

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE CITY AND COUNTY OF SAN FRANCISCO**

**AND**

**SAN FRANCISCO DEPUTY PROBATION OFFICERS' ASSOCIATION**

**FISCAL YEAR**

**JULY 1, 2006 - JUNE 30, 2009**

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**ARTICLE I – REPRESENTATION**

**ARTICLE I — REPRESENTATION**

1. This Memorandum of Understanding (hereinafter "Agreement") is entered into by the City and County of San Francisco (hereinafter "City") through its designated representative acting on behalf of the City and the San Francisco Deputy Probation Officers Association (hereinafter "Union"). It is agreed that the delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the City, the Union, and represented employees. Such achievement is recognized to be a mutual obligation of the parties to this Agreement within their respective roles and responsibilities.

**I.A. RECOGNITION**

2. The City acknowledges that the Union has been certified the Civil Service Commission as the recognized employee representative, pursuant to the provisions as set forth in the City's Employee Relations Ordinance for the following classifications:

8444 Deputy Probation Officer

3. The terms and conditions of this Agreement shall be automatically applicable to any classification which is accreted to the unit covered by this Agreement during its term. This Agreement shall not automatically extend to bargaining units for which the Union has established a representative status through affiliations or service agreements. Upon request of the Union, the City will meet and confer concerning proposed changes to bargaining units.

**I.B. INTENT**

4. It is the intent of the parties signatory hereto that the provisions of this Agreement shall not become binding until formally adopted by the Board of Supervisors in accordance with procedures, terms and provisions of the Charter applicable hereto.
5. Each existing ordinance, resolution, rule or regulation over which the Board of Supervisors has jurisdiction pursuant to provisions of the San Francisco Charter, and which is specifically changed or modified by the terms of this Agreement, shall be deemed incorporated in this Agreement in its changed or modified form from the effective date of this Agreement to and including the date of expiration thereof.

**I.C. NO STRIKE PROVISION**

6. It is mutually agreed and understood that during the period this Agreement is in force and effect, the Union will not authorize or engage in any strike, slowdown, or work stoppage.
7. As required by the Charter, represented employees are also bound by the above and to the

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extent required by the Charter, agree not to honor a strike or picket line of any other city employees.

8. The City agrees not to conduct a lockout against any of the employees covered by this Agreement during the term of this Agreement.

### **I.D. MANAGEMENT RIGHTS**

9. It is agreed that the delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the City and its employees. Such achievement is recognized to be a mutual obligation of the parties to this Agreement within their respective roles and responsibilities.
10. Except as otherwise provided herein, in accordance with applicable state law, nothing herein shall be construed to restrict any legal City rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the City.
11. The City shall also have the right to determine the mission of its constituent departments, officers, boards and commissions; set standards of services to be offered to the public and exercise control and discretion over the City's organization and operations. The City may also relieve City employees from duty due to lack of work or funds, and may determine the methods, means, and personnel by which the City's operations are to be conducted.
12. The Union recognizes the City's right to establish and/or revise performance levels, standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedures, may be used to determine acceptable performance levels, prepare work schedules, and to measure the performance of each employee or group of employees. The City shall meet and confer prior to the implementation of any production quotas.
13. Employees who work at less than acceptable levels of performance may be subject to disciplinary measures in accordance with applicable Charter provisions and rules and regulations of the Civil Service Commission.

### **I.E. NOTICE AND MEET AND CONFER**

14. The City recognizes that many actions within the scope of its managerial prerogative may have an impact on the wages, hours, benefits and other terms and conditions of employment of the Deputy Probation Officers. For this reason, the City agrees to provide written notice to the Association of any proposed action that will impact the wages, hours, benefits and other terms and conditions of employment of the Deputy Probation Officers. The City will use its

## **ARTICLE I – REPRESENTATION**

best efforts to provide this written notice to the Association at least seven (7) calendar days before the effective date of such proposed action.

15. If the Association submits a written request within four (4) calendar days of the City's written notice of a proposed action, the City shall meet and confer in good faith with the Association regarding the impact of the proposed action on the Deputy Probation Officers.
16. This provision does not require the City to agree to modify its planned action. The sole obligation of the City under this provision will be to provide written notice to the Association of any proposed action that will impact the wages, hours, benefits and other terms and conditions of employment of the Deputy Probation Officers, and to meet and confer about the proposed action in good faith with the Association if the Association timely submits a written request to meet and discuss the proposed action.

### **I.F. LABOR/MANAGEMENT COMMITTEE**

17. The City and the Association agree to establish a Labor/Management Committee at each department (one at Adult Probation and one at Juvenile Probation) for fiscal years 2006-2007, 2007-2008 and 2008-2009. The Adult Probation Committee will consist of up to three (3) management representatives from Adult Probation and up to three (3) Association representatives who work at Adult Probation. The Juvenile Probation Committee will consist of up to three (3) management representatives from Juvenile Probation and up to three (3) Association representatives who work at Juvenile Probation. Bargaining unit members selected to participate on the Committee will be given release time for up to two (2) hours to participate in each regularly scheduled Committee meeting.
18. In an effort to promote effective and efficient delivery of services by the Department, each Committee will meet, share information, and discuss issues including: proposed methods of fostering better cooperation and communication, areas of mutual concern and proposed solutions to those concerns, and matters relating to equipment and workplace health and safety.
19. The parties agree that the Committees will not have the authority to add to, subtract from, or in any way alter the terms and conditions set forth in this Agreement. The Committee shall have no right to determine issues under the exclusive jurisdiction of the Civil Service Commission. Finally, the parties agree that the Committee will not discuss matters relating to pending grievances, discipline or individual performance issues.
20. Each Committee will meet bi-monthly, or more frequently by mutual agreement. Each Committee will set its meeting schedule; however, absent mutual agreement by the parties, each Committee's bi-monthly meetings shall be scheduled no later than the last week in months August, October, December, February, April and June in fiscal years 2006-2007, 2007-2008 and 2008-2009. During fiscal year 2006-2007, the first bimonthly Juvenile

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Probation Committee meeting shall be scheduled on or about August 25, 2006; and the first bimonthly Adult Probation Committee meeting shall be scheduled on or about August 28, 2006.

21. The parties agree to exchange a written agenda of issues to be discussed at least seven (7) calendar days before the scheduled Committee meeting.
22. The Labor/Management Committee at Juvenile Probation will address issues relative to the Department's interaction with the Court.

### **I.G. GRIEVANCE PROCEDURES**

23. 1. The following procedures are adopted by the Parties to provide for the orderly and efficient disposition of grievances and are the sole and exclusive procedures for resolving grievances as defined herein.
24. 2. A grievance is defined as an allegation by an employee, a group of employees or the Union that the City has violated, misapplied or misinterpreted a term or condition of employment provided in this Agreement, or divisional departmental or City rules, policies or procedures subject to the scope of bargaining and arbitration pursuant to Charter Section A8.409 et. seq.
25. A grievance does not include the following:
  26. a. All civil service rules excluded pursuant to Charter Section A8.409-3.
  27. b. Performance evaluations, provided, however, that employees shall be entitled to submit written rebuttals to unfavorable performance evaluations. Said rebuttal shall be attached to the performance evaluation and placed in the employee's official personnel file.
  28. In the event of an unfavorable performance rating, the employee shall be entitled to a performance review conference with the author and the reviewer of the performance evaluation. The employee shall be entitled to Union representation at said conference.
  29. c. Written reprimands, provided however, that employees shall be entitled to append a written rebuttal to any written reprimand. The appended rebuttal shall be included in the employee's official personnel file. Employees are required to submit written rebuttals within thirty (30) calendar days from the date of the reprimand.

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### 3. Time Limits

30. The time limits set forth herein may be extended by agreement of the parties. Any such extension must be confirmed in writing. A "working day" is defined as any Monday through Friday, excluding legal holidays granted by the City and County of San Francisco.

### 4. Steps of the Procedure

31. a. Except for grievances involving multiple employees or discipline, all grievances must be initiated at Step 1 of the grievance procedure. A grievance affecting more than one employee shall be filed with the management official having authority over all employees affected by the grievance. In the event the City disagrees with the level at which the grievance is filed it may submit the matter to the Step it believes is appropriate for consideration of the dispute.

b. Step 1:

32. An employee shall discuss the grievance informally with his/her immediate supervisor as soon as possible but, in no case, later than twenty (20) working days from the date of the occurrence of the act or the date the grievant might reasonably have been expected to have learned of the alleged violation being grieved. The grievant may have a Union representative present.

33. If the grievance is not resolved within five (5) working days after contact with the immediate supervisor, the grievant will submit the grievance in writing to the immediate supervisor on a mutually agreeable grievance form. The grievance will set forth the name(s) of the employee or group of employees, the facts of the grievance, the terms and conditions of employment claimed to have been violated, misapplied or misinterpreted, and the remedy or solution being sought by the grievant. The immediate supervisor shall respond in writing within seven (7) working days following receipt of the written grievance.

c. Step 2:

34. A grievant dissatisfied with the immediate supervisor's response at Step 1 may appeal to the intermediate supervisor, in writing, within seven (7) working days of receipt of the Step 1 answer. The intermediate supervisor will convene a grievance meeting within ten (10) working days of receipt to discuss the grievance with the grievant and/or the grievant's Union



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representative. Within ten (10) working days following the meeting the intermediate supervisor will respond in writing to the grievance.

d. Step 3:

35. A grievant dissatisfied with the intermediate supervisor's response at Step 2 may appeal to the Appointing Officer, in writing, within ten (10) working days of receipt of the Step 2 answer. The Appointing Officer may convene a meeting within ten (10) working days with the grievant and/or the grievant's Union representative. The Appointing Officer shall respond in writing within fifteen (15) working days of the hearing or receipt of the grievance, whichever is later.

e. Step 4:

36. A grievant dissatisfied with the Appointing Officer's response at Step 3 may appeal to the Director, Employee Relations, in writing, within fifteen (15) working days of receipt of the Step 3 answer. The Director may convene a grievance meeting within ten (10) working days with the grievant and/or the grievant's Union. The Director shall respond to the grievance in writing within ten (10) working days of the meeting or, if none is held, within ten (10) working days of receipt of the appeal.

f. Arbitration:

37. If the Union is dissatisfied with the Step 4 answer, it may appeal by notifying the Director, Employee Relations, in writing, within twenty (20) working days of the 4th Step decision that arbitration is being invoked.

