



Council Meeting: November 15, 2011

SUBJECT: Adoption of the City of Sunnyvale's Service Employees International Union (SEIU) Memorandum of Understanding Extension, and Amendment to the Salary Resolution

REPORT IN BRIEF

Tentative agreement has been reached on a Memorandum of Understanding (MOU) Extension with the City of Sunnyvale's Service Employees International Union (SEIU) Local 521. This report recommends adoption of the provisions of the two-year contract extension, and amendment to the Salary Resolution. This agreement, if approved by the City Council, is effective July 1, 2012 through June 30, 2014.

BACKGROUND

Recognizing that the City is experiencing a significant budget shortfall, the City requested assistance from its employees to resolve this shortfall. Discussions have taken place between negotiators on behalf of the City and SEIU Local 521 on how to best address the budget shortfall, and what would be in the best interest of both parties, including the possibility of a contract extension. A proposed agreement for a MOU extension was reached and ratified by SEIU general membership on October 19, 2011. (See Attachment A – Tentative Agreement City of Sunnyvale and SEIU Local #521).

EXISTING POLICY

Council Policy 7.3.1 - Legislative Management

Goal 7.3D: Maintain a quality workforce, consistent with state and federal laws, City Charter, and adopted policies in order to assure that City services are provided in an effective, efficient and high quality manner.

Policy 7.3D.1: Maintain a recruitment and selection process that ensures a highly competent workforce.

Action Statement 7.3D.1a: Maintain a competitive pay and benefit package for employees.

DISCUSSION

The proposed MOU extension provides for concessions by SEIU through the term of June 30, 2014. The MOU includes the following:

- No salary increase (0%) during the extension of the term of the MOU.

- July 2012 employees shall pay an additional two percent (2%) towards CalPERS, for a total of three percent (3%) employee contribution.
- At any time the second tier retirement formula is implemented for new employees, SEIU Local 521 agrees to immediately accept implementation of the same retirement formula.
- Revisions to City Contribution on Insurance (see Article 27).
- Transfers (see Article 40).

FISCAL IMPACT

There is no net fiscal impact of this contract extension, as the terms of the concessions made by SEIU match the assumptions made for the FY 2011/12 Adopted Budget. For context, an additional 2% contribution towards CalPERS from SEIU members equates to approximately \$31,000 annually and \$770,000 over 20 years. Additionally, each 1% salary increase for SEIU equates to a total compensation increase of approximately \$22,000 annually, or \$550,000 over 20 years.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Adopt the City of Sunnyvale's Service Employees International Union Local 521, Memorandum of Understanding Extension, and Amendment to the Salary Resolution.
2. Do not adopt the City of Sunnyvale's Service Employees International Union (SEIU) Local 521 Memorandum of Understanding Extension, and Amendment to the Salary Resolution and notify the association of the City Council's desire to continue further discussions.

RECOMMENDATION

Staff recommends adoption of Alternative #1: Adopt the City of Sunnyvale's Service Employees International Union, Local 521, Memorandum of Understanding Extension, and Amendment to the Salary Resolution.

Reviewed by:

Teri Silva, Director, Human Resources
Prepared by: Patricia Lord, Senior Management Analyst

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. City of Sunnyvale and Service Employees International Union, Local 521 (Bargaining Unit #4) Memorandum of Understanding, July 1, 2008 to June 30, 2014.
- B. Resolution to Amend the Salary Resolution.

CITY OF SUNNYVALE

and

**SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 521
(Bargaining Unit #4)**

MEMORANDUM OF UNDERSTANDING

July 1, 2008 to June 30, 2014

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**CITY OF SUNNYVALE
and
BARGAINING UNIT #4
Service Employees International Union, Local 521**

MEMORANDUM OF UNDERSTANDING

Article 1 - RECOGNITION

- 1.1 Service Employees International Union, Local 521, AFL-CIO (hereafter, "Union") is hereby recognized as the Exclusive Representative of City Employees in Bargaining Unit #4 (hereafter, "Unit"). The term "employees" as used herein refers to those employees regularly scheduled to work a minimum of 1,092 hours to a maximum of 1,716 hours per fiscal year and occupying the classifications as currently listed in Appendix A, or as may be modified by mutual agreement of the Parties during the term of this Memorandum of Understanding (hereafter, "MOU").
- 1.2 If the City develops a new classification, it shall make an initial determination as to the unit placement of that classification.
- 1.3 The City shall notify the Union of the development of a new classification and the City's initial unit placement, and, upon written request from the Union within ten (10) working days of the City's notice, shall consult with the Union concerning the unit placement of the new classification.

Article 2 - TERM

- 2.1 The term of this Agreement shall be from July 1, 2008 through and including June 30, ~~2014~~.

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Article 3 - FULL UNDERSTANDING, MODIFICATIONS, AND WAIVERS

- 3.1 This Agreement sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements, including any prior memoranda of agreement, over these matters between parties, whether formal or informal, are hereby superseded or terminated in their entirety.

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- 3.2 It is agreed and understood that, except as set forth herein, each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of representation, during the term of this Agreement.
- 3.3 The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.
- 3.4 The provisions of this Agreement are of no force or effect until ratified by the Union and duly adopted by the City Council of the City of Sunnyvale.
- 3.5 The parties agree to mutually select a printer who will produce copies of this Agreement. The parties will equally share the cost of the initial edition. If either party needs additional copies, such party will bear the cost of the additional printing.

Article 4 - SEVERABILITY (SAVINGS CLAUSE)

- 4.1 In the event any provision of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.
- 4.2 If a provision is declared invalid or unenforceable as provided in Section 4.1 above, then at the written request of either Party submitted to the other within ten (10) working days of such action by the court, the Parties shall meet promptly to negotiate the impact of such declaration by the court.
- 4.3 If the federal government or State of California implements legislation which penalizes the City for paying increases in benefits and wages in excess of certain limits, then at the written request of either Party submitted to the other within ten (10) working days of such action by the government, the Parties shall meet promptly to negotiate the impact of such legislation.
- 4.4 If the federal government or State of California grants additional benefits, then at the written request of either Party submitted to the other within ten (10) working days of such action by the government, the Parties shall meet promptly to negotiate the impact of such granting.

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Article 5 - SUCCESSOR AGREEMENT

- 5.1 In accordance with the City Civil Service Rules and Regulations, the parties agreed that they shall endeavor to provide each other with notification of a desire to negotiate for a successor Agreement by 90 days from the expiration of this Agreement.

It is the intent of both parties to try and reach a successor Agreement prior to the expiration of this Agreement. However, it is by no means a mandatory obligation of the parties to do so.

- 5.2 Upon receipt of such written notice from either party, negotiations shall begin no later than 60 calendar days prior to the termination date of the agreement.

If either party is unable to meet the timeline, it shall not result in any waiver of rights. The parties shall meet as soon as possible.

Article 6 - RELEASE TIME

- 6.1 When negotiating a successor agreement, the Union shall be represented by no more than five (5) employees who will not lose wages and benefits when negotiating during their scheduled work hours. The Union shall have the right to assign up to 5 bargaining unit members to participate in negotiations who shall be entitled to paid release time as long as it occurs during the regular scheduled work hours. Union members chosen to participate in negotiations shall be entitled to release time for maximum of 1 hour before negotiation begins until 1 hour after negotiation ends (as long as the pre and post negotiation occurs during regular work hours).
- 6.2 The Union shall submit the names of all designated representatives to the Director of Human Resources at least two working days in advance of such meetings.
- 6.3 If the SEIU Field Representative of the Union attends a mutually agreed upon meeting with the City, the SEIU Worksite Organizer and up to two (2) stewards and/or Chapter Chair shall have reasonable release time to attend such meeting.
- 6.4 Travel time is included within the reasonable release time.

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Article 7 - CITY RIGHTS

- 7.1 Except as modified by this Agreement, the rights of the City as contained in the City Charter, Constitution, and Laws of the State of California include, but are not limited to, the right to determine the services, activities, and functions of its constituent departments, commissions and boards; set standards of service, determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations, determine the methods, means and personnel by which governmental operations are to be conducted; take all necessary actions to carry out its service, activities, and functions in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Article 8 - ORDINANCES, CODES, RESOLUTIONS, AND POLICIES

- 8.1 Any written City ordinances, codes, resolutions, or policies currently in effect that cover subjects within the scope of representation shall not be changed during the term of this Agreement without first giving the Union the opportunity to meet and confer concerning such changes, except as otherwise provided by this Agreement.
- 8.2 Such meeting and conferring shall be up to and including mediation.
- 8.3 Within four (4) weeks of a written request by the City, the parties shall begin negotiations concerning proposed changes to the City's Administrative Policy and the City's Civil Service Rules.
- 8.4 The City shall administer the Achievement Plans/Audits for Classified Regular Part-Time Employees in accordance with the Administrative Policy Manual Chapter III, Article V, Section 4.
- 8.5 The City and SEIU agree to re-open this Article of the MOU at such time as the City is ready to develop a new employee evaluation system.

