

# **Memorandum of Agreement**

**City of San José**

**and**

**Association of Maintenance Supervisory Personnel  
(AMSP)**

**International Federation of Professional and  
Technical Engineers, Local 21  
AFL-CIO**



**July 1, 2014 – June 30, 2015**

**Association of Maintenance Supervisory Personnel,  
International Federation of Professional and Technical Engineers, Local 21  
Memorandum of Agreement**

**July 1, 2014 through June 30, 2015**

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**EXHIBIT I     Job Classifications**

## **PREAMBLE**

The Memorandum of Agreement hereinafter referred to as the “Agreement” is made and entered into at San Jose, California, on this 6<sup>th</sup> day of June 2014, by and between the City of San Jose, hereinafter referred to as the “City” or “Management” and the Association of Maintenance Supervisory Personnel (AMSP)/International Federation of Professional and Technical Engineers, Local 21 AFL-CIO, hereinafter referred to as the “Employee Organization” or “Union”.

For the purpose of this Memorandum of Agreement, words, phrases and terms used herein shall be deemed to have the meanings specified in Section 2- Definitions of Resolution No. 39367 of the Council of the City of San Jose and in Part 2- Definitions of Chapter 3.04 of Title III, of the San Jose Municipal Code unless it is apparent from the context or from the specific language that a different meaning is intended.

## **ARTICLE 1 PURPOSE**

The parties agree that the purpose of this Memorandum of Agreement is: To promote and provide harmonious relations, cooperation and understanding between the City and the employees covered herein; to provide an orderly and equitable means of resolving differences which may arise under this Agreement, and to set forth the full agreements of the parties reached as a result of meeting and conferring in good faith regarding matters within the scope of representation for employees represented by the Union.

## **ARTICLE 2 PERIOD OF MEMORANDUM OF AGREEMENT**

This Agreement shall become effective July 1, 2014, except where otherwise provided, and shall remain in effect through June 30, 2015. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

This contract expires June 30, 2015. It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Union receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

## **ARTICLE 3 AGREEMENT CONDITIONS**

### **3.1 Full Understanding, Modification and Waiver**

- 3.1.1 This Agreement sets forth the 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, whether formal or informal, are hereby superseded and terminated in their entirety.

- 3.1.2 Existing benefits within the scope of representation provided by ordinance or resolution of the City Council or as provided in the San Jose Municipal Code shall be continued without change during the term of this Agreement and be provided in accordance with the terms of the Agreement.
- 3.1.3 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Memorandum of Agreement be administered and observed in good faith.
- 3.1.4 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement, it is understood and agreed that neither party may require the other party to meet and confer on any subject matter covered herein or with respect to any other matter within the scope of representation during the term of this Agreement.

3.1.5 Reopener

- 3.1.5.1 Notwithstanding any other provision of this Agreement, the parties agree to meet and confer over retiree healthcare benefits and funding upon request of either party, but no earlier than January 1, 2014. This may include but is not limited to alternatives to reduce the unfunded liability and options for current employees that comply with IRS regulations.

Negotiations between the City and Employee Organization shall commence within 14 days upon notice of either party, but no earlier than January 1, 2014. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.

- 3.1.5.2 Notwithstanding any other provision of this Agreement, the parties agree to meet and confer over retirement benefits upon request of either party in the event that the pension modification ballot measure, also known as Measure B, in part or in whole, is declared invalid or otherwise modified or changed by any court of competent jurisdiction or any other administrative process, or by any applicable State or Federal law or regulation.

Negotiations between the City and AMSP shall commence within 14 days upon notice from either party that any action referenced in the previous paragraph has occurred. The City and AMSP shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.

3.2 Separability. Notwithstanding any other provisions of this Agreement to the contrary, in the event that any Article, or subsections thereof, of this Agreement shall be declared invalid by any court of competent jurisdiction, or by any applicable State or Federal law or regulation, or should a decision by any court of competent jurisdiction or any applicable State or Federal law or regulation diminish the benefits provided by this Agreement, or impose additional obligations on the City, the parties shall meet and confer on the Article or subsections thereof affected. In such event, all other provisions of this Agreement not affected shall continue in full force and effect.

3.3 Concerted Activity It is understood and agreed that:

3.3.1 Participation by any employee represented by the Union in picketing with respect to any issue concerning matters within the scope of representation provided or proposed to be provided by the City of San Jose for employees in this unit, or participation in a strike, work stoppage or slowdown, or any other concerted activity which diminishes services provided by an employee in this unit, or the failure to perform lawfully required work shall subject the employee to disciplinary action up to and including discharge.

3.3.2 If the Union, its officers or its authorized representatives violate provision 3.3.1 above or tolerate the violation of provision 3.3.1 above and after notice to responsible officers or business representatives of the Union, such officers or business representatives fail to take such prompt affirmative action as is within their power to correct and terminate the conduct described in provision 3.3.1 above, in addition to any other law, remedy or disciplinary action to which it or its officers or representatives may be subject, said Union shall, by action of the Municipal Employee Relations Officer, also be subject to suspension or revocation of the recognition granted to such Union and the Municipal Employee Relations Officer may suspend or cancel any or all payroll deductions payable to or in behalf of members of such Union, and prohibit or restrict the use of any City facility of any nature whatsoever and prohibit or restrict access by said officers or representatives to work or duty stations of employees in the representation unit.

3.4 Non-Discrimination

3.4.1 The parties agree that they, and each of them, shall not discriminate against any employee on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex, sexual orientation, physical or mental disability, pregnancy, actual or perceived gender identity and political affiliation.

3.4.2 The parties agree that they, and each of them, shall not discriminate against any employee because of membership or lack of membership in the Union, or because of any authorized activity on behalf of the Union.

## **ARTICLE 4 RECOGNITION**

Pursuant to Resolution No. 39367 of the City Council of the City of San Jose and the provisions of applicable state law, the Association of Maintenance Supervisory Personnel(AMSP)/IFPTE Local 21, hereinafter referred to as the “Union” is recognized as the exclusive representative for the purpose of meeting and conferring on matters within the scope of representation for employees assigned to the classifications listed in Exhibit I attached and incorporated by reference into this Agreement. The classifications listed in Exhibit I and subsequent additions thereto or deletions therefrom shall constitute an appropriate unit.

## **ARTICLE 5 MANAGEMENT RIGHTS**

- 5.1 Except to the extent that the rights are specifically limited by the provisions of this Agreement, the City retains all rights, powers and authority granted to it or which it has pursuant to any law or the City Charter, including, but not limited to: The right to direct the work force; increase, decrease or re-assign the work force; hire, promote, demote; discharge or discipline for cause; transfer or reclassify employees; provide merit increases; assign employees special work requirements; and to determine the necessity, merits, mission and organization of any service or activity of the City or of any City Department, Agency or Unit. The City’s failure to exercise a management right does not preclude the City from exercising it at some time in the future.
- 5.2 The City has the sole and absolute right to determine the nature and type of, assign, re-assign, revoke assignments of or withdraw assignments of, City equipment, including motor vehicles, to or from employees during, after or before hours of duty, without consultation or meeting and conferring with the employees affected or the Association of Maintenance Supervisory Personnel (AMSP)/IFPTE, Local 21, representing such employee.

