CalPERS for employees covered by this Agreement, either party may elect to reopen this Agreement to address the impact of the change in state law. This reopener shall be subject to the impasse resolution procedures and criteria set forth in Charter Section A8.409-4.

#### Retirement Restoration

- ~~274. For employees who retire prior to July 1, 2013 and whose final compensation for retirement purposes was impacted by the wage reduction in Fiscal Years 2010-2011 or 2011-2012 described in Section III.A. of the parties' 2006-2012 Agreement, the City will make available restoration pay in a lump sum equivalent to the pensionable value of the wage reduction described in Section III.A. of that Agreement for the period used by the applicable retirement system to determine the employee's final compensation for retirement purposes (Final Compensation Period).~~

- ~~275. Should employees who retire prior to July 1, 2013 wish to receive retirement restoration, they must, at least thirty (30) days prior to the last date of employment, agree to re-designate any floating holidays they have taken during the Final Compensation Period in excess of four (4) floating holidays to vacation days upon retirement. This re-designation shall not apply to floating holidays carried over from a prior fiscal year. Once they have taken four (4) floating holidays during the Final Compensation Period, such employees will not be eligible to take any floating holidays during the last thirty (30) days of their employment except for floating holidays accrued before July 1st of the fiscal year in question.~~

## **ARTICLE III – PAY, HOURS AND BENEFITS**

### Retirement Seminar Release Time

276. Subject to development, availability and scheduling by SFERS and PERS, employees shall be allowed not more than one day during the life of this MOU to attend a pre-retirement planning seminar sponsored by SFERS or PERS.
277. Employees must provide at least two weeks' advance notice of their desire to attend a retirement planning seminar to the appropriate supervisor. An employee shall be released from work to attend the seminar unless staffing requirements or other Department exigencies require the employee's attendance at work on the day or days such seminar is scheduled. Release time shall not be unreasonably withheld.
278. All such seminars must be located within the Bay Area.
279. This section shall not be subject to the grievance procedure.

### **III.X. BEREAVEMENT LEAVE**

280. Employees shall be eligible for bereavement leave pursuant to Civil Service Commission Rules.

### **III.Y. PAID SICK LEAVE ORDINANCE**

281. San Francisco Administrative Code, Chapter 12W Paid Sick Leave Ordinance is expressly waived in its entirety with respect to employees covered by this Agreement.

## ARTICLE IV – WORKING CONDITIONS

### ARTICLE IV — WORKING CONDITIONS

#### IV.A. HEALTH AND SAFETY

282. The City acknowledges its responsibility to provide safe and healthy work environments for City employees. Every employee has the right to safe and healthy working conditions. Employee concerns regarding safety should be brought to the attention of his/her immediate supervisor for appropriate corrective action. No employee covered under this Agreement shall suffer any adverse action for bringing forth safety concerns to his/her immediate supervisor.
283. At Juvenile Probation, the Department will continue its present good faith efforts to improve security at Juvenile Hall, to improve training, to provide “pic-radios” and evaluate the status of Department vehicles.

#### IV.B. TRAINING, CAREER DEVELOPMENT AND INCENTIVES

284. Represented employees shall be on paid status when assigned to attend required educational programs scheduled during normal working hours.
285. The City will provide all employees with handcuffs, flashlight, a plain clothes badge holder that hangs from neck chain, an official identification card, any necessary keys and any other equipment the department deems necessary within one week of the employee’s start date. Further, the department shall provide bullet proof vests that have ballistic integrity to employees in assignments designated by the Department. Further, armed employees shall receive a sufficient amount of ammunition (minimally, 250+50 rounds) per quarter at the range for purposes of practice and qualifying.

#### IV.C. TUITION REIMBURSEMENT

286. The City agrees to allocate ~~ten~~ twenty thousand dollars (~~\$10,000~~ \$20,000) per year to the Tuition Reimbursement Program for the exclusive use of represented classifications except that no employee may receive more than \$1,500 in any fiscal year. Classes which will enhance represented employee's work skills shall be considered as qualifying for tuition reimbursement.

#### IV.D. REASSIGNMENTS

287. The parties recognize that an Appointing Officer may determine or need to reassign employees for a variety of reasons, including but not limited to client needs, professional development of the employee or other employees, balance of experienced and less experienced employees within the department, operational or other needs of the

## ARTICLE IV – WORKING CONDITIONS

department, and other factors.

288. In reassigning bargaining unit members, the City agrees that, except as provided herein, the City shall provide written notice to the Association of any proposed reassignment of an employee in the bargaining unit at least twenty (20) calendar days before the effective date of the proposed reassignment. If the Association makes a written request within ten (10) calendar days of the City's written notice, the City shall meet and confer with the Association in good faith regarding the reassignment. After the parties have met and conferred, the City retains the management right and discretion to determine whether a reassignment is appropriate and warranted.
289. In the event that the City must effectuate a reassignment in a timeframe shorter than the twenty (20) calendar days' notice, the City shall provide written notice of the reassignment as soon as it is reasonably able to provide such notice. If the Association makes a written request within ten (10) calendar days of that written notice, the City shall meet with the Association to discuss the reassignment.

### IV.E. NOTICE FOR MANDATORY TRAINING

290. The Department shall provide two weeks' notice for all Department-wide mandatory training, except as specified below.
291. The two week notice requirement shall not apply to exceptional circumstances including, but not limited to, training to address emergent legal and operational developments.

