

**CITY OF SAN JOSE AND ALP  
CITY PACKAGE PROPOSAL "B"**

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***THIS PROPOSAL IS SUBMITTED IN AN ATTEMPT TO REACH A SETTLEMENT. IN THE EVENT THE PROPOSAL IS NOT ACCEPTED, THE CITY RESERVES THE RIGHT TO MODIFY, AMEND AND/OR ADD PROPOSALS.***

**TERM**

July 1, 2012 – June 30, 2013.

**SALARY**

Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to ALP shall be decreased by approximately 4.75%. This will result in the top and bottom of the range of all classifications represented by ALP being 4.75% lower. All employees will receive a 4.75% base pay reduction.

Effective June 25, 2011, the one-time base pay reduction of 1.90% and mandatory unpaid furlough program which were part of the agreement for Fiscal Year 2010-2011 shall cease.

Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to ALP shall be decreased approximately by an additional 5.39%. This will result in the top and bottom of the range of all classifications represented by ALP being an additional 5.39% lower. All employees will receive an additional 5.39% base pay reduction.

**BILINGUAL PAY**

An employee who is required to use a non-English language on a regular basis may be eligible to receive a bi-weekly payment of \$29 for oral only bilingual or \$40 per pay period for oral/written translation. Employee must be certified as bilingual by the Human Resources Department.

**MANAGEMENT PERFORMANCE PROGRAM (MPP)**

The Management Performance Program is an annual employee evaluation system that provides eligible employees performance based wage increases.

Each employee who is not already at the top of the salary range may be eligible to receive a performance based increase for the rating period. The MPP also provides that employees may receive up to forty (40) hours of additional executive leave.

Please refer to City Policy Manual (CPM) Section 3.3.2 for additional information.

## PROFESSIONAL DEVELOPMENT PROGRAM (PDP)

Each eligible employee may be reimbursed for up to \$1000 per fiscal year (July 1 – June 30) for the purchase of textbooks required for an approved course, college accredited courses, non-college accredited courses, continuing education units, adult education classes, workshops, seminars, travel expenses, memberships in professional associations, professional licenses and professional certificates which are either related to and is beneficial for the work of the employee's current City position or occupation, must satisfy a continuing education requirement of the employee's current City position or occupation or must prepare the employee for advancement/promotion to positions of greater responsibility in the City that is within the employee's current trade or business.

A total of \$300 (of the \$1,000 annual maximum) may be reimbursed for professional materials that include professional books and professional magazine subscriptions, professional books to prepare for certifications or licensing, and other learning materials (learning/training software, videos, etc.) for educational purposes 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.

Please refer to the ~~City Policy Manual CPM Section 4.3.6, Professional Development Program – Association of Legal Professionals of San Jose (ALP)~~ for additional information and requirements.

*Temporary employees are not eligible for this benefit*

## 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 (1) additional job-related professional association.

*Temporary employees are not eligible for this benefit.*

## RETIREMENT

Full-time eligible employees are members of the Federated City Employees' Retirement System. For more information regarding retirement benefits, please refer to the Federated City Employees' Retirement System Handbook, which summarizes the information from the San Jose Municipal Code.

Employees Hired On or Before September 29, 2012:

The Federated Retirement System provides eligible employees with a monthly allowance as well as medical and dental benefits dependent upon years of service. To be eligible to receive a monthly allowance, the employee must have a minimum of five (5) years of service in the Retirement System and be at least fifty-five (55) years of age. The Federated Retirement System provides eligible employees with medical

benefits after fifteen (15) years of service and dental benefits after five (5) years of service; however, employees should refer to the Federated Handbook for specific rules and benefits. The monthly retirement allowance is based on the following formula:

Years of Service X 2.5% X Final Compensation = Monthly Retirement Allowance.

The maximum retirement benefit a retiree may receive is 75% of their final compensation.

*Note: Final Compensation is the highest average monthly salary during 12 consecutive months.*

Employees Hired On or After September 30, 2012:

The Federated Retirement System provides eligible employees with a monthly allowance as well as medical and dental benefits dependent upon years of service. To be eligible to receive a monthly allowance, the employee must have a minimum of five (5) years of service in the Retirement System and be at least sixty-five (65) years of age. The Federated Retirement System provides eligible employees with medical benefits after fifteen (15) years of service and dental benefits after five (5) years of service; however, employees should refer to the Federated Handbook for specific rules and benefits. The monthly retirement allowance is based on the following formula:

Years of Service X 2.0% X Final Compensation = Monthly Retirement Allowance.