## **ARTICLE 6 UNION RIGHTS**

### **6.1 Authorized Representatives**

- 6.1.1 For purposes of administering the terms and provisions of the various ordinances, resolutions, rules and regulations adopted pursuant to this Memorandum of Agreement:
  - 6.1.1.1 Management’s principal authorized agent shall be the Municipal Employee Relations Officer, or his/her duly authorized representative except where a particular Management representative is otherwise designated.
  - 6.1.1.2 The Union’s principal authorized agent shall be the President, or his/her duty authorized representative.

6.2. Union Representatives

- 6.2.1 The City shall recognize up to five (5) Union Representatives who are properly designated by the Union.
- 6.2.2 The Union agrees that it shall designate as Union Representatives only full-time employees who have satisfactorily completed an initial probationary period during the employee's current term of employment.
- 6.2.3 A Union Representative shall function under the terms of the Administrative Grievance Procedure (City Policy Manual Section 2.1.2) in the department(s) or sections of a department(s) for which he/she has been designated. Should a Representative be required to leave his/her assigned duties to investigate and/or process an administrative grievance, he/she shall secure the permission of his/her immediate supervisor and inform the supervisor of the general nature of the administrative grievance, and report back to the supervisor upon returning to his/her assigned duties. In the event it is necessary for a Representative to handle an administrative grievance in a department other than the department to which he/she is regularly assigned, the Representative shall report to the immediate supervisor of the aggrieved employee to request to meet with the employee(s) involved in the administrative grievance.
- 6.2.4 In the event the parties agree that a Representative or other representatives of the Union is permitted to investigate and/or process an administrative grievance other than as provided above, such representative shall continue to investigate and/or process the administrative grievance, even if the department or section of a department in which the administrative grievance arose is subsequently assigned to another representative.
- 6.2.5 Although the administrative grievances may be investigated and/or processed during normal business hours, the Union agrees that the time spent by its designated representatives processing administrative grievances during normal business hours shall be kept to a minimum.
- 6.2.6 The Union agrees to properly notify the Municipal Employee Relations Officer of any changes of employees designated as Representatives.
- 6.2.7 The parties agree that they have a mutual interest in well-trained Representatives. Toward that end, up to four (4) designated Representatives shall be allowed a maximum of eight (8) hours paid release time during each year of this agreement to participate in training sessions related to the provisions of this agreement, jointly conducted by the Union and the Office of Employee Relations, according to an outline of such training activities to be submitted by the Union and approved by the Office of Employee Relations prior to conducting any such training sessions.



### 6.3 Release Time

6.3.1 Release time from regular City duties shall be provided to designated Union representatives in accordance with the following provisions.

6.3.2 Designated Union Representatives. The following designated Union Representatives shall be eligible for release time to attend meetings as listed in this Article.

6.3.2.1 Union President. The Union President or one (1) designated representative except where noted below, up to two (2) designated representatives shall be granted release time from regular City duties to attend the following meetings:

- To attend Civil Service Commission meetings when matters affecting the Union are considered.
- To attend City Council meetings when matters affecting the Union are considered.
- To attend Federated Retirement Board meetings.
- To attend administrative grievance meetings when used to facilitate settling of administrative grievances.
- To attend Benefit Review Forum meetings (up to two (2) designated representatives.)
- To attend meetings scheduled by Administration when attendance is requested.
- To attend other meetings and trainings approved by the Director of Employee Relations, or designee.

6.3.2.2 The designated representative may be the Union President or another designated representative for functions allowing for one (1) representative to attend, and may be the Union President and one (1) additional representative or two (2) designated representatives for meeting allowing for up to two (2) attendees.

### 6.4 Maintenance in Membership

6.4.1 Dues deduction, once initiated, shall continue until the authorization is revoked in writing by the employee. An employee may only revoke a dues authorization by delivering the written notice of revocation to the City's Municipal Employee Relations Officer with a copy to the Union. An employee may resign from such membership only during the thirty (30) calendar days prior to the expiration of this Memorandum of Agreement.

6.4.2 The written revocation notice shall be delivered to the Municipal Employees Relations Officer or his/her designee either in person at the Office of Employee Relations or by regular U.S. Mail, with a copy to the Union.

6.4.3 The Union shall indemnify the City and hold it harmless against any and all suits, claims, demands, and liabilities that may arise out of or by reason of the application of or implementation of the provisions of the Article.

## 6.5 Dues Deduction

6.5.1 The City will deduct from the pay of such employee covered by this Agreement, while such employee is assigned to a classification included in a unit represented by the Union, dues uniformly required as a condition of membership, pursuant to the Union's constitution and by-laws provided that the employee has signed an appropriate Authorized Dues Deduction card. Such authorization shall be on a form approved by the Municipal Employee Relations Officer or designee.

6.5.2 Payroll dues deductions shall be in the amount certified to the Municipal Employee Relations Officer or designee from time to time by the designated Officer of the Union as regular bi-weekly dues.

6.5.3 Deductions shall be made from wages earned by the employee each bi-weekly pay period. The City will remit to the designated Officer of the Union the amounts so deducted accompanied by a list of the employees for whom the deduction was made. The deductions and the list will be remitted to the Union not later than twenty-one (21) days following the pay period in which the deductions were made.

6.5.4 Properly executed dues deduction cards and an alphabetical list of the additional employees authorizing the deduction shall be submitted to the Municipal Employee Relations Officer or designee on or before the Monday of the week preceding the beginning of the pay period in which deductions are to be made.

6.5.5 If, through inadvertence or error, the City fails to make the authorized deduction, or any part thereof, the City shall assume no responsibility to correct such omission or error retroactively.

6.5.6 It is expressly understood and agreed that the Union will refund to the employee any Union dues erroneously withheld from an employee's wages by the City and paid to the Union. In the event the Union fails to refund the dues erroneously withheld within a reasonable period of time following notification, the City will make such refund and deduct the amount from the amount due to the Union.

6.5.7 The Union shall indemnify the City and hold it harmless against any and all suits, claims, demands, and liabilities that may arise out of or by reason of any action that shall be taken by the City for the purpose of complying with the foregoing provisions of this Article, or in reliance on any list or certification which shall have been furnished to the City under the above provisions.

## 6.6 Agency Fee

### 6.6.1 Employee Rights

The City and the Union recognize the right of employees to form, join, and participate in lawful activities of employee organizations and the equal, alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall discriminate against an employee in the exercise of these alternative rights.

Accordingly, membership in the Union shall not be compulsory. An employee has the right to choose, either; to become a member of the Union; or, to pay to the Union a fee for representation services; or, to refrain from either of the above courses of action upon the grounds set forth in Section 6.6.5 listed below.

### 6.6.2 Employee's Obligation to Exclusive Representation

An employee who is a member of the Union on July 1, 2014, and any employee who becomes a member after July 1, 2014, shall maintain such membership.

Any person in a classification represented by the Union must, within thirty (30) days after their employment, submit to the City either:

1. A signed authorization to deduct dues as a member of the Union; or
2. A signed affidavit that the employee qualifies for an exemption as set forth in Section 6.6.5(1) below. In this case, the employee must designate a charity listed in Section 6.6.5(2) below to which the appropriate amount will be paid through payroll deduction.

If a person fails to make any of the designations set forth above within the thirty (30) day period, they will be given notice by the City that the Agency Shop Fee ("Agency Fee") deduction will be made beginning with the first full pay period following the expiration of the thirty (30) day period. The City and the Union agree that the Agency Fee shall be paid in exchange for representation services necessarily performed by the Union in its capacity as exclusive bargaining agent and in conformance with its duty of fair representation of said employee who is not a member of the Union.