### IV.F. PAPERLESS PAY POLICY

- 291a. Effective on a date to be established by the Controller, but not sooner than September 1, 2014, the City shall implement a Citywide Paperless Pay Policy. This policy will apply to all City employees, regardless of start date.
- 291b. Under the policy, all employees shall be able to access their pay advices electronically, and print them in a secure and confidential manner. Employees without computer access shall be able to receive hard copies of their pay advices through their payroll offices upon request. Upon implementation of the policy, other than for employees described in the preceding sentence, paper pay advices will no longer be available.
- 291c. Under the policy, all employees (regardless of start date) will have two options for receiving pay: direct deposit or bank card. Employees not signing up for either option will be defaulted into bank cards.
- 291d. Prior to implementing this policy, the City will give all employee organizations a



*ARTICLE IV – WORKING CONDITIONS*

minimum of 30-days’ advance notice.

291e. The union hereby waives any further right to meet and confer over the Citywide Paperless Pay Policy or its implementation, including meet and confer over the effects of the policy.

**ARTICLE V - SCOPE**

**ARTICLE V — SCOPE**

292. The parties recognize that recodifications may have rendered the references to specific Civil Service Rules and Charter sections contained herein, incorrect. Therefore, the parties agree that such terms will be read as if they accurately referenced the same sections in their newly codified form as of July 1, 2012.

**V.A. SAVINGS CLAUSE**

293. Should any part hereof or any provision herein be declared invalid by reason of conflicting with a Charter provision or existing ordinances or resolutions which the Board of Supervisors had not agreed to alter, change or modify, or by any decree of a court, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof and the remaining portions hereof shall remain in full force and effect for the duration of the Agreement.

**V.B. REOPENER**

294. Consistent with the provisions of Charter Section A8.409, an agreement shall be reopened if the Charter is amended to enable the City and that union to arbitrate retirement benefits.

**V.C. ZIPPER CLAUSE**

295. Except as may be amended through the procedure provided below, this Agreement sets forth the full and entire understanding of the parties regarding the matters herein. This Agreement may be modified, but only in writing, upon the mutual consent of the parties.

1. **PAST PRACTICE**

296. Pursuant to a previous Memorandum of Understanding, the parties met and conferred regarding past practices. The parties were unable to agree on whether the Union's proposed practices met the definition of a "past practice" under that MOU. The Parties therefore submitted the dispute to arbitration. The arbitrator ruled as follows: (1) the arbitrator found a past practice of appointing supervisors by seniority at Juvenile Probation; (2) the arbitrator found a past practice at Juvenile Probation of filling specified positions on a permanent and non-rotating basis; and (3) the arbitrator found a past practice and established policy of flextime schedules at Adult Probation. Of these three issues, the latter two (Special Assignments at Juvenile Probation and Flextime at Adult Probation) are contractual obligations. The issue of making acting supervisory assignments on

## **ARTICLE V - SCOPE**

the basis of seniority at the Juvenile Probation Department has been modified in exchange for valuable consideration, including lowering the number of days triggering payment of acting assignment pay. The Parties agree that as for issue (2) (Special Assignments at Juvenile Probation) individuals in Special Assignments are subject to being removed for good cause shown. Except where these practices are expressly addressed in this Agreement, pursuant to the parties' agreement in the prior Memorandum of Understanding, the parties agree that all other past practices and other understandings between the parties not expressly memorialized and incorporated into this Agreement shall no longer be enforceable.

### **2. CIVIL SERVICE RULES/ADMINISTRATIVE CODE**

297. Nothing in this Agreement shall alter the Civil Service Rules excluded from arbitration pursuant to Charter Section A8.409-3. In addition, such excluded Civil Service Rules may be amended during the term of this Agreement and such changes shall not be subject to any grievance and arbitration procedure but shall be subject to meet and confer negotiations, subject to applicable law. The parties agree that, unless specifically addressed herein, those terms and conditions of employment that are currently set forth in the Civil Service Rules and the Administrative Code, are otherwise consistent with this Agreement, and are not excluded from arbitration under Charter Section A8.409-3 shall continue to apply to employees covered by this contract. No later than January 1, 1998, except that this date may be extended for up to an additional three months if requested by either party, such Civil Service Rules and Administrative Code provisions shall be appended to this Agreement and approved pursuant to the provisions of Charter Section A8.409, including submission for approval by the Board of Supervisors. As required by Charter Section A8.409-3, the Civil Service Commission retains sole authority to interpret and to administer all Civil Service Rules. Disputes between the parties regarding whether a Civil Service Rule or a component thereof is excluded from arbitration shall be submitted initially for resolution to the Civil Service Commission. All such disputes shall not be subject to the grievance and arbitration process of the Agreement. After such Civil Service rules and Administrative Code sections are appended to this Agreement, alleged violations of the appended provisions will be subject to the grievance and arbitration procedure of this Agreement.
298. The City and the individual unions agree to use all reasonable efforts to meet and confer promptly regarding proposed changes to the Civil Service Commission Rules.

**ARTICLE V - SCOPE**

**V.D. DURATION OF AGREEMENT**

299. This Agreement shall be effective July 1, ~~2012~~2014 and shall remain in full force and effect through June 30, ~~2014~~2017, with no reopeners except as specifically provided herein.

300. Retirement Reopener

Although not a mandatory subject of bargaining, if requested in writing by the Union, the City agrees to meet and confer with the Union over a mutually satisfactory amendment to the City's contract with PERS to effect safety retirement improvements for represented employees. As set forth in Charter Section A8.506-2, any contract amendment shall be cost neutral. As set forth in Charter Sections A8.409-5 and A8.506-2, the parties acknowledge that any disputes remaining after meet and confer on a PERS contract amendment are not subject to the impasse resolution procedures in Charter Section A8.409.

