CITY OF SUNNYVALE

AND

SUNNYVALE EMPLOYEES' ASSOCIATION

MEMORANDUM OF UNDERSTANDING

JULY 1, 2012 TO JUNE 30, 2015

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Article 1 PREAMBLE

This Memorandum of Understanding (MOU) is between the City of Sunnyvale and the duly authorized representatives of the Sunnyvale Employees' Association (SEA). Its purpose is to promote harmonious relations between the City, the Association, and employees by setting forth the understanding of the parties reached as a result of meeting and conferring in good faith regarding the wages, hours, and certain other terms and conditions of employment of employees in the classifications comprising this Bargaining Unit (Unit).

Article 2 RECOGNITION

The Sunnyvale Employees' Association (Association) is hereby acknowledged as the exclusively recognized employee organization for those employees in the classifications listed in Exhibit A as it currently reads or as modified by agreement of the parties during the term of the MOU.

If the City develops a new classification, it shall make an initial determination as to the bargaining unit and job family placement of that classification.

The City shall notify the Association of the development of a new classification and the City's initial bargaining unit placement and job family placement, and, upon written request from the Association within ten (10) work days from the City's notice, shall consult with the Association concerning the placement of the new classification(s).

Article 3 RATIFICATION

It is agreed that the provisions of this MOU are of no force or effect until ratified by the Association and duly adopted by the City Council of the City of Sunnyvale.

Article 4 TERM

The term of this Agreement shall be from July 1, 2012, through and including June 30, 2015, and will thereafter continue in effect until the parties reach agreement on a successor Agreement or the City Council takes action to modify the wages, hours and terms and conditions of employment provided hereunder.

Article 5 CITY RIGHTS

Except as modified by this MOU, 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 for just cause; layoff its employees 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 6 FULL UNDERSTANDING, MODIFICATIONS, AND WAIVERS

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 understanding, over the matters set forth within, whether formal or informal, are hereby superseded or terminated in their entirety.

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.

No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed by all parties hereto, and if required, approved by the City and ratified by the membership of the Association.

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.

Article 7 SEVERABILITY

In the event any provision of this MOU is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the MOU shall remain in full force and effect.

If a provision is declared invalid or unenforceable as provided above, at the written request of either party submitted to the other within ten (10) work days of such action by the court, the parties shall meet promptly to negotiate the impact of such declaration by the court.

Article 8 ORDINANCES, CODES, AND RESOLUTIONS

Any written City ordinances, codes, or resolutions 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 Association the opportunity to meet and confer concerning such changes, except as otherwise provided by this Agreement.

Such meeting and conferring shall be up to and including mediation.

Article 9 SCOPE OF NEGOTIATIONS

The scope of representation shall include all matters relating to employment conditions, and employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment, as provided by the Meyers-Milias-Brown Act and as may be amended.

Article 10 AUTHORIZED AGENTS

For purposes of administering the terms and provisions of this Agreement:

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) except where a particular management representative is specifically designated in connection with the performance of a specified function or obligation set forth herein.

The Association's principal authorized agent shall be the President of the Sunnyvale Employees' Association or his/her duly authorized representative. The Association's official mailing address is P.O. Box 70700, Sunnyvale, CA 94086.

Article 11 GOVERNMENTAL MANDATES

If the Federal Government or the State of California or any voter-driven initiative imposes any labor requirements or mandates any changes in employee compensation (wages or benefits) or employer mandated costs associated with employee compensation applicable to SEA represented employees, the Association and the City shall meet and confer over the impacts of the legal requirement or mandated change. The parties understand that the City will have to timely comply with any changes in the law independent of their negotiations over the impacts of those legal changes. However, the City will endeavor to meet and confer with the Association prior to the implementation of such changes, and in any event, as promptly as possible.

Article 12 EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Sunnyvale Employees' Association supports in full the City's Equal Employment Opportunity Policy.

Article 13 AMERICANS WITH DISABILITIES ACT (ADA)

The parties recognize that the City may be required to make certain accommodations to carry out its obligations under the Americans with Disabilities Act (ADA). Some of these accommodations may require actions which are contrary to the language or intent of existing provisions of this Agreement. The parties agree that such accommodation shall not constitute a "past practice" or waiver by either party to its right to fully enforce such

provisions in the future with regard to persons not subject to the protections of the ADA. Recognizing that circumstances surrounding ADA compliance in individual cases necessarily involve matters which are personal and require the utmost confidentiality, specifics of an individual case shall not be divulged by the City. This Article shall not be grievable or arbitrable.

Article 14 RENEGOTIATIONS

In the event either party hereto desires to negotiate a successor MOU, written notice of desire to renegotiate shall be served during the period of 120 days to 90 days prior to the termination date of the MOU. If either party serves notice to renegotiate, the Association shall provide the City with its initial written proposals 90 days prior to the termination of the MOU.

The negotiations shall begin as soon as practical after receipt of such written notice.

Article 15 NEGOTIATION PREPARATION

Members of the SEA negotiating team shall be released from work duties for up to a total of two (2) hours either prior to or after each meeting scheduled for the purpose of meeting and conferring on a new Memorandum of Understanding.

Article 16 WAGES/COMPENSATION

16.1 Salaries

Pay rates for each classification within the Unit shall be assigned to a pay grade as set forth in Pay Plan Category B as defined in the City's Salary Resolution, consistent with compensation objectives described in the City's Administrative Policy.

16.2 Salary Adjustments

During the term of this Agreement, the City shall adjust base wages for all represented classifications as follows:

Effective first full pay period July 2014: 3% across the board increase.

16.3 Comparable Agencies

The parties agree that in negotiations for successor memorandum of understanding, unless they agree on other survey jurisdictions, the comparable agencies for the majority of classifications in the bargaining unit shall be:

Alameda
Fremont
Hayward
Milpitas
Mountain View

Palo Alto
Richmond
San Leandro
San Mateo
Santa Clara

For purposes of comparing job classifications of Environmental Chemist and Water Pollution Control Operator, the parties agree to the following agencies:

Dublin/San Ramon Services District
City of Hayward
City of Palo Alto
City of San Jose
City of San Leandro
South Bay Systems Authority
Union Sanitary District

For purposes of comparing the classification of Senior Programmer Analyst, the parties agree to the following agencies:

City of Fremont
City of Milpitas
City of Palo Alto

For purposes of comparing the classification of Career Advisor the parties agree to the following agencies:

Alameda Private Industry Council (PIC)
City of Richmond PIC
San Francisco City/County PIC
San Mateo County PIC
Santa Clara County PIC

16.4 Overtime

An employee who is required and authorized in advance by a management supervisor or his/her designee and who actually works overtime shall be compensated at one and one-half times his/her base hourly rate for all such overtime work in excess of forty (40) hours per work period, unless compensatory time is provided pursuant to Article 18.7. The City shall fully comply with the appropriate Fair Labor Standards Act's Regulations regarding the payment of overtime.

a) Overtime.

Overtime shall be defined as all hours worked in excess of forty (40) hours worked in a workweek. Except in the event of an emergency, the maximum number of hours an employee may work in any one 24 hour period is 12 hours.

The City shall define the workweek (fixed and regularly recurring period) for purposes of overtime.

An employee who works on a holiday shall be compensated at the overtime rate for all hours worked on the holiday in addition to eight (8) hours holiday pay.

All paid time shall count as time worked when determining overtime.

b) Flex Scheduling

Flex scheduling is defined as an occasional adjustment to an employee's work schedule which does not alter the total number of hours scheduled to be worked per week, but simply alters the time of day those hours are worked.

For employees in the classifications listed in Exhibit C, the City and the employee shall be allowed to reasonably flex or change the work schedules for these employees in order to minimize overtime expenditures and facilitate an employee's ability to balance work with other aspects and obligations in accordance with the following procedures. 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. Flex scheduling shall not be used where the City determines that an alternative schedule pursuant to Administrative Policy Chapter 3, Article 39 or special work schedule in accordance with the provisions of MOU Article 20.1 is more appropriate to address on-going City needs.

1. The flex schedule must occur within the employee's regular 40 hour workweek, but is not restricted to a specific day or portion thereof. The manager and employee should work collaboratively to flex the employee's schedule in a manner that satisfies the City's needs and also reschedules the employee's work to a time agreeable to the employee. The manager shall make the final determination. If an employee feels that a manager is not working collaboratively on flex scheduling, the employee may refer the matter to the Human Resources Director.

2. An employee should be informed about the need for a flex schedule with as much notice as is reasonably possible consistent with best practices.

3. No permanent change in work schedules are permitted under this provision.

4. No employee shall be put on a schedule that mandates the employee routinely stay late when there is no evening meeting, special event or occasional necessary work.

This Article shall not prohibit any employee covered by this MOU to voluntarily flex their schedule on a temporary basis, subject to the approval of their supervisor.

During the term of this MOU, the City or the Association may meet and confer over the issue of overtime, flex time and exempt status designation.

16.5 Out-Of-Class Pay

Employees who are temporarily assigned to work in a higher classification and work in such classification for six or more consecutive work days shall be compensated at five percent above the employees' normal pay rate or the first step of the higher level position, whichever is greater. Assignments may be made to employees who are in the same division/department and who are capable of performing the work of the higher-level position whether or not they have attained a particular formal educational level. Such assignments will be assigned 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 and related compensation has been authorized in advance by the employee's manager or his/her designee and has been processed by the Human Resources Department. 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.

16.6 Bilingual/Translator Pay

Employees are entitled to receive, in addition to their regular compensation, sixty dollars ($60.00) per month (i.e., twenty seven dollars and sixty-nine cents [$27.69] per pay period) for Bilingual/Translator skills if they meet the following criteria:

a) Certification by a provider contracted through the Department of Human Resource that the employee possess the needed language skills at an acceptable skill level; and
b) Certification by the director of the department that the particular assignment of the employee involves need for the required skills on a regular and frequent basis.

Bilingual/Translator Pay will not necessarily continue if the employee is transferred or promoted.

Qualifying languages are: Chinese, Japanese, Sign Language, Spanish, Tagalog (Filipino), Thai, Vietnamese, Farsi, and other language(s) deemed appropriate by the City.

16.7 Hazardous Duty Pay

Employees who regularly perform any of the duties listed below shall be paid two percent (2%) over their regular base pay for full pay periods in which such work is performed as a part of the employee's regular assignment:

Use of high climbing rope for tree trimming work;

Use of mechanical, hydraulic or pneumatic boom equipment for high electrical or mechanical work;

Use of climbing equipment for high pole work;

Repair of knockdowns in which there is potential contact with high voltage electrical wires;

Operation of the Stinger Crane when there is potential contact with high voltage electrical wires:

Work in confined spaces as determined by the City, except as performed by employees in the water pollution control series.

Confined space is a space defined by the concurrent existence of the following conditions:

Existing ventilation is insufficient to remove dangerous air contamination and/or oxygen deficiency which may exist or develop; and

Ready access or egress for the removal of a suddenly disabled employee is difficult due to the location and/or size of the opening; and

Dangerous Air contamination" and "oxygen deficiency" are used as defined in Title 8, Article 108, Section 5156 of the California Occupational Safety and Health Code.

As used in this Article, "high" means that the nature of the work requires the employee to operate at a height above the ground that presents a danger of injury from a fall.

Effective the first pay period following the ratification of the MOU, hazardous duty pay as described in section 16.7(a) will be eliminated. Hazardous duty pay will be revised as follows:

Employees in the classification of Utility Worker, Sr. Maintenance Worker, Public Works Crew Leader, Public Works Supervisor, Heavy Equipment Operator, Sr. Park Utility Worker, Sr. Water Distribution Worker, Water System Operator, Public Works Maintenance Worker I/II, Water Distribution Worker, Sr. Water Distribution Worker, Water Distribution Leader, Water Distribution Supervisor will receive a 1.5% hazardous duty differential if assigned to the Trees (801), Concrete (803), Sewer & Storm (404), or Water (403) divisions in the Public Works Department or a 0.5% hazardous duty differential if assigned to the Street Maintenance (402) division in the Public Works Department.

All other employees not receiving the revised hazardous duty differential as described above, but who received hazardous duty compensation during the fiscal year 06-07 or 07-08 will receive a one time payment of $250.

16.8 Certification Pay

Employees shall receive a total of 2.5% certification pay for the possession of one or more of these certifications as follows:

Classification	Certification
Water Pollution Control Operator in Training	Grade 1 Operator's Certificate/California State Water Resources Board
Sr. Water Pollution Control Operator	Grade 4 Operator's Certificate/California State Water Resources Board
Water Distribution Worker	Backflow Prevention Assembly Tester or Cross Connection Control Program Specialist from American Water Works Association Or Grade 3 or higher Water Distribution Operation Certificate from State of California Department of Health Services
Sr. Water Distribution Worker	Backflow Prevention Assembly Tester or Cross Connection Control Program Specialist from American Water Works Association Or Grade 3 or higher Water Distribution Operation Certificate from State of California Department of Health Services
Water Distribution Crew Leader	Backflow Prevention Assembly Tester or Cross Connection Control Program Specialist from American

	Water Works Association Or Grade 3 or higher Water Distribution Operation Certificate from State of California Department of Health Services
Water Distribution Supervisor	Backflow Prevention Assembly Tester or Cross Connection Control Program Specialist from American Water Works Association Or Grade 4 or higher Water Distribution Operation Certificate from State of California Department of Health Services

The City shall adjust the pay of the employee starting the first full pay period (retroactively if necessary) following receipt by the City's Human Resources Department of the employee's proof of passing the Certification Examination.