5. Selection of the Arbitrator

a. For non-disciplinary grievances

38. 1. The parties shall establish a list of seven (7) arbitrators to serve as the permanent panel to hear grievances arising under the terms of this Agreement. In the event the parties cannot agree on the panel within thirty (30) days following the effective date of this Agreement, either party may obtain a panel through the appointment process of the State Mediation and Conciliation Service. Provided, however, that an arbitrator may be removed from the panel by mutual consent at any time. Replacements, in the absence of mutual agreement, shall be made by the State Mediation and Conciliation Service.

39. 2. When a matter is appealed to arbitration the parties shall first attempt to mutually agree on an arbitrator. In the event no agreement is

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reached within five (5) working days, the arbitrator shall be selected in accordance with one of the following procedures.

- 40. A. From the permanent panel in accordance with the following procedure:
- 41. a. The Arbitrators Listed in Appendix A shall be listed in alphabetical order. The case shall be assigned to the next arbitrator in order, provided, however, that each party shall be entitled to one strike.
- 42. b. The arbitrator next in order following any strike options exercised by the parties shall be designated to hear the case.
- 43. c. In the event that either party strikes an arbitrator's name from the list in accordance with this section, the struck arbitrator's name shall be placed at the bottom of the list. Once struck, the same party may not again strike that arbitrator's name until the arbitrator has been selected.
- 44. or, by mutual agreement,
- 45. B. From the list of arbitrators from the State Conciliation and Mediation Service; by alternatively striking names following a coin flip to determine which party strikes first, with the last arbitrator remaining being selected.

Discipline/Discharge Grievances

6. Steps of the Procedure (Disciplinary Grievances)

- 46. a. The City shall have the right to discipline any non-probationary permanent, temporary civil service, or provisional employee who has served the equivalent of a probationary period for just cause. As used herein "discipline" shall be defined as discharge, suspensions and disciplinary demotion. In lieu of an unpaid suspension, the City may at its option impose a temporary reduction in pay by reducing an employee's pay by 5% or to the next lower pay step. The duration of such pay reduction shall depend on the seriousness of the offense. This section shall not apply to exempt employees.
- 47. b. The City of San Francisco subscribes to the policy of progressive discipline. Accordingly, in instances where the misconduct or poor performance is not in and of itself serious enough to warrant suspension or discharge, supervisors should follow a progressive approach to discipline. Time factors between

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infractions of a similar nature should be taken in account when disciplinary action is considered.

48. c. With the exception of exempt employees, suspensions, temporary reductions in pay, disciplinary demotions and discharges of non-probationary permanent, temporary civil service and provisional employees who have served the equivalent of a probationary period shall be subject to the following procedure:
49. 1. The employee shall receive written notice of the recommended disciplinary action, including the reasons and supporting documentation, if any, for the recommendation.
50. 2. The employee and any representative shall be afforded a reasonable amount of time to respond orally or in writing to the management official designated by the City to consider the reply.
51. 3. The employee shall be notified in writing of the decision based upon the information contained in the written notification, the employee's statements, and any further investigation occasioned by the employer's statements. The employee's representative shall receive a copy of this decision.
52. d. Disciplinary action, as defined herein, may be appealed to the Employee Relations Director. An appeal will be timely if received or postmarked within fifteen (15) working days of the issuance of the Departmental decision. The Director, ERD, shall review the appeal and issue a final City decision no later than fifteen (15) days following receipt of the appeal.
53. e. If the decision of the Director, ERD, is unsatisfactory only the Union may file a written appeal to arbitration with the ERD no later than fifteen (15) working days following issuance of the final City decision.
- f. For disciplinary grievances:
54. The parties agree that disciplinary grievances shall be heard in accordance with the following procedures, as appropriate:
1. Expedited Arbitration
55. Suspensions up to and including fifteen (15) days shall be processed through an expedited arbitration proceeding. By mutual written

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agreement entered into, before or during Step III of the grievance procedure, the parties may submit other grievances to this expedited arbitration process. The expedited arbitration shall be before an arbitrator to be mutually selected by the parties who shall serve until the parties mutually agree to remove him/her or for twelve (12) months, whichever comes first. Alternatively, at the time of the selection of the arbitrator, either party may request a list of seven (7) appropriately experienced arbitrators from the State Conciliation and Mediation Service from which the arbitrator will be selected by the method of striking names. The parties shall not use briefs. Every effort shall be made to have bench decisions followed up by written decisions. These decisions will be final and binding, and shall not be used in any other cases except those of the grievant involved. Transcription by a certified court reporter shall be taken but shall be transcribed only at the direction of the arbitrator.

56. Each party shall bear its own expenses in connection therewith. All fees and expenses of the arbitrator and court reporter and report, if any, shall be borne and paid in full and shared equally by the parties.
57. In the event that an expedited arbitration hearing is canceled resulting in a cancellation fee, the party initiating the request or causing the cancellation shall bear the full cost of the cancellation fee, unless a mutually agreed upon alternative is established.
58. 2. Suspensions of more than fifteen (15) days and discharge grievances shall be heard by an arbitrator selected in accordance with the procedures in paragraphs 41-45, provided however that the parties may mutually agree to submit any grievance (contract interpretation or disciplinary) to the expedited procedure.
7. Authority of the Arbitrator
59. The arbitrator shall have no authority to add to, ignore, modify or amend the terms of this Agreement.
8. Fees and Expenses of Arbitration
60. The fees and expenses of the Arbitrator shall be shared equally by the parties. Transcripts shall not be required except that either party may request a transcript provided, however, that the party making such a request shall be solely responsible for the cost. Direct expenses of the arbitration shall be borne equally by the parties.

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9. Hearing Dates and Date of Award
61. Except for the expedited procedure described above, hearing shall be scheduled within thirty (30) working days of selection of an arbitrator. Awards shall be due within thirty (30) working days following the receipt of closing arguments. As a condition of appointment to the permanent panel arbitrators shall be advised of this requirement and shall certify their willingness to abide by these time limits.
62. 10. Any claim for monetary relief shall not extend more than twenty (20) working days prior to the filing of a grievance, unless considerations of equity or bad faith to justify a greater entitlement.
63. 11. In the event a grievance is not filed or appealed in a timely manner, it shall be dismissed. Failure of the City to timely reply to a grievance shall authorize appeal to the next grievance step.

### **I.H. OFFICIAL REPRESENTATIVES AND STEWARDS**

1. Official Representatives
64. The Union may select up to the number of employees as specified in the Employee Relations Ordinance for purposes of meeting and conferring with the City on matters within the scope of representation. If a situation should arise where the Union believes that more than five (5) employee members should be present at such meetings and the City disagrees, the Union shall take the matter up with the Employee Relations Director and the parties shall attempt to reach agreement as to how many employees shall be authorized to participate in said meetings.
65. a. The organization's duly authorized representative shall inform in writing the department head or officer under whom each selected employee member is employed that such employee has been selected.
66. b. No selected employee member shall leave the duty or work station, or assignment without specific approval of appropriate Employer representative.
67. In scheduling meetings due consideration shall be given to the operating needs and work schedules of the department, division, or section in which the employee members are employed.

## **ARTICLE I – REPRESENTATION**

### **2. Stewards**

68. a. The Union shall furnish the City with an accurate list of stewards. The Union may submit amendments to this list at any time. If a steward is not officially designated in writing by the Union, none will be recognized for that area or shift.
69. b. The Union recognizes that it is the responsibility of the steward to assist in the resolution of grievances at the lowest possible level.
70. c. Upon notification of an appropriate management person, stewards or designated officers of the Union subject to management approval which shall not be unreasonably withheld, shall be granted reasonable release time to investigate and process grievances and appeals. Stewards shall advise their supervisors of the area or work location where they will be investigating or processing grievances. The Union will attempt to insure that steward release time will be equitably distributed.
71. In emergency situations, where immediate disciplinary action is taken because of an alleged violation of law or a City departmental rule (intoxication, theft, etc.) the steward shall not unreasonably be denied the right to leave his/her post or duty to assist in the grievance procedure.
72. d. Stewards shall not interfere with the work of any employee. It shall not constitute interference with the work of an employee for a steward, in the course of investigating or processing a grievance, to interview an employee during the employee's duty time.
73. e. Stewards shall orient new employees on matters concerning employee rights under the provisions of the Agreement.

## **II. AGENCY SHOP**

### **1. Application**

74. Except as provided otherwise herein, the provisions of this section shall apply to all employees of the City in all classifications represented by the Union in represented units when on paid status. These provisions shall not apply to individual employees of the City in represented units who have been properly and finally determined to be management, confidential or supervisory employees pursuant to Section 16.208 of the Employee Relations Ordinance. Except when an individual employee has filed a challenge to a management, confidential or supervisory designation, the Employee

## ***ARTICLE I – REPRESENTATION***

Relations Director and the Union shall meet as necessary for the purpose of attempting to make such determinations by mutual agreement. The Employee Relations Director shall give the Union no less than ten (10) working days prior notice of any such proposed designation. Disputes regarding such designations shall be promptly resolved pursuant to Section 16.208 (B) of the Employee Relations Ordinance.

### **2. Implementation**

75. An agency shop shall be implemented within representation units or subunits when:

#### **a. Election**

76. The Union has requested, in writing, an election on the issue, to be conducted by the State Conciliation Service and 50% plus one of those voting favor agency shop; or

#### **b. 2/3 Membership**

77. The Union makes a showing that 2/3 of the employees within the unit or subunit are dues paying members of the Union; or

#### **c. New Employees**

78. The Union requests, in writing, an agency shop be implemented for all employees hired after a date to be agreed to by the Union and the Employee Relations Division.

