



**STAFF REPORT**

**City Council**

**Meeting Date:** 10/17/2017

**Staff Report Number:** 17-218-CC

**Regular Business:** Consider approval of the terms of a successor agreement between the City of Menlo Park and the Menlo Park Police Sergeants' Association expiring June 30, 2019

**Recommendation**

Approve the terms of a collective bargaining agreement between the City of Menlo Park and the Menlo Park Police Sergeants' Association (PSA), and authorize the City Manager to execute a Memorandum of Understanding (MOU) with a term of October 18, 2017 through June 30, 2019.

**Policy Issues**

This recommendation aligns with the City's goals of balancing continued fiscal prudence in planning for potential impacts of employee retirement benefits, while also continuing to align the City as a competitive employer in the increasingly robust job market of the Silicon Valley.

**Background**

On February 7, 2017, in accordance with Council's Public Input and Outreach Regarding Labor Negotiations policy, a staff report was placed on the City Council agenda providing an opportunity for public comment prior to the commencement of labor negotiations. The staff report provided a summary of background information related to labor negotiations, a summary of bargaining unit information, cost information for salaries and benefits, and key issues facing the City on labor relation matters such as employee pension cost increases and medical premiums. At that meeting, there was no public comment.

The Menlo Park Police Sergeants' Association (PSA) represents eight (8) sworn employees in the Police Department who are primarily responsible for supervision of the department's operations and service to the community. The City's and PSA's negotiation teams commenced negotiations on February 21, 2017. The parties met ten (10) times and reached a Tentative Agreement (TA) on September 27, 2017 for a successor MOU to the previous agreement which expired June 30, 2017. PSA notified the City that the TA was ratified by the membership on September 27, 2017.

**Analysis**

A complete copy of the Memorandum of Understanding (MOU) with changes, as ratified by PSA members, is attached and is the document that is the subject of City Council ratification on October 17, 2017. The following tables provide a summary of the key provisions and/or changes from the previous

MOU. All changes from the prior MOU are reflected in Attachment A.

Item	Key provisions and/or changes Description	Fully Burdened Cost/Savings
<b>Term</b> MOU Article 1 Page 1	The tentative agreement (TA) provides for a two-year term beginning with City Council ratification and ending June 30, 2019. Given that negotiation of a successor agreement is not required for one fiscal year, the City is estimated to save approximately \$30,000 which reflects legal costs and internal staff time required to support negotiations.	(\$30,000)
<b>Pay rates</b> MOU Article 2 Page 1	Assuming City Council ratification on October 17, 2017, an across the board cost of living adjustment to all pay rates in this unit will occur as follows: <ul style="list-style-type: none"> <li>• 3.0%* effective the pay period beginning October 29, 2017*</li> <li>• 3.0% effective the pay period following July 1, 2018</li> </ul> *Mid-year implementation of the pay rate increase results in an annualized 33 percent decrease in the rate adjustment. This results in only a 2.01% increase for this unit in fiscal year 2017-18.	\$30,300 <u>46,600</u> \$76,900
<b>Benefit programs</b> MOU Article 6.1 Page 12	Assuming City Council ratification on October 17 <sup>th</sup> , the TA increases the City's contribution to the cafeteria plan \$14 - \$108 per month per employee, regardless of the level of coverage, effective January 1, 2019.	\$3,400
<b>Compensatory Time Off in lieu of paid overtime (CTO)</b> MOU Article 2.7 Page 4-5	The TA requires an annual cash out of CTO for all unit members. Given that CTO has a cash value currently, the cash out provision is not a new cost to the City. From a cash flow perspective, however, the 2017-18 adopted budget does not include provision for a cash out of CTO balances. Therefore a budget amendment may be required once the aggregate cash out amount is known.	-
<b>Retirement medical plan</b> MOU Article 6.4 Page 13	The TA creates a retiree medical savings account that is employee-funded and provides for the possibility of an employee to transfer sick leave to the account upon promotion to Sergeant. Currently employees who were hired between July 2004 - June 2011, also known as the donut hole, promoting from the Menlo Park Police Officers' Association to the PSA, lose their City funded retiree medical program.	-

The economic package outlined above is responsive to all three of the City's bargaining principles, as outlined in the February 7, 2017 report to the City Council announcing the City's intent to negotiate a successor agreement with PSA. Specifically:

1. **Principle #1 – Service to the Community.** Service to the community requires a skilled workforce that is committed to providing the level of customer service and responsiveness expected by the City Council, residents, and businesses in Menlo Park. The PSA group is comprised of the Police Department’s mid-management personnel who are responsible for managing core law enforcement services provided to residents and business. The TA provides two years of stability for the affected PSA represented classification in the area of compensation. Too often, open and unresolved contracts have the potential to adversely impact both labor and management employees in a way that is detrimental to their ability to provide service to the community.
2. **Principle #2 – Fiscal Sustainability.** One measure of fiscal sustainability is the relationship between the TA’s economic package and inflation as measured by the Consumers Price Index, All Urban Consumers (CPI-U), for the San Francisco – Oakland – San Jose region. For budgeting purposes, the City measures CPI-U based on the annual change as measured in February of each year. From February 2016 to February 2017, the CPI-U recorded an increase of 3.4%. Subsequent measures of the year-over-year change in CPI-U were 3.8% and 3.5% in April and June, respectively.

Another measure of fiscal sustainability is the cumulative fiscal impact of the TA and the relationship of that impact to the 2017-18 budget’s 10-year forecast. As discussed in the budget document, the amount available for salary increases takes into consideration increasing costs for employee pension and inflationary assumptions for non-salary items. The TA contains a wage increase of 3% effective the first full pay period following full ratification, and 3% effective the pay period following July 1, 2018. While this package may be viewed as a cumulative total of 6% over two years, such a summary does not consider the impact of late implementation on the first fiscal year. With the 3% increase taking effect the first full pay period following City Council ratification, the resulting increase impacts only two thirds of the year for an effective compensation expense increase of 2.01% for the 2017-18 fiscal year. In addition to falling within the assumptions of the City’s long-term fiscal forecast, the salary increases fall within assumptions made by CalPERS for payroll growth in actuarial analysis of pension liabilities.

3. **Principle #3 – Recruitment and Retention.** The terms of the successor agreement are an important component of recruiting and retaining a quality police force. In response to fiscal sustainability goals and the ability to recruit and retain a qualified police force, the City provides an above market rate compensation packages among comparable agencies. With neighboring agencies recently reaching agreement with their labor unions, the TA maintains the PSA’s market position.

#### Impact of Flores v. City of San Gabriel Decision

On May 15, 2017, the U.S. Supreme Court denied the City of San Gabriel’s petition for a review of the Ninth Circuit Court of Appeals’ decision in *Flores v. City of San Gabriel (Flores)*. *Flores* involved a group of police officers who sued their employer (City of San Gabriel) over the employer’s calculation of the employee’s overtime rate. The case found that the Fair Labor Standards Act (FLSA) requires the employer to include cash payments made in lieu of health benefits into its wage calculation for overtime pay purposes. In response to the ruling, the City is currently reviewing historical payroll records to determine

the magnitude of the correction required to be in compliance with the *Flores* decision. It is important to note that the City may be required to pay liquidated damages equal to the incorrect payment for up to three years. It is also important to note that overtime earnings are not pension-able wages.