301. Transfer of Service Credit Reopener

By mutual agreement only, the parties may reopen this Agreement to discuss the issue of transferring service credit prior to 1990 to PERS.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**FOR THE CITY**

**FOR THE UNION**

\_\_\_\_\_  
Georgia Cochran  
Lead Negotiator

\_\_\_\_\_  
Jonathan Yank  
Lead Negotiator

\_\_\_\_\_  
Micki Callahan  
Director, Department of Human Resources

\_\_\_\_\_  
Armando Garcia, President  
San Francisco Deputy Probation Officers  
Association

\_\_\_\_\_  
Martin Gran  
Employee Relations Director

**APPROVED AS TO FORM:**  
DENNIS J. HERRERA, CITY ATTORNEY

\_\_\_\_\_  
By: Elizabeth Salvesson  
Chief Labor Attorney

*APPENDIX A*

**APPENDIX A**

Charles Askin  
Norman Brand  
Alexander “Buddy” Cohn  
Matthew Goldberg  
Luella Nelson  
Wendy Rouder  
Ken Silbert  
Carol Vendrillo  
Barry Winograd

**APPENDIX B  
SUBSTANCE ABUSE PREVENTION POLICY**

**1. MISSION STATEMENT**

- a. Employees are the most valuable resource in the City's effective and efficient delivery of services to the public. The parties have a commitment to prevent drug or alcohol impairment in the workplace and to foster and maintain a drug and alcohol free work environment. The parties also have a mutual interest in preventing accidents and injuries on the job and, by doing so, protecting the health and safety of employees, co-workers, and the public.
- b. In agreeing to implement this Substance Abuse Prevention Policy (SAPP), the parties affirm their belief that substance abuse is a treatable condition. The City is committed to identifying needed resources, both in and outside of the City, for employees who voluntarily seek assistance in getting well. Those employees who voluntarily seek treatment prior to any testing shall not be subject to any repercussions or any potential adverse action for doing so. However, seeking treatment will not excuse prior conduct for which an investigation or disciplinary proceedings have been initiated.
- c. The City is committed to preventing drug or alcohol impairment in the workplace, and to fostering and maintaining a safe work environment free from alcohol and prohibited drugs at all of its work sites and facilities. In addition, the City maintains a drug and alcohol free workplace policy in its Employee Handbook.

**2. POLICY**

- a. To ensure the safety of the City's employees, co-workers and the public, no employee may sell, purchase, transfer, possess, furnish, manufacture, use or be under the influence of alcohol or illegal drugs at any City jobsite, while on City business, or in City facilities.
- b. Any employee, regardless of how his/her position is funded, who has been convicted of any drug/alcohol-related crime that occurred while on City business or in City facilities, must notify his/her department head or designee within five (5) days after such conviction. Failure to report within the time limitation shall subject the employee to disciplinary action, up to and including termination.

**3. DEFINITIONS**

- a. "Accident" (or "post-Accident") means an occurrence associated with the Covered Employee's operation of Equipment or the operation of a vehicle (including, but not limited to, City-owned or personal vehicles) used during the course of the Covered Employee's work day where the City concludes that the occurrence may have resulted from human error by the Covered Employee, or could have been avoided by reasonably alert action by the Covered Employee, and:

## APPENDIX B

- (1) There is a fatality, loss of consciousness, medical treatment required beyond first aid, medical transport, or other significant injury or illness diagnosed, or treated by, a physician, paramedic or other licensed health care professional; or
  - (2) With respect to an occurrence involving a vehicle, there is disabling damage to a vehicle as a result of the occurrence and the vehicle needs to be transported away from the scene by a tow truck or driven to a garage for repair before being returned to service; or
  - (3) With respect to an occurrence involving Equipment, there is damage to the Equipment exceeding three thousand dollars (\$3,000); or
  - (4) With respect to an occurrence involving structures or property, there are damages exceeding ten thousand dollars (\$10,000) to the structures or property.
- b. “Adulterated Specimen” means a specimen that contains a substance that is not expected to be present in oral fluid, or contains a substance expected to be present but is at a concentration so high that it is not consistent with oral fluid.
- c. “Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weights alcohol including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)
- d. “Cancelled Test” means a drug or alcohol test that has a problem identified that cannot be or has not been corrected or which 49 C.F.R. Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
- e. “City” or “employer” means the City and County of San Francisco.
- f. “Collector” means an on-site employee trained to collect a drug or alcohol specimen, or the staff of the collection facility under contract with the City and County of San Francisco’s drug testing contractor.
- g. “Covered Employee” means an employee in a represented covered classification as stated in Section 4.
- h. “CSC” means the Civil Service Commission of the City and County of San Francisco.
- i. “Day” means working day, unless otherwise expressly provided.
- j. “DHR” means the Department of Human Resources of the City and County of San Francisco.
- k. “Diluted Specimen” means a specimen with creatinine and specific gravity values that are lower than expected for oral fluid.