### **3. Service Fee**

79. Upon such an event occurring, employees of the City in the particular unit or subunit, except as set forth below, shall, as a condition of continued employment, become and remain a member of the Union, or in lieu thereof, shall pay a service fee to the Union. The fair share service fee payment shall be established annually by the Union, provided that such fair share agency shop service fee will be used by the Union only for the purposes permitted by law.

### **4. Financial Reporting**

80. Annually, the Union will provide an explanation of the fee and sufficient financial information to enable the fair share service fee payer to gauge the appropriateness of the fee. The Union will provide a reasonably prompt opportunity to challenge the

## ***ARTICLE I – REPRESENTATION***

amount of the fee before an impartial decision maker not chosen by the Union and will make provision for an escrow account to hold amounts reasonably in dispute while challenges are pending.

### **5. Religious Exemption**

81. Any employee of the City in a classification described in Item 1 hereof, who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organizations and is recognized by the National Labor Relations Board to hold such objections to Union membership, shall upon presentation of membership and historical objection satisfactory to the City and the Union be relieved of any obligation to pay the required service fee.

### **6. Payroll Deduction**

82. The Union shall provide the Employee Relations Director and the City Controller with a current statement of membership fees. Such statement of membership fees shall be amended as necessary. The Controller may take up to thirty (30) days to implement such changes. Effective the second complete pay period commencing after the election or request or showing described in (b) and each pay period thereafter, the Controller shall make membership fee or service fee deductions, as appropriate, from the regular periodic payroll warrant of each City employee described in (a) thereof, and each pay period thereafter, the Controller shall make membership fee or service fee deductions, as appropriate, from the regular payroll warrant of each such employee. Nine (9) working days following payday the Controller will promptly pay over to the Union all sums withheld for membership or service fees.

### **7. Employee Lists**

83. The Controller shall also provide with each payment a list of employees paying membership fees and a list of employees paying service fees. All such lists shall contain the employee's name, employee number, classification, department number and amount deducted.
84. A list of all employees in represented classes shall be provided to the Union monthly. Nothing in this section shall be deemed to have altered the City's current obligation to make insurance program or political action deductions when requested by the employee.



**ARTICLE I – REPRESENTATION**

8. Indemnification

85. The Union agrees to indemnify and hold the City harmless for any loss or damage arising from the operation of this section.

9. Hudson Compliance

86. The Union shall comply with the requirements set forth in Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986) for the deduction of agency shop fees. Annually, the Union shall certify in writing to the City that the Union has complied with the requirements set forth in this section and in Hudson, 475 U.S. 292.

**I.J. PERSONNEL FILES**

87. Written reprimands will not be considered for purposes of promotions, transfer, special assignments, or discipline for future infractions after the employee has maintained a record without discipline for a period of two (2) years. Disciplinary suspensions will not be considered for purposes of promotion, transfer, or special assignments after the employee has maintained a record without discipline for a period of four (4) years.

88. This provision shall not apply to employees disciplined for: misappropriating public funds or property; misusing or destroying public property; using illicit drugs at work or being under the influence of illicit drugs or alcohol at work; engaging in acts that would constitute a felony or misdemeanor involving moral turpitude; engaging in acts that present an immediate danger to the public health and safety; or mistreatment of persons, including retaliation, harassment or discrimination of other persons based on characteristics protected under federal, state or local law.

**ARTICLE II – EMPLOYMENT CONDITIONS**

**ARTICLE II — EMPLOYMENT CONDITIONS**

**II.A. PROBATIONARY PERIOD**

89. Except as provided herein, the probationary period shall be one year, as defined and administered by the Civil Service Commission.
90. An employee who has served at least one (1) continuous year of regular service as a Class 8444 Deputy Probation Officer on a provisional basis and who, without a break in service and under the same appointing officer, obtains permanent status as a Class 8444 Deputy Probation Officer, shall serve a six (6) month probationary period, as defined and administered by the Civil Service Commission.

**II.B. BULLETIN BOARDS**

91. Reasonable space may be allowed on bulletin boards for use by the Union to communicate with its employees for Union-related matters.

**II.C. SUBCONTRACTING**

1. "Prop J." Contracts

92. a. The City agrees to notify the Union no later than the date a department sends out Requests for Proposals when contracting out of a City service and authorization of the Board of Supervisors is necessary in order to enter into said contract.
93. b. Upon request by the Union, the City shall make available for inspection any and all pertinent background and/or documentation relating to the service contemplated to be contracted out.
94. c. Prior to any final action being taken by the city to accomplish the contracting out, the City agrees to hold informational meetings with the Union to discuss and attempt to resolve issues relating to such matters including, but not limited to,
95. 1. possible alternatives to contracting or subcontracting;
96. 2. questions regarding current and intended levels of service;
97. 3. questions regarding the Controller's certification pursuant to Charter Section 8.300-1;

## **ARTICLE II – EMPLOYMENT CONDITIONS**

98. 4. questions relating to possible excessive overhead in the City's administrative-supervisory/worker ratio; and
99. 5. questions relating to the effect on individual worker productivity by providing labor saving devices;
100. d. The City agrees that it will take all appropriate steps to insure the presence at said meetings of those officers and employees (excluding the Board of Supervisors) of the City who are responsible in some manner for the decision to contract so that the particular issues may be fully explored by the Union and the City.

### **2. Personal Services Contracts**

101. a. Departments shall notify the Union of proposed personal services contracts where such services could potentially be performed by represented classifications. Such notification shall occur no later than the date a department sends out requests for proposals.
102. b. If the Union wishes to meet with a department over a proposed personal services contract, the request must be made by the Union to the Human Resources Director with a copy forwarded to the appropriate department within two weeks after the receipt of notice by the Department.
103. c. Discussions shall include, but not be limited to, possible alternatives to contracting or subcontracting and whether the department staff has the expertise and/or facilities to perform the work. Upon request by the Union, the City shall make available for inspection any and all pertinent background and/or documentation relating to the service contemplated to be contracted out.

### **II.D. NONDISCRIMINATION PROVISION**

104. The City and the Association acknowledge and agree that the City is required to comply with the California Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1963, and other applicable federal, state and local laws prohibiting discrimination, harassment and retaliation. The City and the Association agree that, pursuant to the City's obligations under those state, federal and local laws, no bargaining unit member employed by the City shall in any way be discriminated or retaliated against or harassed because of race, color, national origin, religion, sex, physical or mental disability,

## **ARTICLE II – EMPLOYMENT CONDITIONS**

age, sexual preference, Association activity or membership, or other protected legal classification. The parties agree that this Memorandum shall be interpreted, administered and applied in a manner consistent with the California Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1963, and other applicable federal, state and local laws prohibiting discrimination, harassment and retaliation.

105. The City and the Association acknowledge and agree that allegations of discrimination in areas under the jurisdiction of the Civil Service Commission, as defined by the Charter, shall only be addressed through the Civil Service Commission and shall not be subject to the grievance provisions of this Agreement.

106. Except as set forth above, in the event that a member of the bargaining unit believes that the City has violated this nondiscrimination provision, that employee may grieve that claimed violation pursuant to the grievance procedures of this Agreement, subject to the following: The Association acknowledges and agrees that it will not advance any grievance under this provision to arbitration unless the employee knowingly and voluntarily executes a complete, mutually agreeable waiver of all claims and causes of action arising from the same factual allegations, including but not limited to a waiver of claims under the California Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1963, and other applicable federal, state and local laws prohibiting discrimination, harassment and retaliation.

### **II.E. AMERICANS WITH DISABILITIES ACT**

107. The parties agree that they are required to provide reasonable accommodations for persons with disabilities in order to comply with the provisions of Federal, State and local disability anti-discrimination statutes and the Fair Employment and Housing Act. The parties further agree that this Agreement shall be interpreted, administered and applied so as to respect the legal rights of the parties. The City reserves the right to take any action necessary to comply therewith.

### **II.F. MAINTENANCE AND CHARGES**

108. Charges and deductions for all maintenance, such as housing, meals, laundry, etc., furnished to and accepted by employees shall be made on time rolls and payrolls in accordance with a schedule of maintenance charges fixed and determined in the Annual Salary Ordinance.

### **II.G. TRAVEL EXPENSES**

109. Travel expenses for City employees living in the City and County of San Francisco, assigned

***ARTICLE II – EMPLOYMENT CONDITIONS***

to duty outside the City and county of San Francisco limits, shall be paid travel allowance as provided by Administrative Code Section 16.94. Employees using their own vehicle for City business shall be reimbursed for expenses incurred at the rate and in accordance with the Internal Revenue Service guidelines.

**ARTICLE III – PAY, HOURS AND BENEFITS**

**ARTICLE III — PAY, HOURS AND BENEFITS**

**III.A. WAGES**

110. Wages:
- a. Effective December 30, 2006, all members of the bargaining unit shall receive a COLA of two and a half percent (2.5%).
  - b. Effective June 28, 2008, all members of the bargaining unit shall receive a COLA of two percent (2.0%).
  - c. Effective December 27, 2008, all members of the bargaining unit shall receive a COLA of three and a half percent (3.5%).

