

**MEMORANDUM OF UNDERSTANDING**

**Between and For**

**THE CITY AND COUNTY OF SAN FRANCISCO**

**And**

**SAN FRANCISCO CITY WORKERS UNITED (PAINTERS)**

**JULY 1, 2022 – JUNE 30, 2024**

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**ARTICLE I - REPRESENTATION**

1. This Memorandum of Understanding (hereinafter "Agreement") is entered into by the City and County of San Francisco (hereinafter "City") through the designated representatives acting on behalf of the San Francisco City Workers United (hereinafter "Union").

**I.A. RECOGNITION**

2. The City acknowledges that the Union has been certified by 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:

7242	Painter Supervisor I	Unit 2
7278	Painter Supervisor II	Unit 2
7346	Painter	Unit 2

3. The terms and conditions of this Agreement shall also be automatically applicable to any classification that is accreted to the unit covered by this Agreement during its term. This Agreement shall not automatically extend to bargaining units for which the Unions have established a representative status through affiliations or service agreements. Upon request of a 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 adopted or accepted by the Board of Supervisors by appropriate action.
5. Moreover, it is the intent of the Mayor acting on behalf of the City to agree to wages, hours, and other terms and conditions of employment as are within the Mayor's jurisdiction, powers, and authority to act as defined by the Charter, state law, California Constitution and other applicable bodies of the law. The Mayor does not intend nor attempt to bind any board, commission or officer to any provisions of this Agreement over which the Mayor has no jurisdiction.
6. It is the intent of the parties that the provisions of the main body of this Agreement apply generally to all classifications of employees covered by this Agreement, except as otherwise limited herein to specific classifications or unions. The Appendix attached applies to employees represented by this union.

**I.C. OBJECTIVE OF THE CITY**

7. 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

## *ARTICLE I – REPRESENTATION*

within their respective roles and responsibilities.

8. 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.
9. 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.D. MANAGEMENT RIGHTS**

10. The Union agrees that the City has complete authority for the policies and administration of all City departments which it shall exercise under the provisions of law and in fulfilling its responsibilities under this Agreement. Said authority shall include the establishment of work rules and regulations not inconsistent with the terms of this Agreement. Any matter involving the management of governmental operations vested by law in the City and not covered by this Agreement is in the province of the City.

### **I.E. NO WORK STOPPAGES**

11. During the term of this Agreement, there shall be no strike or lockout nor shall the Union engage in a sympathy strike. The terms strike, lockout or sympathy strike shall be provided in Charter Section A8.346 (a) and A8.346 (b). Charter Sections A8.346 (a) and A8.346 (b) are attached in Appendix A.

### **I.F. GRIEVANCE PROCEDURE**

12.
  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.
13.
  2. A grievance is defined as an allegation by an employee, a group of employees or a Union that the City has violated, misapplied or misinterpreted a term or condition of employment provided in this Agreement.

A grievance does not include the following:

14.
  - a. 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

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and placed in the employee’s official personnel file.

15.                   b.       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 twenty (20) calendar days from the date of the reprimand.

### 3.       **Time Limits**

16.                   The time limits set forth herein may be extended by agreement of the parties. Any such extension must be confirmed in writing. For purposes of calculation of time a “day” is defined as a “calendar day,” including weekends and holidays.

17.                   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.

### 4.       **Steps of the Procedure – Non-Discipline Grievances**

18.                   a.       Except for grievances involving multiple employees or multiple departments, all grievances must be initiated at Step 1 of the grievance procedure.

19.                   (1)     A grievance affecting more than one employee shall be filed with the Appointing Officer or designee at Step 3. Grievances affecting more than one department shall be filed with the Employee Relations Division at Step 4. 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.

20.                   (2)     The grievant may have a Union representative present at all steps of the grievance procedure.

21.                   b.       Step 1:  
An employee or the Union shall discuss the grievance informally with the employee’s immediate supervisor as soon as possible but in no case later than thirty (30) 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.

22.                   If the grievance is not resolved within seven (7) days after contact with the immediate supervisor, the grievant will submit the grievance in writing to

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the immediate supervisor on a mutually agreeable grievance form. The grievance will set forth:

1. the facts of the grievance;
2. the terms and conditions of employment claimed to have been violated, misapplied or misinterpreted, and
3. the remedy or solution being sought by the grievant.

23. This form should be attached to any request to move the grievance to each successive step in the grievance procedure.