Article 9 - CIVIL SERVICE RULES AND REGULATIONS

- 9.1 This Agreement adopts and incorporates by reference the provisions of the Civil Service Rules and Regulations and the existing Salary Resolution insofar as these provisions apply to wages and fringe benefits and such provisions remain in effect except as modified herein.

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Article 10 - NON-DISCRIMINATION

- 10.1 Neither party shall discriminate against an employee based on race, religious creed, color, national origin, ancestry, sex, age, gender, political activity or affiliation, disability, medical condition, sexual orientation, or marital status. Neither party shall interfere with, intimidate, restrain or coerce any employee in his/her free choice to participate or not to participate actively in, or to join or not to join the Union.
- 10.2 The City will comply with the disability discrimination provisions of the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA). Employees who are disabled as defined by the law will be entitled to reasonable accommodations in order to continue employment as required by ADA and FEHA.

Article 11 - AUTHORIZED AGENTS

- 11.1 For purposes of administering the terms and provisions of this Agreement:
- a. City's principal authorized representative shall be the City's Director of Human Resources or his/her duly authorized representative [address: 505 West Olive Avenue, Suite 200, Sunnyvale, CA 94086; telephone (408) 730-7495; FAX (408) 720-1497] except where a particular management representative is specifically designated in connection with a specific purpose.
 - b. The Union's principal authorized representative shall be the Union's Executive Secretary or his/her duly authorized representative [address: 891 Marshall Street, Redwood City, CA 94063; telephone (650) 365-8715; FAX (650) 365-7956].

Article 12 - UNION ACCESS

- 12.1 Authorized Union representatives may be granted access to work locations in all facilities where employees covered by this Agreement are employed, to conduct grievance investigations and observe working conditions.
- 12.2 Authorized Union representatives shall not interfere with the work operations of the City. Authorized Union representatives desiring such access to work locations shall first request entrance from the appropriate manager at which time the Authorized Union representative shall inform said manager of the purpose of the visit. Such request may be made by telephone or in person upon entering the work location.

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- 12.3 The manager may deny access to a work location if, in his or her judgment, the visit will unduly interfere with the operation of the City. If access is denied, the Authorized Union representative will be informed when access will be made available. Such access shall be at a mutually agreed upon time, or within 24 work hours, if no agreement can be reached.
- 12.4 The Union shall give the Director of Human Resources a list of Authorized Union representatives. Access shall only be granted to Authorized Union representatives on the current list.

Article 13 - STEWARDS

- 13.1 A steward shall be granted reasonable release time to investigate and/or prepare for a grievance procedure and to attend a formal grievance hearing. A steward shall be granted reasonable release time to attend an investigative meeting and to act on behalf of an employee facing possible disciplinary action.
- 13.2 A steward desiring to leave his/her work location to process a grievance shall first obtain permission from his/her supervisor. Release from work shall be made as soon as practical.
- 13.3 Permission from the grievant's supervisor shall first be obtained before a steward enters a work location of a grievant to process a grievance. Permission to enter shall be made as soon as practical.
- 13.4 The Union agrees that whenever a steward is involved in grievance activities listed above during work hours, only that amount of time necessary to bring about a prompt disposition of the matter will be utilized.

Article 14 - AGENCY SHOP

The parties are aware of the law enacted pursuant to Senate Bill 739, effective January 1, 2001, amending Government Code Section 3500 et. seq. concerning agency shop. The parties have agreed to implement and apply agency shop as set forth below. To the extent that there are differences between the statutory provisions and the language in this MOU, the MOU is intended to prevail.

14.1 Agency Shop Implementation

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All SEIU-represented employees must either join the Union, pay a service fee to the Union or execute a written declaration claiming a religious exemption from this requirement.

Any SEIU-represented employee hired by the City shall be provided through the Department of Human Resources a notice advising that the City has entered into an Agency Shop agreement with the Union.

Such notice shall include a form for the employee's signature authorizing payroll deduction of the Union dues or a service fee, or to request an exemption and to authorize the appropriate charitable contribution in lieu of Union membership or service fee payment (see #2 below). Employees shall have fifteen (15) working days following the initial date of employment to fully execute the authorization form and return said form to the Department of Human Resources. If the employee fails to return the authorization forms, the City will initiate payroll deduction for service fees effective the next full pay period.

14.2 Religious Exemption

Any SEIU-represented employee 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 organization shall be permitted upon presentation of verification of active membership in such religion, body or sect, to make a charitable contribution equal to the service fee in-lieu of Union Membership or service fee payment.

Declarations of, or applications for, religious exemption and any supporting documentation shall be forwarded to the Union within ten (10) working days of receipt by the City. The Union shall have ten (10) working days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the charity of the employee's choice shall be held/stopped pending resolution of the challenge.

14.3 Payroll Deductions and Pay-over

The effective date of dues, service fee deductions or charitable contributions shall be the next full pay period after receipt by the Human Resources Department of the authorization form.

Charitable deduction shall only be by regular payroll deduction. For purposes of this Article, charitable deduction means a contribution to one of the federations and/or entities within a federation to which the City has established payroll deductions under the Citywide Giving Campaign. These federations shall be exempt from taxation under 501(c)(3) of the Internal Revenue Code.

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The employee's earnings must be sufficient, after other legal and required deductions are made, to cover the amount of the dues or service fees authorized. All legal and required deductions have priority over Union dues and service fees.

When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings.

In the case of an employee who is in a non-pay status during only part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made.

The City shall promptly pay to the designated payee all sums so deducted.

14.4 COPE Deduction

The City will also honor written assignments of wages to the Union's Committee on Political Education (COPE) fund, for employees in the bargaining units who submit written authorizations. Employees may revoke their authorization at any time by submitting written revocation to the Payroll Department, who will forward such revocation to the Union.

The City will forward to the Union the dues and COPE deductions along with the names and employee identification numbers within ten (10) calendar days of deduction, along with the names, wages and ID numbers of the employee.

Although the parties agree that the COPE deduction is valid and lawful, SEIU agrees to indemnify and hold the City harmless for any claims which may be brought as a result of the COPE deduction.

14.5 Reports

The City shall provide biannually a list of all SEIU-represented employees making charitable deductions pursuant to a religious exemption as described herein.

14.6 Financial Reports

The Union shall annually submit copies of a financial report similar to that required by the Labor-Management Disclosure Act of 1959, to the City's Department of Human Resources. Copies of such reports shall be available to employees, subject to the Agency Shop requirements of this Section, at the offices of the Union.

Failure to file such a report within sixty (60) days of the close of the Union's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to any employee, until such report is filed.

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14.7 Hold Harmless

The Union shall indemnify and hold harmless the City, its officers, and employees from any and all claims, demands, suits, or any other action arising from the Agency Shop provisions herein. In no event shall the City be required to pay from its own funds Union dues, service fees or charitable contributions which the employee was obligated to pay, but failed to pay, regardless of the reason(s).

14.8 Job Announcements

Job announcements for positions covered by this Agreement will incorporate the requirements of this Article as a condition of employment.

14.9 Enforcement

Nothing herein shall require the City to take disciplinary action against any employee who fails to comply with the provisions of this Article.

Article 15 - GRIEVANCE PROCEDURE

PREAMBLE

The parties agree that this grievance procedure is designed to resolve labor management issues in a way that maximizes the chances of mutual agreement. The communications/appeals process described below should also maximize harmonious, respectful, and polite communications.

DEFINITIONS

1. Grievance. A grievance is an alleged misapplication of a specific provision of this MOU, or a specific provision of the Administrative Policy Manual, Employee Handbook, City Ordinance, City Code, or departmental policies, rules or regulations, covering wages, hours or other terms or conditions of employment, which alleged misapplication adversely affects the grievant. The content of Employee Performance Audits ~~is~~ not grievable.