### **Impact on City Resources**

This TA results in a fiscal impact of approximately \$50,300 over two years, net of savings realized as a result of the multi-year agreement. The total cost reflects an average annual increase in total compensation for the PSA bargaining unit of 1.51%. The TA fiscal impact is within the City Council's 10-year fiscal forecast as adopted in the 2017-18 budget. It is important to note that Article 2.1 provides for a maintenance of the differential between the Menlo Park Police Officers' Association (POA) salary ranges and the PSA's salary range. If the POA reaches a wage agreement with the City that is higher than the terms of this TA with the PSA, the PSA would receive an adjustment to maintain the differential.

### **Environmental Review**

No environmental review is required for this item.

### **Public Notice**

Public Notification was achieved by posting the report 15 days prior to the Council meeting of October 2, 2017.

### **Attachments**

A. Track changes copy of Memorandum of Understanding between City and PSA expiring June 30, 2019

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**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE MENLO PARK POLICE SERGEANTS**  
**ASSOCIATION**  
**AND**  
**THE CITY OF MENLO PARK**



| ~~August 30, 2016~~ October 18, 2017 to June 30, ~~2017~~ 2019

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PREAMBLE

This Memorandum of Understanding is reached between the City of Menlo Park (“City”) and the Menlo Park Police Sergeants’ Association (“PSA”), representing the classification of Sergeant within the City’s Police Department. The parties have reached this Memorandum of Understanding following meeting and conferring in good faith as required under Government Code Sections, 3500, et seq. Existing practices and/or benefits which are not referenced in this Memorandum and which are subject to the meet and confer process shall continue without change unless modified subject to the meet and confer process.

The parties agree as follows:

ARTICLE 1: TERM

The term of this Memorandum shall be ~~August 30, 2016~~ October 18, 2017 to June 30, ~~2017~~2019.

ARTICLE 2: PAY RATES AND PRACTICES

2.1 Salary Schedule

The salary schedule for employees in the representation unit shall be as set forth in Appendix “A” to this Agreement.

Effective the first full pay period following approval of this agreement by City Council, the pay rates for employees in this representation unit shall be increased by 3.0%.

Effective the first full pay period following July 1, 2018, the pay rates for employees in this representation unit shall be increased by 3.0%.

During the term of this Agreement, the City shall maintain the same differential between POA and PSA classifications’ base pay (“base pay” does not include premiums or other assignment-based pays), longevity pay, deferred compensation, uniform allowance, and POST incentive as existed on June 30, ~~2016~~2017.

~~2.2~~ One-time Payment

~~In recognition of the fact that the Parties reached total tentative agreement before June 30, 2016, each bargaining unit member shall receive a one-time accrual of 10 hours of special leave. Any special leave not utilized before October 31, 2016 will be automatically cashed out.~~

~~2.3~~2 POST Incentive

Unit members who possess a Peace Officer Standards and Training (POST) intermediate certificate shall receive a five percent (5%) premium in accordance with the current practice.

Unit members who possess a Peace Officer Standards and Training (POST) advanced certificate shall receive a ten percent (10%) premium in accordance with the current practice.

#### 2.43 Overtime

~~Overtime will be applied in accordance with the Fair Labor Standards Act. Officers on a forty (40) hour assignment shall be paid overtime at the rate of time and one-half (1 -1/2) their regular rate of pay for all hours worked in excess of forty (40) hours in a single workweek. Officers who work a patrol schedule under a 7(k) work period as allowed under the Fair Labor Standards Act shall receive overtime for all hours worked in excess of one hundred and sixty-eight (168) hours in a twenty-eight (28) day work period. Hours worked shall include all hours for which the officer is in a paid status including paid leave time. Overtime is paid on a biweekly basis.~~

#### 2.54 Call Back Pay

Employees who are called back after leaving work at the end of a normal shift shall be entitled to a minimum of four (4) hours pay at the rate of time and one-half (1-1/2); exception: court pay is three (3) hours minimum.

#### ~~2.6 Management Benefit Package~~

~~Each represented member will be reimbursed up to Two Thousand Dollars (\$2,000.00) per fiscal year for the following:~~

- ~~(a) Civic and professional association memberships and their related programs~~
- ~~(b) Conference participation and travel expense~~
- ~~(c) Professional subscriptions~~
- ~~(d) Physical fitness programs as directed by a physician~~
- ~~(e) Tuition reimbursement:~~

~~To qualify for educational reimbursement, the education must maintain or improve the employee's skills in performing his or her job, or be necessary to meet the express requirements of the City or the requirements of applicable law. The education to which reimbursement relates must not be part of a program qualifying employees for another trade or businesses; or be necessary to meet the~~

~~minimum educational requirements for employment. Permissible educational expenses are refresher courses, courses dealing with current developments, academic or vocational courses as well as the travel expenses allocated with the course. To qualify for tuition reimbursement, coursework must be approved by the Chief of Police or his or her designee prior to the first day of class. Said approval shall be based only on the criteria in this paragraph. Course work intended to meet the entry level requirements for any positions in the City is not reimbursable. Graduate course work in the pursuit of related graduate professional programs and which enhance the skills of the employee are reimbursable as defined under the Internal Revenue Code.~~

~~———— (f) ——— Optical expenses not reimbursed by any other source~~

~~———— (g) ——— Child Care expenses:~~

~~———— The annual amount submitted for reimbursement cannot exceed the income of the lower paid spouse. The reimbursement request must be for employment related expenses for the care of one or more dependents who are under age 13 and entitled to a dependent deduction under Internal Revenue Code Section 151 (e) or a dependent who is physically or mentally incapable of caring for himself or herself.~~

~~(h) ——— Employee and dependent excess coverage for medical, dental, optical and orthodontia~~

~~(i) ——— City Recreation Programs:~~

~~———— The City will reimburse the unit members for fees paid for unit members and/or their dependents to participate in the City's Recreation Department programs.~~

~~———— Reimbursements for participation may be made if the reimbursements qualify as "no additional cost" services under Section 132 (b) of the Internal Revenue Code and that to qualify as "no additional cost" services the reimbursements must be only for classes in which the employees participate on a space available basis. Under Section 132 (f) (2) of the Code, spouses and dependent children may also participate in City sponsored recreation programs and activities on a space available basis.~~

~~(j) ——— General Provisions~~

~~Expenditures under (a), (b), (c), and (e) above must be job related and approved by the City.~~

~~Monies not spent while this document is in force may be rolled over into the following term for a period not to exceed twelve months. Excess funds may not be received in cash.~~

~~The City reserves the right to freely administer this Section and may disallow future claims that do not strictly conform to these sections, e.g., cellular phones or phone bills.~~

~~(k) — Sunset Provision~~

~~Effective December 31, 2016, this fund shall be discontinued and Section 2.6 will be deleted from the MOU. Claims shall be submitted no later than January 15, 2017 to be eligible for reimbursement.~~

2.75 Uniform Allowance

All unit members shall receive the sum of One Thousand Forty Dollars (\$1,040.00) per year to be used for the purchase and maintenance of uniforms. Payment shall be made in the amount of Forty Dollars (\$40.00) per biweekly pay period. If an eligible employee is on unpaid leave for a period of one (1) full pay period or more, the employee will not receive uniform allowance pay for that period. The City will pay the initial cost of a class A uniform for all unit members.

2.86 General Leave Cashout

An employee may cash out General Leave in accordance with the General Leave Cashout Policy.