**III.B. WORK SCHEDULES**

1. NORMAL WORK SCHEDULES

111. a. Unless otherwise provided, a normal work day is a tour of duty of eight (8) hours completed within not more than nine (9) hours.
112. b. All classifications of employees having a normal work day of eight (8) hours within nine (9) hours may voluntarily work in flex-time programs authorized by appointing officers and may voluntarily work more than or less than eight (8) hours within twelve (12) hours, provided, that the employee must work five (5) days a week, eighty (80) hours per payroll period, and must execute a document stating that the employee is voluntarily participating in a flex-time program and waiving any rights he or she may have on the same subject.
113. c. Subject to meet and confer, the City and the Association may enter into cost equivalent alternative work schedules for some or all represented employees. Such alternate work schedules may include a full-time work week of less than five (5) days; or a combination of features mutually agreeable to the parties. Such changes in the work schedule shall not alter the basis for, nor entitlement to, receiving the same rights and privileges as those provided to employees on a normal work week as described in paragraph 1.d. below.
114. d. A normal work week is a tour of duty on each of five consecutive days. However, employees who are moving from one shift or one work schedule to another may be required to work in excess of five consecutive working days

**ARTICLE III – PAY, HOURS AND BENEFITS**

in conjunction with changes in their work shifts or schedules.

e. Exceptions:

115. 1. The 20-20 Educational Program.
116. 2. Specially funded training programs approved by the Department of Human Resources.
117. 3. Educational and Training Courses - Regular permanent civil service employees may, on a voluntary basis with approval of appointing officer, work a forty-hour week in six days when required in the interest of furthering the education and training of the employee.
118. 4. Employees shall receive no compensation when properly notified (2hr. notice) that work applicable to the classification is not available because of inclement weather conditions, shortage of supplies, traffic conditions, or other unusual circumstances. Employees who are not properly notified and report to work and are informed no work applicable to the classification is available shall be paid for a minimum of two hours.
119. 5. Employees who begin their shifts and are subsequently relieved of duty due to the above reasons shall be paid a minimum of four hours, and for hours actually worked beyond four hours, computed to the nearest one-quarter hour.
120. 6. Work schedules: 1) On operations conducted at remote locations where replacements are not readily available, or on operations involving changes in shifts, or when other unusual circumstances warrant, the appointing officer with the approval of the Civil Service Commission, may arrange work schedules averaging five (5) days per week over a period of time, but consisting of more than five (5) consecutive days per week with the accumulation of normal days off to be taken at a later date. Such schedules shall be the normal work schedules for such operations.
121. 7. Citywide Voluntary Reduced Work Week: Employees in any classification, upon the recommendation of the appointing officer and subject to the approval of the Human Resources Director, may voluntarily elect to work a reduced work week for a specified period of time. Such reduced work week shall not be less than twenty (20)

**ARTICLE III – PAY, HOURS AND BENEFITS**

hours per week nor less than three (3) continuous months during the fiscal year. Pay, Vacation, Holidays and Sick Pay shall be reduced in accordance with such reduced work week.

122. 8. Voluntary Time off Program. The mandatory furlough provisions of the CSC Rules shall not apply to covered employees.
- a) General Provisions:
123. Upon receipt of a projected deficit notice from the Controller, an appointing officer shall attempt to determine, to the extent feasible and with due consideration for the time constraints which may exist for eliminating the projected deficit, the interest of employees within the appointing officer's jurisdiction in taking unpaid personal time off on a voluntary basis.
124. The appointing officer shall have full discretion to approve or deny requests for voluntary time off based on the operational needs of the department and any court decrees or orders pertinent thereto. The decision of the appointing officer shall be final except in cases where requests for voluntary time off in excess of ten (10) working days are denied.
- b) Restrictions of Use of Paid Time Off While On Voluntary Time Off:
125. (1) All voluntary unpaid time off granted pursuant to this section shall be without pay.
126. (2) Employees granted voluntary unpaid time off are precluded from using sick leave with pay credits, vacation credits, compensatory time off credits, floating holidays, training days or any other form of pay for the time period involved.
- c) Duration and Revocation of Voluntary Unpaid Time Off:
127. Approved voluntary time off taken pursuant to this section may not be changed by the appointing officer without the employee's consent.



## **ARTICLE III – PAY, HOURS AND BENEFITS**

### **2. PART-TIME WORK SCHEDULE**

128. A part-time work schedule is a tour of duty of less than forty hours per week.

### **III.C. COMPENSATIONS FOR VARIOUS WORK SCHEDULES**

#### **1. Normal Work Schedule**

129. Compensation fixed herein on a per diem basis are for a normal eight hour work day; and on a bi-weekly basis for a bi-weekly period of service consisting of normal work schedules.

#### **2. Part-Time Work Schedules**

130. Salaries for part-time services shall be calculated upon the compensation for normal work schedules proportionate to the hours actually worked.

### **III.D. ADDITIONAL COMPENSATION**

131. Each premium shall be separately calculated against an employee's base rate of pay. Premiums shall not be pyramided.

#### **1. NIGHT DUTY**

132. Employees shall be paid eight (8%) percent more than the base rate for hours worked between 5:00 P.M. and 7:00 A.M., for the hours actually worked between 5:00 P.M. and 7:00 A.M., excepting those employees participating in an authorized flex-time program who voluntarily work between the hours of 5:00 P.M. and 7:00 A.M. The above night shift compensation shall only apply when employees are required, as part of their regularly scheduled work shift, to work at least one (1) hour of their shift between the hours of 5:00 P.M. and 7:00 A.M.

#### **2. INTERPRETER - TRANSLATOR PAY**

133. a. Employees who are assigned by their Department to a "Designated Bilingual Position", and approved by the Department of Human Resources, shall be granted additional compensation of twenty-five (\$25.00) dollars per week. A "Designated Bilingual Position" is one designated by the Department which requires translating to and from a foreign language including sign language as used by the deaf, a minimum of five (5) hours weekly.

134. b. Consistent with and subject to the provisions of a Memorandum of

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Understanding between any recognized employee organization and the City and County of San Francisco, this additional compensation may instead be paid to employees who are assigned by their Department to a "Designated Bilingual Position", and approved by the Department of Human Resources, at the rate of fifty (\$50) dollars bi-weekly for translating (as defined) a minimum of ten (10) hours bi-weekly.

135. c. The additional compensation provided for in this section shall apply only during time actually worked and shall not be paid for translation or interpreter services that are an expected duty of an employee's job classification.

3. SUPERVISORY DIFFERENTIAL ADJUSTMENT

136. The Human Resources Director is hereby authorized to adjust the compensation of a supervisory employee whose schedule of compensation is set herein subject to the following conditions:

137. a. The supervisor, as part of the regular responsibilities of his/her class, supervises, directs, is accountable for and is in responsible charge of the work of a subordinate or subordinates.

138. b. The organization is a permanent one approved by the appointing officer, Board or Commission, where applicable, and is a matter of record based upon review and investigation by the Department of Human Resources.

139. c. The classifications of both the supervisor and the subordinate are appropriate to the organization and have a normal, logical relationship to each other in terms of their respective duties and levels of responsibility and accountability in the organization.

140. d. The compensation schedule of the supervisor is less than one full step (approximately 5%) over the compensation schedule, exclusive of extra pay, of the employee supervised. In determining the compensation schedule of a classification being paid a flat rate, the flat rate will be converted to a bi-weekly rate and the compensation schedule the top step of which is closest to the flat rate so converted shall be deemed to be the compensation schedule of the flat rate classification.

141. e. The adjustment of the compensation schedule of the supervisor shall be to the nearest compensation schedule representing, but not exceeding, one full step (approximately 5%) over the compensation schedule, exclusive of extra pay, of the employee supervised.

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142. f. If the application of this Section adjusts the compensation schedule of an employee in excess of his/her immediate supervisor, the pay of such immediate supervisor covered by this agreement shall be adjusted to an amount \$1.00 bi-weekly in excess of the base rate of his/her highest paid subordinate, provided that the applicable conditions under paragraph "F" are also met.
143. g. The decision of the Department of Human Resources as to whether the compensation schedule of a supervisory employee shall be adjusted in accordance with this section shall be final and shall not be subject to grievance.
144. h. Compensation adjustments are effective retroactive to the beginning of the current fiscal year of the date in the current fiscal year upon which the employee became eligible for such adjustment under these provisions.
145. To be considered, requests for adjustment under the provisions of this section must be received in the offices of the Department of Human Resources not later than the end of the current fiscal year.
146. i. In no event will the Human Resources Director approve a supervisory salary adjustment in excess of 2 full steps (approximately 10%) over the supervisor's current basic compensation. If in the following fiscal year a salary inequity continues to exist, the Appointing Officer may again review the circumstances and may grant an additional salary adjustment not to exceed 2 full steps (approximately 10%).
147. j. It is the responsibility of the appointing officer to immediately notify the Department of Human Resources of any change in the conditions or circumstances that were and are relevant to a request for salary adjustment under this section either acted upon by or pending.
148. k. An employee shall be eligible for supervisory differential adjustments only if they actually supervise the technical content of subordinate work and possess education and/or experience appropriate to the technical assignment.

**4. STANDBY PAY**

149. Employees who, as part of the duties of their positions are assigned in writing by the appointing officer to standby when normally off duty to be instantly available on call to perform their regular duties, shall be paid twenty-five (25) percent of their regular straight time rate of pay for the period of such standby service, except that employees

### **ARTICLE III – PAY, HOURS AND BENEFITS**

shall be paid ten (10) percent of their regular straight time rate of pay for the period of such standby service when outfitted by their department with an electronic paging device. When such employees are called to perform their regular duties in emergencies during the period of such standby service, they shall be paid while engaged in such service at the usual rate of pay. However, standby pay shall not be allowed in positions whose duties are primarily administrative in nature.

#### **5. CALL BACK**

150. Employees (except those at remote locations where city supplied housing has been offered, or who are otherwise being compensated) who are called back to their work locations following the completion of his/her work day and departure from his/her place of employment, shall be granted a minimum of four (4) hours compensation (pay or compensatory time off as appropriate - "Z" employees can only take overtime in the form of compensatory time off) at the applicable rate or shall be compensated for all hours actually worked at the applicable rate, whichever is greater. This section shall not apply to employees who are called back to duty when on standby status. The employee's work day shall not be adjusted to avoid the payment of this minimum.

#### **6. ACTING ASSIGNMENT PAY**

151. a. An employee assigned in writing by the Appointing Officer (or designee) to perform the normal day to day duties and responsibilities of a higher classification of an authorized position for which funds are temporarily unavailable shall be entitled to acting assignment pay, no earlier than the fifth (5<sup>th</sup>) work day of such an assignment, after which acting assignment pay shall be retroactive to the first (1<sup>st</sup>) day of the assignment. No person shall be assigned an acting assignment for periods of less than five (5) days for purposes of evading acting assignment pay under this section. In making an acting assignment, seniority will be a factor, not the factor, in the decision-making process by which acting assignments are made.
152. b. Upon written approval, as determined by the City, an employee shall be authorized to receive an increase to a step in an established salary schedule that represents at least 5% above the employee's base salary and that does not exceed the maximum step of the salary schedule of the class to which temporarily assigned. Premiums based on percent of salary shall be paid at a rate which includes the acting assignment pay.
153. c. If each of the above criteria are met, but an employee does not receive the acting assignment pay, an employee acting assignment grievance, to be valid, must be filed no later than thirty (30) calendar days after the ending date of

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the acting assignment.