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2. Written Grievance. A written grievance is a grievance, as defined above, which has been reduced to writing on a form provided by the City, and which shall include the grievant's name, classification, department, immediate supervisor's name, representative's name, if any; the specific section of the MOU, ordinance or code alleged to have been misapplied, a specific description of the alleged grievance, with the circumstances supporting the grievant's allegation, and the specific remedy requested to resolve the grievance.

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3. Grievant. A grievant is an employee, a group of employees or the Union. A grievant may file a grievance, as defined above. Alleged misapplications which affect more than one employee in a substantially similar manner may, by mutual agreement, be consolidated as a group grievance and thereafter represented by a single grievant.
4. Work day is defined as Monday through Friday exclusive of holidays.

GRIEVANCE PROCESS

1. Unwritten Grievance. The grievant shall orally discuss his/her grievance with his/her immediate management supervisor in an attempt to resolve the grievance. The management supervisor shall give an oral response to the employee within seven (7) work days of the issue being raised by the employee.
2. Written Grievance.

Level 1: If the grievant is not satisfied with the resolution proposed at the unwritten level, he/she may, within thirty (30) calendar days from the event giving rise to a grievance, or from the date the employee should reasonably have been expected to have knowledge of such event, file a formal written grievance with his/her Program Manager on a form prepared and supplied by the City. The Program Manager shall, within seven (7) work days from the receipt of the grievance, meet the grievant and give a written response to the grievant on the original grievance form.

Level 2. If the grievant is not satisfied with the written response from his/her Program Manager, the grievant may, within seven (7) work days from the receipt of such response, file a grievance with his/her Division Level Manager. Within seven (7) work days of receipt of the written appeal, such Manager shall investigate the grievance, which shall include meeting with the grievant, and give a written response to the grievant on the original form.

Level 3. If the grievant is not satisfied with the written response from his/her Division Level Manager, the grievant may, with seven (7) work days from the receipt of the response appeal the grievance to the Department Director. Within seven (7) work days of receipt of the written appeal, the Department Director or designee shall investigate the grievance, which may include a meeting with the grievant, and give a written response to the grievant on the original grievance form.

Level 4. If the grievant is not satisfied with the written response of the Department Director, the grievant may, within seven (7) work days from the receipt of this response, file a written appeal to the City Manager or designee. Within ten (10) work days of receipt of the written appeal, the City Manager or designee shall investigate the grievance, which shall include a meeting with the grievant, and give a written response to the grievant.

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GENERAL PROVISIONS

1. The time limits set forth herein above are to be strictly followed. Time limits may be waived only by written agreement signed by the parties.
2. If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be prevented from going further.
3. If the original grievance is modified at any step, it shall be considered a new grievance and must be re-filed, treated as a new grievance and subject to all procedural considerations, unless, modified in writing by mutual consent of the parties.
4. If a supervisor or manager fails to respond with an answer within the given time period, the grievant may appeal to the next higher level.
5. The grievant may be represented by a person of his/her choice at any formal level of this procedure.
6. Formal levels may be waived by mutual written consent of the parties.
7. If the grievant is not represented by the Union, the Union shall be notified of a settlement proposed at any written level of the procedure which is acceptable to both the grievant and the City prior to the settlement being finalized. The purpose of this step is to allow the Union to state its position for the record. If the Union does not provide a written response within seven (7) work days after notification, such opportunity shall be considered waived, and the proposed settlement shall be implemented and the matter closed. If a timely response is made, the City's representative shall give full consideration to the Union's position prior to settlement of the grievance.
8. Although grievances will normally be filed at the first level, the parties recognized that certain grievances, due to their nature, should be more appropriately filed at a higher level. The parties therefore agree that if a grievant and the program manager at level 1 agree that a grievance may be filed at a higher level, the grievant may then go ahead and file a grievance at the higher level.
9. By mutual agreement of the parties, a grievance may revert to a previous level of the procedure.

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GRIEVANCE REPRESENTATIVE

1. There shall be a reasonable number of Grievance Representatives in this Unit.
2. At the request of the grievant, the grievant may be represented by a Grievance Representative.
3. In instances where the designated Grievance Representative is unable to represent a grievant, the Chapter Chair shall represent the grievant or designate a representative who is on the current list as provided below, to act as a substitute.
4. Both the Grievance Representative and either the Chapter Chair or designee will be allowed to represent at Level 2 or higher.
5. A Grievance Representative shall be granted reasonable release time to investigate and/or prepare for a grievance procedure and to attend a formal grievance hearing. A Grievance Representative shall be granted reasonable release time to attend an investigative meeting and to act on behalf of an employee facing possible disciplinary action.
6. A Grievance Representative shall operate within their designated area except as provided in Paragraph 3 above.
7. A Grievance Representative desiring to leave his/her work location to process a grievance shall first obtain permission from his/her immediate supervisor. Release from work shall be made as soon as practical.
8. A Grievance Representative desiring to enter the work location of a grievant to process a grievance shall first obtain permission from the grievant's supervisor. Permission to enter shall be made as soon as practical.
9. The Union agrees that whenever a Grievance Representative is involved in grievance activities listed in Paragraph 5 above during working hours, only that amount of time necessary to bring about a prompt disposition of the matter will be utilized.
10. The Union shall give the Human Resources Director or designee a list of the names of employees selected as Grievance Representatives, and will immediately notify the Department of Human Resources of any changes.
11. Only those employees whose names are on the current list shall be granted release time to serve as a Grievance Representative.

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ARBITRATION

1. If a grievance has been properly processed through the Grievance Procedure, and has not been resolved, and the original grievance is an alleged misapplication of a specific provision of this MOU which adversely affects the grievant, then the grievant, through the Union, may appeal the grievance to Arbitration.
2. To request Arbitration, the appeal must be filed with the Director of Human Resources or designee within ten (10) days of receipt of an answer at Level 4, or ten (10) days from the last day an answer was possible at Level 4 of the Grievance Procedure.
3. The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Conciliation Service to provide a list of seven (7) names of persons qualified to act as arbitrators.
4. Within ten (10) days following receipt of the above-referenced list, the parties shall meet to select the arbitrator. The right to strike the first name shall be determined by lot, and the parties shall alternately strike one name from the list until only one (1) name remains, and that person shall be the arbitrator.
5. Within twenty (20) days following the receipt of the notice of appeal to arbitration, a meeting shall be arranged by the Director of Human Resources or designee with the employee and appropriate Union representative to prepare a joint statement of the issue(s) to be presented to the arbitrator. If the parties are unable to agree upon the issue(s), each party will prepare its statement of the issue(s) to be presented to the arbitrator.
6. The arbitrator shall hold a hearing on the issue(s) jointly submitted, or as determined by the arbitrator if the parties have not mutually agreed upon the issue(s), and, within 30 calendar days of the hearing, render a written decision with reasons for the decision.

Post Hearing Briefs

Unless the parties mutually agree, there shall be no post hearing briefs. The parties shall present oral argument immediately upon close of the presentation of evidence. However, in the situation of multiple day hearings broken by days or weeks, or of a complex case, a party may request of the arbitrator the right to submit a post-hearing brief.

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7. Each of the parties shall pay for the time and expenses of its representatives and witnesses through all stages of the arbitration and shall contribute equally to the fees and expenses of the arbitrator and court reporter, if any.

8. The parties agree that the arbitrator shall not add to, subtract from, change or modify any provision of this Agreement and shall be authorized only to apply existing provisions of this Agreement to the specific facts involved and to interpret only applicable provisions of this Agreement.
9. The decision of the arbitrator shall be final and binding.
10. The arbitrator's award is subject to the California Arbitration Act, by petition of either side, pursuant to C.C.P. Sections 1280, *et seq.*

APPEAL PROCEDURE WAIVER

The Union agrees that the procedures set forth in this Agreement are the only grievance and appeal procedures available to the employees it represents and that any appeal rights found elsewhere within City Codes, Ordinances or Resolutions are waived. The sole exception to this waiver is the Impasse Procedure, which is still applicable as a dispute resolution procedure available during the meet and confer process.

Article 16 - PROBATIONARY PERIOD

- 16.1 Upon appointment to a classification within the bargaining unit, an employee shall serve a probationary period of six (6) calendar months. If a status change is granted, regular status will be effective the first full pay period following the six (6) calendar month period.
- 16.2 The City may at its discretion extend the probationary period up to an additional 6 months by placing the bargaining unit member on notice of such extension prior to the expiration of his/her probation. Under no circumstances may probation be extended more than 6 months.
- 16.3 The City may reject an employee for any reason, as long as the reason is not unlawful.
- 16.4 A bargaining unit member who is promoted within a unit and who is required to serve probation on a promotional assignment will be entitled to his/her previous job position if it is still vacant and budgeted for at the time of rejection if the employee has held regular status in the previous position.