During the period June 1, 2015, through and including June 30, 2015, any employee who is a member of the Union may, by written notice to the Municipal Employee Relations Officer, or designee, resign such membership and change their status to the Agency Fee or exempt category in accordance with the provisions of this Agreement.

#### 6.6.3 Definition of Agency Fee

The Agency Fee collected from non-member bargaining unit employees pursuant to Section 6.6.2 shall be limited to the Union (local, state, and national) annual costs for representing such employees. Such amount shall be those amounts for full-time and part-time employees as are certified to the Municipal Employee Relations Officer, or designee, from time-to-time by the designated officer of the Union as the Agency Fee.

#### 6.6.4 Notice of Objection to Union Expenditures

The Union shall provide an annual written notice to each nonmember who will be required to pay an Agency Fee. The notice shall include:

1. The amount of the Union's dues and the Agency Fee;
2. The percentage of the Agency Fee amount that is attributable to chargeable expenditures and the basis for this calculation;
3. The amount of the Agency Fee to be paid by a nonmember who objects to the payment of an Agency Fee amount that includes nonchargeable expenditures.

Any employee, who is required to pay an Agency Fee, may object to the payment of an Agency Fee amount that includes nonchargeable expenditures, and challenge the calculation of the nonchargeable expenditures. An Agency Fee objection must be filed with the Union within thirty (30) days following distribution of the annual written notice.

#### 6.6.5 Employees Exempted from Obligations to Pay Union

1. Any employee shall be exempted from the requirements of Section 6.6.2 above if such employee is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting public employee organizations.
2. Such exempt employee shall, as an alternative to payment of an Agency Fee to the Union, pay an amount equivalent to such Agency Fee to either:
  - a. The United Way; or,
  - b. Combined Health Appeal (C.H.A.); or,
  - c. Any charity jointly agreed upon by the City and the Union. Such charities cannot be affiliated in any manner with the Union, nor can such charity be related to an established religious organization.

Employees requesting an exemption from paying an agency fee must submit a request in writing and provide verification of such membership in a qualifying bona fide religion, body or sect to the Municipal Employee Relations Officer, or designee. The Municipal Employee Relations Officer, or designee, shall provide notification to the Union of the determination within five (5) calendar days.

6.6.6 Hold Harmless

The Union shall hold the City harmless and shall fully and promptly reimburse the City for any reasonable legal fees, court costs, or other litigation expenses incurred in responding to or defending against any claims against the City or any of its agents, or employees, in connection with the interpretation, application, administration or enforcement of any section in this Agreement pertaining to Agency Fees.

6.6.7 Rescission of Agency Fee Provisions

Pursuant to Government Code Section 3502.5, this Agreement may be rescinded in its entirety by a majority of vote of all the employees in the unit covered by this Agreement. It is understood and agreed that: (1) a request for such a vote must be supported by a petition containing the signatures of at least 30% of the employees covered by this Agreement; (2) such vote shall be by secret ballot; and (3) such vote may be taken at any time during the term of this Agreement; but, in no event shall there be more than one vote taken during such term.

6.7 Bulletin Boards

6.7.1 Recognized Unions may use designated portions of City bulletin boards in departments, which have employees in the representation unit for which the Union is recognized.

6.7.2 Subject to the provisions contained herein, the following types of Union notices and announcements listed below may be posted on the bulletin boards;

6.7.2.1 Meetings, elections, welfare, recreational and social affairs and such other notices as may be mutually agreed upon between the Union and the Municipal Employee Relations Officer or designee.

6.7.3 All material shall identify the Union responsible for its posting. Copies of all material to be posted must be filed with the Municipal Employee Relations Officer. The Municipal Employee Relations Officer or designee shall notify the Union of any material ordered removed. The Union shall be given the opportunity to revise the material or delete the objectionable section or sections.

6.7.4 The City reserves the right to determine where the bulletin boards shall be placed and what portion of such bulletin boards are to be allocated to the Union.

6.7.5 Failure of the Union to abide by the provisions of this Article shall result in the forfeiture of the Union's right to have materials posted on City bulletin boards. The City agrees it will not exercise its rights provided herein in any arbitrary or capricious manner.

6.8 Employee Lists. The City shall provide a monthly list of bargaining unit employees, including new hires to the Union.

The City shall also provide to the Union, a quarterly list of bargaining unit employees alphabetically with employee address, position title, employment date, and leave of absence status.

The Union agrees that such information will be treated in a confidential manner.

## **ARTICLE 7 TEMPORARY MODIFIED DUTY**

7.1 The City and the Union recognize that, employees may be temporarily unable to perform their full range of duties required of their position due to a work-related injury or illness. In order to provide gainful employment to these individuals and to maximize productivity, the City may create temporary modified job duties.

7.2 The City has the exclusive right to determine whether or not to create or eliminate temporary modified job duties and to assign eligible employees to fill such jobs.

7.2.1 The City shall not discriminate in assigning temporary modified job duties.

7.2.2 Employees assigned to temporary modified duties shall continue to accrue class seniority and other benefits based on hours worked.

7.3 Employees assigned to temporary modified job duties shall be returned to their regular jobs at such time as they are medically certified as capable of performing the full range of duties of said job.

7.4 If temporary modified job duties cannot be accommodated by the employee's department, the City will attempt to find temporary modified job duties elsewhere in the City. Departmental seniority will not be affected.

7.5 This Article (Article 7) is not subject to the grievance procedure.

## ARTICLE 8 LEAVES

### 8.1 Holidays

8.1.1 Except as hereinafter otherwise provided, each full-time employee who is on paid status before and after the holiday specified below shall be entitled to paid holiday leave on each of the following holidays observed, and on no other day, during the term of this Agreement:

New Years Day	Columbus Day
Martin Luther King Day	Veterans Day
President's Day	Thanksgiving Day
Cesar Chavez Day	Day After Thanksgiving
Memorial Day	Christmas Eve
Independence Day	Christmas Day
Labor Day	New Year's Eve Day

8.1.2 When one the above holidays falls on a Sunday, the following day shall be designated as the holiday; and when one of the above holidays falls on a Saturday, the preceding day shall be designated as the holiday.

8.1.2.1 In continuous operations which require employees to work on Saturdays and Sundays, when a holiday falls on a Saturday or Sunday, the actual holiday will be observed rather than the City observed holiday.

8.1.3 Each full-time employee who is required to work on any City holiday specified in section 8.1.1 shall receive the salary they would be entitled to for that day at their regular rate of pay, and in addition shall receive compensatory time off equal to 1.5 the number of hours which the employee works on said holiday.

8.1.4 Any other day proclaimed or designated by the Council of the City of San Jose as a holiday for which full-time employees will be entitled to holiday leave. Should additional holidays be provided, or should an existing holiday be traded for a different holiday observance for other represented employees on a Citywide basis, such holidays shall apply to employees in this unit.

## 8.2 Vacation

8.2.1 Vacation accrues at the following rate for each paid hour (either worked or paid absence or holiday closure):

<b>Years of Service</b>	<b>Annual Accrual (Full Time)</b>
1 – 5	120 hours
6 – 14	160 hours
15+	200 hours

Part-time benefited employees accrue vacation on a prorated basis.

8.2.2 Employees will continue to accrue vacation at the current rate in accordance with their years of service. Employees may only accrue vacation up to a maximum of two (2) times their annual accrual rate. Once an employee reaches their maximum accrued vacation limit, the employee will not accrue vacation until their vacation balance falls below the maximum limit.