2.97 Compensatory Time

Compensatory time accrued in a different classification may not be carried over upon promotion. All compensatory time accrued prior to promotion to Sergeant will be cashed out at the time of promotion at the employee's hourly rate immediately preceding promotion.

\_\_\_\_\_ An employee may accumulate a maximum of three hundred (300) hours of compensatory time. Once an employee has reached the limits of compensatory time in this section he/she shall receive cash at the overtime rate for all overtime worked.

Any employee who ~~has an excess~~ reaches the limit of three hundred (300) hours of compensatory time on the books will not be allowed to accrue further compensatory time until the balance falls below the three hundred (300) hours maximum.

With the last full payroll period each December, all unused compensatory time shall be cashed out at the employee's rate of pay.

~~Compensatory time in excess of the maximum allowed in the Memorandum of Understanding shall be cashed out.~~

Upon termination, all unused compensatory time shall be ~~paid off~~ paid out at the employee's final ~~existing~~ rate of pay ~~received by the employee~~.

## 2.108 Continuing Benefits

The City will pay the increased cost of existing benefits, except as specifically provided herein.

## 2.119 Bilingual Differential

2.119.1 Any position assigned to job duties requiring bilingual skills are eligible to receive Seventy-Five (\$75.00) each pay period for the use of bilingual skills in job duties arising during the normal course of work.

2.119.2 The Human Resources Department, on the basis of a proficiency test developed and administered by the City, shall determine eligibility for the bilingual pay differential.

2.119.3 Bilingual skills shall not be a condition of employment except for employees who are hired specifically with that requirement. If an employee is hired under this provision, that requirement shall be included in the initial employment letter.

2.119.4 The City retains the right to discontinue the bilingual differential, provided the City gives the exclusive representative ten (10) days written notice prior to such revocation, in order to allow the opportunity for the parties to meet and confer.

2.119.5 No employee shall be required to use bilingual skills that is not compensated under this section.

Any employee who is reassigned to another position within this bargaining unit, and was receiving the bilingual differential at the time of appointment, shall have their need for bilingual skills reviewed by the Chief of Police. If the Chief of Police determines that bilingual skills in the position are required, the differential shall continue, otherwise, the bilingual differential will be discontinued.

## 2.1210 On-Call Pay

Sergeants assigned to the detective unit who are placed in an on-call status shall be compensated for each day or portion thereof on normal days off that she/he is on-call at

the rate of fifty dollars (\$50.00) per twenty-four (24) hour period. Sergeants assigned to the detective unit who are on-call and fail to respond when called may be subject to disciplinary action.

2.1311 Vehicle Allowance

Sergeants assigned to the detective unit, who are assigned to use their personally owned vehicle for City use, shall receive a monthly automobile allowance of five hundred dollars (\$500.00). The automobile allowance shall cover all costs of operating the vehicle for City use, including but not limited to, maintenance, insurance and fuel.

2.1412 Night Shift Differential

For employees assigned to patrol, the City shall pay a shift differential of two percent (2.00%) for regular assignment to night shift. The shift differential shall not be paid on any regularly assigned schedule worked which includes day or swing shift.

Shift differential shall only be paid to employees assigned to a night shift, and shall not apply to employees filling open shifts or otherwise assigned to nights on a temporary basis. For the purposes of this section, a temporary assignment shall be defined as one consecutive pay period or less.

2.1513 Longevity Pay

Employees who have achieved levels of continuous service in a full time sworn police position with the City of Menlo Park, and who have received annual performance reviews with overall ratings of “meets standards” or above shall be eligible to receive the following:

2.1513.1 The first pay period after completing seven (7) years of service: two percent (2.00%) calculated upon base pay.

2.1513.2 The first pay period after completing eleven (11) years of service: four percent (4.00%) calculated upon base pay.

2.1513.3 The first pay period after completing fifteen (15) years of service: six percent (6.00%) calculated upon base pay.

2.1513.4 The first pay period after completing twenty (20) years of service: eight percent (8.00%) calculated upon base pay.

The maximum longevity pay that may be received by an employee is eight percent (8.00%).

## 2.1614 Working Out of Classification

Upon specific written assignment by the Police Chief ~~or~~ or his/her designated representative, an employee may be required to perform the duties of a position in a higher classification. Such assignments shall be made to existing authorized positions that are not actively occupied due to the temporary absence of the regularly appointed employee. Any Sergeant working out of classification shall be paid five percent (5%) above their current rate of pay. Such pay shall be paid for the hours the duties are actually assigned and performed in the higher classification.

## ARTICLE 3: LEAVE PROVISIONS

### 3.1 Leave of Absence Without Pay

- 3.1.1 Leaves of absence without pay may be granted in cases of personal emergency or when such absences would not be contrary to the best interests of the City. Leaves denied in the best interests of the City shall be taken as soon as possible after the interests of the City are met. The member shall be notified of the effective date of the rescheduled leave.
- 3.1.2 Requests for leave of absence without pay must be submitted to the Police Chief in written using the Human Resources Division's form ~~using the Human Resources Division's to the Police Chief~~. The Chief may grant a unit member recommend approval of a leave of absence without pay for a period not less than four weeks nor more than one (1) year, during which time no benefits and no seniority will accrue. The Chief's recommendation shall be forwarded to the Human Resources Division for Approval. ~~shall be in writing and a copy filed with the Human Resources Department.~~
- 3.1.3 Upon expiration of a regularly approved leave, or within five (5) working days after notice to return to duty, the employee shall be reinstated in the same or an equivalent position to that held at the time the leave was granted. Failure on the part of an employee to report promptly at the expiration of the leave, or within five (5) working days after notice to report for duty shall be treated as an automatic resignation from City service unless the Chief determines that extenuating circumstances exist to excuse that absence. However, any unapproved absence may be cause for disciplinary action.
- 3.1.5 Merit pay raises and performance review dates shall be extended by the amount of the leave without pay taken.

### 3.2 Long Term Disability

3.2.1 Should any non-work related illness or injury extend beyond ~~thirty (30) working days~~ forty-five (45) consecutive days, the City will ensure continued payment to the worker ~~up to a maximum of~~ 66.67 percent of salary, ~~up to a maximum~~ as provided in the long term disability policy. The amounts paid shall be less any payments received from either workers' compensation or retirement. During the first year of disability and so long as no retirement determination has been made by the City, the worker will be entitled to continued City paid health insurance, AD&D, and dental and life insurance benefits. At the end of 365 calendar days from the date of illness or injury or unless previously retired, should the worker not be able to return to work, the worker will be permitted to continue to participate in City paid health insurance, AD&D, and dental and life insurance benefits. However, the employee will be required to pay 100% of any premiums.

### 3.3 Jury Duty and Subpoenas - Not Related to Official Duties

3.3.1 An employee required to report for jury duty or to answer a subpoena as a witness, provided the witness has no financial interest in the outcome of the case, shall be granted leave with pay from his/her assigned duties until released by the court, provided the employee remits to the City all fees received from such duties other than mileage or subsistence allowances within thirty (30) days from the termination of jury service.

3.3.2 When an employee returns to complete a regular shift following time served on jury duty or as a witness, such time falling within work shift shall be considered as time worked for purposes of shift completion and overtime computation. In determining whether or not an employee shall return to his/her regular shift following performance of the duties above, reasonable consideration shall be given to such factors as travel time and a period of rest.