The maximum retirement benefit a retiree may receive is 65% of their final compensation.

*Note: Final Compensation is the highest average monthly salary during 36 consecutive months.*

For Fiscal Year 2012-2013 the Federated City Employees' Retirement System contribution rates, including pension and healthcare, are 52.36% by the City and 13.00% by employees, totaling 65.36%. These rates reflect the Retirement Board adopted rates based on the June 30, 2011, valuations and do not reflect any adjustments for prefunding or adjustments to reflect the actual payroll to meet the required dollar amount.

In addition, Measure B, approved by the voters on June 5, 2012, will make changes to retirement benefits when put into effect.

This section is just a summary. The entire provisions can be found in the City's Municipal Code and/or City Charter.

*Part-time and temporary employees **are not eligible** for membership in the City's retirement system, but participate in the "PTC" plan in lieu of Social Security wherein the City and the employee each contribute 3.75% of gross income to a defined contribution retirement account.*

## RETIREE HEALTHCARE

Employees may be eligible to receive retiree healthcare benefits, in accordance with the San Jose Municipal Code.

Effective June 28, 2009, the City and ALP began transitioning from the current partial pre-funding of retiree healthcare benefits to full pre-funding of the Annual Required Contribution (ARC) over a period of five years. The Federated 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).

The cash contribution rate for plan members shall not have an incremental increase of more than 0.75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than 0.75% of pensionable pay in each fiscal year. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

The City and ALP will continue negotiations on Retiree Healthcare during the term of this agreement.

## DEFERRED COMPENSATION PLAN

To supplement retirement income, employees may put aside a percentage of gross taxable income up to a maximum set by Section 457 of the IRS code and have that money placed in investments on a tax-deferred basis.

Please contact Human Resources, Deferred Compensation Division for the current maximum amount that may be deferred.

Assets under this plan are available only upon retirement, separation from City service, or death. Additional contribution options are available to employees age fifty (50) and older and those within three (3) years of retirement.

## HEALTH INSURANCE\*<sup>1</sup>

The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans.

The City shall pay eighty-five percent (85%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for employee or for employee and

<sup>1</sup> Reimbursement/contribution is prorated for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

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.

The following plan design changes shall be implemented for all HMO plans:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

Effective December 23, 2012, 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.

Effective January 1, 2013, the Kaiser 1500 Deductible Plan shall be available to employees, in addition to the existing plan options.

## **DENTAL INSURANCE<sup>2\*</sup>**

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.

For full-time employees, the City will pay 100% of the lowest priced plan for the employee or the employee and dependent coverage. For any other plan, the City will pay 95% for the employee or the employee and dependent coverage.

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.

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<sup>2</sup> Reimbursement/contribution is prorated for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

**HEALTH AND DENTAL IN LIEU**

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

An employee may choose, during open enrollment or within thirty days of a qualifying event, to drop health and/or dental coverage and receive a payment in-lieu equal to one-half of the City's contribution toward health and/or dental coverage.

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

	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.

An employee may choose, during open enrollment or within thirty days of a qualifying event, to drop health and/or dental coverage and receive a payment-in-lieu. To qualify, the employee must prove acceptable alternate group coverage and work 35+ hours/week.

**FLEXIBLE SPENDING ACCOUNTS - MEDICAL/DEPENDENT CARE**

The City participates in Dependent Care Assistance and Medical Reimbursement Programs. Under these programs, employees may put aside up to \$5000 in pre-tax income to pay for eligible dependent care and may set aside up to \$2500 in pre-tax income for eligible medical care.

**LIFE INSURANCE**

The City shall pay the full premium for employee coverage equal to two (2) times the employee's annual salary. Additional employee coverage equal to two (2) times the employee's annual salary, up to \$750,000 of total coverage, is available at employee cost. Dependent coverage is also available at employee cost. Coverage from \$2,000 up to \$10,000 for spouse and/or dependent children is available at employee cost.

*Part-time and temporary employees are not eligible for this benefit.*

## OPTIONAL BENEFITS

Optional benefits are available for employee, spouse/domestic partner<sup>\*\*3</sup> and children at employee expense. These optional benefits include but are not limited to:

- Vision Insurance
- Personal Accident Insurance
- Long Term Care Insurance
- Commute Assistance Program

Please contact Human Resources for more information.