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Article 17 - MINIMUM/MAXIMUM HOURS

- 17.1 Regular Part-Time employment shall consist of a regular schedule, provided that the employee's normal work hours may not exceed thirty (30) hours per week, nor be less than twenty-one (21) hours per week, and provided further that an employee's total paid hours may not exceed 1,716 hours nor be less than 1,092 hours per fiscal year.

The number of hours per week that the employee will work will be established upon hire (i.e. 21 hours per week, 28 hours per week, etc.). It is expected that the employee will maintain his/her regularly scheduled hours each week utilizing work hours and/or accrued leave. The exception is for a week in which a holiday occurs; reference Article 36.

By mutual agreement, employees may work more than their regularly schedule hours per week.

In addition, subject to supervisor/manager approval, employees, except for Library employees, may voluntarily flex their schedule on a temporary basis. The flex schedule must occur within the employee's regular workweek. The primary, but not exclusive, use of this provision is for the scheduling of evening meetings, special events, and occasional necessary work that cannot be performed during an employee's regular schedule.

- 17.2 If the City decides to add or subtract hours to a vacated position, it will notify the Union of its intention to change, and the reason for the change.
- 17.3 It is the intention of the City to discuss any proposed permanent increase or decrease in hours with the affected employee(s) prior to requesting such additional work or cuts in hours (within the maximum and minimum). The employee's needs will be accommodated whenever possible.
- 17.4 The City shall not schedule work shifts of less than four (4) hours, unless by mutual agreement with worker(s) or pay for a minimum of four (4) hours. It is understood that employee(s) who perform book drop pick-ups shall continue to be scheduled in two (2) hour increments in accordance with past practice.
- 17.5 The City shall provide rest periods as provided for in the Administrative Policy Manual (Chapter III, Article VI, Section 3).
- 17.6 The City will monitor the hours of its casual workers and agrees to provide SEIU with a monthly (by the 10th of each month) printout of all casual workers whose hours exceed 900 hours in the fiscal year. For any casual workers whose hours exceed 900 hours in the fiscal year, SEIU may put the City on notice in writing that the City has five working days in which to either: 1) place that employee in

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the SEIU bargaining unit with a probationary period which shall commence five working days from SEIU's notice; or 2) no longer employ the person for the remainder of the fiscal year. Casual workers employed in the Recreation Division of the Department of Parks and Recreation are excluded from this article.

Article 18 - REDUCTION IN FORCE

18.1 When it is necessary to reduce the staff for lack of work or funds or in the interest of economy, the City Manager shall determine the classes in which the reduction is to be made and the number of positions to be eliminated. The layoff of employees shall occur within the classes determined in accordance with the following procedure:

- a. All employees holding provisional appointments shall be laid off first, except that those employees holding provisional appointments who have previously attained regular status in another classification shall be treated as regular employees in the most recent classification in which they have previously achieved regular status.
- b. Employees holding probationary appointments shall be laid off next; except that employees holding probationary appointments who have previously attained regular status in another classification shall be treated as regular employees in the most recent classification in which they have previously attained regular status.
- c. Employees holding regular appointments who have an overall performance rating of less than competent in the last complete performance evaluation shall be laid off next.
- d. All regular employees having a performance rating of at least competent shall be laid off last in order of seniority of service.
- e. The names of regular employees laid off according to this procedure shall constitute a re-employment list in the inverse order of layoff. Employees shall remain on the list for three years.
- f. An employee is allowed only one refusal to an offer of reinstatement from the list and will remain on the list. If an employee refuses another offer he/she shall be removed from the list.

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18.2 In addition to decreasing hours for operational reasons, the City may wish to reduce hours in-lieu of a reduction-in-force. If the City wishes to do this, it agrees to negotiate with the Union before implementing a reduction in hours.

Article 19 - WAGES

- 19.1 An employee shall be paid only under one pay rate or scheduled amount in any given pay period, except as provided with regard to working out-of-class.
- 19.2 The parties agree with the principle that wages should be "market competitive."
- 19.3 Definition of "Market Competitive". Market competitiveness is defined as a comparison with Regular Full Time classifications within the City of Sunnyvale, or the establishment of an internal relationship to a Regular Full Time or Regular Part Time classification in the City of Sunnyvale. Explanations of "market comparisons" are provided in the following subparagraphs:

As used in this Article, "salary" means hourly rate of pay.

Comparison with Full-Time Classification. If the essential functions, knowledge, skills, and abilities of an SEIU represented classification correspond to a Regular Full-Time classification in the City's work force, the target salary of the SEIU classification shall be the salary assigned to the Regular Full-Time classification.

Internal Relationship. If there is neither a corresponding Regular Full-Time classification to compare, nor a corresponding Regular Part-Time classification, "market competitiveness" will be determined by a differential from the salary of the Regular Full-Time or Regular Part Time classification that is most closely related to the classification represented by the bargaining unit. For example, The Library Specialist III classification will be set at sixty five percent (65.0%) of Part-Time Librarian (i.e. target salary). In addition, the salary for a Part-Time classification shall not exceed the salary of the corresponding Full-Time classification.

- 19.4 Salary Adjustment. The actual adjustment for each year of this Agreement is determined by the internal relationship to Regular Full-Time classification as follows:

- a. ~~Effective the first full pay period in April 2009, 2% across-the-board increase.~~
- b. ~~Effective the first full pay period in January 2010, a 2% across-the-board increase.~~
- c. ~~Effective the first full pay period in October 2010, a 2% across-the-board increase.~~
- d. ~~Effective the first full pay period in October 2012, the City will provide a 0% salary increase.~~

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Deleted: Effective the pay period that includes July 1, 2008, an additional step shall be added to each classification's salary schedule, five percent (5%) above current top step. All employees currently at top step for 26 pay periods will move to the new salary step. All employees currently at Step 5 for less than 26 pay periods will move to Step 6 when they reach 26 pay periods. All other employees receive step increases, if eligible, in accordance with the City's Civil Service Rules and Regulations, and appropriate administrative policies

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e. Effective the first full pay period in October 2013, the City will provide a 0% salary increase.

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f. Effective the pay period that includes July 1, 2011, implementation of the salary survey as described below:

(i) The City and the Union have agreed to establish a committee to review the benchmark classifications to be used for the surveys conducted pursuant to this agreement. In January 2011, the City shall appoint three representatives, in addition to the Director of Human Resources, and the Union shall identify two representatives to serve on the committee. The committee shall complete its review and provide its joint recommendation to the City Manager no later than March 1, 2011. Unless the City Manager requests additional review by March 31, 2011, the committee's recommendations shall be adopted, and will be utilized effective with the survey for Fiscal Year 2011/12.

(ii) The survey parameters shall be those as contained in the Sunnyvale Employees Association Memorandum of Understanding. The survey parameters include that the average market pay for each benchmark shall be determined by aggregating the results of all surveyed jurisdictions and dividing the sum amount by the number of survey jurisdictions. The result is the average market pay for each benchmark classification. When determining the market average for each benchmark, one survey jurisdiction (the lowest of either Hayward or Richmond) shall be deleted. The required adjustment to Sunnyvale salaries is the difference between Sunnyvale's actual pay (top step base pay plus monthly contribution of the employer paid employee contribution to retirement) for each benchmark classification and the market average pay for the respective benchmark.

(iii) The actual adjustment for the fiscal year beginning 2011 is determined as follows: an adjustment equal to the market average plus 3%; the minimum salary adjustment for each benchmark classification shall be 1% regardless of the survey results; and the maximum salary adjustment for each classification shall be 3.5%.

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<#>Those employees who, during the first year of this contract, will not be eligible to receive the additional salary step described above will receive a one-time payment of \$250 upon ratification of this agreement. This payment will be pro-rated based upon hours worked during the last six (6) months. For example, an employee working 28 hours per week will receive \$175.00.¶

<#>Effective the first full pay period in April 2009, 2% across-the-board increase.¶

¶<#>Effective the first full pay period in January 2010, a 2% across-the-board increase.¶

¶<#>Effective the first full pay period in October 2010, a 2% across-the-board increase.¶

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19.5. The City agrees during the final year of the agreement to gather total compensation data related to the existing survey agencies to be utilized for information purposes during negotiations for a successor bargaining agreement. The data will include salary, retirement, medical, dental, vision, and paid time off (PTO).