24. The immediate supervisor shall respond in writing within ten (10) days following receipt of the written grievance.

c. Step 2:

25. A grievant dissatisfied with the immediate supervisor's response at Step 1 may appeal to the Appointing Officer or designee, in writing, within fifteen (15) days of receipt of the Step 1 response. The Appointing Officer or designee may convene a meeting within twenty (20) days with the grievant and/or the grievant's Union representative. The Appointing Officer or designee shall respond in writing within twenty (20) days of the hearing or receipt of the grievance, whichever is later.

d. Step 3:

26. The union, when dissatisfied with the Appointing Officer's response at Step 2 may appeal to the Employee Relations Director at the Employee Relations Division ("ERD"), in writing, within twenty (20) days of receipt of the Step 2 response. ERD may convene a grievance meeting within twenty (20) days with the grievant and/or the grievant's Union. The Director shall respond to the grievance in writing within twenty (20) days of the meeting or, if none is held, within twenty (20) days of receipt of the appeal.

e. Arbitration

27. If the Union is dissatisfied with the Step 3 response, it may invoke arbitration by notifying the Employee Relations Director at ERD, in writing, within twenty (20) days of the Step 3 response.

### 5. **Selection of the Arbitrator**

28. a. When a matter is appealed to arbitration the parties will commence selecting the arbitrator and scheduling the arbitration within thirty (30) calendar days of the Union's receipt of ERD's letter acknowledging the Union's letter moving the matter to arbitration. In doing so, the parties shall first attempt to mutually agree upon an Arbitrator to hear the matter.



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In the event no agreement is reached within five (5) working days, or any extension of time mutually agreed upon, the parties shall request that the State Mediation and Conciliation Service (“SMCS”) provide the parties with a list of seven (7) potential arbitrators. The parties, by lot, shall alternately strike names from the list, and the name that remains shall be the arbitrator designated to hear the particular matter.

29. b. The parties may, by mutual agreement, agree to an alternate method of arbitrator selection and appointment, including, the expedited appointment of an arbitrator from a list provided by the SMCS.

### 6. Steps of the Procedure – Disciplinary Grievances

#### 30. Rights of Individuals

An employee may not be disciplined or discharged without just cause and without written notice of the intended action. The City agrees to follow the principles of progressive discipline. Permanent non-probationary employees may grieve (appeal) suspensions, disciplinary demotions or discharges.

31. a. Step 1:  
The grievant and/or the Union shall submit in writing to the Appointing Officer or designee a grievance appealing the disciplinary action within fifteen (15) days of the mailing date of the written notice imposing discipline. The grievance shall set forth the basis of the appeal. The Appointing Officer or designee shall respond within fifteen (15) days following receipt of the appeal.

32. b. Step 2:  
The Union may appeal the Appointing Officer’s response to the Employee Relations Director at the Employee Relations Division (“ERD”), in writing within ten (10) days. ERD may convene a grievance meeting within twenty (20) days with the grievant and the grievant’s union. The Director shall respond to the grievance in writing within twenty (20) days of the meeting, or if none is held within twenty (20) days of receipt of the appeal.

33. c. If the Employee Relations Director’s response is unsatisfactory only the Union may file a written appeal to arbitration. This appeal must be filed with the Employee Relations Director at ERD no later than fifteen (15) days following issuance of the Step 2 response.

34. d. Selection of the Arbitrator  
Arbitrators shall be selected in the same manner as in non-disciplinary grievances.

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### e. Expedited Arbitration

35. Grievances of disciplinary suspensions of not greater than fifteen (15) days, and grievances of contract interpretation where the remedy requested would not require approval by the Board of Supervisors shall be resolved through an expedited arbitration process; however, by mutual agreement, the parties may move such matters out of the expedited process to regular arbitration procedures provided herein.
36. The expedited arbitration shall be conducted before an arbitrator, to be mutually selected by the parties, and who shall serve until the parties agree to remove the arbitrator or for twelve months, whichever comes first. A standing quarterly expedited arbitration schedule will be established for this process. The parties agree not to utilize court reporters or electronic transcription. The parties further agree not to utilize post-hearing briefs.
37. Each party shall bear its own expenses in connection therewith. All fees and expenses of the arbitrator shall be borne and paid in full and shared equally by the parties.
38. 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.
39. The City agrees to schedule two arbitrators per month available to conduct expedited arbitrations. The City may, at its sole discretion, cancel any expedited arbitration sessions in time to avoid a cancellation fee if there are no expedited arbitrations calendared for that month. Additional arbitrators may be scheduled, if the City and the Union agree that there is sufficient demand to do so.