Employees who currently have accrued vacation balances that are in excess of the limits below, will maintain their current balance, however they will not accrue vacation until their balance falls below the maximum limit.

<b>Years of Service</b>	<b>Maximum Accrued Vacation</b>
1 – 5	240 hours
6 – 14	320 hours
15+	400 hours

## 8.3 Sick Leave

8.3.1 Each full-time employee shall be entitled to sick leave with pay in accordance with the following provisions:

8.3.1.1 Sick leave shall accrue in an amount equal to the number of hours worked multiplied by a factor of 0.04616. Paid leave for holidays, vacation, disability, or other paid leave shall be considered as time worked for purposes of this section.

8.3.2 Accrued sick leave may be utilized if the employee is required to be absent from work on account of non-job related illness or injury; routine medical or dental appointments, or for the care related to the illness or injury of a child for which the employee is legally responsible, mother, father, spouse or domestic partner registered with the Department of Human Resources. Up to 48 hours of accrued sick leave per calendar year may be utilized if the employee is required to be absent for the care related to the illness or injury of the employee's grandchild, brother, sister, father-in-law, mother-in-law, stepfather, stepmother or stepchild.



- 8.3.3 Accrued sick leave not to exceed three (3) working days may be granted in circumstances where an alleged job-related illness or injury is involved, but the employee fails to provide medical verification of such job-related illness or injury.
- 8.3.4 Accrued sick leave also may be used in accordance with the Catastrophic Illness Time Donation Program.
- 8.3.5 Except as otherwise provided by resolution of the City Council, paid sick leave shall not be allowed for any absence from work occasioned by intoxication, or use of narcotics not prescribed by a licensed physician.
- 8.3.6 If approved by the City, an employee who is enrolled and participating in a substance abuse treatment program may use sick leave for absences resulting from participation in such program. The City may require appropriate verification.
- 8.3.7 No employee shall be entitled to or be granted sick leave, either with or without pay, unless he or she, or someone on his or her behalf notifies his or her immediate superior or Department Director, of his or her intent to take such sick leave due to a personal or family illness prior to the commencement of the sick leave where such notice is possible; provided, however, that the Director of Employee Relations may waive the requirement of such notice upon presentation of a reasonable excuse by such employee.
- 8.3.8 An employee may be required to furnish substantiation for any absence for which sick leave payment is requested.
- 8.3.9 A full-time employee of the City shall be entitled to sick leave without any pay if required to be absent from work on account of any non-job related illness, injury or disability, in all situations where such employee is not entitled to sick leave with pay. Any full-time employee who is unable to return to work after being absent on paid and/or unpaid sick leave for a maximum of twelve (12) consecutive months or for a maximum of eighteen (18) cumulative months in any period of twenty-four (24) consecutive months may be separated from City service. However, an employee who has reached this limit may apply for a leave of absence without pay pursuant to Section 8.9, Leaves of Absence.
- 8.3.10 Any such part-time employee shall be entitled to paid sick leave only for those days and number of hours the employee is in fact regularly assigned to work or would have been required to work, notwithstanding the designation, scheduling and indefinite assignment made pursuant to this Article.
- 8.3.11 No eligible part-time employee shall be entitled to sick leave with pay for any day or portion of a day during which the employee is absent, if in fact the employee is not regularly assigned to work or would not have been required to work on that day, inclusive of any hours an employee elects to work in addition to their indefinite assignment, notwithstanding the designation, scheduling and indefinite assignment made pursuant to this Article.

## 8.4 Sick Leave Payout

- 8.4.1 For employees hired on or before September 29, 2012, sick leave payout shall be given to full-time benefitted employees who are members of the Federated Retirement System and who retire with at least fifteen (15) years of service. Employees are eligible to receive, upon retirement, payout for a portion of their unused earned sick leave at the rate of:

<b>Accrued Sick Leave Hours</b>	<b>Sick Leave Payout</b>
0-399 Hours	50% of final hourly rate
400-799 Hours	60% of final hourly rate
800-1,200 Hours	75% of final hourly rate

- 8.4.2 Effective June 22, 2013, for purposes of sick leave payout, an employee's sick leave balance and hourly rate shall be frozen. This means that an employee will receive no more in sick leave payout after having met the requirements contained herein than they would have been entitled to on June 22, 2013. Any sick leave usage after June 22, 2013, will come first from the sick leave balance accrued after June 22, 2013. An employee will continue to accrue sick leave after June 22, 2013, but it may not be used for sick leave payout purposes.

For example, if an employee's hourly rate is \$40 and their sick leave balance is 1000 hours on June 22, 2013, if they meet eligibility requirements, they shall receive a payout of their sick leave balance at the time of retirement using the formula above, but no more than 1000 hours and at an hourly rate of no more than \$40. This will occur even if the employee has subsequently earned more than 1000 hours in sick leave or received a pay increase so that their hourly rate is higher than \$40. In this example, if the employee does not have available sick leave to use that was accrued after June 22, 2013, and uses sick leave and reduces their sick leave balance on June 22, 2013, to 800 hours, they will only be entitled to a sick leave payout of 800 hours, regardless of any sick leave accrued after June 22, 2013. This means that if sick leave payout hours are reduced by usage, they are not able to be reestablished in the sick leave balance subject to payout.

- 8.4.3 If an employee's sick leave balance as of June 22, 2013, is greater than 1,200 hours the employee may also be eligible for a payout of 75% of the value of sick leave in excess of 1,200 hours earned prior to June 23, 2013, but unused during the two (2) years prior to retirement. In order to receive a payout of hours greater than 1,200, the sick leave hours must be earned prior to June 23, 2013, and unused in the prior two (2) years to retirement. All sick leave hours will be paid out at the employee's hourly rate as of June 22, 2013. No employee will be eligible for a sick leave payout over 1,200 hours after June 22, 2015.

For example, if an eligible employee retires on June 22, 2014 (one year after the sick leave payout was frozen), they would receive a payout of 75% of the sick leave earned but unused from June 22, 2012, to June 22, 2013. The employee would only receive one year of payment because during the second year period prior to retirement (June 23, 2013 – June 22, 2014) the employee would not have earned any sick leave eligible for payout.

8.4.4 Any employee hired on or after September 30, 2012, shall not be eligible for any sick leave payout.

8.5 Personal Leave Each eligible full time employee is entitled to sixteen (16) hours of Personal Leave per payroll calendar year. Eligible employees hired on or after July 1<sup>st</sup> shall be entitled to eight (8) hours of Personal Leave in the first payroll calendar year of employment.

Part Time: Each benefitted part-time employee shall be entitled to eight (8) hours of Personal Leave per payroll calendar year. Eligible part-time employees hired on or after July 1 shall be entitled to four (4) hours of Personal Leave in the first payroll calendar year of employment.

Unused leave for both full-time and part-time employees does not carry over from year to year.

8.6 Bereavement Leave Each full time or benefitted part-time employee shall be granted bereavement leave with full pay for up to forty (40) work hours to attend to the customary obligations arising from the death of any of the following relatives of such employee or employee's spouse or employee's domestic partner. All leave must be used within fourteen (14) calendar days following the death of an eligible person. Under extreme circumstances, the fourteen (14) day requirement may be waived by the Director of Employee Relations. The decision of the Director of Employee Relations shall be final, with no process for further appeal.