## **APPENDIX B**

- l. “EAP” means the Employee Assistance Program offered through the City and County of San Francisco.
- m. “Equipment” includes any vehicle (including, but not limited to any City-owned vehicle or personal vehicle used during the course of the employee’s paid work time); firearms when a firearm is required, and approved by the Appointing Officer, to be carried and used by the Covered Employee; banding tools; band-it; power tools; bucket truck; or equipment that is used to change the elevation of the Covered Employee more than five (5) feet.
- n. “Illegal Drugs” or “drugs” refer to those drugs listed in Section 5.0. Section 8.a. lists the drugs and alcohol and the threshold levels for which a Covered Employee will be tested. Threshold levels of categories of drugs and alcohol constituting positive test results will be determined using the applicable Substance Abuse and Mental Health Services Administration (“SAMHSA”) (formerly the National Institute of Drug Abuse, or “NIDA”) threshold levels, or U.S. government required threshold levels where required, in effect at the time of testing, if applicable. Section 8.a. will be updated periodically to reflect the SAMHSA or U.S. government threshold changes, subject to mutual agreement of the parties.
- o. “Invalid Drug Test” means the result of a drug test for an oral fluid specimen that contains an unidentified adulterant, or an unidentified substance, that has abnormal physical characteristics, or that has an endogenous substance at an abnormal concentration -preventing the laboratory from completing or obtaining a valid drug test result.
- p. “MRO” means Medical Review Officer who is a licensed physician certified by the Medical Review Officers Certification Council or U.S. Department of Transportation responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.
- q. “Non-Negative Test” or “positive test” means a test result found to be Adulterated, Substituted, Invalid, or positive for alcohol or drug metabolites.
- r. “Oral Fluid” means saliva or any other bodily fluid generated by the oral mucosa of an individual.
- s. “Parties” means the City and County of San Francisco and the San Francisco Deputy Probation Officers’ Association.
- t. “Policy” means “Substance Abuse Prevention Policy” or “Agreement” between the City and County of San Francisco and the Union and attached to the parties’ Memorandum of Understanding (“MOU”).
- u. “Prescription Drug” means a drug or medication currently prescribed by a duly licensed healthcare provider for immediate use by the person possessing it that is lawfully available for retail purchase only with a prescription.

## APPENDIX B

- v. “Refusal to Submit,” “Refusing to Submit,” “Refuse to Test,” or “Refusal to Test” means a refusal to take a drug and/or alcohol test and includes, but is not limited to, the following conduct:
  - i. Failure to appear for any test within a reasonable time.
  - ii. Failure to remain at the testing site until the test has been completed.
  - iii. Failure or refusal to take a test that the Collector has directed the employee to take.
  - iv. Providing false information.
  - v. Failure to cooperate with any part of the testing process, including obstructive or abusive behavior or refusal to drink water when directed.
  - vi. Failure to provide adequate oral fluid or breath samples, and subsequent failure to undergo a medical examination as required for inadequate breath or oral fluid samples, or failure to provide adequate breath or oral fluid samples and subsequent failure to obtain a valid medical explanation.
  - vii. Adulterating, substituting or otherwise contaminating or tampering with an oral fluids specimen.
  - viii. Leaving the scene of an Accident without just cause prior to submitting to a test.
  - ix. Admitting to the Collector that an employee has Adulterated or Substituted an oral fluid specimen.
  - x. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.
  - xi. Leaving work, after being directed to remain on the scene by the first employer representative, while waiting for verification by the second employer representative under section 6.I.b.
  
- w. “Safety-Sensitive Function” means a job function or duty where a Covered Employee either:
  - (1) is operating a vehicle during paid work time on more than fifty-percent (50%) of the Covered Employee’s work days on average over the prior three (3) months. Vacation, sick leave, administrative leave time and all other leave shall be excluded when determining whether a Covered Employee operates a vehicle on more than fifty-percent (50%) of his or her work days; or,
  - (2) is actually operating, ready to operate, or immediately available to operate Equipment other than a vehicle during the course of the Covered Employee’s paid work time.
  
- x. “Substance Abuse Prevention Coordinator” (SAPC) means a licensed physician, psychologist, social worker, certified employee assistance professional, or nationally certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The SAPC will be chosen by the City.
  
- y. “Split Specimen” means a part of the oral fluid specimen in drug testing that is retained unopened for a confirmation test (if required) or in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified Adulterated or Substituted Specimen test result.

## **APPENDIX B**

- z. “Substituted Specimen” means a specimen with laboratory values that are so diminished that they are not consistent with oral fluid and which shall be deemed a violation of this policy, and shall be processed as if the test results were positive.

### **4. COVERED CLASSIFICATIONS**

All employees shall be subject to post-Accident testing under this Agreement. All employees who perform Safety-Sensitive Functions, as defined in this Policy, shall be subject to reasonable suspicion testing.

### **5. SUBSTANCES TO BE TESTED**

- a. The City shall test, at its own expense, for alcohol and/or the following drugs:

- (1.) Amphetamines
- (2.) Barbiturates
- (3.) Benzodiazepines
- (4.) Cocaine
- (5.) Methadone
- (6.) Opiates
- (7.) PCP
- (8.) THC (Cannabis)

- b. Prescribed Drugs or Medications.

The City recognizes that Covered Employees may at times have to ingest prescribed drugs or medications. If a Covered Employee takes any drug or medication that a treating physician, pharmacist, or health care professional has informed the employee (orally or on the medication bottle) will interfere with job performance, including driving restrictions or restrictions on the use of Equipment, the employee is required to immediately notify the designated Department representative of those restrictions before performing his/her job functions.

- (1) Upon receipt of a signed release from the Covered Employee’s licensed healthcare provider, the department representative may consult with Covered Employee’s healthcare provider to confirm specific job duties that the employee can perform while on prescribed medication. If the employee’s healthcare provider is not readily available, or none is given, the department representative may consult with any City-licensed healthcare provider before making a final determination whether the employee may perform his/her job functions. However, if an employee, at the time of notification, brings in a medical note from the healthcare provider who prescribed the medication clearing the employee to work, then the City shall not restrict that employee from performing his or her job functions.