### 3.4 Military Leave

3.4.1 Military leave of absence shall be granted and compensated in accordance with Military and Veterans Code Sections 389 and 395 et seq. Employees entitled to military leave shall give the appointing power an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

### 3.5 Bereavement Leave

3.5.1 An employee shall be allowed leave with pay for not more than three (3) working days when absent because a death has occurred in the immediate family. For purpose of bereavement leave, members of the immediate family shall be limited to mother, father, child, sibling, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandchild, grandmother, grandfather, spouse, domestic partner, or dependent of the employee. Employees may use General Leave for bereavement



purposes for relations not included above provided such leave is approved in advance by the Chief of Police.

3.6 Workers' Compensation

3.6.1 Sworn personnel shall be granted leave with pay for a disability caused by illness or injury arising out of and in the course of his/her employment, in accordance with Section 4850 of the Labor Code of the State of California.

3.7 Training Offset Hours

3.7.1 Sergeants who work a patrol shift as part of a 4/12 work schedule shall be provided with a bank of twenty-four (24) hours for training offset, credited pay period one (1) of each payroll calendar year. The hours shall be used to fill in for the remainder of a shift where voluntary training was provided (e.g., if an employee attends an eight (8) hour day of training, the employee may use four (4) hours of training offset time to complete their twelve (12) hour shift. Eight (8) hours training plus four (4) hours training offset = twelve (12) hour shift).

These hours may only be used in conjunction with supplementing time off for voluntary training.

3.7.2 Training Offset Hours do not accrue. Any Training Offset Hours not used by the date of separation for employees separating during the year, or by the end of the last pay period in the payroll calendar year for other employees, shall not be paid out nor carried over to subsequent years. Training offset hours may not be cashed out or used for any purpose other than stated above.

ARTICLE 4: GENERAL LEAVE PROGRAM

4.1 General Leave Program

Accrual of General Leave is as follows:

1 - 5 years	216 hours
6 - 10 years	230 hours
11 - 15 years	256 hours
16 - 20 years	280 hours
20 + years	296 hours

Actual accrual is biweekly prorated from the above table. The maximum number of hours which may be accrued is One Thousand Four Hundred (1,400) hours of general leave.

- 4.1.1 Upon separation from City service accrued general leave up to the maximum may be converted to cash. The amount shall be calculated on the base hourly rate of the employee multiplied by the number of hours converted. Upon retirement from City employment an employee hired on or before June 30, 2004 may convert any accrued general leave not converted to cash to retirement health insurance credits at the rate of one (1) unit for every eight (8) hours of accumulated general leave with any remainder being rounded to the next higher credit.

Qualified employees hired on or before June 30, 2004 who have at least twenty (20) years of service with the City may elect to have their accrued general leave balance converted to retirement health credits at the rate of one (1) unit for every six (6) hours of accumulated sick leave with any remainder being rounded to the next higher credit. If this election is made, the retirement health credit calculated shall not exceed the highest HMO health plan premium as may be in effect at such time such credit is applied. Election shall be made at the time of retirement.

Reimbursement of premiums to retirees shall be in the same manner as currently done since 1990. The method of reimbursement is detailed in Appendix B.

- 4.1.2 Double Coverage. Workers who qualify for the retirement health credit conversion may elect double coverage at the rate of two (2) units for every month of paid health insurance.
- 4.1.3 Family Coverage. Workers who qualify for the retirement health credit conversion may elect family coverage at the rate of three (3) units for every month of paid health insurance.

#### 4.2 Transfer of Leave for Catastrophic Illness

Transfer of leave for catastrophic illness is designed to assist employees who have exhausted leave due to a catastrophic illness, injury or condition of the worker. This policy allows other workers to make voluntary grants of time to that worker so that he/she can remain in a paid status for a longer period of time, thus partially ameliorating the financial impact of the illness, injury or condition.

A catastrophic illness is defined as an illness which has been diagnosed by a competent physician, requiring an extended period of treatment or recuperation, and which has a significant risk to life or life expectancy. Confirmation of the condition and prognosis by a health care provider chosen by the City may be required.

The Human Resources Department will discuss with the PSA or their designated representative an appropriate method of soliciting contributions from coworkers. The contributions shall be submitted to the Human Resources Department and Human the Resources Department will process the contribution list in the order established. Any

officer shall be allowed to contribute a maximum of eighty (80) hours of leave from their accrued management leave balance to another full-time or permanent part-time worker in the City who is suffering from a catastrophic illness and has exhausted his or her own sick leave, provided, however, they have maintained a positive management leave balance of forty (40) hours or more following the donation. Once the contribution is made it cannot be rescinded.

Upon return to work, an employee may bank any remaining hours that have been contributed up to a maximum of forty (40) hours. If the contribution list has not been exhausted, the contributing workers will be notified that their contribution was not required and the balance restored.

4.3 Transition to General Leave

Employees who promote into the PSA bargaining unit from a unit which accrues both sick leave and vacation will have their vacation balances converted to General Leave. Any remaining sick leave balance will be frozen and the employee may use sick leave for their own illness and injury or to care for an immediate family member who is ill or injured, as provided under state law and the City's Personnel Rules.

The City shall have the right and obligation to monitor the operation of sick leave and take appropriate action to insure that benefits are paid only for actual illness and injury.

ARTICLE 5: NO SMOKING AREAS

City owned vehicles used by unit members shall be considered offices and designated as no smoking areas.

ARTICLE 6: BENEFIT PROGRAMS

6.1 Cafeteria Plan

6.1.1 Each active employee and retiree shall receive a City contribution equal to the minimum employer contribution for agencies participating in the Public Employees Medical and Hospital Care Act (PEMHCA).

6.1.2 The City shall continue to make a non-elective employer contribution to the flexible benefits plan on behalf of each active employee in an amount which together with the minimum PEMHCA contribution in 6.1.1 equals the following:

<u>\$2,128 per month</u>	<u>Employee plus 2/more dependents</u>
<u>\$1,647 per month</u>	<u>Employee plus 1 dependent</u>
<u>\$845 per month</u>	<u>Employee only \$2,085.56 per month</u>
<u>Employee plus 2/more dependents</u>	

~~————— \$1,604.28 per month ————— Employee plus 1 dependent~~  
~~————— \$802.14 per month ————— Employee only~~

The active employee will be responsible for any remaining premium in excess of the allocated amount.

[EXAMPLE: If the PEMHCA minimum contribution is \$122, then the City shall make a flexible benefits plan contribution of ~~\$1,964.56~~ 2006 per month for family coverage.]

Employees who waive coverage will be entitled to ~~\$349~~ 391 per month.

6.1.3 Effective January 1, ~~2017~~ 2019, the City shall make a non-elective employer contribution to the flexible benefits plan on behalf of each active employee in an amount which, together with the minimum PEMHCA contribution in 6.1.1 equals the following:

<del>\$2,128</del> <u>2,262</u> per month	Employee plus 2/more dependents
<del>\$1,647</del> <u>1,715</u> per month	Employee plus 1 dependent
<del>\$875</del> <u>889</u> per month	Employee only

The active employee will be responsible for any remaining premium in excess of the allocated amount.

[EXAMPLE: If the PEMHCA minimum contribution is \$122, then the City shall make a flexible benefits plan contribution of ~~\$2,140~~ 006 per month for family coverage.]

Employees who waive coverage will be entitled to \$391 per month.

6.1.45 Each active employee may use his/her allocated amount for any benefits permitted by law and provided for in the FSA plan document. The FSA plan document will be amended to eliminate cash distributions.

