



REGULAR MEETING AGENDA

Date: 1/29/2019
Time: 7:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

EARLY STAFF REPORT RELEASE NOTICE

Pursuant to the requirements of Cal. Gov't Code, the following staff report is being released at least 15 days in advance of the regular City Council meeting:

Approve the terms of a successor agreement between the City of Menlo Park and the Menlo Park Police Officers' Association ([Staff Report # 19-012-CC](#))

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STAFF REPORT

City Council

Meeting Date: 1/29/2019

Staff Report Number: 19-012-CC

Regular Business: **Approve the terms of a successor agreement between the City of Menlo Park and the Menlo Park Police Officers' Association**

Recommendation

Staff recommends that the City Council approve the terms of a collective bargaining agreement between the City of Menlo Park and the Menlo Park Police Officers' Association (POA), and authorize the City Manager to execute a Memorandum of Understanding (MOU) with a term of January 30, 2019 through August 31, 2021.

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.

Background

On February 7, 2017, in accordance with City 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 before the commencement of labor negotiations with the Menlo Park POA for a successor MOU expiring June 30, 2017. The staff report provided 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 POA represents 42 employees in the sworn classifications of police officer and police corporal, and the police academy participant position of police recruit. The City and POA negotiating teams commenced negotiations March 7, 2017, and reached a tentative agreement (TA) November 28, 2018. Negotiations with the other three bargaining units whose agreements also expired June 30, 2017, averaged five months. Approximately five months into negotiations between the City and the POA, the parties agreed to invite a mediator to assist with negotiations. Mediation appeared successful, and in August 2017, the City agreed to the terms of the mediation, which substantially reflected the TA recommended for approval January 29, 2019. However, new issues emerged, followed by a lengthy period of limited meetings. In April 2018, POA replaced its chief negotiator, resulting in re-engagement in negotiations in May 2018. Again, the parties came close to an agreement in August 2018. However, a lingering issue continued to delay ratification by the POA for three additional months.

Upon reaching agreement, POA notified the City that the TA was ratified by the membership November 29, 2018. The timing of the POA’s ratification of the TA prevented notice of the agreement for action by the City Council before the end of December. On December 11, 2018, three new City Councilmembers were sworn in and staff scheduled a special closed session December 18, 2018 to review the TA with the new City Council.

In compliance with the intent and spirit of the City Council’s public input and outreach regarding labor negotiations policy, the City’s practice is to refrain from posting tentative labor contracts during the winter holiday weeks. City Hall was also closed December 21, 2018 through January 1, 2019. Therefore, the City delayed release of this staff report until January 14, 2019, in compliance with the City Council’s public input and outreach regarding labor negotiations policy. Due to the two-month timeframe between the POA membership’s ratification and request for City Council approval, the City and the POA agreed on a modification to the TA December 19, 2018.

Analysis

Attachment A is a copy of the current MOU with changes reflecting the terms of the TA reached by the City and POA negotiating teams. The table on the following page provides a summary of the key provisions and/or changes.

Table 1: Key Provisions and/or changes		
Item	Description	Fully burdened cost/(savings)
Term MOU Article 22 Page 49	Approx. <u>2 years 7 months</u> beginning with City Council ratification and ending August 31, 2021. Given that negotiation of a successor agreement is not required for two fiscal years, the City is estimated to save approximately \$30,000 per year which reflects legal costs and internal staff time required to support negotiations.	(\$60,000)
Pay rates MOU Article 13.1 Page 33	Initial cost of living adjustment to base pay rates in this unit. The costs provided reflect the increased cost of salary and salary related benefits such as pension costs and incentive pays. <u>6.0%</u> effective the first full pay period following City Council ratification This increase reflects <u>3.0%</u> which would have been provided in fiscal year 2017-18 and another <u>3.0%</u> which would have been provided in fiscal year 2018-19 if the parties reached agreement earlier. There is no retroactivity of these adjustments and they are not compounded.	\$204,000

Item	Description	Fully burdened cost/(savings)
Pay rates MOU Article 13.1 Page 33	<p>Second cost of living adjustment to base pay rates in this unit. The costs provided reflects the increased cost of salary, including the initial cost of living adjustment above, and salary related benefits such as pension costs and incentive pays.</p> <p><u>3.0%</u> effective the pay period following July 1, 2019</p> <p>*This cost includes the initial cost of living adjustment above of \$204,000 and the first year cost of the second living adjustment of \$256,000.</p>	\$460,000*
Pay rates MOU Article 13.1 Page 33	<p>Final cost of living adjustment to base pay rates in this unit. The costs provided reflect the increased cost of salary, including the initial and second cost of living adjustments above, and salary related benefits such as pension costs and incentive pays.</p> <p><u>3.5%</u> effective the pay period following July 1, 2020</p> <p>*This cost includes the initial cost of living adjustment above of \$204,000, the first year cost of the second cost of living adjustment of \$256,000, and the first year cost of the final cost of living adjustment of \$307,000.</p>	\$767,000*
Benefit programs MOU Article 17 Page 43	Increases the City's contribution to the cafeteria plan by approximately <u>2%</u> in 2019 and approximately <u>3%</u> in 2020	\$75,600
One Time Pay MOU Article 13.1.4 Page 33	Provides 58 hours of leave which must be used by March 23, 2019, or cashed out	\$153,500
Holidays MOU Article 5 Page 4	Memorializes the current practice and provides examples of holiday pay applicability for clarification	-
Comp Time MOU Article 13.8.5 Page 36	Agrees to POA applying for an IRS constructive receipt ruling which may or may not result in changes to compensation time pay out and the vacation accrual cap	TBD
On-call Detective Pay MOU Article 13.9 Page 37	Changes the compensation from six hours per week to one hour per day for detectives on-call	\$3,700

The economic package outlined above is responsive to 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 the POA. 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, businesses, and other community sectors in Menlo Park. The POA is responsible for frontline public safety services, and specialty safety services such as traffic enforcement and criminal investigations. The TA provides about three years of stability for affected POA represented classifications in the area of compensation.
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 measured in February of each year. From February 2016 to February 2017, the CPI-U recorded an increase of 3.4 percent, the most current information available when negotiations began in March 2017. From February 2017 to February 2018, the CPI-U was 3.6 percent. Given that the most recent measures of the year-over-year, change in CPI-U was for October, the CPI changed 4.4 percent from October 2017 to October 2018.

Another measure of fiscal sustainability is the cumulative fiscal impact of the TA and the relationship of that impact to the 2018-19 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 three salary increases over three fiscal years. While this package may be viewed as a cumulative total of 12 percent over three years, such a summary does not consider the impact of late implementation. With a 6 percent increase taking effect the first full pay period following City Council ratification, February 3, 2019, the resulting increase impacts only five months of the current fiscal year (plus approximately five days with the one-time pay of 58 hours), and no impact in fiscal year 2017-18, for an effective salary and benefit expense increase of 2.5 percent in fiscal year 2018-19. In addition to falling substantially within the assumptions of the City's long-term fiscal forecast, the salary increases also cumulatively fall within assumptions made by CalPERS in its payroll growth assumptions that are used 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 quality employees. San Mateo County reported the lowest unemployment rate (2.0 percent) in the state of California in November 2018. Competition for top talent is significant. Providing a compensation package that maintains the City's market position supports attracting and keeping highly qualified candidates. Recruitments for lateral police officers has yielded only one qualified candidate during 2017 and 2018. The City has had to rely on recruiting inexperienced candidates, and sponsoring qualified candidates in a police academy. With this approach, the vacancy rate for police officers has been low, in comparison to the City's overall recent vacancy rates. However, recruitment is constant, as candidate pools have decreased significantly over the years, and more than half of candidates are unsuccessful - failing the testing, background, medical or training requirements.

Impact on City Resources

The TA results in a fiscal impact of approximately \$1.6 million through August 31, 2021, net of savings realized as a result of the multiyear agreement. The TA fiscal impact is within the City Council's 10-year fiscal forecast as adopted in the 2018-19 budget.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it proposes an organizational structure change that will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the report 15 days prior to the City Council meeting of January 29, 2019.

Attachments

A. Track changes copy of Memorandum of Understanding between the City and Menlo Park POA expiring August 31, 2021

Report prepared by:
Lenka Diaz, Administrative Services Director

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
MENLO PARK POLICE OFFICERS' ASSOCIATION
AND
THE CITY OF MENLO PARK



~~December 22, 2015~~ [DATE] through ~~June 30, 2017~~ August 31, 2021

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PREAMBLE

This Memorandum of Understanding is entered into pursuant to the provisions of Section 3500 et seq. of the Government Code of the State of California.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in said representation unit, and have freely exchanged information, opinions and proposals and have reached agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding shall be presented to the City Council of the City of Menlo Park as the joint recommendation of the undersigned parties for the period commencing December 17, 2014 and ending June 30, 2015.

ARTICLE 1: RECOGNITION

1.1 Union Recognition

The Menlo Park Police Officers' Association ("P.O.A.") is the exclusive recognized employee organization representing employees in the classification of Police Officer, [Police Corporal](#), and Police Recruit in their employer-employee relations with the City of Menlo Park, and the P.O.A. has been certified by the City of Menlo Park as the duly recognized employee organization for said employees.

1.2 City Recognition

The City Manager or designee shall be the representative of the City of Menlo Park ("City") in employer-employee relations.

ARTICLE 2: P.O.A. RIGHTS

2.1 Dues Deduction

The City shall deduct P.O.A. membership dues or insurance fees and any other mutually agreed upon payroll deduction from the biweekly pay of member officers. The dues deduction must be authorized in writing by the officer on an authorization card acceptable to the City and the P.O.A. The City shall remit the deducted dues and other fees to the P.O.A. as soon as possible after deduction.