Parents/Step-parents  
Spouse/Domestic Partner  
Child/Step-child  
Brother/Sister; Step-brother/sister; Half-brother/sister  
Grandparents/Step-grandparents  
Great grandparents/Step-great grandparents  
Grandchildren  
Sister-in-law/Brother-in-law/Daughter-in-law/Son-in-law

8.6.1 A domestic partner, as referenced in Section 8.6, must be the domestic partner registered with the Department of Human Resources.

8.6.2 No eligible employee shall be granted bereavement leave in the event of the death of any of the above relatives, if such employee is not scheduled to work when such bereavement leave is required.

8.7 Jury Duty Each full-time employee, or each part-time employee who is eligible for benefits, who is required to take time off from duty to serve as a juror in any Court of this State, or of the United States of America, shall receive the regular base compensation less all jury fees received, excluding mileage. Each employee receiving a notice to report for jury service shall immediately notify the immediate supervisor.

8.8 Witness Leave

8.8.1 Each full-time employee of the City who is required, under subpoena, to take time off duty with the City, to appear as a witness, by reason of his/her employment with the City, in any case or proceeding in any Court of this State or of the United States of America, shall receive his/her regular salary during the term of his/her service as a witness under subpoena, less any and all witness fees which he/she may receive therefore. Compensation will not be paid if the employee is a party to the action.

8.8.2 Upon service of subpoena, an employee shall immediately advise his/her Department Director, or supervisor thereof, and of the time when he/she is required to appear in Court.

8.9 Leaves of Absence

8.9.1 All requests for leaves of absence without pay shall be made in writing. The appointing authority, or his/her designated representative, may grant an employee a leave of absence without pay for good and sufficient reason, not to exceed twelve (12) months. Such leaves may, however, be extended, not to exceed an additional six (6) months, upon written request of the employee, subject to approval of the appointing authority, or his/her designated representative. Written requests for an extension of a leave shall be submitted prior to the expiration of the leave.

8.9.2 Appointing authority may grant leaves of absence without pay for an employee to work on Union business. Such leaves are subject to all the provisions in the Article.

8.9.3 Any leave granted pursuant to the provisions contained herein may be canceled by the appointing authority by notice in writing mailed to the employee at the employee's address on file in the Human Resources Department or such other address as the employee may designate. Such notice shall be by registered mail, return receipt requested and shall be mailed not later than thirty (30) days prior to the effective date of the cancellation of the leave. Failure of the employee to return to work on the first scheduled work day after the effective date of the cancellation, or on the first scheduled work day following the expiration of a leave, shall be considered a voluntary resignation, unless the failure to return is due to extenuating circumstances beyond the control of the employee. Each employee who is granted a leave pursuant to the provisions of this Article shall, upon return from leave, be entitled to a position within a classification held by the employee at the time the leave commenced.

- 8.9.4 If the position to which an employee would otherwise be entitled pursuant to the above has been deleted from the department's budget during the term of the employee's leave of absence, the employee shall, upon return from leave, be entitled to a position within the classification held by the employee at the time the leave commenced, provided there is either a vacancy in such classification or an employee in the classification with less seniority whose duties the returning employee is qualified to perform.
- 8.9.5 The employee is responsible for coordinating the return to work following a leave of absence. Prior to returning from a leave of absence, the employee shall contact the supervisor to ensure that all necessary documents have been completed and steps taken.
- 8.9.6 For the purposes of this Article, seniority shall be defined in accordance with Section 9.4.1 of Article 9 entitled Layoff.
- 8.9.7 Any employee who is absent without notification to their Department Director, or other designated authority, for two (2) consecutive workdays, shall be considered a voluntary resignation, unless the failure to report is due to extenuating circumstances beyond the control of the employee.
- 8.9.8 Employees who have been separated from City service for failure to return from leave, or failure to report, and whose failure is determined to be the result of extenuating circumstances beyond their control shall be reinstated.

## **ARTICLE 9 LAYOFF**

- 9.1 Order of Layoff When one (1) or more employees in the same class in a City department are to be laid off for lack of work, purposes of economy, curtailment of positions or other reasons, the order of layoff shall be as follows:
- 9.1.1 Probationary employees in the order to be determined by the appointing authority.
- 9.1.2 Permanent employees in inverse order of seniority within the classification being reduced, or in a higher class.
- 9.1.3 Permanent employees shall be given every opportunity for transfer to other departments when layoff is pending.
- 9.2 Notice of Layoff
- 9.2.1 Employees subject to the provisions of this Article shall, wherever possible, be given at least thirty (30) calendar days notice in writing prior to the effective date of layoff. The appropriate Unions shall receive concurrent notice, and upon written request within seven (7) calendar days after the notice is given shall be afforded an opportunity to meet with the appropriate City representatives to discuss the circumstances necessitating the layoff and any proposed alternatives to such layoff.

- 9.2.2 Upon specific request by the Union, the City shall provide any available public, written documents relating to staffing levels in a given department or section of a department. If workload documentation is available, the City will provide it to the Union, upon written request.
- 9.3 Reassignment in Lieu of Layoff In the event of layoff, any employee so affected may elect to:
- 9.3.1 Accept a position in a lateral or lower class in which he/she has previously served, or a position in a lateral or lower class within the series containing the class from which the employee is being laid off, provided he/she is otherwise qualified and is more senior than the least senior employee in such lateral or lower class.
- 9.3.2 Accept a vacant position in a lateral or lower class for which he/she has the necessary education, experience, and training as determined by the Director of Human Resources or his/her designee. An employee may also accept a vacant position in a higher class, provided he/she has held permanent status in such higher class, and further provided that the employee's removal from the higher class was voluntary and occurred during his/her most recent period of employment. Adverse decisions of the Director of Human Resources regarding necessary education, experience, and training shall be subject to the Administrative Grievance Procedure (City Policy Manual 2.1.2). The employee may file the Administrative Grievance at Step III within ten (10) working days of the date of being notified of the adverse decision.
- 9.3.3 Any employee entitled to an option noted above, which involves assignment to a lower classification, may elect to be placed on layoff in lieu of accepting such assignment to the lower class. In the event the employee elects to be placed on layoff, such employee will only be recalled to the classification from which the employee elected to be placed on layoff or to any higher classification to which the employee may be entitled pursuant to the provisions of this Article.
- 9.4 As used in this Article, the following words and phrases shall be defined as follows:
- 9.4.1 Except as otherwise provided above, seniority shall be defined as the length of continuous paid employment within any permanent class or classes within the classified service of the City. Seniority shall be retained, but shall not accrue, during any period of leave without pay, except for authorized military leave.
- 9.4.2 A lower class shall mean a class with a lower salary range.
- 9.4.3 A position in a lateral class shall mean a position in a class with the same salary range.
- 9.4.4 A position in a higher class shall mean a position in a class with a higher salary range.