16.9 Standby Duty and Compensation

Standby duty is defined as that circumstance which requires the employee so assigned to:

Be ready to respond in a reasonable time to calls for her/his service;

Be readily available at all hours by telephone, or other communication devices, and

Refrain from activities which might impair her/his assigned duties upon call.

Standby duty shall be assigned by a management supervisor or his/her designee in writing; and

Shall be compensated at the rate of 0.7 hours at the overtime rate for each eight (8) hours of standby duty worked; plus

Two (2) hours compensation at the overtime rate on completion of fourteen (14) consecutive eight (8) hour periods of standby duty.

On holidays, standby shall be compensated at the rate of 1.5 hour at the overtime rate for each eight (8) hours of standby duty worked.

Standby hours shall be recorded on the employee's timecard by using the "Standby" pay code.

Notwithstanding the foregoing, for employees in the Water/Sewer Unit of the Field Services Division, the following provision for Standby shall apply:

Shall be compensated at the rate of 0.7 hours at the overtime rate for each shift of approximately eight (8) hours of Standby duty worked (not to exceed three (3) shifts per day), plus

For standby on a weekend (Saturday and/or Sunday), standby pay is paid on completion of three (3) consecutive shifts of Standby Duty, at the rate of one (1) hour of compensation at the overtime rate. An employee on Standby for Saturday would receive one (1) hour at the overtime rate for Saturday; an employee on Standby for Sunday would receive one (1) hour at the overtime rate for Sunday; an employee who was on Standby for both Saturday and Sunday would receive one (1) hour for each day; for a maximum of two (2) hours for a weekend of standby duty.

On City observed holidays, Standby shall be compensated at the rate of one and a half (1.5) hours at the overtime rate for each shift of Standby duty (not to exceed three (3) shifts, per day).

16.10 Call-Out Duty and Compensation

An employee who is assigned to standby duty pursuant to the Standby Duty and Compensation provisions of this Agreement, and is directed to return to work, and the employee actually returns to work (defined as physically returning to work), shall be compensated for actual work performed or by a minimum payment of 1.4 hours at the overtime rate.

Upon completion of a call-out assignment, if a new call-out is received within the original 1.4 hour call-out minimum period, it will not be compensated as a separate call-out.

If a new call-out is received prior to the completion of the previous call-out assignment, the new call-out will be considered a continuation of the previous call-out, and no additional minimum shall apply.

When assigned to standby duty on a City observed holiday, the call-out minimum shall be two (2) hours at the overtime rate.

Employees who do not return to work but who are contacted by telephone, pager, or computer shall not be paid a call out minimum, but shall be paid for actual time worked at the overtime rate.

Call-Out hours shall be recorded on the employee's timecard by using the "Call-Out" pay code.

16.11 Call Back Pay

An employee who is not on standby duty pursuant to Article 16.9, and who has completed his/her work day and has left his/her work site and is ordered to return to duty following the employee's normal work day ("called back"), shall receive call back pay for actual work performed or a minimum payment of two (2) hours at the overtime rate if each of the following conditions is met:

> The order to return to work occurs following the termination of his/her normal work shift on the day the return is required,
>
> The return is necessitated by unanticipated work requirements, and
>
> The employee actually returns to work (i.e. defined as physically returning to work).

An employee who receives a "call back minimum" and who leaves work, shall not receive another "call back minimum" if they are again called back to work within two (2) hours of the previous call back.

An employee who is ordered to begin his/her shift up to two (2) hours prior to his/her normal starting time shall not be eligible for call back pay for that early call back.

Employees who do not return to work but are contacted by telephone, pager, or computer, shall not be paid a call back minimum, but shall be paid for actual time worked at the overtime rate. Employees who are listed on a City emergency call list and who are called to respond in an emergency situation are deemed authorized by virtue of their inclusion on the emergency call list to respond directly to the emergency call and are not required to obtain additional authorization prior to either an over-the-phone, computer, or in-person response.

Call-Back hours shall be recorded on the employee's timecard by using the "Call-Back" pay code.

16.12 Court Pay

When scheduled and required by the City to appear in court on his/her regularly scheduled day off, an employee shall modify his/her work schedule so that the City-related court duties occur during the employee's work time. In those situations where the work schedule cannot be modified, an employee shall receive a minimum of four (4) hours at the overtime rate if the following conditions are met:

> The court appearance occurs either during the employee's scheduled day off, or between shift duty for employees scheduled on the graveyard shift.

For the purpose of this Article, the graveyard shift is defined as any shift beginning between 7:00 p.m. and 12:00 midnight.

16.13 Emergency Overtime for Employees/Rest Period

If an employee is required to respond to an emergency call that requires him/her to work more than twelve hours within a twenty-four hour period, and any portion of those twelve hours is after midnight, the employee shall be entitled to an eight hours rest period prior to returning to work. If any portion of the rest period occurs during the employee's regular schedule, the employee shall receive regular paid compensation for that time.

This section shall not apply to a declared disaster or period of emergency as determined by the City Manger.

16.14 Class A and B Driver's License Compensation

Employees who are required to possess and maintain a Class A or B California Driver's License shall receive an additional $75 per month ($34.62 per pay period). Such payment shall not be made for any period of time when the employee's license is suspended or revoked, or the employee is determined to be unable to operate a commercial vehicle due to a lapsed DMV commercial driver medical clearance or as a result of removal from safety-sensitive functions by a medical review officer, due to a positive DOT-mandated drug or alcohol test.

16.15 License Reimbursement

Employees who are required by the City to maintain a Class A or B California Driver's License and who successfully renew their driver's license or acquire a new license upon starting a new assignment requiring a Class A or B Driver's License shall, upon submission of a receipt by the employee, be reimbursed by the City for the difference in cost between such license and a California Class C Driver's License.

Article 17 INSURANCE PLANS

The City shall continue to provide group Medical, Dental, Vision, and optional Life/AD&D insurance plans, and the Employee Assistance Program. Any health plans for which the City contracts directly with the provider, prior to changing the provider or the level of benefits, the City shall first give the Association the opportunity to meet and agree concerning such changes.

The City shall contribute (453.07). per pay period ($981.65/month) toward Medical, Dental, Vision, the Employee Assistance Program, and optional Life/AD&D insurance. This amount shall be allocated $516.99 for the medical plan contribution and $464.66 for the cafeteria plan contribution

17.1 Medical Insurance

Effective January 2009, the City's contribution to the medical/cafeteria plan will be revised as follows:

a) Calculate 80% of the average of the family monthly premium for the Bay Area/Sacramento CalPERS Blue Shield Access HMO and the CalPERS Kaiser HMO plan. The calculation for 2009 will be as follows:

- Kaiser $1,321.58 per month
- Blue Shield $1,457.48 per month

Average $1,389.53 per month

80% $1,111.62 per month

b) The contribution as described in section a (above) will be allocated 49% medical contribution and 51% cafeteria plan.

<u>2009 Calculation</u>

49% Medical -	$ 544.69
51% Cafeteria -	$ 566.93
	$1,111.62 total contribution

c) Employees who elect Employee Only Medical coverage or no medical coverage will be entitled to a cafeteria plan contribution equal to $33^1/_3$% of the cafeteria amount listed in section 17.1(b).

<u>2009 Contribution for these employees</u>

$566.93 x $33^1/_3$% = $ 187.09

d) Those employees who, as of the ratification of this agreement, are enrolled in the Employee Only PERSCare medical plan will receive a $500 annual City contribution to a Section 125 medical reimbursement account provided they switch to an alternative medical plan during the open enrollment period ending October 10, 2008.

A Section 125 medical reimbursement plan will be offered to all employees on a voluntary basis.

e) Cafeteria Plan contributions may be used by employees to purchase both taxable and non-taxable benefits including medical premiums, dental premiums, family vision premiums, and supplemental life premiums. There shall be no cash payments for any unused Cafeteria Plan contributions.

f) Annual medical and Cafeteria Plan changes during the term of this MOU shall be calculated in accordance with the formula described in section a (above). However, any annual increases in the medical contributions shall not exceed a 5% total increase. Any amount in the formula increase that will exceed a 5% increase in the medical contributions shall be allocated to the cafeteria plan contribution.

The percentage amount ($33^1/_3$%) as described in Section 17.1(c) shall be adjusted, if necessary, to provide 100% coverage for the highest HMO medical plan, dental coverage and supplemental life insurance.

g) 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.

17.2 Cash In-Lieu of Medical Coverage

The City will continue to provide employees with the option of reducing their medical coverage and receiving payment of a portion of what otherwise would be the City contribution.

To be eligible for this plan, an employee must either:

Change from full family to employee plus one or employee only (available only when the employee continues to be eligible for full family coverage);

Change from employee plus one to employee only (available only when the employee continues to be eligible for employee plus one coverage),

Change from any level coverage to no coverage; or

A new employee may choose no coverage.

Payment shall be made on the following schedule:

CURRENT	NEW	PER PAY PERIOD	MONTHLY
E + 2	None	$98.50	$213.42
E + 2	E	$60.50	$131.08
E + 2	E + 1	$22.50	$ 48.75
E + 1	None	$76.00	$164.67
E + 1	E	$38.00	$ 82.33
E	None	$38.00	$ 82.33
NEW	None	$38.00	$ 82.33

The cash in-lieu payment shall not, when combined with the City's contribution for medical insurance and the cafeteria benefits plan, exceed the combined City contribution for medical insurance and the cafeteria benefits plan.

If the employee is currently a dependent of a City employee and covered by a PERS Health Plan, the employee is not eligible for reimbursement.

Whenever an employee changes to no coverage, the employee shall provide proof of alternate coverage and sign a waiver stating that she or he does have alternative coverage and that she or he understands that he or she will no longer receive coverage through a City sponsored PERS provided medical plan.

If an employee decides to increase his or her level of coverage by either reentering a City sponsored PERS provided medical plan or including a dependent in his or her current coverage, he or she may enroll in accordance with PERS procedures.

Procedures for exercising this option and for reentering the City sponsored PERS provided medical plans shall be established by the City.

17.3 Dental Insurance

Dental insurance at the current benefit level will continue to be provided. The City contribution for dental insurance shall be as provided in Section 17.1.

If spouses or registered domestic partners are represented by different bargaining groups, dual coverage under the dental plans offered for each bargaining group will be allowed. Dependents may be covered under one or both dental plans. Coordination of benefits by the dental providers will be made pursuant to current industry standards.

17.4 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. The City will contribute the full cost of the premium for employee and up to one dependent. City family coverage contribution is provided in Section 17.1(b).

17.5 Employee Assistance Program

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

17.6 Improved Coverage Dental/Vision

During the calendar year 2009, the City will obtain quotes for dental coverage that provides a higher maximum annual reimbursement for dental and quotes for vision coverage that provides improved vision frames/lenses reimbursement. The City will work with the Association on plans to provide such improved coverage at no additional cost to the City.

17.7 Registered Domestic Partners

SEA and the City shall comply with State and Federal law regarding the provision of Registered Domestic Partner benefits.

17.8 Life/AD&D and Long Term Disability Insurance

The City shall provide Life and Accidental Death and Dismemberment (Life/AD&D) insurance for each employee in an amount equal to that employee's base annual salary.

Such insurance shall be at no cost to the employee, except that, insurance amounts above $50,000 provided by the City shall be subject to tax law provisions.

At the time of hire, an employee may purchase additional Life/AD&D insurance in an amount equal to the coverage provided by the City, up to a combined maximum coverage of $175,000.

Current employees who did not purchase additional Life/AD&D insurance at the time of hire, may purchase additional Life/AD&D insurance in an amount equal to the coverage provided by the City, up to a combined maximum coverage of $175,000, subject to approval by the carrier.

The City shall also provide Long term Disability insurance that provides 2/3 of the employee's base annual salary to a maximum of $7,500 per month of paid benefits, subject to the terms of the contract with the carrier.

17.9 Retirement

Tier 1 – Current Personnel

The City has contracted with PERS to provide for miscellaneous employees, including employees in this Unit, the retirement formula commonly called, "Local Miscellaneous 2.7% at age 55".

The City has also contracted with PERS to provide Level III of the 1959 Suvivor Benefit and the Military Buy-Back Option.

The City agrees to contribute to PERS on behalf of current employees as follows:

Through December 31, 2012, the City shall contribute seven percent (7%) of salary for the employee's share of PERS. Employees shall pay 1% of their required employee contribution; such payment shall be made pursuant to IRC Section 414(h)(2).

Effective the first full pay period in January 2013, the City shall contribute six percent (6%) of salary for the employee's share of PERS. Employees shall pay two percent (2%) of their required employee contribution; such payment shall be made pursuant to IRC Section 414(h)(2).

Effective the first full pay period in July 2013, the City shall contribute five percent (5%) of salary for the employee's share of PERS. Employees shall pay three percent (3%) of their required employee contribution; such payment shall be made pursuant to IRC Section 414(h)(2).

Effective the first full pay period in July 2014, the City shall contribute four percent (4%) of salary for the employee's share of PERS. Employees shall pay four percent (4%) of their required employee contribution; such payment shall be made pursuant to IRC Section 414(h)(2).

The City's payment of employees' PERS contribution is based upon authority from PERS and upon tax treatment permitted by the Internal Revenue Service 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 Treasury may alter the current revenue rulings, either by other rulings or regulations.