154. d. In accordance with the provisions in the preceding three paragraphs, the City shall make a good faith effort to pay an employee acting assignment pay in a timely manner.

7. PILOT PERFORMANCE INCENTIVE PROGRAM

155. The parties agree to work mutually in an effort to implement a pilot performance incentive program during the term of this Agreement. The goal of this program is to recognize and reward excellent collective performance by represented employees at the Adult and Juvenile Probation Departments. The Pilot Performance Incentive Program shall proceed based on the following schedule:

156. July 1 to December 31, 2006: The City and Association shall meet and confer in an effort to mutually agree upon and establish the criteria to be measured under this Pilot Program. The parties may establish different criteria to be measured at the Adult and Juvenile Probation Departments. Criteria measured may include, if mutually agreed upon:

- a) Attendance;
- b) Rate of recidivism;
- c) Timeliness and accuracy of court reports; and
- d) Participation and involvement in the community.

157. If by December 31, 2006, the parties have been unable to mutually agree upon the criteria to be measured at both the Adult and Juvenile Probation Departments, then the Pilot Performance Incentive Program shall terminate at that time.

158. January 1 to December 31, 2007: If the parties mutually agree on the criteria to be measured at each Department under this Pilot Program, then during this period the City shall track those criteria to establish a baseline measurement against which performance will subsequently be measured.

159. January 1 to December 31, 2008: The City will continue to track the mutually agreed upon criteria during this period. Between January 1 and March 31, 2008, the City and Association shall meet and confer (1) to determine whether the City was able to adequately and accurately track the criteria to be measured during calendar year 2007; and (2) to mutually establish performance improvement measures for calendar year 2008, i.e., the degree of improvement required in performance on each measured criteria in calendar year 2008 over the performance in calendar year 2007. For example, if attendance is a criteria measured under this program, and the rate of

### **ARTICLE III – PAY, HOURS AND BENEFITS**

absence at one department in calendar year 2007 was 20%, the parties may mutually agree that the absence rate must drop to 15% for employees to show required improvement on that criteria.

160. If by March 31, 2008, the parties (1) have determined that the City was unable to adequately and accurately track the criteria to be measured or (2) have been unable to mutually establish performance improvement measures for calendar year 2008 at both the Adult and Juvenile Probation Departments, then the Pilot Performance Incentive Program shall terminate at that time.

161. January-February 2009: The City shall assemble the data measured on each of the criteria at each Department. The City shall review that data and the performance measured in calendar year 2008, to determine whether at the Adult and/or Juvenile Probation Departments, represented employees' collective performance improved to meet the mutually agreed upon performance improvement measures for each measured criteria. The City shall share that data and assessment with the Association by no later than February 27, 2009.

162. Performance bonuses shall be paid on a group basis within each Department as follows:

a) If represented employees at one or both Departments collectively achieved the mutually agreed upon performance improvement measure for each measured criteria at the respective Department, each represented employee at that Department shall receive a one-time lump sum performance bonus equal to 0.5% of base wage by no later than June 30, 2009.

b) If represented employees at one or both Departments collectively failed to meet the mutually agreed upon performance improvement measure for each measured criteria, employees at that Department shall not receive any bonus.

163. This pilot performance incentive program will sunset on June 30, 2009.

#### **III.E. OVERTIME COMPENSATION**

164. 1. Appointing officers may require employees to work longer than the normal work day or longer than the normal work week. Any time actually worked under proper authorization of the appointing officer or his/her designated representative or any hours suffered to be actually worked by an employee in excess of eight hours per day or forty (40) hours per work week shall be designated as overtime and shall be compensated at a rate of time and one half of the base hourly rate which may include

### **ARTICLE III – PAY, HOURS AND BENEFITS**

a night differential if applicable. However, if an employee works a longer regular workday pursuant to MOU Article III.B.1.c. (Alternative Work Schedule), daily overtime shall not begin until the employee works more hours than the number of hours normally scheduled. Absences in observance of holidays designated in MOU Section III.G. (Holidays and Holiday Pay) shall count as hours worked for the purpose of computing overtime.

165. This definition of overtime supersedes any conflicting language in this Agreement.
166. 2. There shall be no eligibility for overtime assignment if there has been sick pay, sick leave or disciplinary time off on the preceding workday, or if sick pay, sick leave or disciplinary time off occurs on the workday following the last overtime assignment.
167. 3. No appointing officer shall require an employee not designated by a "Z" symbol in the Annual Salary Ordinance to work overtime when it is known by said appointing officer that funds are legally unavailable to pay said employee, provided that an employee may voluntarily work overtime under such conditions in order to earn compensatory time off at the rate of time and one-half, pursuant to the provisions herein.
168. 4. Those employees subject to the provisions of the Fair Labor Standards Act who are required or suffered to work overtime shall be paid in salary unless the employee and the Appointing Officer mutually agree that in lieu of paid overtime, the employee shall be compensated with compensatory time off. Compensatory time shall be earned at the rate of time and one half. Employees occupying non "Z" designated positions shall not accumulate a balance of compensatory time earned in excess of 240 hours calculated at the rate of time and one half.
169. The provisions set forth above do not intend to waive, alter, nor restrict the exercise of individual rights under the FLSA.

#### **III.F. RECORDATION OF OVERTIME**

170. 1. All overtime worked which is authorized by the appointing officer shall be recorded on separate time rolls.
171. 2. Compensation for overtime worked as provided in this Section shall be paid on an hourly basis.
172. 3. When improved methods of payroll processing are implemented and with the approval of the Human Resources Director and the Controller, such overtime may be recorded on the regular time rolls.

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### **III.G. HOLIDAYS AND HOLIDAY PAY**

173. 1. A holiday is calculated based on an eight hour day. The following days are designated as holidays:
- January 1 (New Year's Day)
  - the third Monday in January (Martin Luther King, Jr.'s birthday)
  - the third Monday in February (Presidents' Day)
  - the last Monday in May (Memorial Day)
  - July 4 (Independence Day)
  - the first Monday in September (Labor Day)
  - the second Monday in October (Columbus Day)
  - November 11 (Veterans' Day)
  - Thanksgiving Day
  - the day after Thanksgiving
  - December 25 (Christmas Day)
174. Provided further, if January 1, July 4, November 11 or December 25 falls on a Sunday, the Monday following is a holiday.
175. 2. In addition, any day declared to be a holiday by proclamation of the Mayor after such day has heretofore been declared a holiday by the Governor of the State of California or the President of the United States.

### **III.H. FLOATING HOLIDAYS**

176. Employees shall receive four (4) floating holidays totaling thirty-two (32) hours at the beginning of each fiscal year (pro-rated for eligible part-time employees) to be taken on days or in hourly increments selected by the employee, subject to the approval of the Appointing Officer and subject to an accrual maximum of sixty-four (64) hours. Employees (both full time and part-time) must complete six (6) months continuous service to establish initial eligibility for the floating holidays. Employees hired on an as-needed, intermittent or seasonal basis shall not receive the additional floating holidays. Remaining floating holidays shall be carried forward from one fiscal year to the next; provided, however, that after an employee has accrued 64 hours, the employee will receive no further floating holiday hours until his or her accrued balance is reduced below 64 hours. No compensation of any kind shall be earned or granted for floating days off not taken off.
177. For Fiscal Year 2006-2007 only, employees shall receive one (1) additional floating holiday totaling eight (8) hours, to be administered as set forth in the paragraph above.



**ARTICLE III – PAY, HOURS AND BENEFITS**

**III.I. HOLIDAY PAY FOR EMPLOYEES WHO SEPARATE**

178. Employees who have established initial eligibility for floating days off and who subsequently separate from City employment, may, at the sole discretion of the appointing authority, be granted those floating day(s) off to which the separating employee was eligible and had not yet taken off.

**III.J. HOLIDAYS THAT FALL ON A SATURDAY**

179. For those employees assigned to a work week of Monday through Friday, and in the event a legal holiday falls on Saturday, the preceding Friday shall be observed as a holiday; provided, however, that except where the Governor declares that such preceding Friday shall be a legal holiday, each department head shall make provision for the staffing of public offices under his/her jurisdiction on such preceding Friday so that said public offices may serve the public as provided in Section 7.702 of the Charter. Those employees who work on a Friday which is observed as a holiday in lieu of a holiday falling on Saturday shall be allowed a day off in lieu thereof as scheduled by the appointing officer in the current fiscal year.

**III.K. HOLIDAY COMPENSATION FOR TIME WORKED**

180. Employees required by their respective appointing officers to work on any of the above specified or substitute holidays, excepting Fridays observed as holidays in lieu of holidays falling on Saturday, shall be paid extra compensation of one additional day's pay at time-and-one-half the usual rate in the amount of 12 hours pay for 8 hours worked or a proportionate amount for less than 8 hours worked provided, however, that at the employee's request and with the approval of the appointing officer, an employee may be granted compensatory time off in lieu of paid overtime pursuant to the provisions of Section III.E. herein.
181. Executive, administrative and professional employees designated in the Annual Salary Ordinance with the "Z" symbol shall not receive extra compensation for holiday work but may be granted time off equivalent to the time worked at the rate of-one-and-one-half times for work on the holiday.

**III.L. HOLIDAYS FOR EMPLOYEES ON WORK SCHEDULES OTHER THAN MONDAY THROUGH FRIDAY**

182. Employees assigned to seven-day operation departments or employees working a five-day work week other than Monday through Friday shall be allowed another day off if a holiday falls on one of their regularly scheduled days off. Employees whose holidays are changed because of shift rotations shall be allowed another day off if a legal holiday falls on one of their days off. Employees regularly scheduled to work on a holiday which falls on a Saturday

### **ARTICLE III – PAY, HOURS AND BENEFITS**

or Sunday shall observe the holiday on the day it occurs, or if required to work shall receive holiday compensation for work on that day. Holiday compensation shall not be paid for work on the Friday preceding a Saturday holiday nor on the Monday following a Sunday holiday.