## APPENDIX B

- (2) If a Covered Employee is temporarily unable to perform his or her job because of any potential side effects caused by prescribed medication, the employee shall be reassigned to perform a temporary modified duty assignment consistent with the employee's medical restrictions without loss of pay until either the employee is off the prescribed medication or is cleared by a licensed healthcare provider. This temporary modified duty reassignment shall last for a period of no more than thirty (30) working days. If, after thirty (30) working days, the employee is still on said medication and/or has not been cleared by a licensed healthcare provider to return to work without restrictions, the City may extend the temporary modified duty assignment for a period not to exceed thirty (30) working days, provided that the healthcare provider certifies that the employee is reasonably anticipated to be able to return to work without restrictions after that thirty (30) day period. Employees who are unable to return to work under this provision shall be referred to the Department's human resources representative designated to engage with employees regarding possible reasonable accommodation under state and federal disability laws.

### 6. TESTING

#### I. Reasonable Suspicion Testing

- a. Reasonable suspicion to test a Covered Employee will exist when contemporaneous, articulable and specific observations concerning the symptoms or manifestations of impairment can be made. These observations shall be documented on the Reasonable Suspicion Report Form attached to this Appendix as Exhibit B. At least three (3) indicia of drug or alcohol impairment must exist, in two (2) separate categories, as listed on the Reasonable Suspicion Report Form. In the alternative, the employer representatives must confirm direct evidence of drug or alcohol impairment as listed on the Reasonable Suspicion Report Form.
- b. Any individual or employee may report another employee who may appear to that individual or employee to be under the influence of alcohol or drugs. Upon receiving a report of possible alcohol or drug use or impairment in the workplace, two (2) trained supervisory employer representatives will independently verify the basis for the suspicion and request testing in person. The first employer representative shall verify and document the employee's appearance and behavior and, if appropriate, recommend testing to the second employer representative. The second employer representative shall verify the contemporaneous basis for the suspicion. If reasonable suspicion to test a Covered Employee arises between 11:00 p.m. and 7:00 a.m., or at a location outside the geographic boundaries of the City and County of San Francisco (excluding San Francisco International Airport), and where a second trained supervisory employer representative cannot reasonably get to the location within thirty (30) minutes, then the second employer representative shall not be required to verify the basis for the suspicion in person, but instead shall verify by telephone or email. After completing the verification, and consulting with the first employer representative, the second employer representative has final authority to require that the Covered Employee be tested.

## **APPENDIX B**

- c. If the City requires an employee under reasonable suspicion to be tested, then the employee may ask for representation. Representation may include, but is not limited to, union representatives and shop stewards. If the employee requests representation, the City shall allow a reasonable amount of time from the time the employee is notified that he or she will be tested (up to a maximum of one hour) for the employee to obtain representation. Such request shall not delay the administration of the tests for more than one hour from the time the employee is notified that he or she will be tested.
- d. Department representative(s) shall document the incident. If a Covered Employee Refuses to Submit to testing, then the City shall treat the refusal as a positive test, and shall take appropriate disciplinary action pursuant to the attached discipline matrix.

### **II. Post-Accident Testing**

- a. The City may require a Covered Employee who caused, or may have caused, an Accident, based on information known at the time of the Accident, to submit to drug and/or alcohol testing.
- b. Following an Accident, all Covered Employees subject to testing shall remain readily available for testing. A Covered Employee may be deemed to have refused to submit to substance abuse testing if he or she fails to remain readily available, including failing to notify a supervisor (or designee) of the Accident location, or leaving the scene of the Accident prior to submitting to testing.
- c. Nothing in this section shall delay medical attention for the injured following an Accident or prohibit an employee from leaving the scene of an Accident for the period necessary to obtain assistance in responding to the Accident or to obtain necessary emergency medical care.
- d. If the City requires a Covered Employee to be tested post-Accident, then the employee may ask for representation. Representation may include, but is not limited to, union representatives and shop stewards. If the employee requests representation, the City shall allow a reasonable amount of time from the time the employee is notified that he or she will be tested (a maximum of one hour) for the employee to obtain representation provided that the union representative meet the employee at the Accident site, work location or testing center as determined by the City. Such request shall not delay the administration of the tests for more than one hour from the time the employee is notified that he or she will be tested.
- e. As soon as reasonably possible after the occurrence of an Accident, the supervisor or other City representative at the Accident scene shall make best efforts to contact the Department of Human Resources (DHR) or designee, and DHR or designee shall then make best efforts to telephone the union(s) first designated representative on file with DHR representing the Covered Employee(s) involved in the Accident. If the first designated representative does not answer, DHR or designee shall leave a voice mail message notifying the union of the Accident and telephone the union(s) second designated representative on file with DHR. For purposes of

## APPENDIX B

this paragraph, a designated representative shall be any union officer or employee whose telephone number is on file with DHR for the purpose of Accident review. The union may change the designated representative, in writing, as necessary from time to time, but it is the sole responsibility of the union to ensure that a current telephone number (with voice mail capability) for two designated representatives are on file with DHR.