- 9.5 Except as otherwise provided herein, no employee shall be entitled to a position in a higher class as a result of the application of the provisions of this Article.
- 9.6 Layoff Reinstatement Eligible List
- 9.6.1 The names of such persons who are laid off or who elect reassignment in lieu of layoff in accordance with the provisions of Section 9.3, Reassignment in Lieu of Layoff, of this Article shall be placed upon a Reinstatement Eligible List in inverse order of seniority, i.e., the person with the greatest seniority on the Reinstatement Eligible List for the classes affected shall be offered reinstatement when a vacancy exists in the affected class. In the event a person refuses the offer of reinstatement, such person's name shall be removed from the Reinstatement Eligible List, unless such person has reinstatement rights under the provisions of this Article to a higher class than the one in which the reinstatement is being refused.
- 9.6.2 In the event an employee accepts reinstatement to a lower class to which he/she is entitled, such person's name shall remain on the Reinstatement Eligible List for reinstatement to a lateral class, provided such person, except for lack of seniority, would have been otherwise entitled to such lateral class at the time of the most recent layoff.
- 9.6.3 Any person who is reinstated to a class which is the highest class to which he/she would have been entitled at the time of the layoff shall have his/her name removed from the Reinstatement Eligible List.
- 9.6.4 In the event a person on layoff cannot be contacted by the City through usual and customary channels, including, but not limited to emails, phone calls or regular mail within ten (10) working days, such person's name shall be removed from the Reinstatement Eligible List, providing, however, that such person within the three (3) year period specified herein may request that his/her name be replaced on the Reinstatement Eligible List and such person's name may, in the sole discretion of the Director of Human Resources or his/her designee, be returned to the Reinstatement Eligible List. It shall be the responsibility of each person placed on the Reinstatement Eligible List to notify the Department of Human Resources of changes in contact information including, but not limited to email address, phone number or mailing address.
- 9.6.5 In no event shall the names of any person laid off pursuant to the provisions of this Article remain on a Reinstatement Eligible List for a period longer than three (3) years from the effective date of such person's most recent layoff. If there are employees on a Reinstatement Eligible List, the City will review such list prior to contracting-out work, or hiring outside work, to determine if the work could be performed by someone on the Reinstatement Eligible List.
- 9.6.6 Upon reinstatement to any classification to which the employee is entitled pursuant to the provisions of this Article, all benefits acquired by the employee prior to his/her layoff shall also be reinstated. An employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

## **ARTICLE 10 WAGES AND SPECIAL PAY**

10.1 Salary Effective June 22, 2014, all salary ranges for employees holding positions in classifications assigned to AMSP shall be increased by approximately 3.0%. This will result in the top and bottom of the range of all classifications represented by AMSP being approximately 3% higher. All employees will receive an approximate 3% base pay increase.

10.2 Overtime Hours assigned and worked in excess of forty (40) actual hours worked per week shall be compensated by overtime pay or compensatory time at 1.5 times the hourly rate for the number of overtime hours worked. Overtime shall be paid at two (2) times the hourly rate for the number of hours worked beyond twelve (12) consecutive hours. The employee shall request, and the City shall have the option to approve or not approve, overtime compensation in the form of overtime pay or compensatory time.

10.3 Shift Differential Eligible employees, as defined herein, shall be paid a Shift Differential of \$1.50 per hour for each eligible hour, as defined herein, to the nearest fifteen (15) minutes, of work performed.

10.3.1 To be eligible for payment of Shift Differential, an employee must be assigned to an on-going, regular shift of eight (8) hours or more which is regularly scheduled to start between the hours of:

- 2:00 p.m. and 11:59 p.m. (i.e. swing shift)
- 12:00 midnight and 5:59 a.m. (i.e. graveyard shift)

If the employee's shift starts within the time period defined above, the employee shall be compensated with Shift Differential for the number of hours actually worked.

10.4 Standby and Callback Pay Employees earn one (1) hour of overtime for pay or compensatory time off per eight (8) hour shift of standby duty. When called back to work, employees earn a minimum of three (3) hours of callback pay in addition to one (1) hour of standby compensation for the eight (8) hour shift.

10.5 Bilingual Pay

10.5.1 An employee must meet at least one of the following eligibility requirements and must be certified as bilingual for oral communications, written translation or sign language duties according to the current established procedure.

10.5.1.1 The employee is currently assigned to a position selectively certified based on bilingual ability by the Director of Human Resources, or his/her designee, or

10.5.1.2 The duties currently assigned and currently being performed by an employee have been designated by the Department Director or his/her designee as requiring utilization of a non-English language on a regular basis.



- 10.5.2 Each full-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$29.00 per biweekly pay period and for performing written translation duties at the rate of \$40.00 per biweekly pay period for each pay period actually worked.
- 10.5.3 Each part-time employee who meets the above eligibility requirements shall be compensated for performing oral communication or sign language duties at the rate of \$19.00 per biweekly pay period and for performing written translation duties at the rate of \$30.00 per biweekly pay period for each pay period actually worked.
- 10.5.4 If an eligible employee is on paid leave for a period of one full pay period or more, the employee will not receive bilingual pay for that period.

10.6 Working in a Higher Classification

- 10.6.1 Upon specific written assignment by the Department Director, or his/her designated representative, with prior written approval, a full-time employee may be required to perform the duties of a full-time position in a higher classification. Such assignments shall be made to existing authorized positions that are not actively occupied due to the temporary absence of the regularly appointed employee.
- 10.6.2 As an alternative to making appointments to vacant positions, a Department may, upon the approval of the Office of the City Manager, assign an employee to work in a higher classification for a period of time not to exceed twelve (12) months. At the expiration of the period of assignment (not to exceed twelve months), the assigned employee shall return to his/her regular assignment. The Department may then request authorization to fill the position on a regular basis or return it to vacant status.
- 10.6.3 Employees specifically assigned in writing to duties of a higher classification as specified above shall be compensated at the rate in the salary range of the higher class, which is at least five percent (5%) higher than the rate received by the employee in the employee's present class. Notwithstanding any other provision of this section, in no event shall an employee receive any amount in excess of the top of the salary range of the higher classification. The employee shall not receive the rate of compensation, however, unless the assignment is for a minimum of one (1) month.

- 10.7 Mileage Reimbursement Each employee of the City who is authorized by the Department Director or designee to use the employee's private automobile in the performance of the duties of the employee's position shall be paid as a travel allowance for such use of his/her private automobile a "mileage reimbursement rate" consistent with the City's rate.

## ARTICLE 11 BENEFITS

### 11.1 Health Insurance

- 11.1.1 The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans. Effective January 1, 2014, all available plans will have a 4-tier structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren), and Family). The premiums will be adjusted effective the first payperiod in payroll calendar year 2014, which starts December 22, 2013.
- 11.1.2 The City pays eighty-five percent (85%) of the cost of the lowest priced Non-Deductible HMO plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) of the premium for the lowest priced Non-Deductible HMO plan. If the employee selects a plan other than the lowest priced Non-Deductible HMO plan, the employee pays the difference between the total cost of the selected plan and the City's contribution toward the lowest priced Non-Deductible HMO plan.
- 11.1.3 Kaiser Permanente 1500 Deductible HMO Benefit Plan will be available to employees represented by AMSP in addition to existing plan options.
- 11.1.4 Co-pays for Non-Deductible HMO plans shall include the following:
- a. Office Visit Co-pay shall be \$25
  - b. Prescription Co-pay shall be \$10 for generic and \$25 for brand name
  - c. Emergency Room Co-pay shall be \$100
  - d. Inpatient/Outpatient procedure Co-pay shall be \$100
- 11.1.5 An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee or retiree.

### 11.2 Dental Insurance

- 11.2.1 The City will provide dental insurance for eligible employees and their dependents in accordance with one of the two available plans. Both of these plans are described in detail in the City of San Jose Employee Benefits Handbook and in pamphlets available in the Human Resources Department. Effective January 1, 2014, all available plans will have a 4-tier rate structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren) and Family). The premiums will be adjusted effective the first payperiod in payroll calendar year 2014, which starts December 22, 2013.
- 11.2.2 The City pays 100% of the lowest priced plan for the employee or employee and dependent coverage. For any other plan, the City will pay 95% for the employee or employee and dependent coverage.