The P.O.A. shall indemnify and hold harmless the City from any damage, liability, cost, or attorneys' fees in the event of any action in which the City is named as a party, which action involves the implementation or maintenance of dues deduction, the use of dues after deduction, negligence of the P.O.A. regarding said dues or any similar claim.

2.2 Use of City Facilities

According to the current practice, the P.O.A. may continue to the use of City facilities for meetings of police officers.

2.3 No Strike

During the term of this Memorandum, represented officers shall not engage in any concerted refusal to perform assigned services for the City. "Concerted refusal" as used herein refers to a strike, a sick out, a slow down, a speed up, the honoring of a picket line around City facilities and/or any action by bargaining unit employees that interferes with the full performance of City services by City employees. Nothing herein shall preclude represented officers from engaging in off-duty informational picketing that does not interfere with City operations. City agrees not to lock out represented officers during the term of this Memorandum.

ARTICLE 3: MANAGEMENT RIGHTS

3.1 The City hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws of the Constitution of the State of California, and of the United States, including but not limiting the generality of the foregoing, the right:

- 3.1.1 To set standards and levels of service;
- 3.1.2 To determine the procedures and standards of selection for employment;
- 3.1.3 To assign work to and direct its employees;
- 3.1.4 To determine the methods and means to relieve its employees from duty because of lack of funds or other lawful reasons;
- 3.1.5 To determine the methods, means and numbers and kinds of personnel by which City operations are to be conducted, including the right to contract or subcontract bargaining unit work provided that the City will meet and confer in advance on the impact of subcontracting on workload and safety and any other matter within the scope of representation;
- 3.1.6 To determine methods of financing;

- 3.1.7 To determine size and composition of the work force and allocate and assign work by which the City operations are to be conducted;
 - 3.1.8 To determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all City functions;
 - 3.1.9 To make all decisions relating to merit, necessity or organization of City service;
 - 3.1.10 To discharge, suspend, demote, reprimand, or otherwise discipline employees for just cause in accordance with applicable laws;
 - 3.1.11 To establish employees performance standards including, but not limited to, quality and standards, and to require compliance therewith;
 - 3.1.12 To take necessary actions to carry out its mission in emergencies; and
 - 3.1.13 To exercise complete control and discretion over its organization and the technology of performing its work.
- 3.2 The exercise of the foregoing powers, rights, authority, duties, and responsibilities by the City, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Memorandum and then only to the extent such specific and express terms hereof are in conformance with the Constitution and laws of the United States and the Constitution and laws of the State of California.
- 3.3 The exercise by the City through its Council and management representatives of its rights hereunder shall not in any way, directly or indirectly, be subject to any grievance procedure nor subject to meeting and conferring.
- 3.4 Nothing herein shall be deemed as a waiver by the Police Officer's Association or its Members of rights granted under Meyers-Milias-Brown Act (Government Code Sections 3500-3511, as amended) or the Police Officer's Bill of Rights.

ARTICLE 4: NON DISCRIMINATION

- 4.1 The City agrees that there shall be no discrimination against any officer in regard to any of the terms and conditions of employment on account of that officer's P.O.A. membership or non-membership or legitimate P.O.A. activities under this Agreement.

ARTICLE 5: HOLIDAYS

5.1 Except as otherwise provided, officers 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	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25

One full day either December 24 or December 31

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

5.1.2 All bargaining unit members will recognize listed Holidays the day on which they fall, even if other City Departments recognize the holiday on a different day.

As used in this section, "Holiday Pay" is straight time pay. Holiday Pay on days when an employee works may be coded as "regular pay" for payroll purposes.

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

~~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 fall 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 day holiday.~~

5.1.3 Work on a ~~Fixed-Listed~~ Holiday.

a. Holidays on Employee's Regular Workday. Any employee ~~required-authorized~~ to work on a ~~fixed-listed~~ holiday ~~and in addition to regular hours (e.g., on his or her regular day off)~~ which falls on his or her regular

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workday shall be paid time and one-half for such work in addition to his/her holiday pay equal to the number of hours the employee works, up to a maximum of the regular shift length for the overtime shift and a minimum of eight (8) holiday hours.

Work on a fixed-listed 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 working overtime 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.]

Example 1: Employee P1 has a regular work schedule of Monday through Thursday (Patrol) and works a full Patrol shift (12 hours) on a holiday which falls on a Monday (his or her regular workday). Employee P1 would be paid a total of 30 hours (12 hours holiday pay plus 12 hours at time and one half.)

Example 2: Employee P2 has a regular work schedule of Monday through Thursday (Patrol) and works a full Non-Patrol shift (10 hours) on a holiday which falls on a Monday (his or her regular workday). Employee P2 would be paid a total of 25 hours (10 hours holiday pay plus 10 hours at time and one half.)

Example 3: Employee P3 has has a regular work schedule of Monday through Thursday (Patrol) and works 4 hours on a holiday which falls on a Monday (his or her regular workday). Employee P3 would be paid a total of 14 hours (8 hours holiday pay plus 4 hours at time and one half.)

Example 4: Employee NP1 has a regular work schedule of Monday through Thursday (Non-Patrol) and works a full Patrol shift (12 hours) on a holiday which falls on a Monday (his or her regular workday). Employee NP1 would be paid a total of 30 hours (12 hours holiday pay plus 12 hours at time and one half.)

Example 5: Employee NP2 has a regular work schedule of Monday through Thursday (Non-Patrol) and works a full Non-Patrol shift (10 hours) on a holiday which falls on a Monday (his or her regular workday). Employee NP2 would be paid a total of 25 hours (10 hours holiday pay plus 10 hours at time and one half.)

Example 6: Employee NP3 has a regular work schedule of Monday through Thursday (Non-Patrol) and works 4 hours on a holiday which falls on a Monday (his or her regular workday). Employee NP3 would be paid a total of 14 hours (8 hours holiday pay plus 4 hours at time and one

half.)

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- b. Holidays on an Employee's Regular Day Off. Any employee authorized to work on a listed 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 5.1.5.

Example 1. Employee P4 has a regular work schedule of Thursday through Sunday (Patrol) and works a full Patrol shift (12 hours) on a holiday which falls on a Monday (his or her regular day off). Employee P4 would be paid a total of 32 hours (8 hours holiday pay plus 12 hours at double time.)

Example 2. Employee P5 has a regular work schedule of Thursday through Sunday (Patrol) and works a full Non-Patrol shift (10 hours) on a holiday which falls on a Monday (his or her regular day off). Employee P5 would be paid a total of 28 hours (8 hours holiday pay plus 10 hours at double time.)

Example 3: Employee P6 has a regular work schedule of Thursday through Sunday (Patrol) and works four (4) hours on a holiday which falls on a Monday (his or her regular day off). Employee P6 would be paid a total of 16 hours (8 hours holiday pay plus 4 hours at double time.)

Example 4: Employee NP4 has a regular work schedule of Tuesday through Friday (Non-Patrol) and works a full Patrol shift (12 hours) on a holiday which falls on a Monday (his or her regular day off). Employee NP4 would be paid a total of 32 hours (8 hours holiday pay plus 12 hours at double time.)

Example 5: Employee NP5 has a regular work schedule of Tuesday through Friday (Non-Patrol) and works a full Non-Patrol shift (10 hours) on a holiday which falls on a Monday (his or her regular day off). Employee NP5 would be paid a total of 28 hours (8 hours holiday pay plus 10 hours at double time.)

Example 6: Employee NP6 has a regular work schedule of Tuesday through Friday (Non-Patrol) and works four (4) hours on a holiday which falls on a Monday (his or her regular day off). Employee NP6 would be paid a total of 16 hours (8 hours holiday pay plus 4 hours at double time.)

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5.1.4 Holidays on an Employee's Scheduled Work Day. An employee who is scheduled to work on a listed holiday, and who does not work ~~due to illness or injury for which they would otherwise be eligible for sick leave, shall be entitled to~~ will be paid eight (8) hours of holiday pay and ~~shall~~ must use ~~general leave, or other~~ paid/unpaid leave to make up any difference between the holiday and ~~his or her regularly~~ the 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~~ hours than scheduled when the employee does not work ~~due to illness or injury.~~

Example 1: Employee P7 does not work any portion of his or her regularly scheduled shift on a holiday. Employee P7 will be paid eight (8) hours holiday pay and use four (4) hours of appropriate leave.

Example 2: Employee P8 works two (2) hours of his or her regular shift on a holiday. Employee P8 will be paid two (2) hours at time and one half, eight (8) hours holiday pay, and use (2) hours of appropriate leave.

5.1.5 Holidays on an Employee's RDO

When a holiday falls on the regular day off, and the employee does not work that day, that employee shall receive eight (8) hours of holiday pay at his or her straight time hourly rate.

~~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 holidays).~~

5.1.6 Holiday pay shall be reported in accordance with PERS requirements.

ARTICLE 6: LEAVE PROVISIONS

6.1 Sick Leave

6.1.1 Each employee shall accrue sick leave each month at a rate of eight (8) hours per month.

6.1.2 Sick leave shall cease to accrue when an employee's accrual reaches the limit of one thousand five hundred hours (1,500) hours.

- 6.1.3 Employees hired by the City prior to July 1, 2011 may, upon retirement from City employment convert up to one thousand two hundred (1,200) hours of his or her total sick leave accrual to Retirement Health Insurance Credits.
- 6.1.4 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. However, an employee may utilize up to six months' accrual of sick leave per year to care for an immediate family member who is ill or injured.
- 6.1.5 As provided in the City's presently existing Personnel Rules, the City shall have the right to require medical proof of illness or injury and to take appropriate disciplinary action in those cases where abuse has occurred.