### 7. TESTING PROCEDURES

#### I. Collection Site

- a. If there is a trained Collector available on site, the City may conduct “on-site” tests (alcohol breathalyzer testing and oral fluid testing). If any of those tests are “Non-Negative,” a confirmation test will be performed. The on-site tests may enable the Covered Employee and the City to know immediately whether that employee has been cleared for work.
- b. If a trained Collector is not available on-site, the staff of a collection facility under contract to the City, or the City's drug testing contractor shall collect oral fluid samples from Covered Employees to test for prohibited drugs.
  - (1.) A Covered Employee presenting herself/himself at the approved drug collection site must have a minimum of one piece of government-issued photo identification and may not leave the collection site for any reason – unless authorized by the collection agency – until (s)he has fully completed all collection procedures. Failure to follow all collection procedures will result in the employee classified as a “Refusal to Submit.”
- c. Covered Employees who Refuse to Test may be subject to disciplinary action, up to and including termination, pursuant to Exhibit A.
- d. Alcohol and drug testing procedures.
  - (1.) Alcohol Testing Procedure. Tests for alcohol concentration on Covered Employees will be conducted with a National Highway Traffic Safety Administration (NHTSA)-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). Alcohol tests shall be by breathalyzer using the handheld Alco-Sensor IV Portable Breath Alcohol Analyzer device, or any other U.S. Department of Transportation (DOT) approved breath analyzer device.
  - (2.) Drug Testing Procedure. Tests for drugs shall be by oral fluid collection. The oral fluid specimens shall be collected under direct visual supervision of a Collector and in accordance with the testing device manufacturer’s recommended procedures for collection. Screening results may be provided by the Collector or by a laboratory. Confirmation tests shall be conducted at a laboratory.

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- (3.) The Covered Employee being tested must cooperate fully with the testing procedures.
- (4.) A chain of possession form must be completed by the Collector, hospital, laboratory and/or clinic personnel during the specimen collection and attached to and mailed with the specimens.
  - e. After being tested for drugs, the Covered Employee may be barred from returning to work until the department is advised of the final testing result by the MRO. During that period, the Covered Employee will be assigned to work that is not safety-sensitive or placed on paid administrative leave for so long as the Covered Employee is eligible for such leave under the terms of the applicable provision of the City's Administrative Code. The test shall be deemed a negative test if the MRO has not advised of the final testing result by the time the Covered Employee's paid leave has expired under the terms of the applicable provision of the City's Administrative Code.

### **II. Laboratory**

- a. Drug tests shall be conducted by laboratories licensed and approved by SAMSHA which comply with the American Occupational Medical Association (AOMA) ethical standards. Upon advance notice, the parties retain the right to inspect the laboratory to determine conformity with the standards described in this policy. The laboratory will only test for drugs identified in this policy. The City shall bear the cost of all required testing unless otherwise specified herein.
- b. Tests for all controlled substances, except alcohol, shall be by oral fluid testing and shall consist of two procedures, a screen test and, if that is positive, a confirmation test.
- c. To be considered positive for reporting by the laboratory to the City, both samples must be tested separately in separate batches and must also show positive results on the confirmatory test.
- d. In the event of a positive test, the testing laboratory will perform an automatic confirmation test on the original specimen at no cost to the Covered Employee. In addition, the testing laboratory shall preserve a sufficient specimen to permit an independent re-testing at the Covered Employee's request and expense. The same, or any other, approved laboratory may conduct re-tests. The laboratory shall endeavor to notify the designated MRO of positive drug, alcohol, or adulterant tests results within five (5) working days after receipt of the specimen.

### **III. Medical Review Officer (MRO)**

- a. All positive drug, or Substituted, Adulterated, positive-Diluted Specimen, or Invalid Drug Test, as defined herein, will be reported to a Medical Review Officer (MRO). The MRO shall

## APPENDIX B

review the test results, and any disclosure made by the Covered Employee, and shall attempt to interview the individual to determine if there is any physiological or medical reason why the result should not be deemed positive. If no extenuating reasons exist, the MRO shall designate the test positive.

- b. When the laboratory reports a confirmed positive, Adulterated, Substituted, positive-Diluted, or Invalid test, it is the responsibility of the MRO to: (a) make good faith efforts to contact the employee and inform him or her of the positive, Adulterated, Substituted, positive-Diluted, or Invalid test result; (b) afford the employee an opportunity to discuss the test results with the MRO; (c) review the employee's medical history, including any medical records and biomedical information provided by the Covered Employee, or his treating physician, to the MRO; and (d) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. Employees shall identify all prescribed medication(s) that they have taken. If the Covered Employee fails to respond to the MRO within three (3) days, the MRO may deem the Covered Employee's result as a positive result.
- c. The MRO has the authority to verify a positive or Refusal To Test without interviewing the employee in cases where the employee refuses to cooperate, including but not limited to: (a) the employee refused to discuss the test result; or (b) the City directed the employee to contact the MRO, and the employee did not make contact with the MRO within seventy-two (72) hours. In all cases, previously planned leaves may extend this time. The MRO's review of the test results will normally take no more than three (3) to five (5) days from the time the Covered Employee is tested.
- d. If the testing procedures confirm a positive result, as described above, the Covered Employee and the Substance Abuse Prevention Coordinator (SAPC) for the City and departmental HR staff or designee will be notified of the results in writing by the MRO, including the specific quantities. The results of a positive drug test shall not be released until the results are confirmed by the MRO. The Covered Employee may contact the SAPC, or the MRO, to request a drug or adulterant retest within seventy-two (72) hours from notice of a positive test result by the MRO. The requesting party will pay costs of re-tests in advance.
- e. A drug test result that is positive and is a Diluted Specimen will be treated as positive. All drug test results that are determined to be negative and are Diluted Specimens will require that the employee take an immediate retest. If the retest yields a second negative Diluted Specimens result, the test will be treated as a normal negative test, except in the case of subsection (f).
- f. If the final test is confirmed negative, then the Employee shall be made whole, including the cost of the actual laboratory re-testing, if any. Any employee who is subsequently determined to be subject of a false positive shall be made whole for any lost wages and benefits, and shall have their record expunged.