## LONG-TERM DISABILITY

Employees have the option to purchase long-term disability insurance which will subsidize their income in the event of a non-work related injury or illness. The City does not participate in the State Disability Insurance plan. Therefore, if an employee suffers a non-work related injury or illness and is unable to work, the employee would not receive any City compensation.

The City offers employees a choice of two long-term disability plans, one with a 30-day waiting period and another with a 60-day waiting period. Employees must use accrued leave balances to receive compensation during the waiting period when using the long-term disability benefit.

*Temporary employees are not eligible to purchase long-term disability insurance.*

## EMPLOYEE ASSISTANCE PROGRAM

The City recognizes that professional counseling is an important benefit to assist employees in resolving personal and family issues which may otherwise affect the employee's job performance and well being. Through the Employee Assistance Program (EAP), licensed counselors are available to help employees resolve issues and identify strategies for coping with difficult situations.

The City will provide up to five (5) counseling sessions per incident per fiscal year at no cost to the employee.

*Part-time and temporary employees are not eligible for this benefit.*

<sup>3</sup> A domestic partner, as referenced in sections above, must be the domestic partner registered with the Human Resources Department.

## SUBSTANCE ABUSE PROGRAM

It is the policy of the City to maintain a safe, healthful and productive work environment for all employees. The City will act to eliminate any substance abuse which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or tends to undermine public confidence in the City's workforce.

The Substance Abuse Policy prohibits employees from reporting to work under the influence of alcohol or drugs, exhibiting symptoms of alcohol or drug use, using, possessing, selling or providing drugs or alcohol while on duty, and employees shall not have the ability to work or be on paid standby when impaired as a result of the use of alcohol or drugs. Additionally, employees are required to notify their supervisor when any medication or drug they are taking could create an unsafe and dangerous situation. Employees may be requested to submit to a drug and/or alcohol analysis when there is reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol.

The City offers self-referral and rehabilitation/treatment options for employees that may be experiencing a problem with alcohol and/or drug use. The City pays 70% of a first occurrence rehabilitation program and the employee pays 30% as approved by the Employee Assistance Program (EAP).

Please refer to City Policy Manual (CPM) Section 1.4.2 for the complete policy.

*The Substance Abuse Policy applies to all employees; however, part-time and temporary employees **are not eligible** for the Employee Assistance Program benefit.*

## HOLIDAYS<sup>4\*</sup>

Full-time employees receive fourteen (14) paid holidays which include:

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

<sup>4</sup> Reimbursement/contribution is prorated for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

**VACATION**

Vacation accrues at the following rates for each paid hour (either worked or paid absence):

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

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.

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

**VACATION SELLBACK**

ALP represented employees are eligible to sell back one hundred twenty (120) hours of accrued vacation per payroll calendar year.

Effective December 25, 2011, employees may elect to sell back up to a maximum of sixty (60) hours of vacation accrued in 2012 and in accordance with the guidelines set below.

The City shall administer the vacation sellback program as described in the six (6) bullet points listed below:

- ALP represented employees must elect the number of vacation hours they will sell back during 2012, up to the maximum of sixty (60) hours, by November 26, 2011.
- The election to sell back vacation hours in 2012 is **irrevocable**. This means that ALP represented employees must sell back the elected number of accrued vacation hours during 2012.
- ALP represented employees who do not make an election or who do not submit an irrevocable election form to Payroll on or before November 26, 2011, will not be eligible to sell back any vacation hours in 2012.
- ALP represented employees can elect to sell back only vacation hours accrued during 2012, and any vacation hours accrued and carried over prior to 2012 are not eligible for sell back in 2012.

- Any vacation hours accrued in 2012 by ALP represented employees will not be available for use until the employee’s accrued vacation hours in 2012 equal the number of hours the employee has elected to sell back in 2012. Then, only those vacation hours accrued in 2012 over the number of hours an ALP represented employee elected to sell back in 2012 will be available for use by the employee. This means that hours elected for sell back may only be used for sell back purposes and cannot be used for vacation time off purposes.
- ALP represented employees may still use any vacation hours accrued and carried over prior to 2012, subject to the normal rules of requesting use of vacation. Any vacation hours accrued and carried over prior to 2012 are not eligible for sell back.

Effective December 23, 2012 (the first pay period of payroll calendar year 2013), the Vacation Sellback program will be eliminated and no employee will be eligible to sellback any accrued vacation hours.

### **EXECUTIVE LEAVE<sup>5\*</sup>**

Executive leave is a benefit awarded as hours/days off, up to a maximum of forty (40) hours/ five (5) days during a payroll calendar year. Executive Leave is not an accrued benefit and unused leave does not carry over from year to year.