6.1.6 Compensation for Accumulated Sick Leave

6.1.6.1 Resignation

A resigning officer hired by the City prior to July 1, 2011, who has fifteen (15) or more years of continuous service shall receive compensation for up to fifteen percent (15%) of his/her accumulated sick leave balance, up to a maximum limit of one thousand two hundred (1,200) hours. Such compensation shall be based on the officer's rate of pay on his/her last day paid service to the City.

6.1.6.2 Retirement

An officer hired by the City prior to July 1, 2011, who retires under PERS may select one (1) of the following options as compensation for accumulated sick leave, up to a maximum limit of one thousand two hundred (1,200) hours:

- 6.1.6.2.1 Twenty percent (20%) of his/her accumulated sick leave balance, based on the officer's rate of pay on his/her last day of paid service to the City; or
- 6.1.6.2.2 One month of paid health insurance for each unit of retirement health credit. At the time of retirement, the accrued sick leave balance may be converted to retirement health credits at the rate of one (1) unit for every eight (8) hours of accumulated sick leave with any remainder being rounded to the next higher credit; or
- 6.1.6.2.3 Cash compensation for twenty percent (20%) of accumulated sick leave based on the officer's rate of pay on his/her last day of paid service to the City, with the balance of accumulated sick leave converted to retirement health credits at the rate of one (1) unit for every eight (8) hours of accumulated sick leave and any remainder being rounded to the next higher credit. A unit of retirement health credit is equal to one month of paid health insurance.

6.1.6.2.4 Sick Leave Credit. At retirement, any unused sick leave you have may be converted to additional retirement service credit. (The additional service will not change your age at retirement.) You will receive credit for all unused sick leave certified by the Personnel Officer. It takes 125 days or 1000 hours of sick leave to receive half (0.5) a year of service credit with PERS. If the credit is indicated and verified on your retirement application, it is added to the first retirement check. If not, an adjustment is calculated after your retirement date and paid retroactively to you by PERS. To receive sick leave credit, your retirement date must be within 120 days of the date of separation from employment.

Officers hired by the City on or after July 1, 2011 are only eligible to convert their sick leave balance to additional service credit at retirement in accordance with 6.1.6.2.4 above.

- 6.1.7 Any officer who qualifies for retirement health credit conversion and chooses the option of converting their accumulated sick leave balance to retirement health credits under 6.1.6.2.2 or 6.1.6.2.3 that has at least twenty (20) years of service with the City may elect to have their accrued sick 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. The retirement health credit calculated pursuant to this Section 6.1.7 shall not exceed the highest HMO health plan premium as may be in effect at the time such credit is applied. The election pursuant to this Section 6.1.7 shall be made at the time of retirement.
- 6.1.8 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.
- 6.1.9 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.
- 6.1.10 Transfer of Sick Leave for Catastrophic Illness. Transfer of sick leave for catastrophic illness is designed to assist officers who have exhausted sick 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 Personnel Division will discuss with the POA or their designated representative an appropriate method of soliciting contributions from coworkers. The contributions shall be submitted to the Personnel Division and Personnel will process the contribution list in the order established. Any officer shall be allowed to contribute a maximum of eighty (80) hours of sick leave from their accrued sick 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 sick 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 officer 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.

6.2 Long Term Disability

- 6.2.1 Should any non-work related illness or injury extend beyond thirty (30) working days, the City will insure continued payment to the worker at 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, 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 premium.

6.3 Leave Without Pay

- 6.3.1 Leaves of absence without pay may be granted in cases of personal emergency or when such absences would not be contrary to the best interest of the City.

6.3.2 Requests for leaves of absence without pay must be written and submitted to the Chief of Police and Human Resources. The ~~Chief of Police~~Human Resources Director may grant a permanent officer leave of absence without pay for a period not to exceed one (1) year, during which time no benefits and no seniority credit will accrue. Approval shall be in writing ~~and a copy filed with the Human Resources Department~~. Upon expiration of a regularly approved leave, or within five (5) working days after notice to return to duty, the officer shall be reinstated in the position held at the time the leave was granted. Failure on the part of an officer on leave to report promptly at its expiration, or within three (3) working days after notice to report to duty, may be cause for disciplinary action.

6.3.3 If an officer is on an extended leave without pay, the City agrees it will not condition the return on the passing of a polygraph examination and will limit any other examination for fitness to the last thirty (30) days of said leave.

6.4 Jury Duty and Subpoenas - Not Related to Official Duties

6.4.1 An officer 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 a leave of absence with pay from his/her assigned duties until released by the court, provided the officer 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.

6.4.2 When an officer 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 officer 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.

6.5 Military Leave

Military leave of absence shall be granted and compensated in accordance with Military and Veterans Code Sections 389 and 395 et seq. Officers 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.

6.6 Bereavement Leave

An officer shall be allowed regular 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 officer. Officers may use personal leave for bereavement purposes for relations not included above provided such leave is approved in advance by the Chief of Police.

6.7 Miscellaneous Leave Provisions

- 6.7.1 Leaves of absence without pay which exceed four (4) weeks and are for leaves other than military, or job related disability shall not be included in determining seniority.
- 6.7.2 At the conclusion of a leave of absence an officer shall be returned to an equivalent position within his/her classification.
- 6.7.3 For any unpaid leave of absence the officer may elect to continue insurance coverage for up to the duration of his/her leave of absence at his/her own expense.
- 6.7.4 For any paid leave of absence, all benefits continue to accrue.
- 6.7.5 The City Manager or designee will designate the specific beginning and ending dates to meet the needs of the work and the City, which shall not exceed one unpaid year.
- 6.7.6 At the specified date for return to duty from unpaid leave, if the officer has been disabled, the officer's notice of intention to return to duty shall be accompanied by a physician's statement certifying that the officer is medically qualified to assume full duties and responsibilities. If an officer is not medically qualified to assume full duties, on the date specified in 6.11.5, he/she shall be granted a leave accumulated in accordance with section 6.1.1 and Labor Code Section 4850 but shall not be entitled to any other benefits.
- 6.7.7 At the conclusion of a leave of absence for any disability the officer may be required to submit a physician's statement certifying that he/she is medically qualified to resume work.
- 6.7.8 Leaves shall not be unreasonably denied.
- 6.7.9 All provisions of this Article shall be administered in conformance with the Family and Medical Leave Act and the California Family Rights Act.

6.8 Educational Leave/Tuition Reimbursement/Child Care/Recreation

~~6.8.1 Effective July 1, 2015, the City shall contribute Five Hundred Dollars (\$500.00) per authorized full time unit position to an educational leave/tuition reimbursement/child care/recreation fund for unit members. Effective July 1, 2016, the City shall contribute Two Hundred and Fifty Dollars (\$250) (half the annual allotment) per authorized full time unit position to the fund. Each officer shall be eligible to use up to Two Thousand Dollars (\$2,000) per year for items covered under this section while a balance remains in the fund. Any fund balance remaining at the end of the fiscal year shall be applied on a proportionate basis to claims in excess of the Two Thousand Dollars (\$2,000) per officer limit, up to a maximum of Five Thousand Dollars (\$5,000) per officer. Claims for funds in excess of the Two Thousand Dollar (\$2,000) limit shall be submitted no later than July 15 following the close of the fiscal year so that the proportionate amounts can be calculated and disbursed. All claims must be approved in advance by the Chief of Police, and must qualify under applicable IRS code sections.~~

~~Effective December 31, 2016, this fund shall be discontinued. And Section 6.8 will be deleted from the MOU.~~

~~[Note: this fund will be replaced by the increased cafeteria plan contribution effective January 1, 2017.]~~

~~6.8.2 Officers may request an advance of funds subject to the approval of the Chief of Police, who will consult with the City Manager. Advances may be granted for tuition, books and other curriculum fees in exchange for a repayment agreement in the event advances are not supported or courses are not satisfactorily completed as indicated by a grade of "C" or better. The officer may not elect to take a "pass fail" grade if the letter system of grading is offered. In appropriate circumstances with advanced approval of the Chief of Police, an officer may elect to take a "pass fail" grade or obtain a Certification of Completion.~~

~~6.8.3 All officers assigned by the City to attend meetings, workshops, or conventions shall have their dues and reasonable expenses paid by the City and shall be allowed to attend such workshops, meeting and conventions on paid City time. Such required educational functions shall be reimbursed from departmental training funds and shall not be counted against the officer's allowance or taken from the annual tuition reimbursement/child care/recreation fund.~~

- ~~6.8.4 — 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 the reimbursement relates must not be part of a program qualifying employees for another trade or business; 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 courses.~~
- ~~6.8.5 — 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 to the extent allowed under Section 127 of the Internal Revenue Code.~~
- ~~6.8.6 — Recreation: Reimbursement 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.~~
- ~~6.8.7 — Child Care: 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.~~
- ~~6.8.8 — Payments must not have been made to a child under the age of 19 years or to a person claimed as a dependent. If the services are provided by a dependent care center, the center must comply with all state and local laws and must provide care for more than six individuals (other than a resident). Note: The use of the dependent care provision is guided by a written plan document required by the Internal Revenue Service.~~
- ~~6.8.9 — The maximum accrual in the fund shall not exceed two times the annual fund amount.~~
- ~~-~~

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6.9 Training Offset

6.9.1 Officers 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 on the first pay period of each fiscal year 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, he or she may use four (4) hours of training offset time to complete his or her twelve (12) hour shift. Eight (8) hours training plus four (4) hours training offset = twelve (12) hour shift).