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- g. The City shall assure that all specimens confirmed positive will be retained and placed in properly secured long-term frozen storage for a minimum of one (1) year, and be made available for retest as part of any administrative proceedings.
- h. All information from a covered employee's drug and/or alcohol test is confidential for purposes other than determining whether this policy has been violated or pursuing disciplinary action based upon a violation of this policy. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the Covered Employee or as required by law.

### 8. RESULTS

- a. Substance Abuse Prevention and Detection Threshold Levels.  
For post-Accident or reasonable suspicion testing where the Covered Employee was operating a commercial motor vehicle, any test revealing a blood/alcohol level equal to or greater than 0.04 percent, or the established California State standard for commercial motor vehicle operations, shall be deemed positive. For all other post-Accident or reasonable suspicion testing, any test revealing a blood/alcohol level equal to, or greater than, 0.08 percent, or the established California State standard for non-commercial motor vehicle operations, shall be deemed positive. Any test revealing controlled substance confirmation level as shown in the chart below shall be deemed a positive test.

<b>CONTROLLED SUBSTANCE *</b>	<b>SCREENING LEVEL</b>	<b>CONFIRMATION LEVEL</b>
Amphetamines	25 ng/ml **	5 ng/ml**
Barbiturates	50 ng/ml***	20 ng/ml***
Benzodiazepines	20 ng/ml***	0.5 ng/ml***
Cocaine	12 ng/ml **	8 ng/ml**
Methadone	50 ng/ml***	10 ng/ml***
Opiates	20 ng/ml**	10 ng/ml **
PCP (Phencyclidine)	10 ng/ml **	5 ng/ml**
THC (Cannabis)	25 ng/ml and 2 ng/ml***	10 ng/ml and 2 ng/ml***
* All controlled substances including their metabolite components. ** SF Fire Department standards ***Industry standards		

- b. The City reserves the right to discipline in accordance with the chart set forth in Exhibit A for abuse of prescribed and over-the-counter drugs or medications, pursuant to the testing procedures described above, as determined by the MRO.

### 9. CONSEQUENCES OF POSITIVE TEST RESULTS

For post-Accident or reasonable suspicion, a Covered Employee shall be immediately removed

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from performing his or her job or, in the alternative, may be temporarily reassigned to work that is not safety-sensitive if such work is available. The Covered Employee shall be subject to disciplinary action, and shall meet with the SAPC, as set forth in Exhibit A, and section 10 below, if the Covered Employee:

1. Is confirmed to have tested positive for alcohol or drugs;
  2. Refuses to Submit to testing; or
  3. Has submitted a specimen that the testing laboratory report is an Adulterated or Substituted Specimen.
- a. If the Union disagrees with the proposed disciplinary action, it may use the grievance procedure as set forth in the parties' MOU, provided, however, that such a grievance must be initiated at the Employee Relations Director step, unless the parties otherwise mutually agree.
  - b. All proposed disciplinary actions imposed because of a positive drug/alcohol test(s) shall be administered pursuant to the disciplinary matrix set forth in Exhibit A. Subject to good cause, the City may impose discipline for conduct in addition to the discipline for a positive drug/alcohol test. The positive test may be a factor in determining good cause for such additional discipline.
  - c. In the event the City proposes disciplinary action, the notice of the proposed discipline shall contain copies of all laboratory reports and any other supporting documentation upon which the City is relying to support the proposed discipline.

### **10. RETURN TO DUTY**

The SAPC will meet with a Covered Employee who has tested positive for alcohol and/or drugs. The SAPC will discuss what course of action may be appropriate, if any, and assistance from which the employee may benefit, if any, and will communicate a proposed return-to-work plan, if necessary, to the employee and department. The SAPC may recommend that the Covered Employee voluntarily enter into an appropriate rehabilitation program administered by the Covered Employee's health insurance carrier prior to returning to work. The Covered Employee may not return to work until the SAPC certifies that he or she has a negative test prior to returning to work. In the event that the SAPC does not schedule a return-to-work test before the Covered Employee's return-to-work date, the SAPC shall arrange for the Covered Employee to take a return-to-work test within three (3) working days of the Covered Employee notifying the SAPC in writing of a request to take a return-to-work test. If a Covered Employee fails a return-to-work test, he or she shall be placed on unpaid leave until testing negative but shall not be subject to any additional discipline due to a non-negative return-to-work test. The SAPC will provide a written release to the appropriate department or division certifying the employee's right to return to work.

### **11. TRAINING**

## **APPENDIX B**

The City or its designated vendor shall provide training on this policy to first-line, working supervisors and up to the Deputy Director level as needed. In addition, all Covered Employees shall be provided with a summary description of the SAPP notifying them of their right to union representation in the event that they are required to be tested.

### **12. ADOPTION PERIOD**

This Policy shall go into effect on June 30, 2014.

### **13. JOINT CITY/UNION COMMITTEE**

The parties agree to work cooperatively to ensure the success of this policy. As such, a Joint City/Union Committee shall be established with two (2) members from the City and two (2) members from each Union, except that no Union shall be required to participate. The Committee shall meet on an annual basis and, in addition, on an as-needed basis to address any implementation issues and review available data concerning the implementation of this policy.