The City shall continue to report the value of the employer paid member contribution (EPMC) as additional compensation for each employee.

Tier 2 – Personnel Hired Beginning the Last Full Pay Period of December, 2012
Employees hired beginning in the last full pay period in December, 2012 shall receive the Local Miscellaneous 2.0% at age 60 retirement formula. Final compensation shall be calculated using the single highest year model. These employees shall pay the same share of percentage of salary on a pre-tax basis to pay for their pension as the Tier 1 employees.

Tier 3 - New PERS Members Hired Beginning January 1, 2013
Beginning January 1, 2013, the City shall provide pension benefits for new employees who are also new PERS members in a manner consistent with State law and will otherwise comply with the Public Employees' Pension Reform Act (Government Code Section 7522 et seq.). These employees will pay fifty percent (50%) of normal cost to pay for their pension.

17.10 Reporting of Special Compensation - 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. The amount shall be posted on the City's intranet site along with other employee benefits.

17.11 Dependent Care

The City shall continue to provide a plan in accordance with the Internal Revenue Code Section 129 allowing employees to qualify for pre-tax dependent care savings.

Article 18 LEAVES

The following employee benefits, as they are set forth in the City's Salary Resolution, are included by reference in this Agreement:

Leave Benefits
Leave Authorization
Leave Benefits; To Whom Applicable
Leave Payment

Leave Substitution
Special Schedule - Holiday Leave

18.1 Vacation

a) Annual Accrual

Employees shall accrue vacation leave based upon the following schedule:

> 3.4 hours per pay period for employees with 130 or fewer pay periods of continuous service.
>
> 5.0 hours per pay period for employees with 131-260 pay periods of continuous service.
>
> 6.5 hours per pay period for employees with 261-520 periods of continuous service.
>
> 7.0 hours per pay period for employees with 521-650 periods of continuous service.
>
> 8.0 hours per pay period for employees with 651 or more pay periods of continuous service.

b) Maximum Accrual

As soon as administratively possible, the maximum accrual of vacation shall be 500 hours. There shall be no accrual over 500 hours.

c) Use of Vacation Leave

Use of vacation leave shall be subject to approval by the employee's supervisor.

d) Minimum Usage

No minimum usage per year is required. However, if employees reach the maximum accrual, they will cease to accrue further vacation until such time as their accrual falls below the maximum accrual allowed. Employees are strongly encouraged to plan and take a substantial portion of their accrued vacation time.

e) Vacation Extension

City will allow up to one week of leave without pay per calendar year for the purpose of extending vacation, if approved in advance by proper authority and if all the employee's leave accruals have been exhausted. Such leave shall be taken on days immediately succeeding the date on which the employee has exhausted his/her last day of accrued vacation leave.

There will be no vacation leave accrued for the pay period in which such leave without pay is taken.

f) Effect of Leave Without Pay (LWOP) on Vacation Accrual
When an employee is on LWOP, vacation accrual is prorated based on paid hours in the pay period.

18.2 HOLIDAY LEAVE
Holidays for employees include:

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

a) Library Employees
For holidays observed by the City, Library employees shall be assigned to work the holiday by first asking for volunteers and then by filling the remaining needed assignments by rotating equally among all qualified employees.

b) Holidays and Alternate Work Schedule
Holiday leave is for eight hours per holiday. When a holiday falls on a day when an employee working an alternate schedule would normally work more than eight hours a day, that employee shall have the option, subject to approval of the employee's supervisor, of making up the difference between the eight hour holiday and his or her normal workday by working the additional time during the same workweek during which the holiday falls. A supervisor's denial of this option must be based upon operational need. Employees who do not take this option will be required to use vacation time or compensatory time-off to make up for the additional time-off on the holiday.

c) Floating Holidays
Employees shall be credited with thirty (30) hours of floating holiday leave on the first day of the first pay period in the payroll calendar year.

Newly hired employees shall be credited with a pro-rata share of floating holiday hours, based upon the proportion of the calendar year remaining after their date of hire.
Use of floating holiday leave shall be subject to approval in advance by the employee's supervisor.

Employees separating City employment shall have their allotment of floating holiday leave for that year pro-rated based upon their date of separation.

Any employee who has used less than his/her pro-rated allotment for the portion of the calendar year worked, shall have the balance paid to him/her on his/her final paycheck.

Any employee who has used more than his/her pro-rated allotment for the portion of the calendar year worked, shall have the overage offset against any available accrued leave, on his/her final paycheck. The employee may also authorize the deduction from his/her final compensation. If the employee's final paycheck is insufficient to repay the overage, the employee shall reimburse the City immediately.

Unused floating holiday leave at the end of the payroll calendar year may be paid out in cash or rolled over into vacation leave subject to maximum accrual limits specified in this Agreement. Hours rolled over into vacation leave shall not exceed 30 hours per calendar year.

18.3 Bereavement Leave

An employee shall be entitled to bereavement leave with pay in an amount not to exceed forty (40) work hours for each death occurring to a person on the list below.

To qualify for bereavement leave the death must occur to an employee's spouse or registered domestic partner, father, mother, son, daughter, brother, sister, grandparent, or grandchild, or to the father, mother, son, daughter, brother, or sister, grandparent or grandchild of an employee's spouse or registered domestic partner.

The City reserves the right to require proof of death from the employee.

18.4 Jury Leave

An employee is entitled to jury leave subject to conditions and limitations contained in the Administrative Policy Manual as the same exists or is amended hereafter, subject to meet and confer obligations.

18.5 Military Leave

Employees assigned to active military duty are entitled to military leave in accordance with the provisions of applicable State and Federal laws, and the Administrative Policy Manual as the same exists or is amended hereafter, subject to meet and confer obligations.

18.6 Disability Leave

Employees qualify for disability leave after completion of twenty-six (26) consecutive pay periods from the date of original appointment; provided, however, that employees may be authorized up to forty (40) hours of interim disability leave from the date of employment for the first twenty-six (26) pay periods; provided, however, that at the conclusion of the twenty-sixth (26th) pay period the interim disability leave shall terminate, including any unused amount. The total allowable paid disability leave for employees for work-related and non-work related disability combined is forty (40) hours during the first year of employment.

18.7 Compensatory Time Off

An employee may select compensatory time off (CTO) in lieu of cash compensation for overtime required to be worked under Article 16.4.

Compensatory time shall accrue at the rate of time-and-one-half for each hour of overtime.

At any given time, an employee may not have a current CTO accrual balance of more than eighty (80) hours of CTO.

Compensatory time off accruals of greater than forty (40) hours shall be cashed-out during the last full pay period of each calendar year. At the employee's option, any amount up to all accrued time may be cashed out.

18.8 Personal Business Leave

Effective the first pay period in the payroll calendar year 2009, employees shall be entitled, on an annual basis, to ten (10) hours Personal Business Leave. The intent of said leave is for medical appointments or personal business. Personal Business Leave is not intended to extend vacation usage. Accrual of said leave for new hires and use of leave upon termination shall be in a manner similar to floating holiday accruals. There shall be no payment of any unused hours. Use of Personal Business Leave shall be subject to prior supervisory approval.

Article 19 ADDITIONAL BENEFITS

19.1 Workers' Compensation Benefits

Workers' Compensation Benefits will be provided as required by law, and in accordance with the provisions of the City's Salary Resolution.

19.2 Tuition Reimbursement

Employees are eligible for tuition reimbursement as provided in the City's Administrative Policy, except that the maximum amount allowable for books shall be $100 per quarter or semester for courses directly related to the employee's present position or promotional position, and $50 per quarter or semester for courses required for a related degree.

No reduction of City services will result due to the tuition reimbursement program.

19.3 City-Wide Employee Emergency Leave Relief Fund

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.

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.

As with any leave of absence, the absence must be pre-approved by the employee's management supervisor or his/her designee.

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.

Rules and procedures defining the use of this Fund shall be promulgated by the City Manager or his/her designee. Any changes to the policy are subject to the meet and confer process.

19.4 Jackets-Water Pollution Control

It is agreed that the City will provide an insulated wind breaker-type jacket with a zipper front for employees in the Water Pollution Control Operator series and the Water Pollution Control Plant Maintenance Mechanic series. It is further understood that the employees will leave the jackets at the Water Pollution Control Plant when they are off duty.

19.5 Safety Footwear

Each employee required by the City to wear safety footwear (see Exhibit D) shall be required to purchase and wear OSHA-approved safety footwear and shall receive an allowance for the purchase of such footwear. The Human Resources Department shall maintain the listing of eligible classifications/positions, and shall post the list on the City's intranet site. If an employee's manager determines that an employee who is not on the list should have safety footwear, the manager shall provide the information to the Human Resources Department, and if the Risk Manager approves, the employee shall promptly be added to the list.

The maximum allowance shall be two hundred and twenty-five dollars ($225.00), and may be used for more than one pair of safety footwear.

The allowance shall be paid at the end of the first full pay period in July of each year to those active employees in classes requiring safety footwear or for employees hired after that time, during the first full pay period of employment. The safety footwear amount shall be reported as "special compensation" as required by PERS procedures for all affected employees. The amount shall be posted on the City's intranet site along with other employee benefits.

19.6 Tool Allowance

The 2% tool allowance which is included in the base pay for Lead Equipment Mechanic, Equipment Mechanic, and Equipment Mechanic-In-Training represents the full compensation for tools, including replacement of lost or broken tools except that verified losses which would be subject of the City's property damage coverage such as losses from fire, break-in and/or theft, and vandalism are excluded from this limitation. It is understood that when the salary survey is performed in 2012, the City will obtain tool allowance data for Equipment Mechanics from comparison survey agencies. This tool

allowance data will be added to the base salary when calculating salary for other jurisdictions.

This provision does not apply to Water Pollution Control Plant Maintenance Mechanics.

The City shall provide a minimum set of tools for each of the employee in the classifications of Plant Maintenance Mechanic and Senior Plant Maintenance Mechanic employed at the Water Pollution Control Plant, as specified in Exhibit E.

19.7 Testing for City Vacancies

Any employee represented by SEA, 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 of the testing process. Each employee is allowed to exercise this prerogative twice per year, with as much advance notice to his/her supervisor as possible. Employees who wish to participate in more than two testing processes shall be allowed to do so but shall be required to use accrued leave or take time off without pay to participate in the process.

19.8 Direct Deposit

An employee may directly deposit all or a portion of his or her net pay to a bank of his or her choice via direct electronic paycheck deposit.

Each employee desiring this alternative must deliver a signed authorization to the Department of Human Resources requesting such electronic deposit. Along with the authorization requesting electronic deposit, the employee must also file a waiver prepared by the City stating that the employee knows the City can not control and is not responsible for, the day upon which the employee's bank credits his or her account with the deposited funds.

The specific procedures for direct deposit shall be as set forth in the City's Administrative Policy.

19.9 Transportation Benefit

Internal Revenue Code §132(f) allows employers to offer employees the opportunity to set aside a portion of their salary, under a salary reduction arrangement, to pay for their personal expenses for commuting to and from work. Employees will not be taxed on amounts set aside and used for qualified expenses. This benefit will be cost neutral to the City.

Association employees who qualify may participate in this program by completing a written compensation reduction election form choosing a fixed amount of compensation to be withheld pre-tax and received at a future date. IRC §132(f) requires that the compensation reduction election or "salary reduction agreement" be made in writing and include the date of the election, the amount of the compensation to be reduced, and the period for which the benefit will be provided. The employee election amount may not exceed the monthly maximum for the benefit category and the election must be made

before the employee is able to currently receive the compensation. The monthly maximum may be updated/revised from time to time by the Internal Revenue Service.

Commute Incentive. Employees may voluntarily elect **one** of the following commute incentives:

Public Transit. The City will provide monthly Commuter Checks worth the value stated below to be used toward the purchase of a monthly transit pass:

> $40 for employees traveling three or more zones on Caltrain;
> $40 for employees using the Dumbarton Express, BART, the ACE train, or a commuter highway vehicle;
> $35 for employees traveling less than three zones on Caltrain;
> $35 for employees using VTA and other buses.

Carpool. The City will provide carpool vouchers worth the value of $30 per month to each eligible employee in a carpool with two or more people. These vouchers may be used at designated service stations toward the purchase of fuel and other vehicle-related expenses.

Vanpool Program. The City will provide Commuter Checks worth the value up to $60 to each employee voluntarily participating in the Vanpool Program. These vouchers may be used toward payment of the monthly cost. Employees must fulfill the basic requirements of the Employee Commute Alternatives Program to qualify.

Bicycle. The City will provide bicycle vouchers worth the value of $20 per month to eligible employees who ride a bicycle to work. These vouchers may be used at designated bicycle shops for related bicycle equipment and expenses.

Walk. The City will provide walker vouchers worth the value of $20 per month to eligible employees who walk to work. These vouchers may be used at designated stores for expenses related to walking such as footwear and related accessories.

19.10 Reimbursement Procedures

If either the City or an employee finds an overpayment has occurred, for whatever reason, it is the responsibility of the person discovering the error to bring it to the attention of the other party immediately. The overpayment may be reimbursed over the same amount of time that the overpayment occurred, up to the maximum of one year.

Any employee who receives an amount annually that is designated for work-related attire or equipment that is individual-specific and not capable of being transferred to another employee, and who, having expended the amount received and acquiring and using the item, terminates employment, is not required to reimburse the City a pro-rata amount for the attire or equipment. Unexpended amounts are subject to return upon termination of employment.