The Management Performance Program (MPP) provides that employees may receive up to forty (40) hours of additional executive leave.

When an employee is hired into a position eligible for executive leave, the leave may be prorated during the first year dependent upon the hire date.

Please refer to CPM section 4.2.4 and 3.3.2 for complete policy guidelines.

### **SICK LEAVE**

Paid sick leave accrues at a rate of .04616 for each paid hour (either worked or paid absence). For a full-time employee, this equals approximately one (1) day per month. Accrued sick leave may be used for the care related to the illness or injury of employee’s child, mother, father, spouse, or domestic partner<sup>\*\*6</sup>.

Up to a total of forty-eight (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

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<sup>5</sup> Reimbursement/contribution is prorated for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

<sup>6</sup> A domestic partner, as referenced in sections above, must be the domestic partner registered with the Human Resources Department.

employee's grandchild, brother, sister, father-in-law, mother-in-law, step-father, step-mother, or step-child.

## SICK LEAVE PAYOUT

Members of the Federated Retirement System who retire with at least fifteen (15) years of service are eligible to receive, upon retirement, payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
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

If employee's balance is greater than 1,200 hours, employee is also eligible for a payout of 75% of the value of sick leave in excess of 1,200 hours that is earned but unused during the two (2) years prior to retirement.

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

*Part-time and temporary employees **are not eligible** for this benefit.*

## MILITARY LEAVE

Persons employed by the City engaging in active military duty for training or other purposes may be provided paid military leave for up to thirty (30) calendar days per fiscal year. In addition, under certain circumstances the City may provide Supplemental Salary and benefits for eligible employees. Please refer to CPM Section 4.2.2 for additional information.

## DISABILITY LEAVE

~~Effective June 26, 2011, if required to be absent from work due to a work related illness or injury, employees may receive a disability leave supplement which, when added to the Workers' Compensation Temporary Disability, equals 85% of the employees' base salary, up to a maximum of three (3) months (520 hours if used intermittently) for any current or future work related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, 2011, will no longer be eligible to receive the supplement.~~

~~After the maximum time limit specified above, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, and (2) accrued Sick Leave once Vacation has been exhausted.~~

~~In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary Effective~~

June 24, 2012, the disability leave supplement is eliminated. Employees will be allowed to integrate accrued vacation and accrued sick leave once vacation has been exhausted.

*Part-time and temporary employees **are not eligible** for this benefit.*

## **LEAVES OF ABSENCE**

Unpaid leaves of absence may be granted for up to twelve (12) months, with possible extension of up to six (6) months. (Employees on unpaid leave may continue their insurance benefits by paying full premiums.)

Please refer to CPM Section 4.2.1 for program details.

## **BEREAVEMENT LEAVE**

Each full-time or benefited part-time employee shall be granted bereavement leave with full pay for up to forty (40) 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<sup>7</sup>.\*\*

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.

- Parent/Step parent
- Spouse/Domestic partner<sup>\*\*7</sup>
- Child/Step child
- Brother/Sister
- Step Brother/Step Sister
- Half Brother/Half Sister
- Grandparent/Step-grandparent
- Grandchild
- Great grandparent
- Son/daughter in-law
- Brother/sister in-law

## **TIME DONATION PROGRAMS**

The City has Time Donation Programs, which allow employees to donate accrued vacation to fellow employees under special circumstances. An employee must meet the criteria established under the Time Donation Policy to receive time donations.

Please refer to CPM Section 4.2.10 for additional information.

<sup>7</sup> A domestic partner, as referenced in sections above, must be the domestic partner registered with the Human Resources Department.

AGENCY SHOP

1. The City of San Jose (“City”) and the Association of Legal Professionals of San Jose (“ALP” or “Association”) enter into this Agreement to implement an Agency Shop agreement pursuant to California Government Code section 3502.5 and other applicable rules or law, including Section 14 entitled “Payroll Deductions” of the City’s Employer-Employee Relations Resolution No. 39367 which is incorporated as though set forth in its entirety herein.

2. Definitions:

a. “Agency Shop,” as used in this Agreement, means “an arrangement that requires an employee, as a condition of employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues and general assessments of the organization, as may be amended from time to time by the Association.” The “service fee” may also be referred to as an “Agency Fee” or “Agency Shop Fee” under the applicable rules and law and in this Agreement.

b. “Agency Fee” collected from non-member bargaining unit employees pursuant to this Agreement shall be limited to ALP’s annual costs for representing such employees. Such amount shall be those amounts for full-time and part-time employees as are certified to the City’s Municipal Employee Relations Officer or designee, from time to time, by the designated officer of the Association as the Agency Fee.