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These hours may only be used in conjunction with supplementing time off for voluntary training. ~~Employees may carry a maximum of forty eight (48) hours of training offset in their bank.~~

6.9.2 Training offset hours do not carry over to subsequent years. Training offset hours may not be cashed out, paid out on separation or used for any purpose other than stated above.

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ARTICLE 7: WORK SCHEDULE

The Chief of Police shall determine the appropriate regular or alternative work schedules for the Department and the various divisions, sections and details based upon feasibility or operational needs. The Chief of Police will meet and confer with P.O.A. prior to making any changes to existing work schedules.

7.1 4/10 Work Schedule

A 4/10 work schedule is defined as ten (10) hours per day worked, four (4) days per calendar week. If used during the term of this Memorandum of Understanding, it shall be subject to the following conditions:

- 7.1.1 The "4/10" schedule shall apply to police officers assigned to traffic, detectives, crime prevention or special assignments with the approval of the Chief of Police.
- 7.1.2 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' advance written notice and an opportunity for the P.O.A. to meet and confer on such proposed change.
- 7.1.3 In the event that staffing level falls to a point where a "4/10" schedule is no longer feasible, or operational needs of the department are not consistent with the "4/10" schedule, the City agrees to consult with P.O.A. prior to changing to an alternative work schedule.

- 7.1.4 If the City determines significant adverse impact of the “4/10” schedule because of increased sick leave, or increased overtime, or insufficiency in staffing levels, the City reserves the right to change to an eight (8) hours per day schedule.
- 7.1.5 The parties agree that provisions in the Personnel Rules and other City rules and regulations may be modified, expressly or impliedly, as they apply to those represented employees working the “4/10” schedule.
- 7.1.6 The 4/10 schedule shall revert to a five day, eight hour shift for any training that requires attendance at class for a consecutive five day period.

7.2 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:

- 7.2.1 The 4/12 schedule shall apply to police officers assigned to general patrol and shall not apply to detectives, traffic, code enforcement or special assignments without the approval of the Chief of Police.
- 7.2.2 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.O.A. to meet and confer on such proposed changes.
- 7.2.3 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 4/12 schedule.
- 7.2.4 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.

7.3 Job Sharing

The City shall consider requests for job sharing. Job sharing is defined as an arrangement between two full-time regular sworn officers who share the responsibilities of one position. Each employee agrees to relinquish his/her full-time status (40 hours a week) and work half-time (20 hours a week). The opportunity for a job sharing arrangement will depend on the operational and staffing needs of the department at the time of the request. Job sharing arrangements shall be developed in accord with the “Job Share Program Policy”.

7.4 Shift Change

The scheduled shift change dates shall take place on the first day of a twenty eight (28) day payroll cycle occurring closest to June 1, October 1 and February 1.

Further, the shift bid and vacation request process shall be as follows:

- 7.4.1 Shift bid will take place one month into the rotation. Two consecutive shift rotations will be bid at one time. Notice will be provided to the officers two weeks prior to the designated day when the shift bid will occur.
- 7.4.2 On the designated shift bid day, officers will be assigned a fifteen minute time slot, by seniority, in which to call or come in to make their bid. Two phone numbers will be provided in which to call in. If the time allotted expires, that officer will be moved to the next available time slot at the bottom of the seniority list. If an officer is going to be out of the area, and unable to call in during their allotted times, a "proxy" bid will be allowed. The scheduling supervisor must be notified in advance who will be responsible for calling in the "proxy" bid prior to the designated shift bid day.
- 7.4.3 Requests for guarantee vacation during the rotation periods will also be taken by seniority on the day of shift bid. No single vacation day request will be accepted during the following dates: May 5, July 4, and January 1. However, if these dates fall within an officer's approved week request, it shall be granted.
- 7.4.4 Each employee will have the ability to choose (1) less than one week vacation pick except those listed above, as long as it falls within their total fiscal year accrual of vacation. Employees signing up for less than one week vacation will prevent any other employee, on the same team, from having the ability to sign up for vacation during that same week due to our current time off policy, unless requested days do not conflict. The week for the purposes of this section will be Sunday through Saturday.
- 7.4.5 Prior to each shift bid process, special attention will be given to the department's specialty assignment list. If an officer is due to rotate out of their assignment during the rotation period for which the bid process is occurring, adherence to MPPD Policy 1029 – Rotational Assignments will be followed. The officer "will be extended to the next shift rotation date with approval of the Chief of Police".
- 7.4.6 The scheduling Sergeant will be present on the designated shift bid day to monitor all time slots, patrol shift slots and vacation requests.

7.4.7 This section shall not apply to probationary employees, permanent employees whose assignments do not require shift changes, ~~Acting Watch Commander, Field Training Officer and~~ Canine Officer, and employees in acting assignments.

7.4.8 Employees assigned to ~~Field Training Officer, Acting Watch Commander, and Canine~~ and other specified assignments will bid by seniority for those assignments in slots designated by the Department (e.g., a canine officer may bid only for canine slots). The Chief may reassign employees in these assignments based on operational need at any time.

7.4.9 Shift bid for Corporals will be seniority in slots designated by the Department.

~~7.4.9~~¹⁰ The Chief of Police reserves the right to implement an individual rotating schedule in lieu of a team schedule.

7.5 Schedule Changes for Individual Officers

The Department may change individual officer or Corporal schedules with five (5) calendar days' notice. Any officer or Corporal whose schedule is changed with less than five (5) calendar days' notice will be paid overtime for the first four (4) hours of the new schedule. This section shall not apply to (a) emergency situations; (b) probationary employees; (c) voluntary schedule changes; (d) schedule changes for training; or (e) schedule changes for employees in ~~Field Training Officer, Canine~~ or out of class, and Acting Watch Commander assignments.

7.6 Nothing herein shall prevent the City from making temporary schedule changes to address bona fide emergencies that may arise during the term of this Agreement. An "emergency" is an unanticipated or unforeseen event or occurrence beyond the control of the City or the Police Department which requires prompt and immediate law enforcement response to prevent injury or damage to life, person, or property.

ARTICLE 8: GRIEVANCE PROCEDURE

8.1 Definitions

8.1.1 A "grievance" is an alleged violation, misinterpretation or misapplication of the provisions of this Memorandum of Understanding, , policy and/or procedure manuals affecting the working conditions of the officers covered by this Agreement; or

8.1.2 A "Disciplinary appeal" is an appeal from a disciplinary action of a Letter of Reprimand of higher against an officer covered by this Memorandum of Understanding.

8.1.3 A “grievant” is any officer adversely affected by an alleged violation of the specific provision of this Memorandum, or the Union.

8.1.4 A “day” is any day in which the administrative offices of the City of Menlo Park are open for regularly scheduled business.

8.2 General Provisions

8.2.1 Until final disposition of a grievance, the grievant shall comply with the directions of the grievant’s immediate supervisor.

8.2.2 All documents dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.

8.2.3 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 P.O.A.

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.

8.2.4 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.

8.2.5 Any officer may at any time present grievances to the City and have such grievances adjusted without the intervention of the P.O.A., 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 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 the P.O.A.

8.3 Grievance Procedure (for grievances as defined in 8.1.1)

8.3.1 Level I - Immediate Supervisor

8.3.1.1 Any officer 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 reasonable 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 employee and the immediate supervisor.

8.3.2 Level II - Chief of Police

8.3.2.1 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.

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

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

8.3.3 Level III - Appeal to the City Manager

8.3.3.1 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.

8.3.3.2 The City Manager or designee shall communicate the decision 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.

8.3.4 Level IV - Binding Arbitration

8.3.4.1 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 P.O.A. for arbitration of the dispute. Within twenty (20) days of the grievant's receipt of the decision at Level III, the P.O.A. shall inform the City of its intent as to whether or not the grievance will be arbitrated. The POA and the City shall attempt to reach a mutual agreement on an arbitrator. If no agreement can be reached, the parties shall jointly submit to the California State Mediation and Conciliation Service a request for the submission to representatives of the parties of a list containing the names of seven (7) Arbitrators who confirm their availability to hold and complete the arbitration hearing within sixty (60) days and who are members of the National Academy of Arbitrators (NAA). Upon receipt of the lists, the parties shall alternately strike names from the list, and the name which remains shall be the designated Arbitrator.

8.3.4.2 The arbitrator shall conduct and complete the hearing on the grievance, within sixty (60) days of the date of the P.O.A.'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.

8.3.4.3 The City and P.O.A. 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.

- 8.3.4.5 The award of the arbitrator shall be final and binding.
- 8.3.4.6 The fees and expenses of the arbitrator (including the cost of any list of arbitrators pursuant to Section 8.3.4.1) shall be shared equally by the City and P.O.A.

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. The cost of the services of such court reporter shall be shared equally by the parties.

- 8.3.4.7 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.

8.4 Disciplinary Appeals

- 8.4.1 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.
- 8.4.2 A “disciplinary appeal” is a formal written appeal to 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.