Article 20 WORKING CONDITIONS

20.1 Work Schedules

Individual departments or divisions must adhere to City-wide policies for non-shift personnel. These departments and divisions may not adopt or impose processes or procedures concerning work schedules, other than those related to business necessity and/or job-site safety, which are more stringent than those set forth in City-wide rules and regulations, unless the process or procedure was subject to SEA comment before adoption.

An employee(s) may request an alternative work schedule(s) based on the guidelines found in the City's Administrative Policy related to Work Schedules.

This policy specifically allows the establishment of alternative work schedules, including flextime schedules. It also requires that the City establish schedules that are attentive to the needs of individual employees while also assuring prompt, efficient and cost effective public service.

In addition to the present provisions for special schedules for individual employees, the following provisions are made for special schedules for shift personnel at the Water Pollution Control Plant:

A special schedule of varying hours in a bi-weekly pay period may be implemented for all shift personnel (Senior Water Pollution Control Operators, Water Pollution Control Operators, and Operators in Training) upon approval of two thirds (2/3) of the work group, the Department Director and the City Manager.

A special work schedule implemented according to the above procedure may be terminated at the end of a pay period by the City Manager, the Department Director, or upon 2/3 vote of the affected shift personnel upon three (3) weeks written notice to each other.

The City agrees to consider the needs and desires of employees requesting a special schedule. If the City denies a request for a special schedule, then the City will give the employee(s) the reasons for the denial in writing.

20.2 Promotional Exams

The department with an opening shall have the ability to interview and to appoint from among all of the applicants on the Eligible List consistent with the City's applicable Civil Service Rules. In this regard, the following provisions will apply:

> For a City-wide promotional, the department may interview as many or as few candidates on the eligible list as it desires.
>
> For a City-wide transfer, the department may interview as many or as few candidates on the eligible list as it desires.

For an open and competitive recruitment, the department may interview as many or as few candidates on the eligible list as it desires.

When the City conducts a City-wide promotional or transfer and an open and competitive recruitment for the same classification, regardless of how many candidates the department otherwise desires to interview pursuant to this Article, it shall interview SEA employees who are within the top five candidates on the eligible list.

The parties affirm and accept the City Charter merit system principle.

20.3 Reclassification

An employee may submit a request for a reclassification of his or her job to the Department of Human Resources and to his or her supervisor only during February of each year.

Such request shall be processed through the employee's department and submitted to the Department of Human Resources.

Human Resources may decline a request for a study that has been previously reviewed within the past 24 months, unless the employee justifies such new request.

All reclassification submissions and notifications must comply with the timetable indicated below:

Reclassification Requests	**Final Filing Date for Department to submit to Human Resources**	**Final Date for Written Notifications Declining Requests**	**Completion Date**
Request submitted in February	March 31st of same year	No later than June 30th of the same year	18 months after submission date of request

Once the study is completed, if the City denies the reclassification of the employee's job, then the City shall give the employee the reasons for the denial in writing.

Once the study is completed, if the City reclassifies the job, and the employee who submitted the request was eligible to be promoted when the request was filed, the employee shall be appointed to the new position effective the first day of the pay period following the pay period in which the reclassification study was completed and approved. Upon completion of the study, if the employee is not eligible to be promoted, then the appointment shall be effective when the employee becomes eligible.

Change in status will not be implemented retroactively.

20.4 Reduction In Force

If the City implements a reduction-in-force that affects employees in this Unit, it will be administered pursuant to the City's Administrative Policy related to Reduction in Force, consistent with the following concepts:

SENIORITY:
Seniority is determined by total pay periods of service with the City, regardless of classification in which employed.

BUMPING:
Employees identified for layoff shall have bumping rights to their current or previously held classification within the Unit based on seniority as defined above.

Employees wishing to bump must exercise these rights within seven (7) calendar days after receiving written notification of the layoff, otherwise the bumping rights shall automatically terminate.

Employees must meet the minimum qualifications for the classification and possess the knowledge, skills, and abilities to perform the duties and responsibilities of the specific position.

When the City determines that it must implement a reduction-in-force that affects employees in the Unit, the City shall give the Association reasonable advance notice.

Notice to the employee shall be in writing thirty (30) calendar days prior to the effective date of the layoff.

20.5 Health and Safety
City will send the Association a copy of the minutes of the City Safety Committee after each meeting.

City shall make available applicable Material Data Safety Sheet available to affected employees, and provide training so employees will be able to read and interpret these data sheets as required by CalOSHA.

An employee designated by the Association shall be a member of the City-wide Safety Committee, if the Association so designates.

20.6 Job Sharing
If requested, the City and the Association shall meet and confer to discuss and implement a job sharing program. The Association understands such discussions may have an impact on another City represented bargaining unit and those unit representatives may need to be consulted prior to any program implementation.

20.7 Job-Related Work
Employees shall not be required to do job-related work during break periods. "Job-related work" includes any work set forth in a job description, stated as a component part of a job evaluation, or any work directed to be done by a supervisor or manager.

20.8 Grievance Procedure

a) Definitions

Grievance: A grievance is an alleged misapplication of a specific provision of this MOU, or of a specific provision of the Administrative Policy Manual, City Ordinance, or City Code, or departmental policies, rules or regulations, covering wages, hours or other terms or conditions of employment, which alleged misapplication adversely effects the grievant. The content of Employee Performance Audits or disciplinary actions are only appealable as provided in Article F.9 - Disciplinary Appeal Procedure.

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.

Grievant: A grievant is an employee, a group of employees or the Association. A grievant may file a grievance as defined above. Alleged misapplications which affected 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.

Work day is defined as Monday through Friday exclusive of holidays.

b) Process

Unwritten Grievance. The grievant shall orally discuss his/her grievance with his/her immediate supervisor in an attempt to resolve the grievance.

The supervisor shall give an oral response to the employee within seven (7) work days of the issue being raised by the employee.

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 could reasonably have been expected to have had 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) workdays from the receipt of the grievance, meet with 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) workdays from the receipt of such response, file a grievance with the division-level manager. Within seven (7) workdays of receipt of the written appeal, such manager shall investigate the grievance, which shall include a 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, within 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 from the Department Director, the grievant may, within seven (7) work days from the receipt of the 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, which answer shall be final and binding, except as provided in Article 20.11 - Arbitration.

c) General Provisions
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.

If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled.

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.

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.

The grievant may be represented by a person of his/her choice at any formal level of this procedure.

Formal levels may be waived by mutual written consent of the parties.

If the grievant is not represented by the Association, the Association 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 Association to state its position for the record. If the Association does not provide a written response within seven (7) work days after notification, such opportunity to respond 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 Association's position prior to settlement of the grievance.

By mutual agreement of the parties, a grievance may revert to a previous level of the procedure.

d) Grievance Representative
There shall be a reasonable number of Grievance Representatives in this Unit.

At the request of the grievant, the grievant may be represented by a Grievance Representative.
In instances where the designated Grievance Representative is unable to represent a grievant, the President shall represent the grievant or designate a representative who is on the current list as provided below, to act as a substitute.

Both the Grievance Representative and either the Association President or Vice-President will be allowed to represent at Level 2 or higher.

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.

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.

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.

The Association agrees that whenever a Grievance Representative is involved in grievance activities listed in this Section during working hours, only that amount of time necessary to bring about a prompt disposition of the matter will be utilized.

The Association 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.

Only those employees whose names are on the current list shall be granted release time to serve as a Grievance Representative.

20.9 Disciplinary Appeal Procedure
If an employee is to be suspended, demoted, dismissed or have his/her salary reduced, he/she shall:

> Receive written notice of the proposed action stating the date it is intended to become effective and the specific grounds and particular facts upon which the action is based;

Receive copies of any known written materials, reports or other documents upon which the action is based;

Be accorded the right to respond in writing within a reasonable period of time to the proposed charges;

Also, be accorded the right to meet within a reasonable period of time with a manager who has the authority to recommend modification or elimination of the proposed disciplinary action; and

The employee shall be given the manager's written decision within a reasonable period of time.

Employees holding a regular appointment who are suspended, demoted, reclassified, dismissed or have a salary reduction shall be entitled to be heard before the Personnel Board at a duly constituted meeting in accordance with the following procedure:

A written request to the Board must be filed through the Department of Human Resources within fourteen (14) calendar days from the effective date of the action from which the employee seeks exception.

Within twenty-one (21) calendar days after the proper filing of written request for a hearing, the Personnel Board shall commence a hearing following any review of the action and complaint deemed necessary.

The hearing before the Personnel Board may be public or private at the option of the employee, and the employee may be represented by legal or other council; however, the hearing shall be informal in substance and the rules of evidence prescribed for duly constituted courts shall not apply.

The Personnel Board shall, within fourteen (14) calendar days of the aforementioned hearing, render its decision in writing, and the Secretary shall direct copies thereof to the City Manager, the City Clerk and the employee requesting said hearing.

The decision of the Personnel Board may sustain, revoke, or modify the reclassification, suspension, demotion, salary reduction or dismissal and shall be final and conclusive in all respects and shall not be subject to appeal except as allowed by law.

In the event the Personnel Board revokes or modifies a reclassification, suspension, demotion, salary reduction or dismissal and orders the employee reinstated to the former position, it may direct the payment of salary to the employee for the period of time the Personnel Board finds the suspension, reclassification, demotion, salary reduction or dismissal was improperly in effect.

Discipline shall only be taken for just cause.

20.10 Selection Appeal Procedure

A Unit member who is not selected to fill a vacant position may request a meeting with a representative of the City's Human Resources Department to receive feedback concerning the employee's performance in the recruitment process. The purpose of this meeting is to enlighten the employee about his/her strengths and weaknesses for future opportunities within the City.

20.11 Arbitration

If a grievance has been properly processed through Article 20.8 - 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 Association, may appeal the grievance to Arbitration.

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 Article 20.8 - Grievance Procedure.

The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Mediation and Conciliation Service to provide a list of seven (7) names of persons qualified to act as arbitrators.

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.

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 Association 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.

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.

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.

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. A reasonable number of City employee witnesses will be provided release time for necessary testimony.

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 and applicable provisions of the law.

The decision of the arbitrator shall be final and binding.

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.

20.12 Appeal Procedure Waiver

The Association 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 21 ASSOCIATION PROVISIONS

21.1 Bulletin Boards

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

The City shall determine the placement of bulletin boards and the portion of the board to be made available to the Association.

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

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

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

The Association agrees that nothing of a libelous, obscene, defamatory, or of a partisan political nature, shall be posted.

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

Any material posted in violation of this Article may be removed by the management representative designated for a particular bulletin board. If material is removed, the City shall notify the Association in writing of the removal and the reasons therefore.

21.2 Use of City Facilities and Equipment

The Association may be granted the use of City facilities subject to the following conditions:

the meeting is during non-work hours;
the meeting is for City employees;
the meeting is not for organizing activities;
the meeting is not for a membership drive;
the Association makes a written request at least 24 hours in advance of the day it wants to use the facility, and stating the purpose of the meeting; and space is available.

The parties agree the City has the right to assess reasonable charges for the use of such facilities.

Use of City equipment, other than items normally used in the conduct of such business meetings, such as desks, chairs, and black/whiteboards, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

The Association may use the City's email system and interoffice mail system outside of work hours to post notices and results of elections, appointments of officers, to schedule and post notices of meetings, and to post notices of recreational, social and other organization events. Per Municipal Code Section 2.24.100, employees may only review and respond to such notices during non-work times.

In those instances where the City initiates contact with the Association and requires a response with less than a five day turn-around time, the Association officers are authorized to communicate with members by e-mail or interoffice mail.

21.3 Conference Attendance

Association representatives shall be allowed to use a total of 80 hours of unpaid leave per calendar year to attend training sessions, conferences and other association activities. The use of the 80 hours may be divided among no more than eight different Association representatives each year. The Association shall provide the City with a list of which Association representatives are eligible by January 15 of each year and shall notify the City immediately of any changes in the list.

To receive unpaid leave the employees must first receive approval for the time off from their department director by completing the City's Leave Request Form.

Such time off shall not be considered time worked, but shall not be considered a break in service.

21.4 Dues Deduction
Association dues and such other deductions as may be properly requested and lawfully permitted shall be deducted, in accordance with applicable state law, bi-weekly by the City from the salary of each employee who files with the City a written request that such deduction be made on their behalf.

Remittance of the aggregate amount of all deductions made pursuant to this Article shall be made to the Association by the City within thirty (30) days after such deductions are made.

21.5 Agency Shop
a) Except as provided otherwise in this Article, employees shall become and remain members of the Association or shall pay to the Association a service fee in-lieu thereof.

b) Waiver of Election for Newly-Represented Employees

The addition of classifications and/or employees to the Unit shall not require an election for the application of this Agency Shop provision to such classifications and/or employees.

c) Implementation

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

2) Any SEA-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 Association.

3) Such notice shall include a form for the employee's signature authorizing payroll deduction of the Association dues or a service fee, or to request an exemption and to authorize the appropriate charitable contribution in lieu of Association membership or service fee payment (see "religious exemption" below). Employees shall have fifteen (15) work 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.

d) Religious Exemption

1) Any SEA-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 Association Membership or service fee payment.