The Agency Fee does not include the amounts used for the Association’s political activity or other categories of expenses deemed as non-chargeable to Association members by applicable law.

c. “City-ALP Agreement” means either a tentative agreement or a memorandum of agreement negotiated and executed by the City and ALP governing the terms and conditions of employment of employees in classifications represented by ALP for a stated period of time, whichever is in effect.

3. This Agreement will be placed in effect thirty (30) calendar days following execution by the Association and the City, and after notice of the Agency Fee has been provided to employees in classifications represented by the Association.

4. Unless otherwise agreed, all applicable dues deductions, Agency Fee, or charitable contributions (if eligible), for the month shall be deducted by the City from wages earned by the employee while in a classification represented by ALP from the first two (2) bi-weekly pay periods each month. All deductions shall be in the bi-weekly amount certified to the City’s Municipal Employee Relations Officer or designee, from time to time by the designated officer of the Association as the regular bi-weekly dues and Agency Fee.

a. Dues Deductions:

(1) The City will deduct from the wages of each employee covered by this Agreement, while such employee is assigned to a classification represented by

ALP, dues uniformly required as a condition of membership, pursuant to the Association’s constitution and by-laws provided that the employee has signed an appropriate dues deduction card (Exhibit A).

(2) Within thirty (30) calendar days of execution of this Agreement (or within thirty (30) calendar days of hire for employees hired after the execution of this Agreement), covered employees will execute written authorization for either Association dues deductions, Agency Fee, or, if eligible, the charitable contribution. In the absence of written authorization, the employee will be deemed an Agency Fee payer and City will deduct the Agency Fee from the employee's paycheck pursuant to this Agreement

(3) Once initiated, dues deductions 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 or designee, with a copy to the Association. The written notice of revocation shall be delivered to the Municipal Employee Relations Officer or designee either in person at the Office of Employee Relations or by regular U.S. Mail, with a copy to the Association.

5. All applicable dues deductions and/or Agency Fee withheld by the City will be transmitted by the City to the treasurer of the Association, or its other designated officer, at the address specified by the Association in writing and accompanied by a list of the employees for whom the deduction was made. The Association agrees that such information and lists will be treated in a confidential manner. The deductions and the list will be remitted to the Association not later than twenty-one (21) calendar days following the pay period in which the deductions were made.

6. Employee Rights:

a. The parties recognize that employees in a classification represented by the Association have the right to join and/or participate, or, alternatively, the equal right to refuse to join and/or participate, in the Association or its lawful activities. Neither party shall discriminate against an employee in the exercise of these alternative rights.

b. Pursuant to an Agency Shop agreement, as provided under State law and this section, employees must either voluntarily join the Association or must pay the Agency Fee; membership in the Association shall not be compulsory. An employee has the right to choose either to:

(1) Become a member of the Association; or

(2) To pay the Association a fee for representation services as described in Section 2(b) above of this Agreement. The amount of the Agency Fee will be a uniform amount established by the Association and limited as provided by law. The amount of the Agency Fee and any changes in the fee will be certified in writing to the City’s Municipal Employee Relations Officer or designee by the President of the Association; or

(3) To refrain from either of the above courses of action upon the grounds set forth in Section 7 below of this Agreement.

7. Employees Exempted from Obligation to Pay Association:

Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment; however:

a. The employee will be required, in lieu of periodic dues, initiation fees, or agency fees, to pay sums equal to dues, initiation fees, or agency fees to a non-religious and non-labor charitable fund exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code, as follows:

(1) The employee may choose the organization from the following list of qualifying organizations designated by the City and Association:

(a) Legal Aid Society of Santa Clara County

(b) Any charity jointly agreed upon by the City and the Association, which charity cannot be affiliated in any manner with the Association or be related to an established religious organization.

(2) If the employee refuses to choose a qualified charity, the employee will be deemed to have selected the Legal Aid Society of Santa Clara County.

(3) Charitable contributions, if applicable, will be transmitted to the applicable charity by the Association.

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

8. The Association will keep an adequate itemized record of its financial transactions and shall make available annually, upon request, to the City and to employees in classifications represented by the Association, within sixty (60) calendar days after the end of its fiscal year, a detailed financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or a certified public accountant, as provided in Government Code section 3502.5(f).