- 8.4.3 Nothing herein constitutes a waiver of rights of employees otherwise granted by law.
- 8.4.3 Persons on probationary status (entry-level or promotional) may not appeal under this agreement rejection on probation.
- 8.4.4 Letters of Reprimand may be appealed under this section only to Level III-City Manager level.
- 8.4.5 An employee challenging a suspension, demotion or dismissal shall begin at Level III for this process.
- 8.4.6 Any officer who believes he/she has an appeal to any punitive disciplinary action (as defined in Section 8.1.2) shall present the appeal in writing to the City Manager within ten (10) days after receipt of the Notice of Discipline. 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 to the Letter of Reprimand and have that response included in his or her personnel file.
- 8.4.7 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 P.O.A. for arbitration of the dispute. Within twenty (20) days of the City Manager's decision, the P.O.A. shall inform the City of its intent as to whether or not the discipline will be arbitrated. The POA must be the party taking the matter to arbitration.
- 8.4.8 The parties shall attempt to agree to the selection of an arbitrator. However, in the event that the City and the POA cannot agree upon the selection of an arbitrator within twenty one (21) calendar days from the date that the POA has notified the City of its intent to proceed to Arbitration, the following procedure shall be followed:
 - 8.4.8.1 The following list of five (5) arbitrators shall be used for determining the arbitrator. The parties shall alternately strike names from the list, and the name that remains shall be the designated arbitrator. In the event the selected arbitrator is unable to schedule the arbitration hearing within ninety (90) calendar days, the parties shall use the arbitrator whose name was most previously struck from the list and

will continue up the list in the inverse order of striking (i.e., last struck first) until reaching the name of an arbitrator able to schedule the arbitration hearing within ninety (90) calendar days:

1. Alexander Cohn
2. Joseph Grodin
3. Carol Ann Vandrillo
4. John Wormuth
5. John LaRocco

- 8.4.9 The City and P.O.A. 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.
- 8.4.10 An arbitration award under this section shall be subject to a petition to confirm, correct, or vacate pursuant to Code of Civil Procedure 1285 seq. In addition to the grounds set forth in 1286.2(a), a petition to vacate may be premised on errors of law extrinsic to the terms of the agreement.
- 8.4.11 The fees and expenses of the arbitrator (including the cost of any list of arbitrators) shall be shared equally by the City and P.O.A. 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. The cost of the services of such court reporter shall be shared equally by the parties.
- 8.4.12 The award of the arbitrator shall be final and binding.

ARTICLE 9: OUTSIDE EMPLOYMENT

A unit member shall not engage in any employment, activity or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his/her duties as an employee of the City, or with the duties, functions, or responsibilities of the City. All outside employment activity shall be governed by Section 1040 of the Police Department Manual.

ARTICLE 10: LAYOFFS, RESIGNATION, AND TRANSFER

10.1 Layoffs

- 10.1.1 The City Council retains authority to abolish positions, organize and reorganize City departments and determine organizational needs. In the event that the City eliminates a particular position or reduces the number of positions within a City department in a particular classification and the layoff of any employee in the department shall result therefrom, layoffs in the department shall be made in accordance with this Article.
- 10.1.2 All probationary employees in a particular classification shall be laid off before any regular employee in the classification.
- 10.1.3 Except as otherwise provided, layoffs shall be made in reverse order of seniority. The employees with the least time served in a classification shall be laid off first, with ensuing layoffs occurring in reverse order of length of service in the classification. If two employees have served the same time in the classification, then, as between those two employees, the layoff shall be based on total time of service with the City including any contiguous service as a contract employee. If total time of service with the City is the same, then, as between those two employees, the layoff shall be based on performance ratings, and the need of the department, as determined by the department head.
- 10.1.4 Length of service shall be determined by computing total continuous service starting from the first day of service as a probationary employee in a classification, or, if necessary, the first day of service as a probationary employee with the city. Up to three months a year spent on active military leave and job related education leave shall be included. For employees working less than full time, hours shall be converted into eight hour days for purpose of determining the length of service. Length of service in a classification shall include length of service in higher classification.
- 10.1.5 Regular employees subject to layoff, including regular employees on probation following reclassification, reinstatement, transfer, promotion, or demotion, shall be entitled to displace a less senior employee from a position in a lower classification in the same department so long as the employees were at one time members of the bargaining unit whose members were displaced. Any employee displaced under this subsection is an employee subject to layoff and is entitled to all the rights provided by the Rule, including the right to displace another employee. For any employee retreating within the department, seniority shall be computed as length of service in the classification to which the employee is retreating, plus any time served in any previously held higher classification in the department.

- 10.1.6 The names of all laid off employees shall be placed on a re-employment list for a period of three years following layoff for the position from which the former employee was laid off. Former employees on such list shall have employment preference over persons on eligibility lists. The former employee with the most seniority on this list shall be entitled to preference over other former employees on the list, provided that the position is filled within three years of the former employee's layoff and the former employee accepts the position, and reports to the City Manager within ten calendar days after notice is mailed to the former employee's last known address.
- 10.1.7 Former employees appointed from a re-employment eligibility list shall be restored to all rights accrued at the time of layoff, including rate of vacation accrual and seniority, unless compensation therefor has been received prior to re-employment. Severance pay, if any, shall not be repaid.
- 10.1.8 Regular employees who are laid off, including regular employees on probation following reclassification, reinstatement, transfer, promotion, or demotion, shall be entitled to two weeks' severance pay. Employees designated for layoff shall be given at least fifteen calendar days written notice.
- 10.1.9 No employee shall have greater or lesser seniority or other rights under this Article by virtue of representation by a particular union or lack of representation by any union.

10.2 Resignation

An employee wishing to resign in good standing from the competitive service shall file with the Chief of Police at least two weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager with a statement by the Chief of Police as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure to give proper notice of resignation shall be entered on the service record of the employee and may be cause for denying future employment by the city. Officers who have resigned will be allowed to rescind the resignation within seventy-two (72) hours of the original submittal by delivering written notice of rescission to the City Manager or to the watch commander if City hall is closed.

10.3 Reinstatement After Resignation

With the approval of the City Manager, an employee who has resigned with a good record may be reinstated within two years to his former position, if vacant, or to a vacant position in the same classification. Reinstatement is discretionary with the City Manager and not a matter of right. The re-employment eligibility list for laid off

employees shall have preference over reinstatement under this Article. An employee reinstated under this Article shall be a probationary employee.

10.4 Transfer

In the discretion of the City Manager an employee may be transferred from one position to another position in the same classification. In the discretion of the City Manager, an employee who is being laid off may be transferred to a vacant position in the same or lower classification, in order to provide for employment upon layoff. No employee shall be transferred to a position for which the employee does not possess the minimum qualifications.

ARTICLE 11: VACATIONS

11.1 Vacations

Each officer shall be entitled to an annual paid vacation, accrued as follows:

Less than three (3) years of service - ninety-six (96) hours per year

Three (3) years of service through five (5) years of service - one hundred twelve (112) hours per year

Six (6) years of service through ten (10) years of service - one hundred thirty-six (136) hours per year

Eleven (11) years of service through fifteen (15) years of service - one hundred fifty-two (152) hours per year

Over fifteen (15) years of service - one hundred seventy-six (176) hours per year

11.2 Effect of Probationary Period

The probationary period counts for purposes of vacation accrual.

11.3 Maximum Accrual

Vacation may be accrued up a maximum of four hundred forty (440) hours. After reaching said maximum, the officer must take time off or accrual will be frozen.

11.4 Scheduling

The Police Chief shall determine the vacation schedule considering the needs of the service and the officer's desires.

11.5 Payment on Separation or Leave

Accrued vacation time up to the maximums described in Section 11.3 above shall be paid to an officer permanently separated from City service.

11.6 Cashout of Vacation Accrual

Officers may cash out accrued Vacation in accordance with the Vacation Cashout Policy.

ARTICLE 12: PERSONNEL ACTIONS

12.1 Probation

(a) Lateral appointments to a Police Officer position in this bargaining unit, who come from another police agency and who have obtained a POST basic certificate, and Academy Graduates who have obtained a POST basic certificate shall be subject to a probationary period of twelve (12) months.

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Appointments to the Police Recruit classification are temporary appointments and time spent as a Police Recruit will not count towards the probationary period for Police Officer.

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(b) Appointments to a Police Corporal position in this bargaining unit shall be subject to a probationary period of twelve (12) months.

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12.2 Unsatisfactory Probation of Promoted Employee

A regular employee who is rejected for a position to which the employee has been promoted shall be placed as a regular employee in the highest position meeting the following requirements:

- (a) the employee formerly held such position as a regular employee;
- (b) the employee was not discharged or demoted from such position;
- (c) the employee did not resign from such position, or if so, was reinstated to it;
- (d) the position is in existence at the time of termination of the probationary period;

(e) the employee has greater seniority than the employee holding such position.

Any employee displaced under this Article is an employee subject to layoff and is entitled to all rights provided by Article 9.1, including the right to displace another employee.

12.3 Discharge, Demotion, Suspension, and Reprimand

12.3.1 Grounds

- 12.3.1.1 Employees may be discharged, demoted, suspended, or reprimanded for just cause, including but not limited to:
- 12.3.1.1.1 Employee's failure or inability to perform duties required by management for the particular position or to conform to required policies of the City.
 - 12.3.1.1.2 Employee's breach of discipline, violation of legal obligations to the Employer, or dishonesty.
 - 12.3.1.1.3 Misrepresentation to the Employer, including any false statement or non-disclosure of a material fact, or any actual or attempted deception.
 - 12.3.1.1.4 Conviction of a felony that is job related.
 - 12.3.1.1.5 Failure to report to work for a period of three consecutive working days and to communicate satisfactory reasons for not reporting to work.

12.3.2 Discharge and Demotion

12.3.2.1 The Chief of Police may recommend an employee be discharged or demoted for any of the reasons specified in Article 12.3.1 of this Rule. The employee shall be given a written statement of the reasons for the proposed demotion or discharge unless the employee files a written waiver thereof. No discharge or demotion shall become effective until:

(a) the employee fails to pursue appeal proceedings as hereafter provided, or

(b) the City Manager or designee has approved the discharge or demotion following a meeting with the employee as hereafter provided.