- 11.2.3 An employee may not be simultaneously covered by City-provided dental benefits as a City employee and as a dependent of another City employee or retiree.

11.3 Payment In-Lieu of Health and Dental Insurance

- 11.3.1 The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

- 11.3.2 Employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per pay period:

	Health in-lieu	Dental in-lieu
If eligible for family coverage	\$221.84	\$19.95
If NOT eligible for family coverage	\$89.09	\$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

- 11.3.3 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek of less than thirty-five (35) regular work hours per week or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.

- 11.3.4 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first thirty (30) days of employment, during the annual open enrollment period, or within thirty (30) days of a qualifying event (defined in the Human Resources Benefits Handbook as a change in marital, dependent or work status of the employee or the employee's spouse) occurring anytime during the year. Employees who miss the thirty (30) day time limit after a qualifying event must wait until the next open enrollment period to enroll in the payment-in-lieu of insurance program. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.

- 11.3.5 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations, employment status changes from full to part time, employee is on an unpaid leave of absence, employee is on a reduced work week of less than thirty-five (35) regular work hours per week, or employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.

- 11.3.6 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible the employee must provide verification that alternate coverage has been lost.
- 11.3.6.1 Health Insurance To enroll in a City health insurance plan following loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carriers' enrollment procedures.
- 11.3.6.2 Dental Insurance Enrollment in a City dental insurance plan following loss of alternate coverage will become effective the first of the month following payment of two dental premiums through the City's payroll process. Re-enrollment in the dental insurance plan shall not be retroactive.
- 11.4 Vision Care The City will contribute towards vision care benefits for eligible full-time employees up to \$16 per month.
- 11.5 Life Insurance The City shall pay the full premium for employee coverage equal to two (2) times the employee's annual salary.
- 11.6 Employee Assistance Program (EAP) During the term of this agreement, the City will continue to provide an Employee Assistance Program at the level of benefit provided on the effective date of this agreement.
- 11.7 Professional Development Program The City will reimburse each employee 100% of eligible expenses incurred, up to \$1,000 per fiscal year, pursuant to the terms and conditions of the Professional Development Program for employees represented by AMSP, IFPTE, Local 21 as described in the City Policy Manual's Professional Development Program.
- 11.7.1 A total of \$300 (of the \$1,000 annual maximum) may be reimbursed for professional materials pursuant to the terms and conditions of the Professional Development Program for employees represented by AMSP, IFPTE, Local 21 as described in the City Policy Manual's Professional Development Program, provided that the materials relate to and are beneficial for the work of the employee's current City position or occupation or are required of the employee's current City position or occupation.
- 11.8 Training
- 11.8.1 The City and the Union recognize the importance of continuing education and the diverse training needs of the employees represented by AMSP. Therefore, the City shall endeavor to provide employees a minimum of twenty-four (24) hours of training per fiscal year. This goal will be accomplished through trainings mandated by Departments and the City.

- 11.8.2 The Union may make recommendations regarding training needs and advise department management and the Union/City Committee of specific training opportunities.
- 11.9 Professional Memberships Each employee is eligible for reimbursement for membership fees or dues paid for the maintenance of a license required to perform employee's job and for dues paid for membership in one additional job related professional association.
- 11.10 Management Performance Program Employees represented by AMSP, IFPTE Local 21 are covered under the Management Performance Program, Section 3.3.2 of the City Policy Manual. Employees are eligible for performance-based pay increases as outlined in the Management Performance Program, Section 3.3.2 of the City Policy Manual.

## **ARTICLE 12 RETIREE HEALTHCARE FUNDING AND BENEFITS**

- 12.1 Employees may be eligible to receive retiree healthcare benefits, in accordance with the San Jose Municipal Code.
- 12.2 The City and the Employee Organization have agreed to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition began on June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this section.
- 12.3 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended to the extent necessary in accordance with this agreement and that the Employee Organization will support such amendments.
- 12.4 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be effective on the first pay period of the City's fiscal year in each succeeding year, the first increment which was effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of the ARC may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an

incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, the City and plan members shall be contributing the contribution rate based upon the full Annual Required Contribution, beginning on December 21, 2014. In subsequent fiscal years, the City and the Plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code.

- 12.5 The City has established a qualified 115 trust ("Trust"). Employee contributions will begin going into the Trust in time to avoid any potential of reaching IRS limits on the existing medical benefits account or upon receipt of a ruling from the IRS that the contributions can be treated as pre-tax, whichever occurs first.
- 12.6 If employee contributions are deposited into the Trust prior to receiving a ruling from the IRS that the contributions can be treated as pre-tax and the City subsequently receives an IRS determination that the contributions should be treated as post-tax, the City agrees to indemnify any employee as to any IRS liability arising solely from the contributions that were taken as pre-tax prior to the IRS determination. The City and the Employee Organization will immediately meet and confer over an alternative trust vehicle for the prospective contributions should the IRS determine that the contributions are post-tax.
- 12.7 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.
- 12.8 Employees hired into full-time benefited positions on or after September 29, 2013, ("Effective Date") will not participate in or be eligible for the defined benefit retiree healthcare program. The City will pay the unfunded liability contribution that these employees and the City would have otherwise paid had they gone into the retiree healthcare defined benefit program.
- 12.9 Neither the City nor the Employee Organization waives any rights or assertions, each may have, related to the retiree healthcare benefit through any of the provisions of this Section.

### **ARTICLE 13 SAFETY**

- 13.1 The City shall provide a safe and healthy working environment in accordance with applicable Local, State and Federal laws and regulations.
- 13.2 Any employee who believes a violation exists may request that the City make a determination as to the safeness of the work assignment and further, be protected under the Cal/OSHA regulations, including but not limited to Labor Code Section 6311.

## **ARTICLE 14 PERSONAL PROTECTIVE EQUIPMENT**

- 14.1 The City agrees to reimburse eligible employees for the purchase of protective footwear for up to \$150 for full-time employees when it is determined by the Director of Human Resources or designee that protective footwear is required for the full-time employee. Protective footwear shall meet established Occupational Safety and Health Administration's (OSHA) standards, current American National Standard for Personal Protection-Protective Footwear standards and requirements as determined by the City Safety Officer or designee. The City will replace protective footwear as needed, but no more than once per calendar year. An individual may select an approved style that is more expensive than the City maximum by paying the difference.
- 14.2 The requirements for safe working conditions are established and maintained under the California Occupational Safety and Health Act of 1973. Enforcement and rule-making authority is lodged with the Department of Industrial Safety. The Department of Industrial Safety has jurisdiction for inspection and enforcement of standards; therefore, any disputes arising relating to employee safety will be exempted from the Administrative Grievance procedure.

## **ARTICLE 15 PROBATIONARY PERIODS**

- 15.1 Probationary Period Calculation. Probationary periods shall not be less than six (6) months of actual service as determined by the Civil Service Commission. Actual service shall mean regular hours worked, paid holidays and up to 80 hours of other cumulative or consecutive paid or unpaid absences.
- 15.2 An employee's probationary period may be extended at the discretion of the City up to a maximum of six (6) months of actual and continuous service. The employee will be notified in writing of the length and reason for the extension.