Article 20 - SALARY RANGES

- 20.1 Employees, at the time of appointment, will ordinarily be assigned the hourly rate in the first step of the pay range.
- 20.2 In extraordinary cases where it is necessary to attract experienced personnel, the employee may be assigned the hourly rate at any step in the pay range.
- 20.3 Upon promotion to a classification having an assigned pay range greater than the classification from which the employee is being promoted, the employee shall be entitled to that hourly pay step or interval in the pay range of the higher classification which is at least five percent (5.0%) above the employee's current hourly step rate, provided the increase does not exceed the rate contained in the sixth (6th) salary step.

Article 21 - MERIT INCREASES

- 21.1 Employees shall be eligible for a merit step increase after the successful completion of probation at six (6) months of continuous service in the given classification. Employees shall be eligible for additional merit step increases upon completion of additional intervals of twelve (12) months of continuous service in the given classification up to top step.
- 21.2 If a merit increase is granted, it will be effective the pay period following the pay period in which the probationary 6 month period (13 pay periods) and the subsequent 12 month periods (26 pay periods) are completed, respectively.
- 21.3 Continuous service is that which is separated by no more than twenty-six (26) pay periods of non-service.
- 21.4 Merit step increases shall be approved unless the employee's overall performance is "Needs Improvement" or "Deficient".

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Article 22 - OTHER PAY

- 22.1 Premiums shall be paid separately on base pay, and are not compounded.
- 22.2 Out-of-class. Employees who are temporarily assigned to work in a higher classification and work in such classification for more than eleven (11) hours shall be compensated at five percent (5%) above the employees' normal pay rate or the first step of the higher level position, whichever is greater. Assignment may be made to employees who meet the minimum qualifications of the higher-level position and those who assume a significant number of duties of the higher classification will qualify for work out-of-class compensation. Such assignments will be on an as-needed basis and when the higher classification is a budgeted vacancy or temporarily unfilled due to the incumbent's absence for vacation or other approved leave.

Such out-of-class assignment pay shall be based on the full period of actual hours worked during the out-of-class assignment and received for the full period of time in which the employee works in the out-of-class assignment or any management or supervisory class, and provided that such higher assignment has been authorized by the employee's manager or his/her designee. Out-of-class assignment pay shall not be paid for vacation, holidays, disability, and any other leave during the out-of-class assignment; nor shall such leave days be considered a break in the out-of-class assignment.

Employees not meeting the minimum qualifications of the higher-level classification assignment shall receive five percent (5%) additional compensation for the percentage of time that the higher duties are performed. Such higher-level duty compensation will be paid when an employee performs higher-level duties for more than eleven (11) hours. Actual percentage payments will be a minimum of 50% unless payment is provided to multiple employees or for other operational reasons.

Work out-of-class compensation and higher level duty compensation must be approved in advance by the employee's department manager and by the Human Resources Department.

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Article 23 - BILINGUAL/TRANSLATOR PAY

- 23.1 Employees shall be entitled to receive, in addition to their regular compensation, the additional payment outlined below for Bilingual/Translator skills if they meet the following criteria:
- a. Certification by the director of the department that a particular assignment involves need for the required skills on a regular and frequent basis, and
 - b. Certification by a provider contracted for through the Department of Human Resources that the employee possesses the needed language skills at Level 5 or higher proficiency or Sign Language “communicator” level skills.
- 23.2 Qualifying languages are: Chinese, Farsi, Japanese, Portuguese, Russian, Sign Language, Spanish, Tagalog (Filipino), Thai, Vietnamese, and other language(s) deemed appropriate by the City.
- 23.3 Bilingual/Translator Pay may be cancelled if it is found that the employee is no longer required to use these skills on a regular and frequent basis.
- 23.4 The certifications required and obtained above will not necessarily follow an employee if transferred or promoted.
- 23.5 Payment shall be thirty-five (\$35.00) dollars per month/sixteen dollars and fifteen cents (\$16.15) per pay period.

Article 24 - SAFETY SHOES

- 24.1 Each employee in classifications required by the City to wear safety footwear shall receive an allowance for the purchase of such footwear of one hundred sixty-five dollars (\$165.00) each fiscal year during the term of this Agreement.
- 24.2 Such payment shall be made according to procedures established by the City.
- 24.3 All employees who receive this benefit shall be required to purchase and wear CAL-OSHA Approved Safety Footwear.

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Article 25 - PERS

25.1 The City has amended its contract with CalPERS for the retirement formula commonly referred to as "2.7% @ 55". Employees shall pay for any employee-required contribution, above the "basic" 7% contribution currently paid by the City; such payment shall be made pursuant to IRC Section 414(h)(2). Effective with the first full pay period of July 2012, the employee will be responsible for an additional 2% contribution amount that is currently paid by the City. The employees total contribution to CalPERS will be 3%; such payment shall be made pursuant to IRC Section 414(h)(2).

25.2 Retirement Second Tier
At any time the second tier retirement formula is implemented for new employees, SEIU agrees to immediately accept implementation of the same retirement formula. The City agrees that the PERS Miscellaneous Contract will continue to provide for the single highest year benefit option paid by the City (through the Employer rate).

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25.3 The City's payment of the employees' PERS contribution is based upon authority from PERS and upon tax treatment permitted by the Internal Revenue Service under Internal Revenue Code Section 414(h)(2) and revenue rulings related thereto, and by the California Franchise Tax Board. It is understood that the State Legislature or Congress may alter the statutory authority for this tax treatment, and the Franchise Tax Board or the IRS or the United States Department of the Treasury may alter the current revenue rulings, either by other rulings or by issuing new regulations.

25.4 The Union shall defend, indemnify and save harmless the City, its officers, agents and employees from any and all claims, demands, damages, cost, expenses, or liability, including but not limited to, liability for back taxes, and all claims of any type by the IRS, Franchise Tax Board, unit members or their heirs, successors, or assigns, arising out of this Agreement to "pick-up" or pay the employees' contribution to PERS.

25.5 The City has ~~contracted with PERS to provide Level III of the 1959 Survivor Benefit which is applicable to employees in this Unit.~~

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25.6 The City shall report the value of employer paid member contributions (EPMC) of seven percent (7.0%) as additional compensation for each SEIU member.

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Article 26 - MEDICARE

26.1 Union members shall be covered by Medicare.

26.2 The employee and the City shall each contribute the mandated percentage of the employee's wage toward the cost of Medicare.

Article 27 - INSURANCE

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27.1 Insurance Plans

The City shall continue to provide group Medical, Dental, and Vision insurance plans and Employee Assistance Program (EAP). Purchase of health insurance is an employee option.

27.2 City Contribution

If an employee elects to purchase health insurance through the City, then:

a. ~~If an employee elects to purchase health insurance through the City, effective January 2012, the City's contribution to the medical/cafeteria plan will be revised as follows:~~

Deleted: The City shall contribute two hundred eighty-four dollars and thirty-four cents per month (\$284.34/month for base medical) toward the cost of medical insurance

1. ~~Calculate 52% of the average of the family monthly premium for the Bay Area Regional CalPERS Blue Shield Access HMO and the CalPERS Kaiser HMO plan. The calculation for 2012 will be as follows:~~

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Blue Shield Access HMO	\$1,848.86 per month
Kaiser HMO	\$1,587.14 per month
Average	\$1,718.00 per month

~~52% \$ 893.36 per month~~

Deleted: Effective as soon as administratively possible after adoption of this agreement, the City shall contribute two hundred ninety-nine dollars and fifty-eight cents per month (\$299.58/month) for base medical (which represents fifty five percent (55%) of the amount provided to SEA for medical insurance). Although there will be increases in the contribution for base medical as described below in 2010, 2011 and 2012, base medical will remain at 55% of the amount provided to SEA throughout the term of this agreement.

b. ~~The contribution as described in section (a) above will be allocated 49% medical contribution and 51% cafeteria plan. However, any annual increases in the medical contributions shall not exceed a 5% total increase compared to the preceding year medical contribution. Any amount in the formula increase that will exceed a 5% increase in the medical contribution shall be reallocated to the cafeteria plan contribution.~~

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Example:

2012 Calculation

49% Medical	\$437.75*per month
51% Cafeteria	\$455.61 per month
Total City Contribution	\$893.36 per month