12.3.3 Suspension

- 12.3.3.1 The Chief of Police may suspend an employee without pay for disciplinary reasons for a period not exceeding three (3) days of actual time.

12.3.4 Formal Reprimand

- 12.3.4.1 A Formal Reprimand is a written notification to an employee of misconduct and/or sub-performance. Reprimands shall not be subject to the arbitration provisions of Article 8, Disciplinary Appeals.

- 12.3.4.2 An employee who has received a formal reprimand and has completed twenty-four (24) months of work without further disciplinary action may request said formal reprimand be removed from the employee's personnel file. The City shall remove the reprimand based on a qualifying request. Formal reprimands ~~removed from an employee's personnel file~~ eligible for removal shall not be relied upon for any future disciplinary action, unless the pending disciplinary action is for similar misconduct and/or sub-performance.

12.4 Personnel Files

Except as provided elsewhere in this article, in any-imposing disciplinary action the City may not rely upon any previous formal disciplinary action, or written evaluation not contained in ~~said the employee's personnel~~ file. The City may rely on verbal or written warnings not made a part of the file issued within the preceding twelve (12) months. In cases where an officer is suspended or demoted and such discipline is sustained, a record of such action shall be kept in the personnel file and any such documentation supporting such action shall be kept in a separate file in the Human Resources Department.

12.5 Internal Affairs Investigations

Except when internal affairs investigations are assigned to a person(s) from an outside agency, all investigations shall be conducted by sworn officers of the Menlo Park Police Department, who shall be superior in rank to the officer(s) interviewed (except for alleged violations of the City's Anti-Harassment/Non-Discrimination policy investigations which may be conducted by Human Resources staff).

12.6 Citizen-Complaint Investigations

In conducting Internal Affairs Investigations, the City shall comply with Penal Code Section 832.5 and Menlo Park Police Department Policy 1020 – Personnel Complaint

Procedure. When conducting such investigations, the City agrees to provide sworn employees with the rights accorded them in Government Code Sections 3300, et seq.

12.7 Contract and Temporary Officers

- 12.7.1 The use of contract officers shall be eliminated.
- 12.7.2 Use of temporary officers shall not be used to circumvent the eligibility lists for appointment.
- 12.7.3 All budgeted positions shall be filled from the eligibility list.
- 12.7.4 Any contract officer who has not completed the service required for P.O.S.T. certification at the time this Agreement is executed shall be permitted to complete such service. At that time, the officer's contract shall end.

ARTICLE 13: PAY RATES AND PRACTICES

13.1 Salary Schedule

~~The salary schedule for officers in the representation unit shall be as set forth in Appendix "A" to this Agreement.~~

~~Effective the beginning of the first full pay period following July 1, 2016, the pay rates for officers in this representation unit shall be increased in an amount equal to the increase in CPI-U for the San Francisco-Oakland-San Jose MSA, measured for the period from February 2015 to February 2016. The increase shall be capped at 3%.~~

13.1.1 Effective the first full pay period following City Council adoption of this agreement and in recognition of the fact that bargaining unit members have not received a COLA since July 1, 2016, the pay rates for employees in this representation unit shall be increased by six percent (6%) [3% for FY 2017-18 and 3% for FY 2018-19].

13.1.2 Effective the beginning of the first full pay period following July 1, 2019, the pay rates for employees in this representation unit shall be increased by three percent (3%).

13.1.3 Effective the beginning of the first full pay period following July 1, 2020, the pay rates for employees in this representation unit shall be increased by three and one-half percent (3.5%).

13.1.4 Bargaining Unit members who are City employees during the first full pay period following City Council adoption of the resolution authorizing the amendments to the MOU, will receive a one-time contribution of 58 hours of

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leave time. This leave must be used by March 23, 2019. Any balance will be paid out with the paycheck for the following pay period.

13.2 Step Increases

Merit advances from the first salary step to the second salary step shall be granted at six (6) months intervals and between second and subsequent steps at one (1) year intervals if the affected officer has demonstrated continued competent service. Officers who are hired in at Steps B, C or D, or are promoted and placed at Steps B, C or D will be eligible for their next step increase in six (6) months. For the purpose of determining step time requirements, time will commence on the first day of the month coinciding with or following entrance onto a salary step. Step increases shall be effective on the first day of the payroll period in which the time requirements have been met.

13.3 Bilingual Differential

13.3.1 Officers who are 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.

13.3.2 Eligibility for the bilingual pay differential shall be determined by the Human Resources Department on the basis of a proficiency test developed and administered by the City. Any officer who does not pass such a proficiency test shall be allowed to take the CHP conversational test, and if the officer passes the CHP test, the officer shall thereafter receive the bilingual differential. Notwithstanding the above, any officer called upon by the Chief, or the Chief's designee, frequently over a period of at least several months, to use a language other than Spanish shall be eligible for the bilingual differential upon passing a proficiency test for such language administered by the Human Resources Department, as above.

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

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

13.4 Call Back Pay

Officers who are called back after leaving work at the end of either a normal shift or hold over period shall be entitled to a minimum of four (4) hours of pay at the rate of time and one-half (1-1/2).

13.5 Off-Duty Training

The City will make every reasonable effort to schedule training on-duty. If training is required for an employee who is off-duty, the City agrees to provide a minimum of two (2) hours at time and one-half (1-1/2).

13.6 Off-Duty Court Appearances

Any represented employee required to appear in Court during off-duty hours, shall receive a minimum of three (3) hours pay at time and one-half (1-1/2). Any represented employee required to appear on a day they are not scheduled to work or after working a graveyard shift that ends in the morning of the day of the court appearance shall receive a minimum of four (4) hours pay at time and one-half (1-1/2).

13.7 Working Out of Classification

Any officer who with supervisory approval works in Sergeant classification shall be paid for working out of classification at the rate of the lowest step within the range of the higher classification, or at five percent (5%) above the current rate of pay, whichever is higher. Such pay rate shall be paid for the hours duties are actually assigned and performed in the higher classification. The parties understand that Corporals performing duties as Watch Commanders are not working out of classification until they have been assigned to be Acting Watch Commander for more than ninety (90) consecutive calendar days. Corporals assigned to be Acting Watch Commander will receive out of classification pay beginning the 91st consecutive day of the assignment. Officers who are working as Acting Watch Commanders will be eligible for out of classification pay pursuant to Section 13.7.

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13.8 Overtime and Compensatory Time

13.8.1 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 sixty-eight (168) hours in a 28 day work period. Hours worked shall include all hours for which the officer is in a paid status including paid leave time.

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13.8.2 Overtime may be assigned on a required basis or requested by an officer and approved by the Police Department. At the option of the officer, overtime shall be paid or accumulated and taken as compensatory time.

13.8.3 Compensatory Time. An officer may accumulate a maximum of two hundred (200) hours of compensatory time. Compensatory time may be used when the services of an officer are not needed for the efficient functioning of the department, and must be approved in advance by the Police Chief or designee.

Once an officer has reached the limits of compensatory time in this section he/she shall receive cash at the overtime rate for all overtime worked.

13.8.4 Upon termination, all unused compensatory time shall be paid off at the final rate of pay received by the officer, ~~or the average regular rate received during the last three (3) years of the officer's employment, whichever is higher~~ consistent with the FLSA.

13.8.5 The City has identified a potential issue involving constructive receipt based on employees' choice to elect either compensatory time off or pay for overtime work. The POA believes this issue is best resolved through a request for a Private Letter Ruling (PLR) from the Internal Revenue Service. Therefore, the POA agrees to take all actions to formally request a PLR on this issue (including payment of required fees) no later than March 15, 2019.

The following is the statement of the issue and question to be requested in the PLR:

- Sections 13.8.1, 13.8.2, 13.8.3, and 13.8.4 of the collective bargaining agreement between the City of Menlo Park and the Menlo Park POA, address the manner in which overtime and compensatory time are earned, accrued, used, and paid. An employee may roll over their compensatory time bank from year to year up to the two hundred (200) hour limit, but may only use the banked hours for paid time off and cannot receive cash for the banked hours.
- Employees who work an overtime assignment have the option to receive pay or accumulate compensatory time off for the time worked. Employees make the election of whether to accrue compensatory time off or receive pay prior to when they turn in their timecard for the pay period in which it is worked (this can occur either before or after the time is worked).
- Does the above contract language regarding the manner in which overtime and compensatory time is credited and used constitute constructive receipt or is it compliant with IRS regulations as written?
- If the language does constitute constructive receipt which term or terms cause constructive receipt?

If the POA fails to take all actions to formally request a PLR by the deadline or the IRS determines that the current language in the MOU regarding an employee's election to receive pay or accrue compensatory time off for overtime worked triggers constructive receipt, the parties agree to immediate implementation of the following changes:

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- (a) The option to choose overtime pay in cash or compensatory time shall be eliminated.
- (b) The Vacation Accrual cap will be increased from 440 hours to 550 hours; and
- (c) With the last full pay period each December, all unused compensatory time shall be cashed out at the employee's rate of pay.

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If the IRS determines that constructive receipt does not occur in the identified circumstance, the vacation and compensatory time off accrual caps will remain status quo.

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13.9 On-Call Status for Detectives

13.9.1 Detectives assigned to an on-call status shall be compensated ~~six-on (1) hours~~ of pay at the member's regular rate of pay for each ~~week-day~~ he or she is assigned to on call duty.

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13.9.2 On-call status shall be assigned by the Division Commander or designee and will normally be rotated among the detectives. On call assignments will normally be for a one-week period, running from Tuesday at 0800 hours to the next Tuesday at 0759 hours. The Division Commander or their designee may allow for substitution or a change to the on-call scheduling as the need arises.