## **ARTICLE 16 ANNUAL PERFORMANCE APPRAISAL**

- 16.1 The purpose of the annual performance appraisal is to have formal communication between supervisor and employee regarding job performance. It is of value to both parties to have this process be meaningful and fair. Employees shall receive an annual performance appraisal.

## **ARTICLE 17 DISCIPLINARY ACTION**

- 17.1 The City of San Jose discipline policy is described in City Policy Manual, Section 2.1.3. When the need for disciplinary action arises, disciplinary action will be taken commensurate with the seriousness of the offense. The levels of discipline include informal actions, which are oral counseling, documented oral counseling and written reprimand. Formal disciplinary actions are suspension, demotion and dismissal.
- 17.2 The appeal process for any disciplinary action shall only be those described in the San Jose Municipal Code and City Policy Manual, Section 2.1.3.

## **ARTICLE 18 UNION/CITY COMMITTEE (UCC)**

- 18.1 Purpose: To serve as an advisory committee and to facilitate employee involvement in issues which affect the immediate work environments. To provide regular communication between the Union and the City, to address workplace issues, and to facilitate positive Union-City relations.
- 18.2 Structure: The Union/City Committee is established by mutual agreement. The City and the Union shall each select their own representatives and in equal number, with no more than three 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 UCC will set up regular meetings and a means for calling additional meetings to handle issues on an ad hoc basis.
- 18.3 Authority: The UCC are not authorized to meet and confer or create contractual obligations nor are they to change the MOA to authorize any practice in conflict with existing contracts or rules. The Office of Employee Relations and AMSP/IFPTE Representative/Organizer will be involved in UCC meetings upon request, and the UCCs should keep both parties informed of their discussions and any written material they generate.
- 18.4.1 The UCC has the authority to set up subcommittees, departmental committees and ad hoc committees when it deems them appropriate and necessary. The Committee will act as a steering committee for subcommittees.

## **ARTICLE 19 CONTRACTING OUT**

- 19.1 The City agrees to meet and confer with the Union prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.



THIS AGREEMENT executed on the 6<sup>th</sup> day of June, 2014 between the City of San Jose and The Association of Maintenance Supervisory Personnel, International Federation of Professional and Technical Engineers, Local 21, IN WITNESS THEREOF, the appropriate representatives of the parties have affixed their signature thereto.

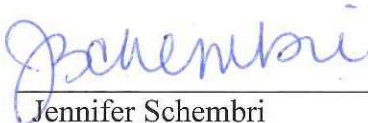
For the City of San Jose:



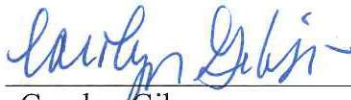
Ed Shikada  
City Manager



Alex Gurza  
Deputy City Manager

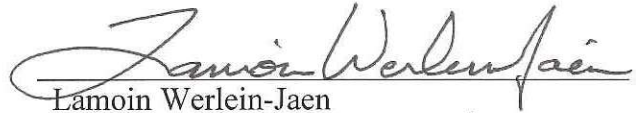


Jennifer Schembri  
Deputy Director of Employee Relations



Carolyn Gibson  
Executive Analyst  
Office of Employee Relations

For the Association of Maintenance  
Supervisory Personnel, IFPTE Local 21  
(AMSP):



Lamoin Werlein-Jaen  
Business Agent  
AMSP/IFPTE, Local 21



Steve Contreras  
President  
AMSP/IFPTE, Local 21



Angel Alvarez  
Negotiation Team Member  
AMSP/IFPTE, Local 21



Jesse Perez  
Negotiation Team Member  
AMSP/IFPTE, Local 21

## EXHIBIT I

### Association of Maintenance Supervisory Personnel (AMSP) Salaries Effective June 22, 2014

Job Code	Job Classification	Union	Union Code	FLSA	Hourly Rate (Min)	Hourly Rate (Max)	Biweekly Rate (Min)	Biweekly Rate (Max)
3161	Air Conditioning Supv	MNT	111	N	\$39.41	\$48.03	\$3,152.80	\$3,842.40
3244	Airport Maint Supvr	MNT	111	N	\$35.76	\$43.59	\$2,860.80	\$3,487.20
3524	Airport Oper Supvr I	MNT	111	N	\$32.42	\$39.49	\$2,593.60	\$3,159.20
3527	Airport Oper Supvr II	MNT	111	N	\$34.82	\$42.43	\$2,785.60	\$3,394.40
3528	Airport Oper Supvr III	MNT	111	N	\$37.50	\$45.69	\$3,000.00	\$3,655.20
3325	Automotive Equipment Spec	MNT	111	N	\$35.76	\$43.59	\$2,860.80	\$3,487.20
3226	Building Maint Supt	MNT	111	N	\$41.39	\$50.40	\$3,311.20	\$4,032.00
3222	Building Services Supvr	MNT	111	N	\$39.41	\$48.03	\$3,152.80	\$3,842.40
3433	Capital Project Program Coord	MNT	111	N	\$32.42	\$39.49	\$2,593.60	\$3,159.20
3156	Electrical Maint Superint	MNT	111	N	\$47.91	\$58.36	\$3,832.80	\$4,668.80
3327	Equipment Maint Supvr	MNT	111	N	\$35.76	\$43.59	\$2,860.80	\$3,487.20
3227	Maintenance Contract Supv	MNT	111	N	\$39.41	\$48.03	\$3,152.80	\$3,842.40
3117	Maintenance Superintend	MNT	111	N	\$41.39	\$50.40	\$3,311.20	\$4,032.00
3116	Maintenance Supervisor	MNT	111	N	\$35.76	\$43.59	\$2,860.80	\$3,487.20
3127	Painter Supvr WPCP	MNT	111	N	\$33.71	\$41.07	\$2,696.80	\$3,285.60
2455	Parking & Traffic Ctrl Supvr	MNT	111	N	\$32.42	\$39.49	\$2,593.60	\$3,159.20
7122	Parks Facilities Supvr	MNT	111	N	\$35.76	\$43.59	\$2,860.80	\$3,487.20
3635	Prin Water Systems Tech	MNT	111	N	\$31.18	\$37.96	\$2,494.40	\$3,036.80
3329	Senr Auto Equip Spec	MNT	111	N	\$39.41	\$48.03	\$3,152.80	\$3,842.40
3237	Supervisor Of Facilities	MNT	111	N	\$35.73	\$43.53	\$2,858.40	\$3,482.40
3229	Supervisor, Trades	MNT	111	N	\$39.41	\$48.03	\$3,152.80	\$3,842.40
3625	Wastewater Maintenance Supt	MNT	111	N	\$45.00	\$54.85	\$3,600.00	\$4,388.00
3624	Wastewater Mechanical Supvr I	MNT	111	N	\$35.76	\$43.59	\$2,860.80	\$3,487.20
3674	Wastewater Mechanical Supvr II	MNT	111	N	\$38.88	\$47.44	\$3,110.40	\$3,795.20
3617	Wastewater Operations Supt I	MNT	111	N	\$43.65	\$53.25	\$3,492.00	\$4,260.00
3619	Wastewater Operations Supt II	MNT	111	N	\$46.70	\$56.97	\$3,736.00	\$4,557.60
3656	Wastewater Ops Foreperson I	MNT	111	N	\$37.85	\$46.19	\$3,028.00	\$3,695.20
3657	Wastewater Ops Foreperson II	MNT	111	N	\$40.57	\$49.50	\$3,245.60	\$3,960.00