2012 Medical contribution exceeds 5% of the 2011 Medical

contribution ($\$326.65 + 5\% = \342.98)

2012 Revised Calculation

Medical	\$342.98 per month
Cafeteria	\$550.38 per month
Total City Contribution	\$893.36 per month

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~~For those employees who have additional out-of-pocket expense from January 2009 through the implementation of the amount noted in b. above, which is expected to occur in March 2009, the City will reimburse employees for such additional out-of-pocket expense.~~

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21— 22 hours per week	Cafeteria benefits plan premiums at 55% of SEA rate. This amount will be adjusted in 2010, 2011 and 2012 in accordance with this article.
23— 24 hours per week	Cafeteria benefits plan premiums which, when added to the base amount results in the employee receiving 60% of the combined SEA base and cafeteria benefits plan amount. This amount will be adjusted in 2010, 2011 and 2012 in accordance with this article.
25— 26 hours per week	Cafeteria benefits plan premiums which, when added to the base amount results in the employee receiving 65% of the combined SEA base and cafeteria benefits plan amount. This amount will be adjusted in 2010, 2011 and 2012 in accordance with this article.
27— 28 hours per week	Cafeteria benefits plan premiums which, when added to the base amount results in the employee receiving 70% of the combined SEA base and cafeteria benefits plan amount. This amount will be adjusted in 2010, 2011 and 2012 in accordance with this article.
29— 30 hours per week	Cafeteria benefits plan premiums which, when added to the base amount results in the employee receiving 75% of the combined SEA base and cafeteria benefits plan amount. This amount will be adjusted in 2010, 2011 and 2012 in accordance with this article.
31— 32 hours per week	Cafeteria benefits plan premiums which, when added to the base amount results in the employee receiving 80% of the combined SEA base and cafeteria benefits plan amount. This amount will be adjusted in 2010, 2011 and 2012 in accordance with this article.

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- c. The contribution described above will be adjusted January 1 of each calendar year to correspond to CalPERS Bay Area Regional medical plan changes.

~~During the term of this agreement, for each pay period that includes January 1st and July 1st, the City will look back over the preceding thirteen (13) pay periods and will then adjust for the ensuing six months, each bargaining unit member's cafeteria benefits plan premium (up or down) based upon the average of their paid time (actual hours worked plus paid leave) in the preceding thirteen (13) pay periods. The City will add up all paid hours and divide it by 26 weeks to determine placement on the cafeteria benefits plan chart above.~~

Deleted: Bargaining unit members shall receive cafeteria benefits plan premiums based on paid time (actual hours worked plus paid leave) in the preceding thirteen (13) pay periods. The City will add up all paid hours from the preceding 13 pay periods and divide it by 26 weeks to determine placement on the cafeteria benefits plan chart above.

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- d. Vision insurance, at the current benefit level, will continue to be provided. The City will contribute 65% of the full cost of the premium for employee plus one dependent. The contribution will be added to the cafeteria plan. The 2012 contribution is \$11.51 x 65% = \$7.48 per month.

- e. The Employee Assistance Program will continue to be provided. Enrollment is mandatory, and the premium is fully paid by the City.

- f. Employees who receive the benefit option for the current MOU at 27 hours per week and above the time that this MOU is approved by the SEIU will be grandfathered to this benefit for the term of the MOU even if their hours drop below the 27 hours per week for the term of this MOU.

Deleted: Effective the first day of the full pay period in January of 2010, 2011 and 2012, the total amount available for the purchase of medical insurance and cafeteria benefits contribution shall be adjusted at the same time that the total amount of health contribution for Sunnyvale Employees Association (SEA) are adjusted; and the amount of increase shall not exceed the lowest monthly increase of a Health Maintenance Organization (HMO) medical plan for the "employee plus one" category available in the Sunnyvale Bay Area for a given calendar year. The increase shall be divided between medical insurance and cafeteria benefits amounts, and the EAP for a given calendar year.

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The employee shall be required to pay the balance due as a deduction from the employee's bi-weekly paycheck. The procedures for enrolling in the health insurance shall be established by the City.

27.3 Vision Insurance

Vision insurance at the current benefit level will continue to be provided; such coverage includes a deductible that the employee must pay at the time of service.

Effective with implementation of 27.2 b., the City will contribute the full cost of the premium for employee and up to one dependent, pro-rated by work hour percentages, added to the cafeteria plan.

27.4 Premium Conversion

The City agrees to continue to provide employees with an option to pay their insurance premium contributions on a pre-tax basis, as provided in the Internal Revenue Code.

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27.5 Cash In-Lieu

- a. As provided in PERS rules, current employees and new hire employees have the option of selecting no medical coverage.
- b. To elect this option, an employee must sign a waiver stating that he/she understands that he/she will not receive coverage through a City sponsored PERS provided medical plan.
- c. If an employee elects to enroll in a City sponsored PERS provided medical plan, he/she must either do so during the open enrollment period following the implementation of this Agreement, during any subsequent open enrollment period, or must submit a health statement as required by the PERS provided medical plans.
- d. Procedures for electing this option and for enrolling in the City sponsored PERS provided medical plans shall be established by the City.
- e. If an employee elects the cash in lieu option then the City shall pay the employee \$25.00 per month. Effective the pay period including January 1, 2009, the City shall pay the employee \$50.00 per month.

Article 28 - STATE DISABILITY INSURANCE (SDI)

28.1 The City agrees to continue to contract with the State of California Employment Development Department to provide SDI benefits to Classified Regular Part-Time employees.

~~28.2 The cost of SDI or the alternative benefits will be paid by employees through payroll deductions. The City's administrative costs shall be paid by the City.~~

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Article 29 – OTHER BENEFITS

29.1 Deferred Compensation. The City's deferred compensation program shall be available to employees represented by SEIU according to the provisions of the plan currently in effect.

29.2 Credit Union Paycheck Deduction. Effective with the first day of the pay period following the completion of the employee's enrollment and designation form with the Sunnyvale Employees Federal Credit Union, employees may deposit a specific amount of his/her net salary via paycheck deduction.

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29.3 Employee Tools. The City shall furnish tools needed by an employee to perform tasks assigned by the City.

- 29.4 Tuition reimbursement and training assistance shall be provided in accordance to the City's Personnel Policies and Administrative Policy Manual.
- 29.5 The City shall pay for the annual membership to the California Library Association and single day registration fees to attend the local California Library Association annual conference up to a maximum of \$500 for the entire bargaining unit per calendar year.
- 29.6 Uniforms. Each employee required by the City to wear a uniform, and who actually wears the uniform during works hours, shall receive a uniform in a manner determined by the employee's department or division. A uniform is defined as clothing which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This provision excludes items that are for personal health and safety. A standardized value, as determined by the City, and adjusted annually each fiscal year, for qualified uniforms shall be reported as "special compensation" as required by PERS procedures for all affected employees as set forth herein.
- 29.7 The City will provide Unemployment Insurance benefits at no cost to the employee.

Article 30 - PAID LEAVE

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30.1 Paid leave shall accrue as follows:

During the first 1,000 hours of service with the City, accrual of paid leave shall begin at the rate of .085 hour of leave for each paid hour.

From 1,001 to 2,500 hours of service with the City, accrual of paid leave shall increase to the rate of .094 hour of leave for each paid hour.

Upon completion of more than 2,500 hours of service with the City, accrual of paid leave shall increase to the rate of .119 hour of leave for each paid hour.

Effective as soon as administratively possible after adoption of this agreement, paid leave shall accrue as follows:

During the first 1,000 hours of service with the City, accrual of paid leave shall begin at the rate of .088 hour of leave for each paid hour.

From 1,001 to 2,500 hours of service with the City, accrual of paid leave shall increase to the rate of .097 hour of leave for each paid hour.

Upon completion of more than 2,500 hours of service with the City, accrual of

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paid leave shall increase to the rate of .122 hour of leave for each paid hour.

- 30.2 The maximum accumulation of accrued leave shall be 257 hours. Effective as soon as administratively possible after adoption of this agreement, the maximum accumulation of accrued leave shall be 300 hours. There shall be no accrual over 300 hours.
- 30.3 Requests for leave must be submitted on appropriate leave request forms in accordance with City policy.
- 30.4 Use of paid leave shall be subject to approval by the employee's supervisor.
- 30.5 Accumulated leave shall be paid to the employee at the time of separation from the City.
- 30.6 Employee may use up to one-half of annual leave accrual to attend to spouse, registered domestic partner, parent or child's illness.