### 7. **Authority of the Arbitrator**

40. The arbitrator shall have no authority to add to, subtract from, modify or amend the terms of this Agreement. The decision of the Arbitrator shall be final and binding on all Parties.

### 8. **Fees and Expenses of Arbitration**

41. Each party shall bear its own expenses in connection with the arbitration, including, but not limited to, witness and attorney's fees, and any fees for preparation of the case. Transcripts shall not be required except that either party may request a transcript. The party making such a request shall be solely responsible for the cost. All fees and expenses of the arbitrator and the court reporter, if any, shall be split equally between the parties. Individuals who may

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have direct knowledge of the circumstances relating to the grievance may be present at the request of either party at the hearing. If such individuals are employees of the City, they shall be compensated at their usual rate of pay for any time spent traveling to or from, and attending the arbitration hearing.

### 9. **Hearing Dates and Date of Award**

42. The parties shall make their best efforts to schedule hearings within forty (40) days of selection of an arbitrator. Awards shall be due within forty (40) days following the receipt of closing arguments. As a condition of appointment, arbitrators shall be advised of this requirement and shall certify their willingness to abide by these time limits.

43. 10. Any claim for monetary relief shall not extend more than forty-five (45) days prior to the filing of a grievance, unless considerations of equity or bad faith justify a greater entitlement.

### 11. **"Skelly" Rights**

44. A permanent non-probationary employee subject to discipline or discharge, shall be entitled, prior to the imposition of that discipline or discharge, to a meeting and to the following:

- 45. a. A notice of the proposed action;
- 46. b. The reasons for the proposed discipline;
- 47. c. A copy of the charges and the materials upon which the action is based, and
- 48. d. The right to respond, either orally or in writing, to the authority initially imposing the discipline.
- 49. e. The employee's representative shall receive a copy of the final notice of discipline.

50. 12. During the term of this Agreement, the City's Department of Human Resources (DHR) will keep track of Union grievances as follows. For each grievance at each step of the grievance process, the Union shall be responsible for mailing (or emailing) a copy of the grievance, as well as notification that the grievance is being moved to the next step, to a person designated by the City's Employee Relations Director. The Union shall also be responsible for notifying DHR's designee in writing that the grievance is being moved to arbitration and identifying who the grievance was handed to at Step 1. For each grievance, where the Union has notified DHR as described above, DHR shall record: (a) when the

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grievance was filed; (b) when the grievance was moved to each successive step; (c) when the arbitration was calendared for arbitration; (d) when the arbitration took place; and (e) when the arbitration decision was issued or, in the alternative, whether the grievance was resolved in another manner; provided, however, that DHR shall only be responsible for recording the cited information if the Union provides it.

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

#### **1. OFFICIAL REPRESENTATIVES**

51. 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, during the employee's regular duty or work hours without loss in compensation, on matters within the scope of representation. If a situation should arise where a Union believes that more than a total of two (2) employee members should be present at such meetings, and the City disagrees, the Union shall discuss the matter 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.
52. 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.
53. b. No selected employee member shall leave the duty or work station, or assignment without specific approval of appropriate Employer representative.
54. 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.

#### **2. STEWARDS**

55. a. The Union shall furnish the City with an accurate written list of stewards and alternate stewards. The Union may submit amendments to this list at any time because of the permanent absence of a designated steward. If a steward is not officially designated in writing by a Union, none will be recognized for that area or shift.
56. b. The Union recognize that it is the responsibility of the steward to assist in the resolution of grievances at the lowest possible level.
57. c. Upon notification of a designated management person, stewards or designated officers of the Union subject to management approval which shall not be unreasonably withheld, shall be granted reasonable release

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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 ensure that steward release time will be equitably distributed.

58. Stewards shall be responsible for the performance of their work load, consistent with release time approved pursuant to rules established herein.
59. d. 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 the steward's post or duty if requested by the employee for purposes of representation.
60. e. 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, or a disciplinary action, to interview an employee during the employee's duty time.