6.1.56 Each employee must enroll in an available PEMHCA health insurance plan or demonstrate that he/she has health insurance coverage equivalent to the PEMHCA plan in order to receive the amount identified as “no coverage.”

6.1.67 ~~Upon written request from the City, the parties agree to reopen this MOU and to meet and confer with the goal of replacing the Cafeteria Cash payment and Cash-In-Lieu of Medical Coverage options with a benefit of similar value which will not impact employees’ regular rate of pay pursuant to the Flores v. City of San Gabriel case. Statutory impasse procedures shall apply to these negotiations. Effective January 1, 2018, Cash-in-Lieu of Medical Coverage~~

amounts will be included in the calculation of regular rate for overtime purposes. In the event that a court issues a final decision holding that Cash-in-Lieu of Medical Coverage payments do not need to be included in the regular rate, the City will cease including Cash-in-Lieu in the regular rate.

6.2 Dental Insurance

The City shall provide dental insurance to employees and eligible dependents the month following an employee's date of hire or promotion in accordance with the City's Evidence of Coverage document.

6.3 Vision

The City shall pay the full cost for fully insured Vision Insurance provided by VSP, or an equivalent insurance provider, providing vision benefits as described in the summary plan description.

6.4 Retiree Medical Trust

The PSA shall endeavor to join the PORAC Retiree Medical Trust (RMT), or some other RMT, during the term of this MOU. The sole purpose of the RMT will be to provide funding for medical expenses and health insurance costs for eligible retirees, or qualified family members of eligible retirees as established by the RMT. Participation in the RMT shall be the complete and sole responsibility of PSA. The City shall not have any involvement in the RMT's design, its administration or in the benefits paid, nor shall the City have any responsibility for any actions of the RMT or its trustees or of PSA with respect to the RMT. PSA will indemnify, defend and hold harmless the City, its agencies, officers, and employees, against any and all claims or legal proceedings regarding the operation of the RMT.

ARTICLE 7: HOLIDAYS

7.1 Except as otherwise provided, employees within the representation unit shall have the following fixed holidays with pay:

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Admission Day	September 9
Veterans Day	November 11

Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25

One full day either December 24 or December 31

7.1.1 Designation of which one full day on either December 24 or December 31 is ~~taken off~~ fixed holiday shall be made by the Police Chief, considering the needs of the service and the officer's desires.

7.1.2 Holidays on an Employee's Regular Day Off

a. Patrol. Fixed Holiday on a Regular Day Off. If a fixed holiday falls on an employee's regularly scheduled day off for an employee who is filling a Patrol assignment, and the employee is not required to work that day, the employee shall receive eight (8) hours of holiday pay at their straight time hourly rate. In the event that any of the aforementioned days, except December 24 or 31, falls on a Sunday, the following Monday shall be considered a holiday. In the event that any of the aforementioned days falls on a Saturday, the preceding Friday shall be considered a holiday. In the event that December 24 and 31 fall on a Sunday, then the preceding Friday will be designated for purposes of the full holiday.

b. Non-patrol. When a holiday falls on the regular day off for an employee who is filling a non-Patrol assignment, and the employee is not required to work that day, that employee will normally flex his or her regular day off to account for the holiday (i.e., will use the 8 hours of holiday time to take time off on another day during the same workweek). However, with the approval of their supervisor, and subject to the operational needs of the Department, employees on a non-Patrol assignment may work their full workweek and receive an additional eight (8) hours of pay for the holiday (i.e., 40 hours for time worked plus 8 hours for the holiday).

~~7.1.3 Work on a Fixed Holiday. Any employee required to work on a fixed holiday and in addition to regular hours (e.g., on his or her regular day off) shall be paid time and one-half for such work in addition to his or her holiday regular pay. Work on a fixed holiday beyond the number of hours in the regular shift being worked on the holiday shall be compensated at double time. [For example, an employee in a special assignment working on a holiday will be entitled to double time after ten (10) hours; an employee working overtime on patrol on a holiday will be entitled to double time after twelve (12) hours.] Holiday pay shall be reported in accordance with PERS requirements.~~

7.1.43 An employee who is scheduled to work on a fixed holiday, and who does not work, including absences due to illness or injury for which they would otherwise be eligible for sick leave, shall be entitled to eight (8) hours of holiday pay and shall use general leave, or other appropriate paid/unpaid leave to make up any

difference between the holiday and his or her regularly scheduled shift. An employee will not be paid for more than his or her regular day's pay for any holiday when he or she does not work ~~due to illness or injury~~.

~~7.1.5 When a holiday falls on the regular day off for an employee who is filling a non-Patrol assignment, that employee will normally flex his or her regular day off to account for the holiday (i.e., will use the 8 hours of holiday time to take time off on another day during the same workweek). However, with the approval of their supervisor, and subject to the operational needs of the Department, employees on a non-Patrol assignment may work their full workweek and receive an additional 8 hours of pay for the holiday (i.e., 40 hours for time worked plus 8 hours for the holiday).~~

#### 7.1.4 Work on a Fixed Holiday (Non-Patrol)

- a. Holidays on Employee's Regular Workday. Any employee required to work a Non-Patrol assignment on a fixed holiday which falls on his or her regular workday shall be paid time and one-half for such work in addition to eight (8) hours of holiday pay. [For Example, if an employee has a regular work schedule of Monday through Thursday and works a full Non-Patrol shift on a holiday which falls on a Monday (his or her regular workday), he or she would be paid a total of 23 hours (8 hours holiday pay plus 10 hours at time and one half).]
- b. Holidays on an Employees' Regular Day Off. Any employee required to work a Non-Patrol assignment on a fixed holiday which falls on his or her regular day off shall be paid double time for such work in addition to eight (8) hours of holiday pay. [For Example, if an employee has a regular work schedule of Tuesday through Friday and works a Non-Patrol shift on a holiday which falls on a Monday (his or her regular workday), he or she would be paid a total of 28 hours (8 hours holiday pay plus 10 hours at double time).]

#### 7.1.5 Work on a Fixed Holiday (Patrol)

- a. Holidays on Employee's Regular Workday. Any Employee required to work Patrol on a fixed holiday which falls on his or her regular workday shall be paid time and one-half for such work in addition to his or her regular pay. Employees who work their regular shift for a fixed holiday shall not receive additional holiday pay. [For Example, if an employee has a regular work schedule of Monday through Wednesday and works a full Patrol shift on a holiday which falls on a Monday (his or her regular workday), he or she would be paid a total of 30 hours (12 hours plus 12 hours at time and one half).]
- b. Holidays on an Employee's Regular Day Off. Any employee required to work Patrol on a fixed holiday on his or her regular day off shall be paid double time for such work in addition to eight (8) hours of holiday pay pursuant to section 7.1.2. [For Example, if an employee has a regular work schedule of Wednesday through Saturday and works a full Patrol shift on a

holiday which falls on a Monday (his or her regular day off), he or she would be paid a total of 32 hours (8 hours holiday pay plus 12 hours at double time.)

7.1.6 Pay for holidays may not be taken as compensatory time off.

## ARTICLE 8: RETIREMENT PROGRAMS

### 8.1 Retirement Plan

Retirement benefits for employees hired prior to November 20, 2011 shall be those established by the Public Employees' Retirement System (PERS) for Local Safety Members 3% at age 50 Formula, highest single year.

For employees hired on or after November 20, 2011, who are not new members as defined by PERS, retirement benefits shall be those established by the Public Employees' Retirement System (PERS) for Local Safety Members 3% at age 55 formula, highest three years.