2) Declarations of, or applications for, religious exemption and any supporting documentation shall be forwarded to the Association within ten (10) work days of receipt by the City. The Association shall have ten (10) work 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 placed in an Association holding account pending resolution of the challenge.

e) Payroll Deductions and Pay-Over

1) 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.

2) 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.

3) 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 Association dues and service fees.

4) 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.

5) 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.

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

f) Reports

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

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

g) If, during the term of this MOU, the Association establishes a Political Action Committee Fund, as soon as administratively possible the City shall deduct contributions that are permitted by state and federal law from the salary of each employee who files with the City a written request that such deduction be made on their behalf.

h) Hold Harmless
The Association 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 and Political Action Committee provisions herein. In no event shall the City be required to pay from its own funds Association dues, service fees or charitable contributions which the employee was obligated to pay, but failed to pay, regardless of the reason(s).

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

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

k) Term
Agency fee obligations, including, but not limited to, dues or agency fee deductions on behalf of a recognized employee organization, shall continue in effect as long as the employee organization is the recognized bargaining representative, notwithstanding the expiration of any agreement between the public employer and the recognized employee organization.

21.6 New Employee Orientation
The Association may prepare a new employee information packet which shall be given by the City to appropriate employees during the Department of Human Resources orientation of new employees.

21.7 Release Time When Meeting With The City
If the President of the Association attends a mutually agreed upon meeting with the City, the President and up to three (3) designated Association Representatives, shall have reasonable release time to attend such meeting. Employees shall notify their management supervisor or his/her designee as soon as possible in advance of such meeting.

Travel time is included within the reasonable release time.

21.8 Association/Management Problem Solving Committee
The parties agree that regular meetings to explore mutual problems will be beneficial to the relationship between the City and the Association. 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.

Consequently the parties agree to meet as needed to discuss any issue concerning the rights of either party or the relationship between the City and the Association or the City and employees the Association represents. The purpose of the meetings is to exchange information and to solve problems

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.

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

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.

The following basic concepts shall be adhered to:

- Each party will appointment a mutually agreed upon number of participants.
- Agendas will be jointly set and minutes kept.
- Effort will be made to include key policy decision makers.
- Committee may appoint sub-committees to study major issues and report back to the Problem Solving Committee with recommendations for resolution.
- A collective Problem Solving Committee proposal, when appropriate, will be submitted to each party's principals for consideration.

Article 22 PAID TIME OFF

SEA and the City agree to renew their negotiations for a paid time off benefit to replace paid vacation leave and paid sick leave during February, 2013. The Parties shall meet and confer to impasse on this issue as a stand-alone subject pursuant to State law and City policy governing mandatory bargaining subjects and impasse procedures. If the Parties reach agreement, they shall memorialize their agreement in a side-letter, after approval by the SEA membership.

CITY OF SUNNYVALE

Teri Silva,
Director of Human Resources

Drew Corbett,
Assistant Director of Finance

Doug Baker
Human Resources Manager

Jack Hughes
Chief Negotiator for the City

SUNNYVALE EMPLOYEES' ASSOCIATION

Dustin Clark,
SEA President

Kevin Woodworth

JoAnn Rees

Juan Castro

Sharon Rogers

Valerie J. Armento,
Chief Negotiator for SEA

EXHIBIT A

Classifications Represented by the
Sunnyvale Employees' Association

Job Code	Classification	Pay Range
1000	Accountant	101
6800	Accounting Technician	646
1100	Administrative Aide	104
1250	Administrative Analyst	630
2170	Animal Control Officer	106
6750	Assistant Buyer	145
5015	Assistant Golf Professional	665
1251	Assistant Planner	126
1200	Associate Planner	107
1205	Automotive Shop Attendant	669
4001	Building Inspector I	702
4000	Building Inspector II	111
2501	Business Liaison	124
2000	Buyer	112
2500	Career Advisor	124
1400	Civil Engineer	116
2351	Community Services Coordinator I	164
2300	Community Services Coordinator II	628
2150	Community Services Officer	106
6675	Customer Service Representative	648
2460	Deputy City Clerk	637
2650	Ed. Information Systems Analyst	108
1160	Employment Training Program Coordinator	611
2480	EMS Coordinator	674
1500	Engineering Assistant I	117
1410	Engineering Assistant II	660
4900	Environmental Chemist I	196
1351	Environmental Chemist II	100
1350	Environmental Compliance Inspector	135
1840	Environmental Engineering Coordinator	168
5050	Equipment Mechanic	128
7100	Equipment Mechanic-in-Training	129
5310	Facilities Technician I	680
5315	Facilities Technician II	681
5320	Facilities Technician III	682
5300	Facility Attendant I	670
5301	Facility Attendant II	671
6830	Finance Analyst I	692
6840	Finance Analyst II	693
6875	Finance Technician	677
4460	Fire Prevention Specialist I	617
4461	Fire Prevention Specialist II	106
4480	Fire Protection Engineer	652

Job Code	Classification	Pay Range
4475	Fire Protection Inspector	651
4490	Fleet Services Coordinator	700
5025	Golf Course Equipment Mechanic	645
5010	Golf Professional	664
2505	Graphic Artist	184
7300	Greenskeeper	134
7325	Groundsworker	626
4420	Hazardous Materials Coordinator	618
4450	Hazardous Materials Inspector	110
5100	Heavy Equipment Operator	130
2925	Housing Programs Analyst	179
2450	Housing Programs Technician	104
4400	Housing Rehabilitation Specialist	131
2450	I.T. Coordinator	123
4950	Laboratory/Field Technician	620
4960	Landfill Technician	672
5150	Lead Equipment Mechanic	136
1600	Librarian	139
2100	Library Assistant	140
5250	Mail Clerk	690
5860	Maintenance Worker I	699
5850	Maintenance Worker II	698
6150	Meter Reader	147
2349	Neighborhood Preservation Specialist	118
4825	Network Engineer	642
6200	Office Assistant	149
6250	Office Clerk	150
5350	Parks Leader	153
7600	Parks Worker I	198
7650	Parks Worker II	600
7675	Parks Worker III	614
4080	Permit Center Coordinator	655
2110	Permit Clerk I	180
2112	Permit Clerk II	172
2115	Permit Technician	639
4875	Plan Check Engineer	627
4855	Plan Checker I	662
4805	Plan Checker II	656
7500	Press Operator	155
1020	Principal Accountant	616
2050	Principal Buyer	683
6300	Principal Office Assistant	156
1700	Principal Planner	157

Job Code	Classification	Pay Range
2202	Principal Programmer Analyst	632
6701	Principal Storekeeper	668
1255	Program Coordinator	638
2200	Programmer Analyst	103
7400	Public Safety Maintenance Worker	144
6351	Public Safety Property Clerk I	615
6350	Public Safety Property Clerk II	159
1130	Public Safety Records Coordinator	621
6052	Public Safety Records Senior Specialist	635
6050	Public Safety Records Specialist I	633
6051	Public Safety Records Specialist II	634
2180	Public Safety Specialist	106
4650	Public Works Construction Inspector	160
5510	Public Works Crew Leader	161
5640	Public Works Supervisor	191
5431	Recycled Water Coordinator	663
1010	Senior Accountant	641
6850	Senior Accounting Technician	647
4700	Senior Building Inspector	167
5651	Senior Building Services Leader	604
1140	Senior Buyer	624
2145	Senior Community Services Officer	151
1850	Senior Construction Inspector/Coordinator	174
4150	Senior Crime Analyst	653
1300	Senior Environmental Chemist	114
1349	Senior Environmental Compliance Inspector	146
7301	Senior Greenskeeper	609
4325	Senior Housing Rehabilitation Specialist	601
2400	Senior Library Assistant	170
5710	Senior Maintenance Worker	177
6450	Senior Meter Reader	171
2345	Senior Neighborhood Preservation Specialist	148
6500	Senior Office Assistant	172
5600	Senior Park Utility Worker	173
7320	Senior Parks Leader	613
4090	Senior Plan Check Engineer	691
1260	Senior Planner	654
2201	Senior Programmer Analyst	631
6600	Senior Storekeeper	176
1860	Senior Traffic Engineer	181
1865	Senior Transportation Engineer	610
1875	Senior Transportation Planner	657

Job Code	Classification	Pay Range
5930	Senior Wastewater Collections Worker	177
5820	Senior Water Distribution Worker	696
5750	Senior Water Pollution Control Operator	178
2504	Senior Workforce Services Representative	666
5425	Senior WPC Plant Mechanic	185
1345	Solid Waste Contract Administrator	115
4800	Solid Waste Specialist	169
6650	Staff Office Assistant	180
6700	Storekeeper I	182
6600	Storekeeper II	176
6710	Storekeeper/Buyer	112
5200	Street Lighting Technician	142
2120	Technical Support Specialist	649
1950	Traffic Engineer	188
4200	Traffic Engineering Technician I	127
4201	Traffic Engineering Technician II	607
1955	Transportation Engineer	612
1861	Transportation Planner	183
7800	Utility Worker	192
5920	Wastewater Collections Crew Leader	161
5910	Wastewater Collections Supervisor	191
5430	Water Conservation Coordinator	650
5810	Water Distribution Crew Leader	695
5800	Water Distribution Supervisor	694
5830	Water Distribution Worker	697
5880	Water Meter Repair Worker	195
5901	Water Pollution Control Operator I	197
5900	Water Pollution Control Operator II	202
7900	Water Pollution Control Operator-in-Training	199
4100	Water System Operator	186
2540	Web Specialist	706
2550	Workforce Development Analyst	661
2503	Workforce Services Representative	667
5400	WPC Plant Mechanic	154

EXHIBIT B

Clarification of Overtime Provision
Contained in this Agreement

CLARIFICATION OF OVERTIME PROVISION
Included in this Agreement and Referenced Below
and
AMENDING RELATED ADMINISTRATIVE POLICY
and
ALL SPECIAL SCHEDULES
(with and without written agreements)

Effective February 12, 1995
Reaffirmed July 1, 1996
Reaffirmed July 1, 1999
Reaffirmed July 1, 2004

Chapter B – Wages, Article B.3 - Overtime, Section B.3.5 states:

> All paid time shall count as time worked when determining overtime.

This language (current MOU Section B.3.5) was originally included in the 1993 SEA MOU with the intent that paid leave hours for any portion of any given day plus the hours worked on that same day, would be added together to determine overtime <u>for that day only</u> to the extent that the sum of the leave and work hours exceeded the normally scheduled work hours.

In other words, the inclusion of this language was intended to modify and clarify certain sections of the Article (current MOU Sections B.3.2.a, B.3.2.b, B.3.2.c) in calculating overtime earned **on a daily basis (in which some work was performed) only**.

The intent of adding the language (current MOU Section B.3.5) to the SEA MOU was simply to have the MOU language reflect the actual past practice within the City. Example A (attached) illustrates this past practice. Note also that Example A applies to all employees regardless of the type of schedule assigned (i.e., whether or not working a standard, special or shift schedule), the principles indicated would apply.

The language (current MOU Section B.3.5), was **not intended**:

1. to provide any new and/or additional overtime pay beyond that received by employees at the time that this provision was added to the MOU;

2. to cause any paid City designated holidays which occur on non-scheduled work days to be counted as hours worked for the determination of overtime for that week (see Example B attached);

3. to count any full day of paid leave time in and of itself (vacation, compensatory time, floating holiday, City designated holiday, disability leave, etc.) toward the calculation of overtime on a weekly basis (see Example C attached);

4. to override the section (current MOU Section B.3.2.3) which deals with the basis for calculating overtime on a weekly basis, i.e., "all hours worked in excess of forty (40) hours worked in a workweek" (see Example D attached);

5. to change the method of payment stipulated in the Section (current MOU Section B.3.4) when an employee works on a scheduled holiday or to create an inequity such that employees who work on a City designated holiday and are paid in accordance with Section B.3.4 receive the same pay as employees who are not scheduled to work and do not work on a City designated holiday. Note: Section B.3.4 states, "An employee who works on a holiday shall be compensated at the overtime rate for all hours worked on the holiday in addition to eight (8) hours holiday pay (see Example E attached); and

6. to cause the City to incur any additional overtime costs in relation to employees working special schedules or shift schedules above those which would be incurred by employees working on a standard Monday through Friday, 5 day/week, 8 hour/day schedule (see Example F attached).

We agree that the above statements and the attached examples illustrating each statement represent our understanding of the intent of Chapter B – Wages, Article B2 – Overtime, Section B2.10 of the August 1993 to June 1996 Memorandum of Understanding between the City of Sunnyvale and the Sunnyvale Employees Association. We further agree that the Examples attached describe the appropriate methods for employees to record work, leave and overtime in each of the options illustrated.

EXAMPLE A: SHOWING HOW A PARTIAL DAY'S LEAVE WHEN COMBINED WITH WORK TIME CAN GENERATE OVERTIME ON A DAILY BASIS

Employee works Monday through Friday (or any five days within the work week) 8 hours per day; work day starts at 8 a.m. and ends at 5 p.m.

On Monday, the employee's activity for the day is as follows:

8:00 a.m. – 10:00 a.m.	Works
10:01 a.m. – noon	Medical appointment
12:01 p.m. – 12:30 p.m.	Works
12:31 p.m. –1:30 p.m.	Lunch
1:31 p.m.	Returns to work and supervisor indicates overtime needed to complete critical work; normal end of day is 5 p.m.
1:31 p.m. – 8:00 p.m.	Employee works three hours beyond the end of normal work schedule this day.