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13.9.3 When a Detective is assigned to work as the Detective Supervisor, he or she will be compensated for on call duties pursuant to the MOU between the City and the Police Sergeants Association. The Detective Supervisor will not be the only on call detective.

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13.9.4 Detectives who are on-call and fail to respond when called may be subject to disciplinary action.

13.10 Daylight Savings Time

For any shift that works during the night that clocks are moved forward one hour or back one hour in connection with Daylight Savings Time, officers will coordinate with their supervisors reporting an hour earlier or an hour later than their regular shift starting time so that hours worked shall be those of a regular shift.

13.11 On-Call Status for Court or District Attorney Directed Standby

Any represented employee required to be available by phone as directed by the Court or a representative of the District Attorney's Office shall be entitled to receive pay at straight time for all time required to remain on-call, provided, however, that the employee has received permission in advance from the Chief of Police, Police Commander or Watch Commander to be on said standby. This section shall not apply if the employee is eligible for pay under Section 13.6. Initial approval shall be for a maximum of four hours. If additional time is required by the District Attorney's Office, the officer shall call in to the Chief of Police, Police Commander or Watch Commander to receive permission to remain on on-call status for the additional time.

13.12 POST Incentive

Police officers who have received their POST Intermediate certificate shall receive a five percent (5.00%) POST incentive premium calculated upon their base pay, in accordance with the current practice.

Police officers who have received their POST Advanced certificate shall receive a ten percent (10.00%) POST incentive premium calculated upon their base pay, in accordance with the current practice.

While the City may assist the officer in determining POST certificate eligibility, the officer shall be responsible for submitting the proper paperwork in a timely fashion. POST incentive pay shall be effective on the first pay period in which the submittal by the employee has been accepted by the City. There shall be no retroactivity because the employee failed to file for either the intermediate or advanced certificate.

13.13 Canine Pay

13.13.1 Each Canine Handler assigned to the duty of caring for, feeding and supervising police dogs, shall receive seven (7) hours of overtime each biweekly pay period at time and one-half of the employees pay rate. Such additional compensation shall not be paid for any two (2) consecutive biweekly periods during which such additional duty is not performed by the employee, whether for the reason that the dog assigned to such employee is boarded at the kennel at City expense or otherwise.

13.13.2 The additional compensation provided for in Section 13.13.1 is calculated to equal one-half (1/2) hour per day care of the police dog and granted in recognition of the personal investment, duties and responsibilities of the K-9 assignment including the time spent by the unit employee while off duty in the care and maintenance of the assigned canine. The additional compensation is based on the expected additional work required for the care of the dog, given the work historically required for such care. This extra compensation is not to be considered premium pay. Any additional time beyond the biweekly limit of seven (7) hours stated above shall require

approval in advance by the Chief of Police or designee. The City shall pay costs associated with the “Initial Basic Training of Handler and K-9” when an officer is assigned for canine duty. The City agrees to meet and confer with the POA over any modifications to this provision made necessary by changes in FLSA requirements prior to implementation.

13.14 Employee Vehicle Use Agreement

Officers assigned to detectives, who are assigned to use their personally owned vehicles 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.

13.15 Night Shift Differential

For officers assigned to patrol, the City shall pay a shift differential of two percent (2.00%) for regular assignment to night shift, [calculated upon their base pay](#). 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 officers assigned to a night shift, and shall not apply to officers filling open shifts or otherwise assigned to nights on a temporary basis.

13.16 Longevity Pay

Effective July 4, 2010, employees who have achieved levels of continuous service time as a full time sworn police officer 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:

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

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

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

13.17.4 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 officer is eight percent (8.00%).

13.17 Specialty Assignment Pay

Specialized assignments of Police Officers shall be governed by the Menlo Park Police Department Policy Manual Section 1029. Officers regularly occupying a special assignment, as approved by the Chief of Police, shall receive five percent (5%) Specialty Pay, calculated upon base pay, for each biweekly period of said assignment.

13.18 Temporary FTO

Based on the needs of the Department, the Police Chief may designate one or more temporary field training officer (FTO) slots. Temporary FTO will be compensated as a special assignment under Section 13.17 during each pay periods during which a trainee is assigned to the temporary FTO. When needed, the Police Chief shall request interested officers to submit a memorandum of interest.

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ARTICLE 14: RETIREMENT BENEFITS

14.1 Retirement Plan

Retirement benefits for employees hired prior to July 1, 2011 shall be those established by the Public Employees' Retirement System (PERS) for Local Safety Members 3% at age 50 Formula, highest single year.

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.

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 PERS for Local Safety Members 2.7% at age 57 formula, highest three years.

14.2 Optional Provisions

14.2.1 1959 Survivor Allowance as set forth in Article 6 of Chapter 9 of the Public Employees' Retirement Law (commencing with Section 21380 of the Government Code) shall be provided. Section 21573 (Third Level of 1959 Survivor Benefits) shall be included.

14.3 City's Contribution to Retirement

14.3.1 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.

14.3.2 Each classic employee shall contribute three percent (3.00%) toward the employer's contribution to the Public Employees' Retirement System. The amount shall be taken as a pre-tax deduction from the employees' paycheck each payroll period. The City and POA 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 three percent (3%) 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.

14.3.2.1 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 14.3.2. The total member contribution for classic employees will be 12%.

14.3.2.2 Upon completion of the contract amendment process in 14.3.2.1, the additional payment in 14.3.2 shall cease.

14.3.3 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%).

14.3.3.1 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%.

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

14.4 Officer's Contribution to Retirement System

The full employee contribution shall be deducted from the employee's pay by the City and forwarded to the Public Employees' Retirement System in accordance with the rules and regulations governing such contributions.

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.

14.5 Retiree Return to Work

A retiree may return to work upon the mutual agreement of the City and the retiree. The City agrees not to condition such retiree on passing a polygraph examination.

14.6 Honorary Retirement

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.

A unit member shall be given a retirement badge and identification card.

A concealed weapons permit shall be granted pursuant to Penal Code Sections 12027 and 12027.1.

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 15: UNIFORM ALLOWANCE, SAFETY EQUIPMENT, AND TRAINING

15.1 Uniform Allowance

Officers shall be paid an annual uniform allowance of One Thousand Forty Dollars (\$1,040.00) annually on the twenty-fifth pay period of the year to be used for the purchase and maintenance of uniforms. [The uniform allowance will be accrued and reported to CalPERS pro-rata on a bi-weekly basis.](#)

The City shall pay the cost of providing one class A uniform for all officers during the officer's employment with the City.

Normal attire for patrol officers shall be a distinctive police uniform. Officers shall have the option of wearing either boots or shoes as part of the normal duty uniform. Motorcycle officers shall have the option of wearing a leather jacket.

15.2 Donning and Doffing of Uniforms

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

ARTICLE 16: DAMAGED PROPERTY OF POLICE OFFICERS

- 16.1 In accordance with Police Department policy 5.5.7 “Use of Authorized Personal Equipment”, any officer may be reimbursed for the costs of replacing or repairing property, such as eyeglasses, dentures, watches, or articles of clothing necessarily worn or carried when such items are damaged in the line of duty, without fault of the officer.
- 16.2 Luxury items such as jewelry, watches over fifty dollars (\$50.00) in value, and other non-required items will not be covered by this section.
- 16.3 Before the allowance or payment is made, the officer shall file a claim with the department. There shall be attached to said claim all receipts showing the monies expended by the claimant for the repair or replacement of said property.
- 16.4 The department shall reserve the right to refer any claim, which is excessive or does not meet the previously stated criteria, to the normal City claim procedure.

ARTICLE 17: BENEFIT PROGRAMS

17.1 Cafeteria Plans

- 17.1.1 The City shall make a direct contribution equal to the minimum employer contribution for agencies participating in the Public Employees Medical and Hospital Care Act (PEMHCA) on behalf of each active employee and qualified retiree.
- 17.1.2 In addition, 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 17.1.1 equals the following:

~~\$1,681.50~~~~2,128~~ per month ~~family coverage~~Employee plus 2/more dependents
~~\$1,296.55~~~~1,647~~ per month ~~two person coverage~~Employee plus 1 dependent
~~\$648.26~~~~845~~ per month ~~single person coverage~~Employee only
~~\$154.68~~ per month ~~no coverage~~

Cash-in-Lieu of Medical Coverage: Employees who waive coverage will be entitled to \$391 per month. Effective the first of the month following City Council approval of this MOU, this amount will no longer be contributed through the flexible benefits plan.

- 17.1.3 Effective the first of the month following City Council approval of this agreement, 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 17.1.1 equals the following:

~~\$2,086~~~~154~~ per month Employee plus 2/more dependents
~~\$1,605~~~~700~~ per month Employee plus 1 dependent
~~\$803~~~~875~~ per month Employee only

[EXAMPLE: If the PEMHCA minimum contribution is \$122, then the City shall make a flexible benefits plan contribution of ~~\$1,964~~~~2,032~~ per month for family coverage.]

Cash-in-Lieu of Medical Coverage: Employees who waive coverage will be entitled to ~~\$349~~391 per month.

- 17.1.4 Effective January 1, ~~2017~~2020, 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 17.1.1 equals the following:

~~\$2,128~~~~200~~ per month Employee plus 2/more dependents
~~\$1,647~~~~750~~ per month Employee plus 1 dependent
~~\$845~~~~905~~ per month Employee only

[EXAMPLE: If the PEMHCA minimum contribution is \$122, then the City shall make a flexible benefits plan contribution of ~~\$2,006~~~~078~~ per month for family coverage.]