For new employees, as defined by the Public Employees' Retirement System (PERS), hired on or after January 1, 2013, retirement benefits shall be those established by the Public Employees' Retirement System (PERS) for Local Safety Members 2.7% at age 57 formula, highest three years.

### 8.2 Optional Provisions

8.2.1 1959 Survivor Allowance as set forth in Section 6 of Chapter 9 of the Public Employees' Retirement Law, commencing with Section 21570 of the Government Code, shall be provided.

8.2.2 Third Level of 1959 Survivor Benefits, as provided under Government Code Section 21573, shall be included.

### 8.3 City's Contribution to Retirement

8.3.1 The City shall pay the rate prescribed by the Public Employees' Retirement System for employer contributions to the Public Employees' Retirement System in accordance with the rules and regulations governing such employer contributions.

8.3.2 Classic employees shall contribute three percent (3.00%) toward the employer's contribution to the Public Employees' Retirement System (Employee Paid City Contribution).



- 8.3.3 To the extent permitted by law, the Employee Paid City Contribution shall be taken as a pre-tax deduction from the employees' paycheck each payroll period. The City and PSA agree that the three percent (3%) will continue past the expiration of the MOU. If for any reason the City is precluded from making the Employee Paid City Contribution deduction or the deduction cannot be made on a pre-tax basis, the parties agree to meet and confer regarding ways to cure the defect.
- 8.3.4 The parties understand that the Employee Paid City Contribution is a payment towards the Normal Cost of Retirement Benefits pursuant to Government Code Section 20516.5.

#### 8.4 Employee's Contribution to Retirement System

- 8.4.1 The full employees' contribution shall be deducted from the unit member's pay by the City and forwarded to the Public Employees' Retirement System in accordance with the rules and regulations governing such contributions.
- 8.4.2 New employees, as defined by the Public Employees' Retirement System (PERS), hired on or after January 1, 2013, shall make a member contribution of 50% of the Normal Cost of the benefit as a pre-tax deduction from the employees' paycheck each payroll period.

The City has implemented Employer Pick-up, Internal Revenue Code 414 (h) (2) on the employee's contribution to the Public Employees' Retirement System.

- 8.4.3. As soon as practicable, the City will modify its contract with CalPERS to provide for a 3.0% additional Member Contribution over and ~~above~~ Normal Contribution for classic members. This means that classic members will make an additional 3.0% contribution into their member account and will cease making the contribution in 8.3.2. The total member contribution for classic employees will be 12%.
- 8.4.4 Each employee designated by CalPERS as a "new member" (PEPRA member) in accordance with applicable laws shall contribute the greater of half of the normal cost or twelve percent (12%).
- 8.4.4.1 In the event that half of the normal cost is less than twelve percent (12%), PEPRA members will contribute an amount equal to the difference between half of the normal cost and twelve percent (12%) toward employer's contribution to the Public Employees' Retirement System. For example, if half of the normal cost is 11.5%, PEPRA members will contribute an additional 0.5% for a total of 12%.

8.4.4.2 Any additional employer contribution paid by PEPR member shall be taken as a pre-tax deduction from the employees' paycheck each payroll period.

8.5 Honorary Retirement

8.5.1 Upon separation, an employee who leaves the service of the Menlo Park Police Department shall be considered retired provided the unit member has fifteen (15) years of service with the department and is in good standing at the time of departure.

8.5.2 An employee shall be given a retirement badge and identification card.

8.5.3 The same requirements for a concealed weapons permit shall apply as for any other applicant. A concealed weapons permit shall not be automatically approved.

8.5.4 Retirement under this section shall be honorary and shall not involve any payment or benefit to the unit member or liability on the part of the City.

ARTICLE 9: WORKING CONDITIONS

9.1 Work Schedules

The Chief of Police shall determine the appropriate regular or alternative work schedules of the Department and the various divisions, sections and details based upon the feasibility or operational needs. The Chief of Police may modify schedules to drop an alternative work schedule and revert to a regular eight (8) hour schedule except that any resulting schedule different from a five (5) days on, two (2) days off will be subject to the meet and confer process.

Alternative work schedules may be administered under the 7(k) work period provisions of the Fair Labor Standards Act.

9.1.1 4/10 Work Schedule

A 4/10 work schedule is defined as ten (10) hours per day worked, four (4) days per calendar week.

9.1.2 4/12 Work Schedule

A 4/12 work schedule is defined as a series of twelve (12) hours per day worked in four consecutive days followed by four consecutive days off. The maximum assignment may total 168 hours in a twenty-eight (28) day cycle. If utilized, the schedule is subject to the following:

9.1.2.1 The 4/12 schedule shall apply to police sergeants assigned to general patrol and shall not apply to special assignments without the approval of the Chief of Police.

9.1.3 In the event the City elects to change the scheduling of days off or starting times for the shifts, the City shall provide at least thirty (30) days' notice and an opportunity for the P.S.A. to meet and confer on such proposed changes.

9.1.4 The parties agree that provisions in the Personnel Rules and other City rules and regulations may be modified, expressly or implicitly, as they apply to those represented employees working the 4/10 or 4/12 schedule.

9.1.5 Nothing herein shall prevent the City from making temporary changes to address bona fide non-staffing emergencies that may arise during the term of this Agreement.

## 9.2 Adjustment to Schedule

Unit members regularly assigned to midnight shift may request an adjustment to their schedule provided the employee is required to conduct authorized department business following the employee's shift; there is no cost to the City; and permission is obtained in advance from the employee's supervisor.

## 9.3 Layoffs

Layoffs shall be made in reverse order of seniority. The employee with the least length of service shall be laid off first. For purposes of this Section, length of service shall include all time served in the Sergeant classification or any other classification equivalent to or higher than the rank of Sergeant.

## 9.4 Training

Officers who are normally assigned to an alternative work schedule shall revert to a five day, eight hour shift for any training that requires attendance at class for a consecutive five day period.

## 9.5 Donning and Doffing of Uniforms

It is acknowledged and understood by the City and the PSA that the donning and doffing of uniforms and related safety equipment may be performed at home or other locations outside of the Police Department.

## ARTICLE 10: GRIEVANCE PROCEDURE

## 10.1 Definitions

- 10.1.1 A “grievance” is an alleged violation, misinterpretation or misapplication of the provisions of this Memorandum of Understanding or policy and/or procedure manuals affecting the working conditions of the unit members covered by this Agreement
- 10.1.2 A “Disciplinary appeal” is an appeal from a disciplinary action of a Letter of Reprimand or higher, against a unit member covered by this Memorandum of Understanding.
- 10.1.3 A “grievant” is any unit member adversely affected by an alleged violation of the specific provision of this Memorandum, or the Union.
- 10.1.4 A “day” is any day in which the administrative offices of the City of Menlo Park are open for regularly scheduled business.

## 10.2 General Provisions

- 10.2.1 Until final disposition of a grievance, the grievant shall comply with the directions of the grievant's immediate supervisor.
- 10.2.2 All documents dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.
- 10.2.4 Time limits for appeal provided at any level of this procedure shall begin the first day following receipt of the written decision by the grievant and/or the PSA.
- Failure of the grievant to adhere to the time deadlines shall mean that the grievant is satisfied with the previous decision and waives the right to further appeal. The grievant and the City may extend any time deadline by mutual agreement.
- 10.2.5 Every effort will be made to schedule meetings for the processing of grievances at time which will not interfere with the regular work schedule of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any employee required by either party to participate as a witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time.
- 10.2.6 Any employee may at any time present grievances to the City and have such grievances adjusted without the intervention of PSA, as long as the adjustment is reached prior to arbitration and the adjustment is not inconsistent with the terms of the Memorandum: provided that the City shall not agree to the resolution of the grievance until the Association has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response. Upon

request of the grievant, the grievant may be represented at any stage of the grievance procedure by a representative of PSA.