FOR THIS DAY:

TOTAL WORK HOURS = 9 TOTAL LEAVE HOURS = 2

Based on work hours alone, the employee would be entitled to 1 hour of overtime; however, based on past practice, the employee actually may record time on the time card and receive pay as follows:

6 HOURS REGULAR WORK TIME plus 2 HOURS LEAVE TIME plus 3 HOURS OVERTIME

For employees scheduled to work 9 or 10 hour days the overtime would apply for any day in which the combined total of paid leave plus work hours exceeded the 9 or 10 hours normally scheduled for the day.

EXAMPLE B: SHOWING THAT A DESIGNATED CITY HOLIDAY OCCURRING ON A NON-SCHEDULED, NON-WORKED DAY DOES NOT GENERATE OVERTIME AND EXPLAINING EMPLOYEE OPTIONS AVAILABLE IN THIS SITUATION

Employee is scheduled to work and works Tuesday through Saturday, 8 hours per day and the holiday occurs on a Monday which the employee does not work. This situation, in and of itself, would not generate overtime for the week. The options available to the employee would be:

1. Note: This first option would require pre-planning and the pre-approval of the supervisor, as for vacation leave:

   Exchange one of the work days for the scheduled holiday within the work week in which the holiday occurs or within the work week immediately following the work week in which the holiday occurs, except that the Christmas and New Year's holidays may not be exchanged for another day off since the payroll calendar year split occurs at this time of the year. The exchange would be shown as follows on the time card for the week in which the holiday was taken:

   For 8 hr/day employee:

   8 hours holiday time
   32 hours regular work time
   TTL: 40 hours at regular rate

   For 10 hr/day employee:

   8 hours holiday time
   2 hours leave time
   30 hours regular work time
   TTL: 40 hours at regular rate

   For Black Friday or Black Monday employees, assuming the holiday is exchanged for a 9 hour work day:

   8 hours holiday time
   1 hour leave time
   31 hours regular work time
   TTL: 40 hours at regular rate

   If holiday is exchanged for the split Friday/Monday (an 8 hour day), 4 hours of holiday time would be recorded on two consecutive time cards such that each week would show:

   4 hours holiday time
   36 hours regular work time
   TTL: 40 hours at regular rate

EXAMPLE B (continued)

2. Record and receive pay for a total of 48 regular hours as follows for the week in which the holiday occurs:

For all schedules:		8 hours holiday time
		40 hours regular work time
	TTL:	48 hours at regular rate

3. Take the holiday leave as a vacation credit:

If neither of the above options have been exercised, within two pay periods after the City designated holiday, Payroll will automatically debit 8 hours of holiday leave, as though used by the employee, and credit 8 hours to that employee's vacation bank.

For all schedules: TTL: 40 hours regular work time would be recorded

EXAMPLE C: SHOWING THAT A DESIGNATED CITY HOLIDAY OCCURRING ON A NON-SCHEDULED, NON-WORKED DAY IN A WORK WEEK IN WHICH THE EMPLOYEE ALSO TAKES A FULL DAY OF PAID LEAVE TIME, DOES NOT GENERATE OVERTIME AND EXPLAINING EMPLOYEE OPTIONS AVAILABLE IN THIS SITUATION.

Employee is scheduled to work Tuesday through Saturday, 8 hours per day. The employee takes a paid leave day on Tuesday and the holiday occurs on a Monday which the employee does not work. This situation would not, in and of itself, generate overtime for the work week. The options available to the employee would be:

1. Exchange the paid leave day for the scheduled holiday within the work week in which the holiday occurs except that the Christmas and New Year's holidays may not be exchanged for another day off since the payroll calendar year split occurs at this time of the year. The exchange would be shown as follows on the time card for the week in which the holiday was exchanged for the paid leave day:

For 8 hr/day employee:

8 hours holiday time
32 hours regular work time
TTL: 40 hours at regular rate

For 10 hr/day employee:

8 hours holiday time
2 hours leave time
30 hours regular work time
TTL: 40 hours at regular rate

For Black Friday or Black Monday employees assuming the holiday is exchanged for a 9 hour day:

8 hours holiday time
1 hour leave time
31 hours regular work time
TTL: 40 hours at regular rate

If holiday is exchanged for the split Friday/Monday (an 8 hour day), 4 hours of holiday time would be recorded on two consecutive time cards such that each week would show:

4 hours holiday time
36 hours regular work time
TTL: 40 hours at regular rate

EXAMPLE C (continued)

2. Record and receive pay for a total of 48 regular hours for the week in which the holiday and leave time occurs:

For 8 hr/day employee:

	8 hours holiday time
	8 hours leave time
	32 hours regular work time
TTL:	48 hours at regular rate

For 10 hr/day employee:

	8 hours holiday time
	10 hours leave time
	30 hours regular work time
TTL:	48 hours at regular rate

For Black Friday or Black Monday employees:

	8 hours holiday time
	9 hours leave time
	31 hours regular work time
TTL:	48 hours at regular rate

3. Take the holiday leave as a vacation credit:

If neither of the above options have been exercised within two pay periods after the City designated holiday, Payroll will automatically debit 8 hours of holiday leave, as though used by the employee, and credit 8 hours to that employee's vacation bank.

For all schedules: TTL: 40 hours regular [work + other (non holiday) leave] would be recorded

NOTE: If a leave occurs during an employee's regular work week and the employee is required by management to work on a non-scheduled work day in that work week, the hours worked on the non-scheduled work day would be paid at the overtime rate.

EXAMPLE D: SHOWING THAT IN DETERMINING OVERTIME ON A WEEKLY BASIS ONLY HOURS "WORKED IN EXCESS OF FORTY" ARE CONSIDERED.

The employee takes paid leave for the entire scheduled week and the holiday occurs on a non-scheduled work day. This situation would not, under any circumstances, generate any overtime pay or more than 40 regular hours of pay for this work week.

In this situation, whenever an employee takes an entire work week off for any reason, that employee is required to exchange 8 hours of holiday leave for each of the holidays occurring within that work week (instead of the other leave). Employees on other than 8 hour day schedules will supplement the 8 hours of holiday leave with the alternative leave to show the normally scheduled hours for each day.

In essence, in this situation the employee exchanges the paid leave days off for the holiday regardless of the type of paid leave taken and will never receive more than 40 regular hours of pay for the week.

EXAMPLE E: SHOWING HOW AN EMPLOYEE WHO WORKS ON A SCHEDULED HOLIDAY IS TO BE PAID IN ACCORDANCE WITH ARTICLE B.3 – Overtime, Section B.3.4:

An employee who works on a holiday shall be compensated at the overtime rate for all hours worked on the holiday in addition to eight (8) hours holiday pay.

Employee is scheduled to work and works Tuesday through Saturday, 8 hours per day; the holiday occurs on a Friday and the employee works on the holiday. This situation, in and of itself, **does** guarantee overtime for the week.

Time should be recorded as follows:

Tuesday through Thursday	-	24 hours regular work time
Friday	-	8 hours of overtime worked, plus 8 hours of holiday time
Saturday		8 hours regular work time
TTL FOR WEEK:	32 HOURS REGULAR WORK TIME 8 HOURS HOLIDAY TIME 8 HOURS OVERTIME	

If a Black Friday or Black Monday employee works the holiday and the holiday is a 9 hour day, he/she receives:

	8 hours holiday 1 hour of leave 9 hours of overtime 31 hours regular work time
TTL FOR WEEK:	32 HOURS REGULAR (WORK AND LEAVE) TIME 8 HOURS HOLIDAY TIME 9 HOURS OVERTIME

If a Black Friday or Black Monday employee works the holiday and the holiday is the split Friday or Monday day he/she receives for each of the two consecutive work weeks in which the holiday time occurs:

	4 hours holiday
	4 hours of overtime
	36 hours regular work time
TTL FOR WEEK:	36 HOURS REGUALR WORK TIME
	4 HOURS HOLIDAY TIME
	4 HOURS OVERTIME

If a 10 hour per day employee works the holiday, he/she receives:

	8 hours of holiday
	2 hours of leave
	10 hours of overtime
	30 hours of regular work time
TTL FOR WEEK:	32 HOURS REGULAR (WORK AND LEAVE) TIME
	8 HOURS HOLIDAY TIME
	10 HOURS OVERTIME

NOTE: If paid holidays which are not worked were counted for the calculation of overtime, then the employee who works the holiday (as above) and the employee who did not work the holiday because it occurred on a non-scheduled work day would receive the same pay. This is an inequity in pay which was never intended.

EXAMPLE F: SPECIAL ISSUES FOR EMPLOYEES WORKING SPECIAL SCHEDULES AND/OR SHIFT SCHEDULES

The options available to employees working special schedules, i.e., not working a standard schedule of 5 days/week, 8 hours/day, whether or not a special schedule agreement is on file, and for employees working a standard shift schedule in which the employee is scheduled to work 8 hours/day, 5 days/week but the work is not necessarily scheduled Monday through Friday would follow the same patterns illustrated in examples B through E above.

In addition the following is required:

1. A minimum of 40 hours of regular time (work and/or leave time) must be recorded each and every week.

2. Each employee must maintain his/her regularly scheduled work hours for each day whether worked or not so that the time card shows the number of hours that the employee is normally scheduled to work, e.g., 8, 9 and split 8, 9 or 10 hours.

3. When charging holiday time occurring on a scheduled work day which is not worked, the 9 or 10 hour per day employee must record 8 hours of holiday leave plus 1 or 2 hours, respectively, of another leave for each holiday to meet the daily hours requirement in #2 above.

4. Holiday leave is taken in full day (8 hour) increments; a maximum 8 hours of holiday leave may be recorded for any single work day. The maximum total of holiday hours recorded in a work week may not exceed the number of holiday hours actually occurring in that week or in the prior week.

Except that in any work week in which a Water Pollution Control Operator or Senior Water Pollution Control Operator performs a relief coverage assignment, he/she may, with the approval of the supervisor, work (and record) varying hours on different work days for that week. Despite this possibility, these employees are required to maintain the minimum of 40 hours of regular time in each work week (#1 above) and may not charge more than 8 hours of holiday time in any single work day.

EXHIBIT C

Classifications Eligible for Flextime

Accountant
Administrative Analyst
Civil Engineer
Community Services Coordinator II
Deputy City Clerk
Emergency Medical Services Coordinator
Employment Development Information Systems Analyst
Employment Training Coordinator
Environmental Chemist II
Environmental Engineering Coordinator
Finance Analyst II
Fleet Coordinator
Hazardous Materials Coordinator
Housing Programs Analyst
Librarian
Network Engineer
Permit Center Coordinator
Principal Buyer
Principal Accountant
Principal Planner
Principal Programmer Analyst
Program Coordinator
Public Safety Records Coordinator
Senior Accountant
Senior Buyer
Senior Construction Inspector/Coordinator
Senior Environmental Chemist
Senior Environmental Compliance Inspector
Senior Plan Check Engineer
Senior Planner
Senior Programmer Analyst
Senior Traffic Engineer
Senior Transportation Planner
Solid Waste Contract Administrator
Solid Waste Specialist
Transportation Engineer
Traffic Engineer
Transportation Planner

EXHIBIT D

Classifications Eligible
for
Safety Footwear Allowance

Safety Footwear Allowance

Pursuant to the provisions of the current MOU, employees in the following classifications are eligible to receive an annual safety footwear allowance:

Building Inspector I/II
Environmental Chemist I/II
Environmental Compliance Inspector
Environmental Engineering Coordinator
Equipment Mechanic
Equipment Mechanic-in-Training
Facility Attendant I/II
Facility Technician I/II/III
Fire Protection Engineer
Golf Course Equipment Mechanic
Greenskeeper
Groundsworker
Hazardous Materials Coordinator
Hazardous Materials Inspector
Heavy Equipment Operator
Housing Rehabilitation Specialist
Laboratory/Field Technician
Landfill Technician
Lead Equipment Mechanic
Maintenance Worker I/II
Neighborhood Preservation Specialist
Parks Leader
Parks Worker I/II/III
Permit Technician
Plan Checker I/II
Plan Check Engineer
Press Operator
Public Safety Property Clerk
Public Works Constructor Inspector
Public Works Crew Leader
Public Works Supervisor
Recycling Coordinator
Senior Building Inspector/Coordinator
Senior Building Services Leader
Senior Construction Inspector/Coordinator
Senior Environmental Chemist
Senior Environmental Compliance Inspector
Senior Greenskeeper
Senior Housing Rehabilitation Specialist

Senior Maintenance Worker
Senior Neighborhood Preservation Specialist
Senior Parks Leader
Senior Parks Utility Worker
Senior Storekeeper
Senior Traffic Engineer
Senior Water Distribution Worker
Senior Water Pollution Control Operator
Senior WPC Plant Mechanic
Solid Waste Contract Administrator
Solid Waste Specialist
Storekeeper I/II
Traffic Engineer
Traffic Engineering Technician I/II
Utility Worker
Water Conservation Coordinator
Water Distribution Crew Leader
Water Distribution Worker
Water Distribution Supervisor
Water Pollution Control Operator I/II
Water Pollution Control Operator-in-Training
Water Systems Operator
WPC Plant Mechanic

Pursuant to the provisions of the current MOU, employees in the following assignments are eligible to receive an annual safety footwear allowance:

Classification	Department	Assignment
Administrative Aide	Public Works	Field Services (1)
Civil Engineering Assistant	Public Works	Survey Crew (1)
Community Services Officer	Public Safety	Animal Control (3)
Office Clerk	Information Technology	Print Shop (1)
Community Services Coordinator II (1)		Parks and Recreation Theater
Senior Office Assistant	Public Works	WPC Plant Maintenance/Parts (1)

EXHIBIT E

Water Pollution Control Plant
Instrumentation and Maintenance Mechanics
Tool Inventory Agreement

Water Pollution Control Plant
Instrumentation and Maintenance Mechanics Tool Inventory Agreement

It is agreed that each employee in the classifications of WPC Plant Mechanic and Senior WPC Plant Mechanic will be responsible for maintaining the following minimum tool inventory.