### **14. SAVINGS CLAUSE**

Notwithstanding any existing substance abuse prevention programs, if any provision of an existing department policy, rule, regulation, or resolution is inconsistent with or in conflict with any provision of this policy, this policy shall take precedence. Should any part of this policy be determined contrary to law, such invalidation of that part of this policy will not invalidate the remaining parts. If operational barriers arise that make implementation of any part of this policy impossible or impracticable, such operational barriers will not invalidate the remaining parts of this policy. In the event of a determination that a part of the policy is contrary to law or if operational barriers arise, the parties agree, with the intent of the parties hereto, to immediately meet and negotiate new provision(s) in conformity with the requirements of the applicable law, or which will remove the operational barrier. Should the parties fail to agree on a resolution, the matter will be submitted to binding arbitration using the factors set forth in Charter section A8.409-4(d), and, as appropriate, Charter section 8A.104(n). Otherwise, this policy may only be modified by mutual consent of the parties. Such amendment(s) shall be reduced to writing.

EXHIBIT A

CONSEQUENCES OF A POSITIVE TEST/OCCURRENCE

<b>Testing Types/Issues</b>	<b>First Positive/Occurrence</b>	<b>Second Positive/Occurrence within Three (3) Years</b>
Post-Accident and Reasonable Suspicion	Suspension of no more than ten (10) working days; Referred to Substance Abuse Prevention Coordinator (SAPC); SAPC may Recommend Treatment; <sup>1</sup> Return to Duty Test.	Will be subject to disciplinary action greater than a ten (10) working- day suspension, up to and including termination except where substantial mitigating circumstances exist.
Refusal to Test or Alteration of Specimen ("Substituted," "Adulterated" or "Diluted")	Suspension of no more than ten (10) working days; Referred to Substance Abuse Prevention Coordinator (SAPC); SAPC may Recommend Treatment; <sup>1</sup> Return to Duty Test.	Will be subject to disciplinary action greater than a ten (10) working- day suspension up to and including termination except where substantial mitigating circumstances exist.

1. Employee may use accrued but unused leave balances to attend a rehabilitation program.

EXHIBIT B

REASONABLE SUSPICION REPORT FORM

This checklist is intended to assist a supervisor in referring a person for reasonable suspicion/cause drug and alcohol testing. The supervisor must identify at least three (3) contemporaneous indicia of impairment in two separate categories (e.g., Speech and Balance) in Section II, and fill out the Section III narrative. In the alternative, the supervisor must identify one of the direct evidence categories in Section I, and fill out the Section III narrative.

*~Please print information~*

Employee Name: \_\_\_\_\_

Department: \_\_\_\_\_; Division and Work Location: \_\_\_\_\_

Date and Time of Occurrence: \_\_\_\_\_; Incident Location: \_\_\_\_\_

**Section I – Direct Evidence of Drug or Alcohol Impairment at Work**

- \_\_\_ Smells of Alcohol
- \_\_\_ Smells of Marijuana
- \_\_\_ Observed Consuming/Ingesting Alcohol or Drugs at work.

**Section II**

**Contemporaneous Event Indicating Possible Drug or Alcohol Impairment at Work:**  
**(Check all that apply)**

**1. SPEECH:**

- \_\_\_ Incoherent/Confused
- \_\_\_ Slurred

**2. BALANCE:**

- \_\_\_ Swaying
- \_\_\_ Staggering
- \_\_\_ Arms raised for balance
- \_\_\_ Reaching for support
- \_\_\_ Falling
- \_\_\_ Stumbling

**3. AWARENESS:**

- \_\_\_ Confused
- \_\_\_ Lack of Coordination
- \_\_\_ Sleepy/Stupor/ Excessive Yawning or Fatigue
- \_\_\_ Paranoid
- \_\_\_ Cannot Control Machinery/Equipment
- \_\_\_ An observable contemporaneous change in the Covered Employee's behavior that strongly suggests drug or alcohol impairment at work. [Such observable change(s) must be described in Section III below.]

**4. APPEARANCE:**

- \_\_\_ Red Eyes
- \_\_\_ Dilated (large) Pupils
- \_\_\_ Constricted (small) Pupils
- \_\_\_ Frequent Sniffing

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**Section III – NARRATIVE DESCRIPTION**  
**(MUST be completed in conjunction with Section I and/or Section II)**  
*~Please print information~*

Describe contemporaneous and specific observations regarding the Covered Employee’s symptoms or manifestations of impairment which may include: (a) any observable contemporaneous change in behavior suggesting drug or alcohol impairment; (b) any comments made by the employee; (c) specific signs of drug or alcohol use; (d) recent changes in behavior that have led up to your contemporaneous observations; and (e) the name and title of witnesses who have reported observations of drug or alcohol use. [Attach documentation, if any, supporting your reasonable suspicion determination]

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**Section IV**

In addition to completing the narrative in Section III above:

- For Section I, you will need to identify at least one (1) contemporaneous observations (**direct evident/sign(s) that occurs that causes you to test today**) regarding the manifestations of impairment to initiate a test; or
- For Section II, you will need to identify at least three (3) contemporaneous observations, (**signs that occur that causes you to test today**), in two (2) separate categories, regarding the manifestations of impairment to initiate a test.

Make note of date and time of the incident. Obtain concurrence of second supervisor and record their signature as noted.

**Conduct a brief meeting with the employee to explain why he or she must undergo reasonable suspicion drug and alcohol tests. Escort the employee to the collection site. DO NOT LET THEM DRIVE.**

Print name of first on-site Supervisor Employee Representative \_\_\_\_\_

Signature \_\_\_\_\_ DATE: \_\_\_\_\_

Print name of second Supervisor Employer Representative \_\_\_\_\_

**APPENDIX B**

Signature \_\_\_\_\_ DATE: \_\_\_\_\_