183. If the provisions of this Section deprive an employee of the same number of holidays that an employee receives who works Monday through Friday, he/she shall be granted additional days off to equal such number of holidays. The designation of such days off shall be by mutual agreement of the employee and the appropriate supervisor with the approval of the appointing officer. Such days off must be taken within the fiscal year. In no event shall the provisions of this Section result in such employee receiving more or less holiday entitlement than an employee on a Monday through Friday work schedule.

#### **III.M. HOLIDAY PAY FOR EMPLOYEES LAID OFF**

184. An employee who is laid off at the close of business the day before a holiday who has worked not less than five previous consecutive work days shall be paid for the holiday.

#### **III.N. EMPLOYEES NOT ELIGIBLE FOR HOLIDAY COMPENSATION**

185. Persons employed for holiday work only, or persons employed on a part-time work schedule which is less than twenty (20) hours in a bi-weekly pay period, or persons employed on an intermittent part-time work schedule (not regularly scheduled), or persons working on an "as-needed" basis and work on a designated legal holiday shall be compensated at the normal overtime rate of time and one-half the basic hourly rate, if the employee worked forty (40) hours in the pay period in which the holiday falls. Said employees shall not receive holiday compensation.

#### **III.O. PART-TIME EMPLOYEES ELIGIBLE FOR HOLIDAYS**

186. 1. Part-time employees, including employees on a reduced work week schedule, who regularly work a minimum of twenty (20) hours in a bi-weekly pay period shall be entitled to holidays as provided in Section III.C. on a proportionate basis.
187. 2. Regular full-time employees, are entitled to 8/80 or 1/10 time off when a holiday falls in a bi-weekly pay period, therefore, part-time employees, as defined in the immediately preceding paragraph, shall receive a holiday based upon the ratio of 1/10 of the total hours regularly worked in a bi-weekly pay period. Holiday time off shall be determined by calculating 1/10 of the hours worked by the part-time employee in the bi-weekly pay period immediately preceding the pay period in which the holiday falls. The computation of holiday time off shall be rounded to the nearest hour.

### **ARTICLE III – PAY, HOURS AND BENEFITS**

188. 3. The proportionate amount of holiday time off shall be taken in the same fiscal year in which the holiday falls. Holiday time off shall be taken at a time mutually agreeable to the employee and the appointing officer.

#### **III.P. TIME OFF FOR VOTING**

189. If an employee does not have sufficient time to vote outside of working hours, the employee may request so much time off as will allow time to vote, in accordance with the State Election Code.

#### **III.Q. SALARY STEP PLAN AND SALARY ADJUSTMENTS**

190. 1. Subject to the Controller's certification of available funds and procedures established by the Human Resources Director, the Appointing Officer shall have the discretion to make entrance or promotive appointments at any step in the compensation grade. The step placement determination by the Appointing Officer may be based on such factors as:

191. a. The reappointment of a former permanent City employee, following resignation with service satisfactory, to a permanent position in his/her former classification.

192. b. The determination of the Appointing Officer that there would be a resulting loss of compensation should the appointee accepts the position at a lower step.

193. c. A recruiting and retention problem exists, such that all City appointments in the particular class should be above the normal step.

194. d. A determination by the Appointing Officer that the appointee possesses special expertise, qualifications and/or skills that warrant an appointment at an advanced step.

195. e. When it is determined by the Appointing Officer that appointments of all new hires need to be in a classification at a step above the entrance rate, the Human Resources Director may advance to that step incumbents in the same classification who are below that step.

#### **2. PROMOTIVE APPOINTMENT IN A HIGHER CLASS**

196. An employee or officer who is a permanent appointee following completion of the probationary period or six months of permanent service, and who is appointed to a

**ARTICLE III – PAY, HOURS AND BENEFITS**

position in a higher classification, either permanent or temporary, deemed to be promotive by the Department of Human Resources shall have his/her salary adjusted to that step in the promotive class as follows:

197. a. If the employee is receiving a salary in his/her present classification equal to or above the entrance step of the promotive class, the employee's salary in the promotive class shall be adjusted to two steps in the compensation schedule over the salary received in the lower class but not above the maximum of the salary range of the promotive classification.
198. b. If the employee is receiving a salary in his/her present classification which is less than the entrance step of the salary range of the promotive classification, the employee shall receive a salary step in the promotive class which is closest to an adjustment of 7.5% above the salary received in the class from which promoted. The proper step shall be determined by the bi-weekly compensation schedule and shall not be above the maximum of the salary range of the promotive class.
199. c. If the appointment deemed promotive described herein is a temporary appointment, and the employee, following a period of continuous service at least equal to the prescribed probationary period is subsequently given another appointment either permanent or temporary, deemed promotive from the prior temporary appointment class, the salary step in the subsequent promotive appointment shall be deemed promotive in accordance with Sections herein.
200. For purpose of this Section, appointment of an employee as defined herein to a position in any class the salary schedule for which is higher than the salary schedule of the employee's permanent class shall be deemed promotive.
201. d. If the appointment is to a craft apprentice class, the employee shall be placed at the salary step in the apprentice class pursuant to this section. However, advancement to the next salary step in the apprentice class shall not occur until the employee has served satisfactory time sufficient in the apprenticeship program to warrant such advancement.

3. NON-PROMOTIVE APPOINTMENT

202. An employee or officer who is a permanent appointee following completion of the probationary period or six months of permanent service, and who accepts a non-promotive appointment in a classification having the same salary schedule, or a lower salary schedule, the appointee shall enter the new position at that salary step

### **ARTICLE III – PAY, HOURS AND BENEFITS**

which is the same as that received in the prior appointment, or if the salary steps do not match, then the salary step which is immediately in excess of that received in the prior appointment, provided that such salary shall not exceed the maximum of the salary schedule. Further increments shall be based upon the seniority increment anniversary date in the prior appointment.

#### Exempt Appointive Position

203. An employee who holds an exempt appointive position whose services are terminated, through lack of funds or reduction in force, and is thereupon appointed to another exempt appointive position with the same or lesser salary schedule, shall receive a salary in the second position based upon the relationship of the duties and responsibilities and length of prior continuous service as determined by the Department of Human Resources.

#### 4. REAPPOINTMENT WITHIN SIX MONTHS

204. A permanent employee who resigns and is subsequently reappointed to a position in the same classification within six (6) months of the effective date of resignation shall be reappointed to the same salary step that the employee received at the time of resignation.

#### 5. COMPENSATION ADJUSTMENTS

##### a. Prior Fiscal Year

205. When an employee promoted to a higher class during a prior fiscal year receives a lesser salary than if promoted in the same class and from the same schedule step during the current fiscal year his/her salary shall be adjusted on July 1, to the rate he/she would have received had he/she been promoted in the current fiscal year.

206. The Department of Human Resources is hereby authorized to adjust the salary and anniversary increment date of any employee promoted from one class to a higher classification who would receive a lesser salary than an employee promoted at a later date to the same classification from the same salary step in the same base class from which the promotional examination was held.

##### b. Salary Increase in Next Lower Rank

207. When a classification that was formerly a next lower rank in a regular civil

### **ARTICLE III – PAY, HOURS AND BENEFITS**

service promotional examination receives through salary standardization a salary schedule higher than the salary schedule of the classification to which it was formerly promotive, the Department of Human Resources shall authorize a rate of pay to an employee who was promoted from such lower class equivalent to the salary he/she would have received had he/she remained in such lower class, provided that such employee must file with the Department of Human Resources an approved request for reinstatement in accordance with the provisions of the Civil Service Commission rule governing reinstatements to the first vacancy in his/her former classification, and provided further that the increased payment shall be discontinued if the employee waives an offer to promotion from his/her current classification or refuses an exempt appointment to a higher classification. This provision shall not apply to offers of appointment which would involve a change of residence.

208. The special rate of pay herein provided shall be discontinued if the employee fails to file and compete in any promotional examination for which he/she is otherwise qualified, and which has a compensation schedule higher than the protected salary of the employee.

c. Flat Rate Converted to Salary Range

209. An employee serving in a class in the prior fiscal year at a flat rate which is changed to a compensation schedule number during the current fiscal year, shall be paid on the effective date of such change the step in the current salary schedule closest to, but not below, the prior flat rate and shall retain the original anniversary date for future increments, when applicable.

d. Continuation of Salary Step Plan Earned Under Temporary Appointment

210. When an employee is promoted under temporary appointment to a higher classification during a prior fiscal year and is continued in the same classification without a break in service in the current fiscal year, or is appointed to a permanent position in the same classification, such appointment shall be in accordance with the provisions of this Agreement, provided that the salary shall not be less than the same step in the salary schedule the employee received in the immediately prior temporary appointment.

e. Credit for Temporary Service

211. A temporary employee, one with no permanent status in any class, certified

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from a regular civil service list who has completed six months or more of temporary employment within the immediately preceding one year period before appointment to a permanent position in the same class shall be appointed at the next higher step in the salary schedule and to successive steps upon completion of the six months or one year required service from the date of permanent appointment. These provisions shall not apply to temporary employees who are terminated for unsatisfactory services or resign their temporary position.

f. Salary Anniversary Date Adjustment

212. Permanent employees working under provisional, exempt or temporary appointments in other classifications shall have their salary adjusted in such other classifications when such employees reach their salary anniversary date in their permanent class.