1. One standard set 1/4" drive sockets (mechanic choice of 6 or 12 point); sizes 3/16" to 9/16"

2. One standard set 3/8" drive sockets (mechanic choice of 6 or 12 point); sizes 3/8" to 3/4"

3. One 1/4" drive ratchet

4. One 3/8" drive ratchet

5. One 3/8" drive x 6" long extension

6. One 3/8" drive x 8" long extension

7. One standard set 1/2" drive sockets (mechanic choice of 6 or 12 point); sizes 3/8" to 1", standard depth

8. One 1/2" drive ratchet

9. One 1/2" drive x 6" extension

10. One 1/2" drive x 8" extension

11. One 1/2" drive x 12" extension

12. One pair 4" curved jaw vise grips

13. One pair 10" curved jaw vise grips

14. One pair adjustable lock, 5 jaw positions, 9-1/4" long

15. One pair adjustable lock, 7 jaw positions, 13-1/2" long

16. One pair combination slip joint pliers, 7-1/2" long

17. One pair needlenose pliers, 7-1/8" long

18. One pair diagonal cutters

19. One adjustable wrench 6”

20. One adjustable wrench 10”

21. One adjustable wrench 12”

22. One pipe wrench 8”

23. One pipe wrench 10”

24. One standard set of nut drivers; sizes 5/6” to 1/2"

25. One standard 4 piece set of slotted tip screwdrivers, wood or plastic handles

26. One standard 4 piece set of phillips screwdrivers, wood or plastic handles

27. Deluxe hacksaw designed for 10” or 12” blades

28. One standard set of allen wrenches (mechanic choice long or short length), sizes 5/64” to 3/8”

29. One 25” metal retracting tape rule

30. One standard set of punches (mechanic choice on length)

31. One standard set of flat chisels

32. One standard set of combination wrenches (mechanic choice 6 or 12 point sizes 1/4" to 1”)

33. Tool Chest

For the City employees currently employed and hired in the Plant Maintenance Mechanic and Senior Plant Maintenance Mechanic classifications assigned to the Water Pollution Control Plant, from the date this agreement is signed, the City will purchase the complete Craftsman tool sets and two-drawer tool chests as indicated on the minimum tool requirement list above. It will be the responsibility of the Senior Mechanic to distribute the tool sets and tool chests which will provide each employee in these classifications a complete set of the minimum toll inventory indicated above.

It is further agreed as follows:

- Each employee in the classifications of WPC Plant Mechanic and Senior WPC Plant Mechanic will be responsible for storing and maintaining the tools in a secure, clean, and safe condition. The City will provide a locked location for the Mechanics' boxes.

- Any special tools required by the City will be provided by the City.

- City management at the Water Pollution Control Plant will develop and provide each employee in the classifications of WPC Plant Mechanic and Senior WPC Plant Mechanic a standard operating procedure regarding tools lost or broken on the job in the performance of their regular duties.

- City management at the Water Pollution Control Plant will prepare a written inventory of the tools provided, and each of the employees in the classification of WPC Plant Mechanic and Senior WPC Plant Mechanic shall be provided a copy. Once provided the tools, each Mechanic will be required to sign and return a copy of the inventory to the Senior Plant Maintenance Mechanic. The Maintenance Supervisor at the Water Pollution Control Plant will maintain a written record of the inventory of each Mechanic.

- City management at the Water Pollution Control Plant shall inspect the Senior WPC Plant Mechanic's tool inventory and shall inspect or request the Senior WPC Plant Mechanic to inspect each Mechanic's tool inventory at least once a year. The inspection shall include verification of a complete tool inventory and a statement evaluating each Mechanic's maintenance of the tools in a secure, clean, and safe condition. A report on the semi-annual inspection, dated and signed by the inspector and the Mechanics, shall be maintained in the office of the Water Pollution Control Maintenance Supervisor. Each employee will be provided a copy of the inspector's report for their records.

- The City will retain ownership of all tools and tool chests purchased by the City. They cannot be taken off City premises, and upon separation from City service or promotion or transfer to any other position within the City, a full inventory of tools must be returned or full replacement costs of any missing tool(s) will be charged.

- Any mechanic using personal tools or equipment at work after the date the tools are provided by the City will do so at their own risk and responsibility.

s/ 11/15/91
Izetta E. Birch
Director of Human Resources

s/ 11/15/91
Helen Farnham
Environmental Operations Manager

s/ 11/15/91
Gary Csordas
WPC Maintenance Supervisor

s/ 11/15/91
Marvin A. Rose
Director of Public Works

s/ 11/15/91
Armando Atencio
President of SEA

s/ 11/15/91
Greg Burton
WPC Operator

s/ 11/15/91
Wayne Granger
Plant Maintenance Mechanic

s/ 11/15/91
Barry Phillips
Sr. Plant Maintenance Mechanic

s/ 11/15/91
Howard Hament
Plant Maintenance Mechanic

s/ 11/15/91
Walter Koehn
Plant Maintenance Mechanic

s/ 11/15/91
Ronald Paul
Plant Maintenance Mechanic

s/ 11/15/91
James Shrove
Plant Maintenance Mechanic

s/ 11/15/91
Rudy Winkleman
Plant Maintenance Mechanic

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October 8, 2013

INTERIM
FINDINGS AND RECOMMENDATIONS
PURSUANT TO
CALIFORNIA GOVERNMENT CODE 3505.4

In the Matter of a Controversy Between	)	
City of Sunnyvale	)	
Employer	)	
and	)	Collective Bargaining Impasse
Sunnyvale Employees Association	)	Factfinding
Union	)	PERB Case No: SF-IM-120-M

APPEARANCES:

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FACTFINDING PANEL:

Appointed by the Employer: Teri Silva, Director of Human Resources
City of Sunnyvale, CA

Appointed by the Union: Carol L. Koenig, Attorney
Wylie, McBride, Platten & Renner

Neutral Chairperson: Paul D. Roose, Arbitrator and Mediator
Golden Gate Dispute Resolution

STATUTORY FRAMEWORK AND PROCEDURAL BACKGROUND

Under amendments to the Meyers-Milias-Brown Act that went into effect on January 1, 2012, local government employers (cities, counties, and special districts) and unions in California have access to factfinding in the event they are unable to resolve contract negotiations. At the request of the exclusive representative, the parties are required to go through a factfinding process prior to the employer implementing a last, best and final offer. In accordance with regulations put in place by the California Public Employment Relations Board (PERB), the exclusive representative can request factfinding either after mediation has failed to produce agreement or following the passage of thirty days after impasse has been declared. Each party appoints a member of the factfinding panel. A neutral chairperson is selected by PERB unless the parties have mutually agreed on a neutral chairperson.

Under the statute, the factfinding panel is required to consider, weigh and be guided by the following criteria in formulating its findings and recommendations:

1) State and federal laws that are applicable to the employer

2) Local rules, regulations, or ordinances

3) Stipulations of the parties

4) The interests and welfare of the parties and the financial ability of the public agency

5) Comparison of the wages, hours and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours and conditions of employment of other employees performing similar services in comparable public agencies

6) The consumer price index for goods and services, commonly known as the cost of living

7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received

8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations

Sunnyvale Employees Association (SEA) is the exclusive representative for miscellaneous employees of the City of Sunnyvale, California. SEA represents a large miscellaneous non-safety unit,

with approximately 482 budgeted positions. It is the city's largest bargaining unit. The unit includes dozens of classifications, ranging in (in alphabetical order) from accountant to water pollution control plant mechanic.

The City has five other bargaining units. Three other units include miscellaneous employees – the part-time workers unit (represented by SEIU), the Communication Officers Association, and the Sunnyvale Managers Association. There are two safety units – Public Safety Officers Association and the Public Safety Managers Association. There also is a non-represented confidential employees group.

The parties had a collective bargaining agreement (CBA) that expired on June 30, 2012. A tentative agreement on a successor CBA was reached on October 12, 2012. The membership of SEA failed to ratify that agreement. Among the provisions that led to the membership's rejection of the tentative agreement were the proposed PTO provisions, the four year term and some salary and benefit issues. After the SEA leadership informed the City that the major reason for the negative vote had been objection to the paid time off / disability provisions of the proposed agreement, the parties agreed to carve out that issue and implement the remainder of the agreement. The signed off agreement has a term of agreement from July 1, 2012 through June 30, 2015. It includes a reopener clause as follows:

> **Article 22 Paid Time Off**
>
> SEA and the City agree to renew their negotiations for a paid time off benefit to replace paid vacation leave and paid sick leave during February, 2013. The Parties shall meet and confer to impasse on this issue as a stand-alone subject pursuant to State law and City policy governing mandatory subjects and impasse procedures. If the Parties reach agreement, they shall memorialize their agreement in a side-letter, after approval by the SEA membership.

On the basis of this reopener clause, the parties commenced bargaining in early March, 2013. Bargaining was conducted in March and April. On April 18, the Employer invoked the impasse procedures of the City's employer-employee relations rules. Under those rules, the parties were to hold an impasse meeting under the auspices of the City's Municipal Employee Relations Officer (the City Manager Gary Luebbers). The impasse meeting was held on May 13, 2013. At that meeting, the City proposed a modified PTO benefit. SEA agreed to take the modified PTO proposal back to its members[1]. The tentative PTO agreement was signed off by the parties on the following day. The SEA membership subsequently voted down the tentative PTO agreement.

[1] The Employer believes that the May 13 agreement was a tentative agreement that the Union bargaining team agreed to recommend to its membership. The Union believes that it was a City proposal that the Union bargaining team agreed to take back to its membership for a vote. For the purposes of this Interim Report, the panel makes no finding on this aspect of the dispute.

On June 15, 2013, the Employer contacted the California State Mediation and Conciliation Service, requesting mediation of the dispute. A mediation session was held with state mediator Seymour Kramer, and the parties failed to reach agreement. The Union then invoked the MMBA factfinding procedure by notifying PERB. On August 15, 2013, PERB notified the undersigned that the parties had selected him as the neutral chairperson of the factfinding panel in this matter.

The panel convened on September 27, 2013 in Sunnyvale and the parties presented their positions, outlined below. The panel took on-the-record evidence and argument from both sides concerning the issues in dispute. The parties also requested that the neutral factfinder act as a mediator in assisting the parties in off-the-record discussions to attempt resolution of the matter. Accordingly, the factfinding panel met in executive session on that date. Mediated panel discussions proved successful, and an agreement was reached that has won the unanimous endorsement of the three panel members.

The panel agreed that the settlement agreement would be expressed in the form of an interim factfinding report. The panel also agreed that, in the event that either side did not ratify the proposed settlement contained in the interim report, the panel would issue a final report based on the positions of the parties as outlined below. Prior to the issuance of this final report, the parties would have an opportunity to submit briefs to the panel in support of their positions. The panel at that juncture would make findings and recommendations to adopt either the Employer's proposal or the Union's proposal.

POSITIONS OF THE PARTIES

The Employer: The Employer put forward the May 13, 2013 tentative PTO agreement (PTO-TA) as its proposal for settlement of outstanding issues. The only modification of the PTO-TA proposed by the City is changing the implementation dates in the preamble and in the "Conversion" section from July 2013 to "upon ratification of the agreement." The May 13, 2013 PTO-TA is as follows:

New Article – Paid Time Off

This Article replaces the current Article 18.1 Vacation, 18.6 Disability Leave, and Article 18.8 Personal Business Leave.

"Article 18.1 – Paid Time-Off

Effective with the first full pay period in July 2013, all probationary and regular employees shall accrue and use paid time off (PTO) consistent with the provisions of this Article.

Definition

Paid Time Off (PTO) is paid leave earned by employees that may be used for vacation, medical appointment, illness/injury, emergency, or personal business such as care of sick family members or school visits or similar appointments. Leaves not included in PTO which remain separate leaves are bereavement, jury duty, military duty, workers' compensation, floating holiday and holiday.

Conversion

The first full pay period in July 2013, each full-time employee shall receive a paid medical leave credit for PTO based on the conversion chart below. Employees who do not work a full-time schedule shall receive a pro-rated share of the conversion of PTO.

Years of Service	**Hours Credit**
0-5 years	15 hours
5+ to 10 years	25 hours
10+ to 15 years	30 hours
15+ to 20 years	35 hours
20+ to 25 years	40 hours
25+ years	45 hours

In addition to the paid medical leave credit, each employee's accrued vacation hours will be converted to PTO hours on a one-for-one basis.

As a one-time only option, any and all personal business leave (up to 10 hours) not yet used by a full time employee during the current payroll year shall be converted to PTO hours on a one-for-one basis.