Article 31 - BEREAVEMENT LEAVE

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- 31.1 An employee is entitled to bereavement leave in the amount not to exceed 21 hours where death has occurred:

to an employee's spouse or registered domestic partner, father, mother, son, daughter, brother, sister, grandparents or grandchildren; or to the father, mother, son, daughter, brother, sister, grandparents or grandchildren of an employee's spouse or registered domestic partner.

Article 32 - CITYWIDE EMPLOYEE EMERGENCY LEAVE RELIEF FUND

- 32.1 The City-Wide Employee Emergency Leave Relief Fund is a program that allows an employee who has leave hours accrued, the opportunity to donate a portion of his/her accrued leave to benefit another employee needing paid emergency leave.
- 32.2 To benefit from this fund, the receiving employee must be eligible to accrue City paid leave time, must have used all available accrued leave and must have a personal emergency that requires the employee to be on leave from work responsibilities to attend to the emergency.
- 32.3 To receive relief hours from the Fund, the employee, a member of the family or a friend must submit a written request to the City Manager or designee stating the hours needed and briefly explaining the circumstances of the emergency requiring use of hours from the Fund.

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32.4 Rules and procedures defining the use of this Fund shall be promulgated by the City Manager or his/her designee.

Article 33 – FAMILY MEDICAL CARE LEAVE AND PREGNANCY DISABILITY LEAVE

- 33.1 Family and Medical Care Leave: Bargaining unit members who qualify for leave in accordance with the family and medical care leave acts (i.e., the Family and Medical Care Leave (FMLA) and the California Family Rights Act (CFRA)) shall be eligible for up to 12 weeks of leave in a 12 month period in accordance with Chapter III, Article IV of the City's Personnel Policies as well as the law. Members who are eligible for this leave (those who have worked for the City for at least 12 months and who have worked at least 1,250 hours in the preceding 12 months) are entitled to receive their health insurance benefits (medical, dental and vision) paid for while on leave to the same extent as if they were not on a leave of absence. The Personnel Policies addressing the FMLA/CFRA provide all of the definitions of who is covered, for what reasons leave must be taken as well as notice requirements, medical certification responsibilities and job protection.
- 33.2 Pregnancy Disability Leave: The parties acknowledge that all female bargaining unit members are entitled to pregnancy disability leave in accordance with the law and as more fully described in Chapter III, Article IV of the City's Personnel Policies. During the period of disability caused by pregnancy, bargaining unit members will continue to receive health insurance benefits if they would be eligible to receive such benefits in accordance with the Family and Medical Care Leave Acts as described In Article 33.1 or if they were in paid status because of the use of accrued leave to cover the absence. If not eligible for benefits, the unit member will still be entitled to the leave in accordance with the law.

Article 34 - JURY DUTY

- 34.1 The City shall grant a leave with pay for any employee required to report to Jury Duty until that employee is released by the Court. The paid leave would cover only those regularly scheduled work hours provided that the employee:
- a. is actively engaged in the jury process;
 - b. returns to his/her worksite to complete his/her shift if the employee is released prior to the end of the employee's regular work day; and
 - c. gives to the City all fees received from such duties within thirty (30) days

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from termination of jury service.

Article 35 - SUBSTITUTES

35.1 For all departments, except the Library, when an employee is absent from work, due to either a planned or unplanned absence, the supervisor shall obtain a substitute, if necessary, for the employee.

35.2 For the Library:

a. For planned absences, the current practice of the employee obtaining a substitute shall continue; with the understanding that such substitute shall be within the same classification within the regular part-time category.

~~b.~~ For unplanned absences due to an emergency, the employee shall notify his/her supervisor of the employee's inability to come to work no later than the employee's schedule starting time. The supervisor shall assume responsibility for obtaining a substitute.

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35.3 If the supervisor cannot obtain a replacement from other regular part-time employees, the supervisor may obtain temporary assistance from either full-time employees, the hiring or the use of a casual/seasonal employee, or from a temporary agency.

Article 36 - HOLIDAYS/SHORT TERM ABSENCES/LONG TERM ABSENCES

36.1 Holidays

During weeks in which there are (closed building) holidays, an employee is required to have a combination of work hours and paid leave hours equal to at least 21 hours. To meet this requirement:

a. If an employee does not have sufficient accrued paid leave, he/she shall be required to work additional hours during the holiday week to meet such requirements. Such additional hours will be as agreed to by the employee and the employee's supervisor.

b. If an employee has sufficient accrued paid leave, he/she shall be required to use enough paid leave during the holiday week to meet such requirement unless the employee and the employee's supervisor agree that the employee may work additional hours during the holiday week.

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c. Employees shall be entitled to holiday leave hours on an annual basis based upon years of service, as shown below:

0 – 4 years of service	8 hours total
5 – 9 years of service	16 hours total
10 or more years of service	32 hours total

d. New employees hired between the beginning of the payroll calendar year and the end of the fiscal year shall be entitled to the full allocation of hours. New employees hired between the beginning of the fiscal year and the end of the payroll calendar year shall be entitled to one-half of the allocation of hours.

d. Holiday leave may be used on any given holiday, up to the number of hours that are normally scheduled that day for the employee, subject to approval by the employee's supervisor.

e. All employees on paid status may use the holiday leave to which they are entitled based upon years of service on any of the following eleven recognized City holidays, as approved by the employee's supervisor:

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- New Year's Eve
- New Year's Day
- Martin Luther King Jr. Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

In addition, all employees on paid status may use holiday leave to which they are entitled based upon years of service for the Spring holiday, as it occurs each year, as approved by the employee's supervisor.

f. Holiday leave may only be used during the week of a recognized City holiday. If an employee is not scheduled to work on a recognized City holiday, the employee may request approval to use holiday leave during a week in which a holiday occurs.

g. For the purposes of satisfying the requirement that employees work or use paid leave to equal at least 21 hours per week, the holiday leave hours will count as paid leave.

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h. Employees will not be allowed to work above their authorized budgeted hours during a holiday week unless such work is approved by the

Department Director, due to operational necessity.

- i. Employees whose regular shifts do not fall below 21 hours in a holiday week do not have to spend accrued paid leave, but they may use enough paid leave to equal their schedule for that week.
- j. Any overuse of holiday hours shall be subject to payback to the City by the employee upon written notice to the employee.

36.2 Short-Term Absences

Employees who need to be absent from work due to illness, or other bona fide personal needs, shall use accrued paid leave, or may make up the time if mutually agreeable with the supervisor. If the employee does not have accrued leave available, Leave Without Pay may be taken on a short-term basis in accordance with administrative procedure.

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36.3 Long-Term Absences

Long-term leaves without pay and pre-scheduled leaves without pay must be approved through the City's regular administrative process.

Article 37 - RECLASSIFICATION

37.1 For future reclassifications during the term of this MOU, an employee may submit a request for a reclassification for his or her job to the Department of Human Resources and to his/her supervisor only during the month of February of each year.

37.2 Such request shall be processed through the employee's department and submitted to the Department of Human Resources no later than March 31 of the same year.

37.3 If the Department of Human Resources declines to perform the requested reclassification study, then the requesting employee shall be notified in writing no later than June of the same year. The Department of Human Resources may decline a request for a reclassification of a job that has been studied within the past 24 months, unless the employee and the affected department **justify** such new request.

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37.4 Each employee submitting a reclassification request shall receive a written response to such request, but in no event shall the response be later than the end of the fiscal year following the fiscal year of submittal.

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37.5 If the City denies the reclassification of the employee's position, the City shall give the incumbent the reasons for denial in writing.

37.6 If the City reclassifies the position, and the employee was eligible, as defined in the Administrative Policy, Chapter III, Article 2, to be reclassified when the request was filed, the employee shall be appointed to the new classification retroactively, effective the full pay period after the request was originally submitted to the Department of Human Resources.

37.7 If the employee was not eligible to be promoted when the request was filed, then the reclassification shall be effective when the employee becomes eligible.

Article 38 - TESTING FOR CITY VACANCIES

38.1 Any employee represented by SEIU who desires to test for a position advertised and posted by the City, if such a position represents a promotion or lateral transfer, shall be entitled to time off without loss of pay for the period required to take any and all parts for the testing process, if such testing occurs during the employee's regularly scheduled work hours. Each employee is allowed to exercise this prerogative twice per year.