6. COMPENSATION UPON TRANSFER OR RE-EMPLOYMENT

a. Transfer

213. An employee transferred in accordance with Civil Service Commission rules from one Department to another, but in the same classification, shall transfer at his/her current salary, and if he/she is not at the maximum salary for the class, further increments shall be allowed following the completion of the required service based upon the seniority increment anniversary date in the former Department.

b. Reemployment in Same Class Following Layoff

214. An employee who has acquired permanent status in a position and who is laid off because of lack of work or funds and is re-employed in the same class after such layoff shall be paid the salary step attained prior to layoff.

c. Reemployment in an Intermediate Class

215. An employee who has completed the probationary period in a promotive appointment that is two or more steps higher in an occupational series than the permanent position from which promoted and who is subsequently laid off and returned to a position in an intermediate ranking classification shall receive a salary based upon actual permanent service in the higher classification, unless such salary is less than the employee would have been entitled to if promoted directly to the intermediate classification. Further

**ARTICLE III – PAY, HOURS AND BENEFITS**

increments shall be based upon the increment anniversary date that would have applied in the higher classification.

d. Reemployment in a Formerly Held Class

216. An employee who has completed the probationary period in an entrance appointment who is laid off and is returned to a classification formerly held on a permanent basis shall receive a salary based upon the original appointment date in the classification to which the employee is returned. An employee who is returned to a classification not formerly held on a permanent basis shall receive a salary in accordance with this Agreement.

**III.R. METHODS OF CALCULATION**

1. BI-WEEKLY

217. An employee whose compensation is fixed on a bi-weekly basis shall be paid the bi-weekly salary for his/hers position for work performed during the bi-weekly payroll period. There shall be no compensation for time not worked unless such time off is authorized time off with pay.

2. PER DIEM OR HOURLY

218. An employee whose compensation is fixed on a per diem or hourly basis shall be paid the daily or hourly rate for work performed during the bi-weekly payroll period on a bi-weekly pay schedule. There shall be no compensation for time not worked unless such time off is authorized time off with pay.

3. CONVERSION TO BI-WEEKLY RATES

219. Rates of compensation established on other than bi-weekly basis may be converted to bi-weekly rates by the Controller for payroll purposes.

**III.S. SENIORITY INCREMENTS**

1. ENTRY AT THE FIRST STEP

220. Permanent employees entering at the first step shall advance to the second step upon completion of one thousand forty (1,040) hours of actual service (approximately six months) and to each successive step upon completion of two thousand eighty (2,080) hours actual service (approximately one year).



## **ARTICLE III – PAY, HOURS AND BENEFITS**

### **2. ENTRY AT OTHER THAN THE FIRST STEP**

221. Employees who enter a classification at a rate of pay at other than the first step shall advance one step upon completion of the two thousand eighty (2,080) hours required service. Further increments shall accrue following completion of the required service at this step and at each successive step.

222. An employee appointed to a position in a classification, the compensation for which was fixed in the prior fiscal year pursuant to Section 8.400 of the Charter, shall receive in the current fiscal year a compensation within the salary range fixed in this Agreement based upon the employee's service in said classification.

### **3. DATE INCREMENT DUE**

223. Increments shall accrue and become due and payable on the next day following completion of required service as a permanent employee in the class, unless otherwise provided herein.

### **4. EXCEPTIONS**

224. a. Satisfactory Performance. For all employees hired on or after July 1, 2006, an employee's scheduled step increase may be denied if the employee's performance has been unsatisfactory. The Appointing Officer shall provide an affected employee at least sixty (60) calendar days notice prior to the employee's salary anniversary date of any intent to withhold a step increase. However, if unsatisfactory performance occurs within the sixty days before the employee's salary anniversary date, the Appointing Officer shall provide notice of intent to withhold a step increase within a reasonable time. The notice shall be in writing and shall provide reason(s) and/or explanation for the denial.

225. The denial of a step increase is subject to the grievance procedure. An employee's performance evaluation(s) may be used as evidence by either party in a grievance arbitration; provided, however, that nothing in this Section is intended to or shall make performance evaluations subject to the grievance procedure.

226. If an employee's step advancement is withheld, that employee shall next be eligible for a step advancement on the employee's salary anniversary date the following fiscal year. However, at any time before that date, the Appointing Officer, in his or her sole discretion, may grant the employee the withheld step increase, to be effective on or after the first pay period following the

**ARTICLE III – PAY, HOURS AND BENEFITS**

Appointing Officer's decision, with no retroactive payment allowed.

227. An employee's salary anniversary date shall be unaffected by this provision.
228. In administering this subsection (a), the City affirms its commitment to a meaningful employee performance evaluation and notice process.
229. b. An employee shall not receive a salary adjustment based upon service as herein provided if he/she has been absent by reason of suspension or on any type of leave without pay (excluding a military, educational, or industrial accident leave) for more than one-sixth of the required service in the anniversary year, provided that such employee shall receive a salary increment when the aggregate time worked since his/her previous increment equals or exceeds the service required for the increment, and such increment date shall be his/her new anniversary date; provided that time spent on approved military leave or in an appointive or promotive position shall be counted as actual service when calculating salary increment due dates.
230. c. When records of service required for advancement in the step increments within a compensation schedule are established and maintained by electronic data processing, then the following shall apply:
231. (1) An employee certified to permanent appointment or appointed to a permanent position exempt from Civil Service, shall be compensated under such appointment at the beginning step of the compensation schedule plan, unless otherwise specifically provided for in this Agreement. Employees under permanent Civil Service appointment shall receive salary adjustments through the steps of the compensation schedule plan by completion of actual paid service in total scheduled hours equivalent to one thousand forty (1,040) hours or two thousand eighty (2,080) hours, whichever is applicable.
232. (2) Paid service for this purpose is herein defined as exclusive of any type of overtime but shall include military or educational leave without pay.
233. (3) Advancement through the increment steps of the compensation schedules shall accrue and become due and payable on the next day following completion of required service as a permanent appointee in the class; provided that the above procedure for advancement to the compensation schedule increment steps is modified as follows:

**ARTICLE III – PAY, HOURS AND BENEFITS**

234. (a) An employee who during that portion of his/her anniversary year is absent without pay for a period less than one-sixth of the time required to earn the next increment will have such absence credited as if it were paid service for the purposes of calculating the date of the increment due during calendar the year.
235. (b) An employee who during that portion of his/her anniversary year is absent without pay for a period in excess of one-sixth of the time required to earn the next prior increment will be credited with actual paid service.
236. (4) An employee who (1) has completed probation in a permanent position, (2) is "Laid Off" from said position, (3) is immediately and continuously employed in another classification with the City either permanent or temporary, and (4) is thereafter employed in his/her permanent position without a break in service, shall, for the purposes of determining salary increments, receive credit for the time served while laid off from his/her permanent position.

**III.T. SICK LEAVE WITH PAY LIMITATION**

237. An employee who is absent because of disability leave and who is receiving disability indemnity payments may request that the amount of disability indemnity payment be supplemented with salary to be charged against the employee's sick leave with pay credits so as to equal the net amount the employee would have earned for a regular work schedule. If the employee wishes to exercise this option, the employee must submit a signed statement to the employee's department no later than thirty (30) days following the employee's release from disability leave.

**III.U. ADDITIONAL BENEFITS**

1. EMPLOYEE HEALTH CARE COVERAGE

238. The City shall maintain the level of health insurance and dental benefits as determined by the Health Service System Board and shall contribute the applicable amount per month for employee coverage and, as appropriate for dependent coverage.

2. DEPENDENT HEALTH CARE COVERAGE

239. The City shall contribute 75% of the dependent rate charged by the City to employees

### **ARTICLE III – PAY, HOURS AND BENEFITS**

for Kaiser coverage at the employee plus two or more level.

#### **3. DENTAL COVERAGE**

240. Each employee covered by this agreement shall be eligible to participate in the City's dental program.

241. The aforesaid contributions shall not be considered as part of an employee's compensation for the purpose of computing straight time earnings, compensation for overtime worked, premium pay, or retirement benefits, nor shall such contributions be taken into account in determining the level of any other benefit which is a function of or percentage of salary.

#### **4. CONTRIBUTIONS WHILE ON UNPAID LEAVE**

242. As set forth in Administrative Code section 16.701(b), covered employees who are not in active service for more than twelve (12) continuous weeks, shall be required to pay the Health Service System for the full premium cost of membership in the Health Service System, unless the employee shall be on sick leave, workers' compensation, mandatory administrative leave, approved personal leave following family care leave, disciplinary suspensions or on a layoff holdover list where the employee verifies he/she have no alternative coverage.

#### **5. SINGLE EMPLOYEES**

243. For "medically single" employees, i.e., benefited employees not receiving the contribution paid by the City for dependent health care benefits, the City shall contribute all of the premium for the employee's own health care benefit coverage.

### **III.V. RETIREMENT PICK-UP**

244. Effective July 1, 2006, the City shall "pick-up" the full nine percent (9%) mandatory employee retirement contribution to PERS.

245. Any City pickup of an employee's retirement contribution shall not be considered as part of an employee's compensation for the purpose of computing straight time earnings, compensation for overtime worked, premium pay, or retirement benefits, nor shall such contributions be taken into account in determining the level of any other benefit which is a function of or percentage of salary.

246. Rule changes by the City's Retirement Board regarding the crediting of accrued sick leave for retirement purposes shall be incorporated herein by reference. Any such rule change, however, shall not be subject to the grievance and arbitration provisions of this Agreement or

### **ARTICLE III – PAY, HOURS AND BENEFITS**

the impasse procedures of Charter Section A8.409.

#### **Retirement Seminar Release Time**

247. Subject to development, availability and scheduling by SFERS and PERS, employees shall be allowed not more than one day during the life of this MOU to attend a pre-retirement planning seminar sponsored by SFERS or PERS.
248. Employees must provide at least two-weeks advance notice of their desire to attend a retirement planning seminar to the appropriate supervisor. An employee shall be released from work to attend the seminar unless staffing requirements or other Department exigencies require the employee's attendance at work on the day or days such seminar is scheduled. Release time shall not be unreasonably withheld.
249. All such seminars must be located within the Bay Area.
250. This section shall not be subject to the grievance procedure.