10.2.7 As an alternative to the formal grievance procedure, the City and the PSA may mutually agree to meet and attempt to informally resolve issues involving contract interpretations and other matters affecting the relationship between the City and the PSA. A grievance must be presented within the timelines set forth in Article 10.3. However, once the parties mutually agree to informally resolve problems, the formal grievance timelines are tolled pending the informal resolution process. If, in an attempt to informally resolve issues, the parties discuss matters that are not otherwise subject to the grievance procedure, such matters shall not be eligible to be grieved under the grievance provisions of this MOU. Either party may terminate the informal process at any time and the parties will revert to the formal grievance procedure.

### 10.3 Grievance Procedure (for grievances as defined in 10.1.1)

#### 10.3.1 Level I - Immediate Supervisor

10.3.1.1 Any employee who believes he/she has a grievance which is an alleged violation of the specific provisions of this Memorandum of Understanding shall present the grievance orally to the immediate supervisor within ten (10) days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void. The immediate supervisor shall hold discussions and attempt to resolve the matter within ten (10) days after the presentation of the grievance. It is the intent of this informal meeting that at least one personal conference be held between the aggrieved unit member and the immediate supervisor.

#### 10.3.2 Level II - Chief of Police

10.3.2.1 If the grievance is not resolved at Level I and the grievant wishes to press the matter, the grievant shall present the grievance in writing on the appropriate form to the Chief of Police within ten (10) days after the oral decision of the immediate supervisor. The written information shall include: (a) A description of the specific grounds of the grievance, including names, dates, and places necessary for a complete understanding of the grievance; (b) A listing of the provisions of this agreement which are alleged to have been violated; (c) A listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable; and (d) A listing of specific actions requested of the City which will remedy the grievance.

10.3.2.2 The Chief of Police or designee shall communicate the decision to the grievant in writing within ten (10) days after receiving the grievance. If the Chief of Police or designee does not respond within the time limits, the grievant may appeal to the next level.

10.3.2.3 Within the above time limits either party may request a personal conference.

### 10.3.3 Level III - Appeal to City Manager

10.3.3.1 If the grievant is not satisfied with the decision at Level II, the grievant may within ten (10) days of the receipt of the decision at Level II appeal the decision on the appropriate form to the City Manager. This statement shall include a clear, concise statement of the reasons for the appeal. Evidence offered in support of a disciplinary grievance filed pursuant to Article 10.2.3 of this Agreement shall be submitted in the form of written declarations executed under penalty of perjury.

10.3.3.2 The City Manager or designee shall communicate the decision in writing to the grievant within ten (10) days. If the City Manager or designee does not respond within the time limits provided, the grievant may appeal to the next level.

### 10.3.4 Level IV - Binding Arbitration

10.3.4.1 If the grievant is not satisfied with the decision at Level III, the grievant may within ten (10) days of the receipt of the decision submit a request in writing to the PSA for arbitration of the dispute. Within twenty (20) days of the grievant's receipt of the decision at Level III, the PSA shall inform the City of its intent as to whether or not the grievance will be arbitrated. The PSA and the City shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Mediation and Conciliation Service supply a panel of five names of persons experienced in hearing grievances in cities and who are members of the National Academy of Arbitrators (NAA). Each party shall alternately strike a name until only one remains. The remaining panel member shall be the arbitrator. The order of the striking shall be determined by lot.

10.3.4.2 If either the City or the PSA so requests, a separate arbitrator shall be selected to hear the merits of any issues raised regarding the arbitrability of a grievance. No hearing on the merits of the grievance will be

conducted until the issue of arbitrability has been decided. The process to be used in selecting an arbitrator shall be as set forth in 10.3.4.1.

10.3.4.3 The arbitrator shall conduct and complete the hearing on the grievance, within sixty (60) days of the date of PSA's request for arbitration. The parties may mutually agree to extend that timeline. The parties shall file their post-hearing briefs within thirty (30) days of the close of the hearing and the arbitrator shall render a decision on the issue or issues submitted within thirty (30) days of the submission of the briefs. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step.

10.3.4.4 The City and PSA agree that the jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of this Agreement at issue between the parties. The arbitrator shall have no authority to add to, subtract from, alter, amend, or modify any provisions of this Agreement or the written ordinances, resolutions, rules, regulations and procedures of the City, nor shall he/she impose any limitations or obligations not specifically provided for under the terms of this Agreement. The Arbitrator shall be without power of authority to make any decision that requires the City or management to do an act prohibited by law.

10.3.4.5 The award of the arbitrator shall be final and binding.

10.3.4.6 The fees and expenses of the arbitrator (including the cost of any list of arbitrators requested pursuant to Section 10.3.4.1) shall be shared equally by the City and PSA.

All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other. Either party may request a certified court reporter to record the entire arbitration hearing. By mutual agreement, the cost of the services of such court reporter shall be shared equally by the parties. However, each party shall be responsible for the cost of transcripts that they order.

10.3.4.7 By filing a grievance and processing it beyond Level III, the grievant expressly waives any right to statutory remedies or to the exercise of any legal process other than as provided by this grievance/arbitration procedure. The processing of a grievance beyond Level III shall constitute an express election on the part of the grievant that the grievance/arbitration procedure is the chosen forum for resolving the issues contained in the grievance, and that the grievant will not resort to any other forum or procedure for resolution or review of the issues. The

parties do not intend by the provisions of this paragraph to preclude the enforcement of any arbitration award in any court of competent jurisdiction.

#### 10.4 Disciplinary Appeals

- 10.4.1 This procedure shall be the sole and exclusive procedure for processing appeals to disciplinary actions and shall satisfy all administrative appeal rights afforded by the Public Safety Officers Procedural Bill of Rights Act, Government Code Sections 3300, et seq.
- 10.4.2 A “disciplinary appeal” is a formal written appeal of a Notice of Disciplinary Action (post-Skelly) of any punitive disciplinary action including dismissal, demotion, suspension, reduction in salary, letters of reprimand, or transfer for purposes of punishment. However, letters of reprimand are not subject to the arbitration provisions of this procedure. This procedure also shall not apply to the rejection or termination of at will employees, including those in probationary status. Any reduction in pay for change in assignment which occurs in the course of regular rotation and is not punitive shall not be subject to this procedure.
- 10.4.3 Persons on probationary status (entry-level or promotional) may not appeal under this agreement rejection on probation.
- 10.4.4 Letters of Reprimand may be appealed under this section only to the City Manager level (Section 10.4.6.)
- 10.4.5 Any appeal to any punitive disciplinary action (as defined in Section 10.1.2) shall be presented in writing to the City Manager within ten (10) days after receipt of the Notice of Disciplinary Action. Failure to do so will be deemed a waiver of any appeal. The City Manager or designee shall hold a meeting to hear the appeal within ten (10) days after the presentation of the appeal and shall issue a decision on the appeal within ten (10) days after the presentation of the appeal. For letters of reprimand, the City Manager’s decision shall be final. However the employee may write a response and have that response included in his or her personnel file.
- 10.4.6 For appeals from dismissal, demotion, suspension, reduction in salary, or transfers for purposes of punishment, if the employee is not satisfied with the decision of the City Manager, the employee may, within ten (10) days of the receipt of the decision, submit a request in writing to the PSA for arbitration of the dispute. Within twenty (20) days of the City Manager’s decision, the PSA shall inform the City of its intent as to whether or not the disciplinary matter will be arbitrated. The PSA must



be the party taking the matter to arbitration.