Cash-in-Lieu of Medical Coverage: Employees who waive coverage will be entitled to \$391 per month.

- 17.1.5 Each officer may use his/her allocated amount for any benefits permitted by law and provided for in the FSA plan document. [The plan document will be amended to eliminate cash distributions.](#)
- 17.1.6 Each employee must enroll in an available PEMHCA health insurance plan or demonstrate that he or she has health insurance coverage equivalent to the PEMHCA plan in order to ~~receive cash backwaive coverage under Section 17.1.4.~~
- 17.1.7 Officers who wish to have domestic partners covered under the cafeteria plan may do so after filing the “Declaration of Domestic Partnership” form with the California Secretary of State and complying with any other requirements necessary to qualify for domestic partner health benefits under the CalPERS health program. It is understood that the premiums and benefits provided as a result of covering domestic partners may be taxable, and that the City will administer the program in accordance with State and Federal Tax regulations.
- 17.1.8 The parties share an interest in addressing the increase in the cost of PEMHCA benefits. To that end, the parties agree that the City may contract with different health benefit providers, consortia, or groups to provide health coverage that is equivalent to that provided under PEMHCA.

If either the benefits provided or the rate structure in place between active and retired employees is not equivalent to that provided under PEMHCA, then the City shall meet and confer with the Union prior to contracting with the alternative provider, consortia or group.

[17.1.9 Effective July 1, 2017, 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.](#)

17.2 Dental Insurance

- 17.2.1 The City shall pay the full cost for Dental Insurance administered by Delta Dental or an equivalent third party administrator up to the annual maximums described in the summary plan description.
- 17.2.2 Dental Benefits will be provided as described in the summary plan description.
- 17.2.3 The parties understand that all City employees must agree to participate in the plan administered by Delta Dental coverage and that, in the event Delta Dental will not provide coverage to the City (for example, if another

bargaining unit fails to agree), the City will reinstate the reimbursement plan described in the 2014-15 MOU and that those benefits may be taxable.

17.3 Vision Plan

Effective January 1, 2017, 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 descriptions.

ARTICLE 18: FULL UNDERSTANDING MODIFICATION AND WAIVER

18.1 Police Recruit

The parties agree to the inclusion of the Police Recruit classification in the bargaining unit represented by the P.O.A. The Police Recruit is a temporary non-sworn classification whose sole duty is to participate in a P.O.S.T. (Commission on Peace Officer Standards and Training) -prescribed Police Academy training program sponsored by the City.

18.2 Appointment Type

All appointments to the Police Recruit classification will be temporary appointments, meaning that the appointment is for a definite term with a fixed expiration. Police Recruit appointments will be for the term of the Academy for which they are hired and will terminate no later than the graduation date of that Academy. Police Recruits who graduate from the Academy may be appointed to the Police Office classification immediately upon graduation.

As temporary appointments, Police Recruits have no due process or Civil Service rights and are not subject to the disciplinary procedures of this agreement (i.e., they can be terminated for failure to complete the Academy or for any other lawful reason, and their appointment will terminate automatically at the end of the Academy).

Police Recruit is a non-sworn classification and Police Recruits are not entitled to benefits available only to sworn members, including but not limited to the Public Safety Officers Bill of Rights (PSOBR), or Workers Compensation Benefits under Labor Code Section 4850.

The salary for Police Recruit shall be set at 19% below the bottom step of the Police Officer classification (e.g., if bottom step Police Officer is \$43.1144 per hour, then Police Recruit will be \$34.9227 per hour).

18.3 Benefits

Employees in the Police Recruit classification are limited to the following benefits:

1. City-sponsored medical benefits pursuant to Section 17.1;
2. Sick Leave pursuant to Section 6.1

Except as provided by law, Police Recruits are not eligible for any benefits not specifically referenced in this section, including but not limited to: the PSOBR, Workers Compensation Benefits under Labor Code Section 4850, vacation, or holidays.

Employees in the Police Recruit classification will be required to participate in the City's miscellaneous plan (subject to the additional employee contributions in Section 14.3).

18.4 Overtime

Police Recruits are entitled to overtime as required by law.

18.5 Appointment to Police Officer Classification

Police Recruits who graduate from the Academy and are appointed to the classification of Police Officer will be entitled to all benefits of a Police Officer under this Agreement.

Time spent as a Police Recruit will not count towards seniority or benefits accruals as a Police Officer and the appointment date will be the date they were appointed to the Police Officer classification (not including any time spent as a recruit). For example, seniority under Section 10.1 will be calculated from the date of appointment to the Police Officer classification. Similarly, Step Increases pursuant to Section 13.2 will be based on appointment to the Police Officer classification and no credit will be given for time spent as a Recruit.

ARTICLE 19: FULL UNDERSTANDING MODIFICATION AND WAIVER

- 19.1 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.
- 19.2 No practice or benefit provided by this Memorandum of Understanding shall be modified without the mutual agreement of the City and P.O.A.
- 19.3 If the City proposes to change any matter within the scope of representation which is not covered by this Memorandum of Understanding, the City shall provide the POA with notice and an opportunity to meet and confer over said change consistent with state law.

ARTICLE 20: SEPARABILTY

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

ARTICLE 21: LABOR MANAGEMENT COMMITTEE

Effective for the term of this agreement, the City and POA 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 POA 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 22: TERM OF AGREEMENT

22.1 This Agreement shall remain in full force and effect up to and including ~~June 30, 2017~~ August 31, 2021.

The terms of this Agreement shall be effective upon the adoption of this Agreement by the City Council except as otherwise provided by specific articles of this Agreement.

Dated _____

City of Menlo Park

Menlo Park Police Officers' Association

Appendix A

SALARY SCHEDULE FOR CLASSIFIED POLICE OFFICERS THROUGH JUNE 30, 2016

Step	Annual	Monthly	Bi-Weekly	Hourly	
A	\$89,677.95	\$7,473.15	\$3,449.15	\$43.1144	
B	\$94,161.81	\$7,846.80	\$3,621.61	\$45.2701	
C	\$98,869.89	\$8,239.14	\$3,802.69	\$47.5336	
D	\$103,813.42	\$8,651.10	\$3,992.82	\$49.9103	
E	\$109,004.06	\$9,083.65	\$4,192.46	\$52.4058	
Salary Schedule Effective February 3, 2019					
Classification Title	Step	Annual	Monthly	Bi-Weekly	Hourly
Police Officer	A	\$ 97,911	\$ 8,159	\$ 3,766	\$ 47.0727
-	B	\$ 102,806	\$ 8,567	\$ 3,954	\$ 49.4261
-	C	\$ 107,946	\$ 8,996	\$ 4,152	\$ 51.8972
-	D	\$ 113,344	\$ 9,445	\$ 4,359	\$ 54.4922
-	E	\$ 119,012	\$ 9,918	\$ 4,577	\$ 57.2171
-	-	-	-	-	-
Police Corporal	A	\$ 105,377	\$ 8,781	\$ 4,053	\$ 50.6619
-	B	\$ 110,646	\$ 9,220	\$ 4,256	\$ 53.1952
-	C	\$ 116,178	\$ 9,682	\$ 4,468	\$ 55.8549
-	D	\$ 121,987	\$ 10,166	\$ 4,692	\$ 58.6476
-	E	\$ 128,086	\$ 10,674	\$ 4,926	\$ 61.5799
-	-	-	-	-	-
Police Recruit	-	-	-	-	\$ 38.1289

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Appendix B

Salary Schedule Effective July 7, 2019					
Classification Title	Step	Annual	Monthly	Bi-Weekly	Hourly
Police Officer	A	\$ 100,848	\$ 8,404	\$ 3,879	\$ 48.4848
	B	\$ 105,890	\$ 8,824	\$ 4,073	\$ 50.9088
	C	\$ 111,185	\$ 9,265	\$ 4,276	\$ 53.4541
	D	\$ 116,744	\$ 9,729	\$ 4,490	\$ 56.1269
	E	\$ 122,582	\$ 10,215	\$ 4,715	\$ 58.9336
Police Corporal	A	\$ 108,538	\$ 9,045	\$ 4,175	\$ 52.1817
	B	\$ 113,965	\$ 9,497	\$ 4,383	\$ 54.7910
	C	\$ 119,663	\$ 9,972	\$ 4,602	\$ 57.5305
	D	\$ 125,647	\$ 10,471	\$ 4,833	\$ 60.4070
	E	\$ 131,929	\$ 10,994	\$ 5,074	\$ 63.4273
Police Recruit					\$ 39.2727

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Appendix C

Effective July 5, 2020					
Classification Title	Step	Annual	Monthly	Bi-Weekly	Hourly
Police Officer	A	\$ 104,378	\$ 8,698	\$ 4,015	\$ 50.1818
	B	\$ 109,597	\$ 9,133	\$ 4,215	\$ 52.6907
	C	\$ 115,076	\$ 9,590	\$ 4,426	\$ 55.3250
	D	\$ 120,830	\$ 10,069	\$ 4,647	\$ 58.0914
	E	\$ 126,872	\$ 10,573	\$ 4,880	\$ 60.9963
Police Corporal	A	\$ 112,337	\$ 9,361	\$ 4,321	\$ 54.0081
	B	\$ 117,954	\$ 9,830	\$ 4,537	\$ 56.7087
	C	\$ 123,852	\$ 10,321	\$ 4,764	\$ 59.5441
	D	\$ 130,044	\$ 10,837	\$ 5,002	\$ 62.5212
	E	\$ 136,546	\$ 11,379	\$ 5,252	\$ 65.6472
Police Recruit					\$ 40.6473

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