9. Notice of Objection to Association Expenditures:

The Association shall provide an annual written notice to each employee in a classification represented by the Association who is required to pay the Agency Fee. The notice shall include:

a. The amount of the Association dues (if applicable) and the Agency Fee; and

b. The percentage of the Agency Fee amount that is attributable to chargeable expenditures and the basis for this calculation.

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

10. The City and the Association may agree upon a process for the collection and remittance of voluntary dues deductions from represented employees that are in addition to those specified in this Agreement.

11. Rescission of Agency Shop Agreement / Agency Fee:

Pursuant to Government Code Section 3502.5, following implementation, this Agreement (including the Agency Shop) may be rescinded by a majority of all votes cast by the employees in the bargaining unit. Rescission will be subject to all of the following conditions:

- a. A request for such a vote must be supported by a petition, filed with the City's Municipal Employee Relations Officer or designee, containing the signatures of at least thirty (30) percent of the employees in the bargaining unit;
- b. The vote is by secret ballot; and
- c. The vote may be taken at any time during the term of the effective City-ALP Agreement, but, in no event, shall there be more than one (1) vote taken during such term.

12. Indemnification, Defense, and Hold Harmless:

- a. The Association shall indemnify, defend, and hold the City harmless against any and all suits, claims, demands and any other liabilities that may arise out of or by reason of any action that shall be taken or not taken by the City in connection with the City's interpretation, application, administration, or enforcement of any section in this Agreement pertaining to dues deductions and/or Agency Fee. The existence of or extent of any indemnification obligation under this Section shall be subject to the City's grievance procedure or, upon adoption of an agreed-upon grievance procedure in the effective City-ALP Agreement, in accordance with such agreement's grievance procedure, if any.
- b. 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. It is expressly understood and agreed that the Association will refund to the employee any Association dues deductions and/or Agency Fee erroneously withheld from an employee's wages by the City and paid to the Association. In the event the Association fails to refund the dues deductions or Agency Fee 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 Association.

13. The City and the Association have reached an agreement on the above terms in response to the Association’s request for an agency fee agreement and majority support of employees represented by the Association at the City and Association monitored agency shop election on May 2, 2012. This Agreement shall not be effective unless and until executed by both parties. This Agreement shall be incorporated into the City-ALP Agreement.

## COMMENCEMENT OF NEGOTIATIONS

~~It is mutually agreed that the first meeting of the parties will be held in January 2012, after the City or ALP receives a written notice from the other requesting the commencement of negotiations.~~

~~The terms and conditions in this agreement represent the full, complete, and entire understanding of the parties regarding the matters set forth herein. Employees represented by ALP shall receive all of the benefits received by Unit 99 effective June 15, 2010, unless explicitly modified by the Tentative Agreement dated June 15, 2010, and/or by this agreement. It is understood that neither party may require the other party to meet and confer over any subject covered by this agreement except as provided herein. Notwithstanding the foregoing, each party agrees to meet and confer over the following issues within ten (10) days of written notice from the other party:~~

~~1. The Supplemental Retiree Benefit Reserve program.~~

~~2. Retirement Reform including:~~

~~a. Pension and retiree healthcare benefits for future employees,~~

~~b. Pension and retiree healthcare benefits for current employees, including, but not limited to, modification of healthcare (medical or dental) plans available to current employees and/or plan design, to the extent that these benefits fall within the scope of representation.~~

~~3. Sick Leave Payout for current and future employees to the extent that this benefit falls within the scope of representation.~~

~~ALP’s agreement to bargain shall not be considered a waiver, reduction, or modification of vested benefits. Likewise, the City is not waiving any rights it has under the MMBA, including the right to lawfully implement changes to matters within the scope of representation after providing ALP with notice and an opportunity to bargain in good faith and to participate in impasse procedures. Nothing in this section is intended to expand the City’s rights under the MMBA. The City will provide ALP notice of at least fourteen (14) days in advance of the effective date of any change in benefits.~~

~~\* Reimbursement/contribution is prorated for part-time employees based on hours scheduled:~~

- ~~• 30 – 39 hours = 75%~~
- ~~• 25 – 29 hours = 62.5%~~
- ~~• 20 – 24 hours = 50%~~
- ~~• Less than 20 hours = none~~

~~\*\*A domestic partner, as referenced in sections above, must be the domestic partner registered with the Human Resources Department.~~