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Article 39 - SELECTION APPEAL PROCEDURE

39.1 The parties agree that if a bargaining unit member who has sought a promotion or transfer has been denied his or her rights or perceives that he or she has been unfairly treated, he or she may bring his/her concerns directly to the Director of Human Resources. The Director of Human Resources will either address the issue by speaking to the employee and attempting to resolve the employee's concern or explaining to the employee that he or she cannot resolve the issue and that the employee may file a grievance. The time to file a grievance (in accordance with the grievance procedure if appropriate) will be extended to the date of the communication (either orally or in writing) to the employee from the Director of Human Resources.

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Article 40 - TRANSFERS

40.1 In accordance with existing rules, SEIU employees (regular part-time status) will be allowed to request a transfer to a vacant full-time position in the same classification. Their name could be placed on a separate transfer eligibility list that is maintained by the Human Resources Department. The appointment to a full-time position would be at the discretion of the department hiring authority who may decide to select a candidate from a transfer, promotional or open/competitive eligibility list.

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Article 41 – SELF-DIRECTED WORK TEAMS

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41.1 There is currently one Self-Directed Work Team (SDWT), and it is in the Library. This SDWT may be continued until such time as the Director of Libraries determines that it is no longer meeting the goals and objectives established for this SDWT, or is not cost-effective. The Director of Libraries will provide thirty (30) calendar days' notice to the affected employees prior to the termination of the SDWT.

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41.2 SEIU and the City agree to the concept and practice of self-directed work teams (SDWT) as outlined in the Sunnyvale Initiative. New teams may be established in accordance with the SDWT Initiative, upon approval of the Project Design Team, the City Manager, and SEIU.

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Article 42- UNION/MANAGEMENT JOINT RESOLUTION MEETINGS

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42.1 The parties agree that regular meetings to explore mutual problems will be beneficial to the relationship between the City and the Union. To promote a problem-solving approach, the parties agree that decision making shall be by consensus. For these purposes, consensus means that no meeting participant objects to a decision or course of action under consideration by the group.

42.2 Consequently the parties agree to meet quarterly to discuss any issue concerning the rights of either party or the relationship between the City and the Union or the City and employees the Union represents. The purpose of the meetings is to exchange information and to solve problems. By mutual agreement, the parties may meet more often than or less often than once a month.

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42.3 Consequently the parties agree to meet quarterly, or within 15 days of either party requesting a meeting, to discuss any issue concerning the rights of either party or the relationship between the City and the Union or the City and employees the Union represents. The purpose of the meetings is to exchange information and to solve problems.

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42.4 The parties agree that such meetings shall not be negotiations and therefore the results of the meetings shall not be binding on the parties unless they develop and execute a document that memorializes their results.

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42.5 Each of the parties may have three (3) representatives plus additional people as reasonably needed for a specific topic. Union representatives shall receive reasonable release time to participate in these meetings.

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42.6 To promote the objectives of this process, the parties agree to focus on the problem under consideration and to attempt to develop a consensus solution for each problem discussed by the group. Further, to promote the objectives of this process, the parties agree to refrain from negatively characterizing the participation, ideas or approach of the other party to people outside the meeting.

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Article 43 - CITYWIDE COMMITTEES

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43.1 Citywide Safety Committee

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An employee designated by the Union shall be a member of the Citywide Safety Committee.

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The Union shall designate such employee member in writing to the Director of Human Resources and to the Director of the employee's department.

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Article 44 - EMPLOYEE ROSTER

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44.1 Quarterly, at the written request of the Union, City shall provide a roster of employees which contains each employee's name, class, department, division, hire date, fiscal year-to-date hours, life-to-date hours, last day worked, range, step, and hourly rate.

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44.2 Bi-weekly, the City shall provide a list of new hires/separations.

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44.3 At new employee orientation, the City shall provide the employee a form (provided by the Union and agreed to by the City) to complete whereby the employee will or will not provide authorization to the City to release the employee's home address and telephone number to the Union. If the employee provides such authorization, the employee's home address and telephone number will be included on the reports.

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Article 45 - PERSONNEL FILES

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45.1 The Department of Human Resources shall maintain employees' personnel file. City agrees to comply with Labor Code Section 1198.5 pertaining to record keeping, access to and maintenance of personnel files.

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45.2 With reasonable notice to the Department of Human Resources, an employee or his/her representative upon presentation of written authorization from the employee, shall have access to the employee's personnel file.

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45.3 The employee may be required to acknowledge receipt of any document entered

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into his/her personnel file without prejudice to subsequent arguments concerning the contents of such documents.

Article 46- BULLETIN BOARDS

46.1 The Union shall have the use of designated bulletin board space to post material related to Union business.

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46.2 The placement of bulletin boards and the portion of the board to be made available to the Union shall be determined by mutual agreement.

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46.3 Any materials posted must be dated and initialed by the Union representative responsible for the posting.

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46.4 At the time of the posting, a copy of the material must be given to the management representative designated for that bulletin board.

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46.5 The Union shall remove posted material after it has served its purpose, usually within 30 days.

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46.6 The Union agrees that nothing of a libelous, obscene, defamatory, or of a partisan political nature, or inconsistent with the promotion of harmonious labor relations between the City and the Union shall be posted.

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46.7 The Union agrees that this Article provides the right to post materials only on designated bulletin boards.

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46.8 Any material posted in violation of this Article may be removed by the management representative designated for a particular bulletin board.

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46.9 If material is removed pursuant to 45.8 above, the City shall notify the Union in writing of the removal and the reasons therefore.

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Article 47 – UNION BUSINESS LEAVE

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47.1 Leave of absence without pay to take employment with the Union signatory to this MOU may be granted for a maximum period of thirteen (13) full bi-weekly pay periods. Employees are entitled to retain any accrued vacation and holiday credits while on such leave. In the event that employees on approved Union Business Leave wish to continue group health benefits coverage (including medical, dental, and vision insurance) through the City plans, arrangements will be made for the Union to reimburse the City for the costs associated with continuing such coverage.

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Unpaid leave under this provision is subject to approval by the employee's

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| supervisor/manager and department director.

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**Bargaining Unit #4
Service Employees International Union, Local 521**

**Memorandum of Agreement
July 1, 2008 – June 30, 2014**

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CITY OF SUNNYVALE

Bargaining Unit #4
SEIU, Local 521

Dated: _____

2011

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APPENDIX A

REGULAR PART-TIME CLASSIFICATIONS

JOB CODE	CLASSIFICATION
8303	Building Services Worker
8301	Custodian
8200	Golf Service Assistant
8402	Library Specialist I
8403	Library Specialist II
8404	Library Specialist III
8601	Part-time Administrative Analyst
8500	Part-time Administrative Aide
8900	Part-time Automotive Shop Attendant
8700	Part-time Business Liaison
8701	Part-time Career Advisor
8702	Part-time Comp Systems Specialist
8100	Part-time Employment Training Program Coordinator
8110	Part-time EMS Specialist I
8120	Part-time EMS Specialist II
8250	Part-time Environmental Chemist I
8251	Part-time Environmental Chemist II
8150	Part-time Facility Attendant I
8151	Part-time Facility Attendant II
8300	Part-time Graphic Artist
8305	Part-time Laboratory/Field Technician
8350	Part-time Landfill Technician
8400	Part-time Librarian
8600	Part-time Nuisance Vehicle Inspector
8102	Part-time Office Assistant
8105	Part-time Principal Office Assistant
8104	Part-time Senior Office Assistant
8800	Part-time Senior Workforce Services Representative
8103	Part-time Staff Office Assistant

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING RESOLUTION NO. 190-05, THE CITY'S SALARY RESOLUTION, BY AMENDING THE SCHEDULE OF PAY FOR PAY PLAN CATEGORY L (SUNNYVALE'S SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) LOCAL 521)

WHEREAS, pursuant to the Memorandum of Understanding (MOU) between the City of Sunnyvale and the Service Employees International Union (SEIU) Local 521, and past practice, an amended pay plan schedule must be included in the City's Salary Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. Resolution No. 190-05 is hereby amended by amending the pay rates in Pay Plan Category L for Sunnyvale's Service Employees International Union (SEIU) Local 521, as set forth in Exhibit "A" attached and incorporated by reference.
2. All other provisions of Resolution No. 190-05 shall remain in full force and effect.
3. The pay rates noted above shall be effective July 1, 2012.

Adopted by the City Council of the City of Sunnyvale at a regular meeting held on November 15, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David Kahn, City Attorney