On a one-time basis, employees may cash-out existing, accrued vacation hours on or before July 1, 2013 as follows: An employee who has worked for the City for less than five years may cash-out up to 50 hours of vacation time so long as the employee retains at least 60 other hours of accrued vacation which will be converted to PTO hours. An employee who has worked for the City for five years or more may cash-out up to 100 hours of vacation time so long as the employee retains at least 80 other hours of accrued vacation which will be converted to PTO hours.

Accrual

All probationary and regular employees shall accrue PTO. PTO begins accruing on the first day of employment and is prorated on an hourly basis for each paid hour. All regular paid hours shall count toward PTO accrual. Time-off in excess of PTO accruals and other available leave shall be leave without pay. As employees use PTO, the time used shall be deducted from the employee's current PTO balance.

Accrual Rates

Employees shall accrue PTO each pay period in relation to their years of continuous service.

The accrual rates are listed below:

Service Period **Pay Periods**	**Years**	**Hrs/pp**	**Accrual Rate** **Hrs/Yr**	**Days/Yr***
1-26	0 to 1	5.5	143	17.875
27-130	2 to 5	6.5	169	21.125
131-260	6 to 10	8.0	208	26.000
261-442	10+ to 17	9.5	247	30.875
443-650	17+ to 25	10.5	273	34.125
651 or more	26 or more	11.0	286	35.750

*Based on an eight hour/day schedule.

Accruals carry over from one payroll calendar year to the next.

PTO Accrual Cap

An employee may accrue up to 885 hours of PTO. An employee will no longer accrue PTO once the employee reaches the 885 hour cap until the employee uses PTO to reduce the employee's leave balance, or the employee cashes-out PTO time as provided in this Article.

Scheduling PTO

Employees use 8 hours of PTO leave to take a full day of leave on a 40 hour schedule. An employee on an alternative work schedule shall use the number of hours relevant to the alternative work schedule to take a full day of leave. An employee may take scheduled or non-scheduled PTO in increments of less than one full day.

PTO may be taken in either of two methods, scheduled and non-scheduled, as follows:

Scheduled PTO

All employees may take scheduled PTO. Except for illness or emergency, all PTO shall be pre-planned and pre-approved in accordance with any applicable department, division and/or City policy.

Non-Scheduled PTO

All employees may take non-scheduled PTO for an unanticipated illness or emergency. On the day of the absence, an employee, or someone on the employee's behalf, must provide notice of non-scheduled PTO at or before the start of the employee's scheduled work day. The notice must designate the absence as either an illness or an emergency. The City may take disciplinary action against any employee who fails

to provide notice, uses non-scheduled PTO for a reason other than unanticipated illness or emergency or circumvents the scheduled PTO process.

An employee's routine use of non-scheduled PTO might cause the City to suspect leave abuse and initiate an investigation. This investigation could include but is not limited to requesting that the employee obtain a physician's note concerning an illness which the City suspects is part of a pattern of leave abuse or if the City has information that the employee may not have been ill or injured.

Return to Work Following Illness or Injury

The City may require, with approval by the Human Resources Director or the Director's designee, a return to work medical clearance for any employee using PTO due to an illness or injury if the employee is absent more than five (5) consecutive days.

PTO Cash-Out

One time each year, each employee may cash-out accrued PTO at the end of the payroll calendar year.

An employee with five years or less City service may cash-out up to 50 hours of PTO each year, so long as the employee maintains a balance of 80 hours of PTO and the employee has used at least 40 hours of PTO during the calendar year.

An employee with more than five years of City service may cash-out up to 100 hours of PTO each year, so long as the employee maintains a balance of 120 hours of PTO and the employee has used at least 80 hours of PTO during the calendar year.

Notwithstanding the above, an employee assigned to shift work may cash-out up to 100 hours of PTO each year, so long as the employee maintains a balance of 120 hours of PTO.

The City will compensate the employee for the cashed-out hours at the employee's base pay rate at the time of the cash-out. The minimum number of hours that may be cashed out is 8 hours.

PTO Compensation at Separation

An employee will be paid for all PTO hours in the employee's leave bank upon separation. The PTO will be paid at the employee's base pay rate at the time of separation. An employee, at the employee's option and with City Manager approval, may use accrued available PTO to extend the date of separation or retirement.

PTO Donation

An employee may donate PTO to another City employee who has experienced a serious illness or injury that is not fully covered by the injured or ill employee's PTO and/or other City leave programs, consistent with the City-Wide Employee Emergency Relief Fund Program set forth in Article 19.3.

Short Term Disability

With the implementation of this Agreement, employees shall be required to use PTO for the first 160 hours of any absence for illness or injury. Following the employee's use of PTO for the first 160 hours, the City will cover the remaining time period in Paid Medical Leave (PML) for the same illness or injury for the employee up to 90 days of paid leave for the same illness or injury. After 90 days, the employee shall refer to the long-term disability benefit.

Short Term Disability Insurance

A Short Term Disability program will not be implemented for SEA members until a Short Term Disability program is implemented with the Sunnyvale Managers Association (SMA) and the Confidential unit. At the time of implementation with SMA and Confidential, the same structure and benefits will be provided to SEA. The City shall provide notice and relevant information to SEA prior to implementing the Short Term Disability Program, but no further meet and confer will occur.

Long Term Disability Insurance

After 90 calendar days of each absence due to illness or injury, the employee shall be eligible to apply for Long Term Disability coverage provided pursuant to the City's insurance policy.

PTO and Workers' Compensation

Employees will be eligible for Worker's Compensation benefits, as provided by State law. An employee on a Worker's Compensation leave will have the option to use PTO or any other leave balance available to him/her, have it paid off, or keep it in his/her leave bank for future use upon his/her return to work."

The Union: The Union proposes the May 13 PTO-TA (also with updated implementation dates), with the following modifications:

In the section Short Term Disability, "80 hours" would be substituted for "160 hours".

In the section Short Term Disability Insurance, the last sentence would read "The City shall provide notice and relevant information to SEA prior to implementing the Short Term Disability Program, and the parties shall meet and confer."

PANEL RECOMMENDATION

The following is the panel's unanimous recommendation:

The tentative agreement of May 13, 2013, shall be included in the parties' collective bargaining agreement, with the following modifications:

1. The Tentative Agreement between the City of Sunnyvale and the Sunnyvale Employees Association (May 13, 2013), shall become the unanimously recommended agreement, with the following changes:

   a. Effective Dates: The effective date to implement the paid time off (PTO) program, to include the conversion, shall be the first day of the first full pay period after the City Council approves the agreement. The effective date for the one-time cash out will be the last pay period in January 2014.

   b. Short Term Disability: For the first 9 months after this Article becomes effective, employees shall be required to use PTO for the first 80 hours of absence for illness or injury. Following the employee's use of PTO for the first 80 hours, the City will cover the remaining time period in Paid Medical Leave (PML) for the same illness or injury for the employee for up to 90 days of paid leave. After 9 months, employees shall be required to use PTO for the first 160 hours of absence for the illness or injury. Following the employee's use of PTO for the first 160 hours, the City will cover the remaining time period in PML for the same illness or injury for the employee for up to 90 days of paid leave. After 90 days, the employee shall become eligible for Long Term Disability.

   c. Leave for New Members: While the PML program is in effect for SEA, the City will provide an additional forty hours of non-accrued paid leave (for illness or injury) for employees during their first year of City service.

   d. Employees on PML: Employees on PML for more than one week when this Article becomes effective shall be permitted to utilize PML for the specific injury or illness under the current PML program until they return to work. Once they return to work they will transition to the PTO Program.

   e. Short Term Disability Insurance: The parties contemplate that SEA will explore alternative short term disability plans, including the California SDI program. Nothing herein shall preclude the parties from implementing by agreement a short term disability plan. If SEA selects the State SDI program, it will be adopted with an integration feature. In the event there is no agreement between SEA and the City regarding the implementation of a plan other than SDI, and the City is preparing to implement a short term disability insurance program with its management group, the City will provide notice and relevant information to SEA prior to implementing such short term disability program with respect to SEA. The City will provide an opportunity for input, but formal bargaining (per GC § 3505) will not be required.

   f. The accrual rate chart shall be amended to reflect years of service to be 0 to1; 1+ to 5; 5+ to 10; 10+ to 17; 17+ to 25; and 26 and more.

2. If this recommendation is not ratified by the SEA, or approved by the City Council, the matter will be referred back to the panel to issue a final decision. The final decision will recommend either the Tentative Agreement (dated May 13, 2013,) or the position presented by SEA at the

factfinding hearing. The parties commit to work diligently and in good faith to achieve agreements with their respective parties.

3. If this interim decision is not adopted for any reason, nothing in the decision shall preclude the City from adopting its Tentative Agreement (May 13, 2013)

_____

Paul D. Roose, Neutral Chairperson

Date: October 8, 2013

/s/ Carol L. Koenig_____

Carol L. Koenig, Union-appointed Panel Member

Date: October 8, 2013

__x___I concur with the Recommendation

/s/ Teri Silva_____

Teri Silva, Employer-appointed Panel Member

Date: October 8, 2013

___x__I concur with the Recommendation

Workers' Compensation Leave and Salary Continuation Letter of Agreement
Between the Sunnyvale Employees' Association
and the City of Sunnyvale

Whereas the City of Sunnyvale ("City") and the Sunnyvale Employees Association ("SEA") entered into a Factfinding Agreement regarding the elimination of Paid Medical Leave ("PML") in exchange for the accrual and use of Paid Time Off ("PTO") on or about November 2013; and

Whereas one of the terms of that agreement stated that "Employees will be eligible for Workers' Compensation benefits, as provided by State law"; and

Whereas, at the time of ratification by SEA members, the SEA Board, the SEA negotiating team and the SEA members understood the above language to mean there would be no changes to workers' compensation benefits as a result of the ratification; and

Whereas the City understood the language to mean there would be a reduction in workers' compensation to what is required by State law, particularly in regard to the elimination of the City's salary continuation benefit; and

Whereas, SEA filed four grievances with the City on March 28, 2014, protesting the implementation of the new workers' compensation benefits and both sides agreed to toll the grievance timelines in order to negotiate a resolution; and

Whereas the City and SEA agreed, met and conferred regarding the dispute and have agreed that it is in the best interest of both SEA and the City to settle the dispute;

Therefore, it is resolved that:

SEA and the City enter into this Agreement setting forth the terms and conditions for workers' compensation leave and benefits

1. Salary Continuation: Employees unable to work due to a qualified work-related injury shall be placed on workers' compensation leave (WC leave). During the first 60 days of such leave, employees will be entitled to receive two-thirds of their salary (untaxed income in accordance with state and federal law) as workers' compensation benefits and one-third of their salary (taxed income) through the City's salary continuation program. During this salary continuation period employees shall receive the same benefits, service credit and seniority rights as they would if working. This salary continuation benefit is only available to employees who have completed 26 pay periods of service.

2. Waiting Period: There will be no waiting period before workers' compensation benefits or salary continuation begin for a qualified WC injury or illness.

3. Paid Time Off Option: From the 61st day and continuing on WC leave, the employee shall receive two-thirds of their salary as workers' compensation benefits paid by the City's third party administrator. Salary continuation will cease, but employees shall have the option to use accrued PTO in order to receive their full salary. Employees shall not be required to use PTO during this time. Employees who are out on a WC leave for more than 90 days will be

placed on Long Term Disability status and can apply for Long Term Disability insurance benefits. WC temporary disability benefits continue during this period.

4. Medical Appointments: If follow-up treatments and medical appointments are required to treat the work-related injury or illness after an employee returns to work from WC leave, the employee is entitled to use up to two hours of workers' compensation appointment leave (paid time) for each appointment. Such paid medical leave appointments shall be allowed until the employee is declared permanent and stationary by the treating physician. Once such designation has been made, the employee will be required to use PTO for any further medical appointments.

5. Health Benefits: During WC leave, health premiums are paid in the same manner as they are while the employee is working: one month in advance. If the employee is out for more than 60 days, the premium for days 61-90 would be covered from the prior month premiums. After 90 days off work, when the employee is on LTD status, the employee will be on direct pay for health insurance as they would have been before the PTO plan was implemented.

6. Seniority: Employees will accrue full seniority for the first 90 days of WC leave regardless of whether they use PTO to supplement WC benefits. After 90 days on WC leave, the accrual of seniority will cease as the Employee would be on LTD.

7. CalPERS Service Credit: Employees will accrue service credit while on salary continuation during the first 60 days off work. Service credit is not accrued once salary continuation ends unless the employee opts to use PTO. If the employee uses PTO, service credit will only accrue for the actual PTO hours used. However, CalPERS gives credit for a full year as long as the employee is in paid status for 10 months of the year.

8. The City will reimburse the Grievants (namely, [redacted] and [redacted] and all other SEA employees for lost PTO and/or salary caused by the changes made to WC for the period November 2013 until the effective date of this Agreement. The Grievants and SEA agree to withdraw the four grievances filed on March 28, 2014.

9. The terms of this Agreement shall supersede all other language in the Salary Resolution, MOU, Factfinding Agreement or Administrative Policy – Chapter 3 – Article 27, that conflict with the terms of this Agreement as it pertains to WC leave.

FOR THE CITY OF SUNNYVALE	FOR SUNNYVALE EMPLOYEES' ASSOCIATION
Deanna Santana	Sharon Ros
Deanna J. Santana, City Manager	Sharon Rogers, President
Teri Silva	
Teri Silva, Director of Human Resources	John Simontacchi, Vice-President
Date: 6/18/14	Date: 6-17-14