10.4.7 The parties shall attempt to agree to the selection of an arbitrator and may agree to strike names from a list provided by an outside agency such as the State Mediation and Conciliation Service or JAMS. However, in the event that the City and the PSA cannot agree upon the selection of an arbitrator within twenty one (21) days from the date that the PSA has notified the City of its intent to proceed to Arbitration, either party may request the Superior Court of the County of San Mateo to appoint an arbitrator who shall be a retired judge of the Superior Court.

10.4.8 The City and PSA agree that the arbitrator shall prepare a written decision containing findings of fact, determinations of issues and a disposition either affirming, modifying or overruling the disciplinary action being appealed. The parties expressly agree that the arbitrator may only order as remedies those personnel actions which the City may lawfully impose.

10.4.9 The fees and expenses of the arbitrator (including the cost of any list of arbitrators) shall be shared equally by the City and PSA. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other. Either party may request a certified court reporter to record the entire arbitration hearing. By mutual agreement, the cost of the services of such court reporter shall be shared equally by the parties. However, each party shall be responsible for the cost of ~~transcript~~transcripts that they order.

10.4.10 Nothing herein constitutes a waiver of City or employee rights otherwise granted by law.

## ARTICLE 11: RECOGNITION

The Menlo Park Police Sergeant's Association (PSA) is the exclusive recognized organization representing employees in the classification of Police Sergeant in their employer-employee relations with the City of Menlo Park, and PSA has been certified by the City of Menlo Park as the duly recognized employee organization of said employees. PSA requires proper and advance notification on all matters that fall into the meet and confer process.

## ARTICLE 12: FULL UNDERSTANDING MODIFICATION AND WAIVER

12.1 This Memorandum of Understanding sets forth a full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, understandings and agreements regarding the matters set

forth herein, whether formal or informal, are hereby superseded and terminated in their entirety.

12.2 No practice or benefit provided by this Memorandum of Understanding shall be modified without the mutual agreement of the City and PSA.

ARTICLE 13: SEPARABILITY

13.1 If a court of competent jurisdiction finally determines that any provisions of this Memorandum is invalid and unenforceable, such provisions shall be separable, and the remaining provisions of the Memorandum shall remain in full force and effect.

ARTICLE 14: LABOR MANAGEMENT COMMITTEE

Effective for the term of this agreement, The City and PSA agree to the establishment of a Labor Management Committee (LMC) to serve as an advisory committee and to facilitate employee education and involvement in issues regarding CalPERS retirement benefits, including but not limited to, potential future costs increases and the impacts of said cost increases to the financial stability of the City.

The City and the PSA shall each select their own representatives and in equal number, with no more than three (3) on each side. Each side is encouraged to propose issues for discussion, and the committee will jointly set priorities. Decision making within this forum will be by consensus. The LMC will set up regular meetings to occur not less than once per quarter and a means for calling additional meetings to handle issues on an ad hoc basis.

The LMC is not authorized to meet and confer or create contractual obligations nor are they to change the MOU to authorize any practice in conflict with existing contracts or rules.

ARTICLE 15: EFFECT OF AGREEMENT

This Memorandum of Understanding sets forth the full and complete understanding between the parties hereto with respect to all subject matters addressed herein.

Dated \_\_\_\_\_

City of Menlo Park

Menlo Park Police Sergeants Association

\_\_\_\_\_

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~~Lenk Diaz~~  
~~Acting Administrative Services Director~~

~~Sharon Kaufman~~  
~~PSA President~~

Appendix A

Salary Schedule for Classified Police Sergeants  
~~September 4, 2016 through June 30, 2017~~ Effective: October 29, 2017 to July 7, 2018

Step	Annual	Monthly	Bi-Weekly	Hourly
A	<u>\$114,733</u> \$111,390.90	<u>\$9,561</u> \$9,282.57	<u>\$4,413</u> \$4,284.27	<u>\$55.1599</u> \$53.5533
B	<u>\$120,469</u> \$116,960.43	<u>\$10,039</u> \$9,746.70	<u>\$4,633</u> \$4,498.48	<u>\$57.9179</u> \$56.2310
C	<u>\$126,493</u> \$122,808.46	<u>\$10,541</u> \$10,234.04	<u>\$4,865</u> \$4,723.40	<u>\$60.8138</u> \$59.0425
D	<u>\$132,817</u> \$128,948.88	<u>\$11,068</u> \$10,745.74	<u>\$5,108</u> \$4,959.57	<u>\$63.8545</u> \$61.9947
E	<u>\$139,458</u> \$135,396.32	<u>\$11,622</u> \$11,283.03	<u>\$5,364</u> \$5,207.55	<u>\$67.0472</u> \$65.0944

Salary Schedule for Classified Police Sergeants  
Effective July 8, 2018

<u>Step</u>	<u>Annual</u>	<u>Monthly</u>	<u>Bi-Weekly</u>	<u>Hourly</u>
<u>A</u>	<u>\$118,175</u>	<u>\$9,848</u>	<u>\$4,545</u>	<u>\$56.8147</u>
<u>B</u>	<u>\$124,083</u>	<u>\$10,340</u>	<u>\$4,772</u>	<u>\$59.6554</u>
<u>C</u>	<u>\$130,287</u>	<u>\$10,857</u>	<u>\$5,011</u>	<u>\$62.6382</u>
<u>D</u>	<u>\$136,802</u>	<u>\$11,400</u>	<u>\$5,262</u>	<u>\$65.7701</u>
<u>E</u>	<u>\$143,642</u>	<u>\$11,970</u>	<u>\$5,525</u>	<u>\$69.0586</u>

## Appendix B

### Administration of Retirement Health Credits for Retirees

Nothing herein shall be deemed a change to the current practice of reimbursing retirees for retiree health premiums. This Appendix is intended to detail the existing practice.

The intent of the retiree health insurance credit program is to reimburse employees for the cost of retiree health premiums up to the amount to which they are entitled. It is not to provide an additional cash benefit to retirees over and above the cost of the premium. Should the current procedures that are administered through PEMHCA health and the Public Employees' Retirement System change, the intent shall remain as stated above.

#### Current Practice

Upon retirement, eligible employees may choose to convert all or any portion of their general leave balance up to the maximum to retirement health insurance credits at the rate they are eligible to receive as specified in Section 4.1. Retirees may elect single coverage, double coverage or family coverage in accordance with Sections 4.1.25 and 4.1.36.

PERS will deduct the premium for the health insurance plan selected by the retiree through PEMHCA health from their monthly pension warrant, less the minimum employer contribution, which is billed separately to the City.

The City will reimburse the retiree for the amount they are eligible to receive. The amount they are eligible to receive does not include the minimum employer contribution because it is not deducted from the retiree's pension warrant. In no event will the amount reimbursed exceed the cost of the premium to the retiree less the minimum employer contribution.

All reimbursements made to the retiree are subject to Federal and State taxes and shall be reported as income as required by law.

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