#### **III.W. BEREAVEMENT LEAVE**

251. Employees shall be eligible for bereavement leave pursuant to Civil Service Commission Rules.

#### **III.X. PILOT WELLNESS INCENTIVE PROGRAM**

252. The City hereby establishes a pilot "wellness incentive program" to promote workforce attendance.
253. Effective June 30, 2006 through June 30, 2009 only, any full-time employee leaving the employment of the City upon service or disability retirement may receive payment of a portion of accrued sick leave credits at the time of separation.
254. The amount of this payment shall be equal to two-and-one-half percent (2.5%) of accrued sick leave credits at the time of separation times the number of whole years of continuous employment times an employee's salary rate, exclusive of premiums or supplements, at the time of separation. Vested sick leave credits, as set forth under Civil Service Commission Rules, shall not be included in this computation.
255. Example of Calculation
- Employee A retires with 20 years of service.  
Employee A has a sick leave balance of 500 hours.  
Employee A has a base salary rate of \$25.00 per hour at the time of separation.

### **ARTICLE III – PAY, HOURS AND BENEFITS**

Wellness Incentive = 2.5% for each year of service x 20 years of service = 50%  
50% x 500 hours = 250 hours.  
250 hours x \$25.00 (base salary at time of separation) = \$6,250.00

- 256. The number of hours for which an employee may receive cash payments shall not exceed one thousand forty (1040) hours, including any vested sick leave.
- 257. A wellness incentive bonus payment shall not be considered as part of an employee's compensation for the purpose of computing retirement benefits.
- 258. This pilot wellness incentive program shall expire on close of business June 30, 2009.

#### **III.Y. RETIREE MEDICAL BENEFITS COMMITTEE**

- 259. The City and the Union agree that it is in the interests of the public and all City employees that sufficient funds be made available for the payment of the retiree medical benefits provided by the City Charter. The Union and City agree to participate in a City-wide Retiree Health Benefits Committee to study and make recommendations regarding funding of retiree health benefits.

**ARTICLE IV – WORKING CONDITIONS**

**ARTICLE IV — WORKING CONDITIONS**

**IV.A. HEALTH AND SAFETY**

260. The City acknowledges its responsibility to provide safe and healthy work environments for City employees. Every employee has the right to safe and healthy working conditions. Employee concerns regarding safety should be brought to the attention of his/her immediate supervisor for appropriate corrective action. No employee covered under this Agreement shall suffer any adverse action for bringing forth safety concerns to his/her immediate supervisor.
261. At Juvenile Probation, the Department will continue its present good faith efforts to improve security at Juvenile Hall, to improve training, to provide “pic-radios” and evaluate the status of Department vehicles.

**IV.B. TRAINING, CAREER DEVELOPMENT AND INCENTIVES**

262. Represented employees shall be on paid status when assigned to attend required educational programs scheduled during normal working hours.

**IV.C. TUITION REIMBURSEMENT**

263. The City agrees to allocate ten thousand dollars (\$10,000) per year to the Tuition Reimbursement Program for the exclusive use of represented classifications. Classes which will enhance represented employee's work skills shall be considered as qualifying for tuition reimbursement.

**IV.D. PROFESSIONAL DEVELOPMENT FORUM**

264. At least once each fiscal year (through fiscal year 2008-2009), each department shall schedule a round-table discussion for employees of the department to meet with the Appointing Officer or designee to discuss factors that may be relevant to employees' professional development and/or promotional opportunities. The departments shall provide written notice to employees at least two weeks before the discussion. Employee attendance at the discussions is voluntary.
265. The Association agrees that these round-table discussions do not obligate the City to include or consider any particular factors in any employment decisions, including but not limited to promotional decisions, and further does not obligate the City to select any particular individual for promotion.

## **ARTICLE IV – WORKING CONDITIONS**

### **IV.E. REASSIGNMENTS**

266. The parties recognize that an Appointing Officer may determine or need to reassign employees for a variety of reasons, including but not limited to client needs, professional development of the employee or other employees, balance of experienced and less experienced employees within the department, operational or other needs of the department, and other factors.
267. In reassigning bargaining unit members, the City agrees that, except as provided herein, the City shall provide written notice to the Association of any proposed reassignment of an employee in the bargaining unit at least twenty (20) calendar days before the effective date of the proposed reassignment. If the Association makes a written request within ten (10) calendar days of the City's written notice, the City shall meet and confer with the Association in good faith regarding the reassignment. After the parties have met and conferred, the City retains the management right and discretion to determine whether a reassignment is appropriate and warranted.
268. In the event that the City must effectuate a reassignment in a timeframe shorter than the twenty (20) calendar days notice, the City shall provide written notice of the reassignment as soon as it is reasonably able to provide such notice. If the Association makes a written request within ten (10) calendar days of that written notice, the City shall meet with the Association to discuss the reassignment.



**ARTICLE V – SCOPE**

**ARTICLE V — SCOPE**

269. The parties recognize that recodifications may have rendered the references to specific Civil Service Rules and Charter sections contained herein, incorrect. Therefore, the parties agree that such terms will be read as if they accurately referenced the same sections in their newly codified form as of July 1, 2000.

**V.A. SAVINGS CLAUSE**

270. Should any part hereof or any provision herein be declared invalid by reason of conflicting with a Charter provision or existing ordinances or resolutions which the Board of Supervisors had not agreed to alter, change or modify, or by any decree of a court, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof and the remaining portions hereof shall remain in full force and effect for the duration of the Agreement.

**V.B. REOPENER**

271. Consistent with the provisions of Charter Section A8.409, an agreement shall be reopened if the Charter is amended to enable the City and that union to arbitrate retirement benefits.

**V.C. ZIPPER CLAUSE**

272. Except as may be amended through the procedure provided below, this Agreement sets forth the full and entire understanding of the parties regarding the matters herein. This Agreement may be modified, but only in writing, upon the mutual consent of the parties.

**1. PAST PRACTICE**

273. Pursuant to a previous Memorandum of Understanding, the parties met and conferred regarding past practices. The parties were unable to agree on whether the Union’s proposed practices met the definition of a “past practice” under that MOU. The Parties therefore submitted the dispute to arbitration. The arbitrator ruled as follows: (1) the arbitrator found a past practice of appointing supervisors by seniority at Juvenile Probation; (2) the arbitrator found a past practice at Juvenile Probation of filling specified positions on a permanent and non-rotating basis; and (3) the arbitrator found a past practice and established policy of flextime schedules at Adult Probation. Of these three issues, the latter two (Special Assignments at Juvenile Probation and Flextime at Adult Probation) are contractual obligations. The issue of making acting supervisory assignments on the basis of seniority at the Juvenile Probation Department has been modified in exchange for valuable consideration, including lowering the number of days triggering payment of acting assignment pay.

## **ARTICLE V – SCOPE**

The Parties agree that as for issue (2) (Special Assignments at Juvenile Probation) individuals in Special Assignments are subject to being removed for good cause shown. Except where these practices are expressly addressed in this Agreement, pursuant to the parties' agreement in the prior Memorandum of Understanding, the parties agree that all other past practices and other understandings between the parties not expressly memorialized and incorporated into this Agreement shall no longer be enforceable.

### **2. CIVIL SERVICE RULES/ADMINISTRATIVE CODE**

274. Nothing in this Agreement shall alter the Civil Service Rules excluded from arbitration pursuant to Charter Section A8.409-3. In addition, such excluded Civil Service Rules may be amended during the term of this Agreement and such changes shall not be subject to any grievance and arbitration procedure but shall be subject to meet and confer negotiations, subject to applicable law. The parties agree that, unless specifically addressed herein, those terms and conditions of employment that are currently set forth in the Civil Service Rules and the Administrative Code, are otherwise consistent with this Agreement, and are not excluded from arbitration under Charter Section A8.409-3 shall continue to apply to employees covered by this contract. No later than January 1, 1998, except that this date may be extended for up to an additional three months if requested by either party, such Civil Service Rules and Administrative Code provisions shall be appended to this Agreement and approved pursuant to the provisions of Charter Section A8.409, including submission for approval by the Board of Supervisors. As required by Charter Section A8.409-3, the Civil Service Commission retains sole authority to interpret and to administer all Civil Service Rules. Disputes between the parties regarding whether a Civil Service Rule or a component thereof is excluded from arbitration shall be submitted initially for resolution to the Civil Service Commission. All such disputes shall not be subject to the grievance and arbitration process of the Agreement. After such Civil Service rules and Administrative Code sections are appended to this Agreement, alleged violations of the appended provisions will be subject to the grievance and arbitration procedure of this Agreement.

275. The City and the individual unions agree to use all reasonable efforts to meet and confer promptly regarding proposed changes to the Civil Service Commission Rules.

### **V.D. DURATION OF AGREEMENT**

276. This Agreement shall be effective July 1, 2006 and shall remain in full force and effect through June 30, 2009, with no reopeners except as specifically provided herein.

277. Retirement Reopener

## *ARTICLE V – SCOPE*

Although not a mandatory subject of bargaining, if requested in writing by the Union, the City agrees to meet and confer with the Union over a mutually satisfactory amendment to the City's contract with PERS to effect safety retirement improvements for represented employees. As set forth in Charter Section A8.506-2, any contract amendment shall be cost neutral. As set forth in Charter Sections A8.409-5 and A8.506-2, the parties acknowledge that any disputes remaining after meet and confer on a PERS contract amendment are not subject to the impasse resolution procedures in Charter Section A8.409.

### 278. Transfer of Service Credit Reopener

By mutual agreement only, the parties may reopen this Agreement to discuss the issue of transferring service credit prior to 1990 to PERS.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**FOR THE CITY**

**FOR THE UNION**

\_\_\_\_\_  
Jennifer Johnston  
Lead Negotiator

\_\_\_\_\_  
Ronald Yank  
Lead Negotiator

\_\_\_\_\_  
Philip Ginsburg  
Director, Department of Human Resources

\_\_\_\_\_  
Richard Perino, President  
San Francisco Deputy Probation Officers  
Association

\_\_\_\_\_  
Micki Callahan  
Assistant Employee Relations Director

**APPROVED AS TO FORM:**  
DENNIS J. HERRERA, CITY ATTORNEY

\_\_\_\_\_  
By: Elizabeth Salveson  
Chief Labor Attorney

*APPENDIX A*

**APPENDIX A**

Charles Askin

Norman Brand

Alexander “Buddy” Cohn

Matthew Goldberg

Luella Nelson

Wendy Rouder

Ken Silbert

Carol Vendrillo

Barry Winograd