### I.H. UNION SECURITY

#### **1. AUTHORIZATION FOR PAYROLL DEDUCTIONS**

61. a. The Union shall submit any request to initiate, change, or cancel deductions of Contributions from represented employees' pay according to the Controller's "Union Deductions Procedure" ("Procedure"), which the Controller may amend from time to time with reasonable notice to the Union. "Contributions" as used in this Section I.H. means Union membership dues, initiation fees, political action funds, other contributions, and any special membership assessments, as established and as may be changed from time to time by the Union.
62. b. The City shall deduct Contributions from a represented employee's pay upon submission by the Union of a request, in accordance with the Procedure. The Procedure shall include, and the Union must provide with each request, a certification by an authorized representative of the Union, confirming that for each employee for whom the Union has requested deduction of Contributions, the Union has and will maintain a voluntary written authorization signed by that employee authorizing the deduction. If the certification is not properly completed or submitted with the request, the City shall notify the Union, and make the requested deduction changes only upon receipt of a proper certification.
63. c. The Procedure is the exclusive method for the Union to request the City to initiate, change, or cancel deductions for Contributions.
64. d. The City shall implement new, changed, or cancelled deductions the pay period

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following the receipt of a request from the Union, but only if the Union submits the request by noon on the last Friday of a pay period. If the Controller's Office receives the request after that time, the City will implement the changes in two following pay periods.

- 65. e. If an employee asks the City to deduct Contributions, the City shall direct the employee to the Union to obtain the Union authorization form. The City will not maintain a City authorization form for such deductions. If a represented employee hand delivers the official Union form authorizing such deductions to the Controller's Payroll Division, the City shall process the authorization and begin the deduction within thirty (30) days. The City will send the Union a copy of any authorization form that it receives directly from a represented employee.
- 66. f. Except as otherwise provided in this subsection 1, each pay period, the City shall remit Contributions to the Union, after deducting the fee under San Francisco Administrative Code Section 16.92. In addition, the City will make available to the Union a database that includes the following information for each represented employee: name; DSW number; classification; department; work location; work, home, and personal cellular telephone number; personal email address if on file with the City; home address; and any Contributions amount deducted.
- 67. g. Except as otherwise provided in this subsection 1, the City shall continue to deduct and remit Contributions until it receives notice to change or cancel deductions from the Union in accordance with the Procedure, or it receives an order from a court or administrative body directing the City to change or cancel the deductions for one or more employees.
- 68. h. With the exception of subsection (e) above, the Union is responsible for all decisions to initiate, change, and cancel deductions, and for all matters regarding an employee's revocation of an authorization, and the City shall rely solely on information provided by the Union on such matters. The City shall direct all employee requests to change or cancel deductions, or to revoke an authorization for deductions, to the Union. The City shall not resolve disputes between the Union and represented employees about Union membership, the amount of Contributions, deductions, or revoking authorizations for deductions. The City shall not provide advice to employees about those matters, and shall direct employees with questions or concerns about those matters to the Union. The Union shall respond to such employee inquiries within no less than 10 business days.

## **2. INDEMNIFICATION**

- 69. The Union shall indemnify, hold harmless, and defend the City against any claim, including but not limited to any civil or administrative action, and any expense and liability of any kind, including but not limited to reasonable attorney's fees, legal costs, settlements, or judgments, arising from or related to the City's

## *ARTICLE I – REPRESENTATION*

compliance with this Section I.H. The Union shall be responsible for the defense of any claim within this indemnification provision, subject to the following: (i) the City shall promptly give written notice of any claim to the Union; (ii) the City shall provide any assistance that the Union may reasonably request for the defense of the claim; and (iii) the Union has the right to control the defense or settlement of the claim; provided, however, that the City shall have the right to participate in, but not control, any litigation for which indemnification is sought with counsel of its own choosing, at its own expense; and provided further that the Union may not settle or otherwise resolve any claim or action in a way that obligates the City in any manner, including but not limited to paying any amounts in settlement, taking or omitting to take any actions, agreeing to any policy change on the part of the City, or agreeing to any injunctive relief or consent decree being entered against the City, without the consent of the City. This duty to indemnify, hold harmless, and defend shall not apply to actions related to compliance with this Section I.H. brought by the Union against the City. This subsection 2 shall not apply to any claim against the City where the City failed to process a timely, properly completed request to change or cancel a Contributions deduction, as provided in subsection 1.

### **I.I. BULLETIN BOARDS**

70. The City shall reserve a reasonable amount of space on bulletin boards within City buildings for the distribution of Union literature. All posted literature shall be dated, identified by affiliation and author, and neatly displayed, and removed from the bulletin board by the Union when no longer timely. Except as stated below, the City agrees that identifiable Union literature shall not be removed from said bulletin boards without first consulting with the representative of the Union to determine if the literature should remain for an additional period of time. The Union shall not post literature that is discriminatory, harassing, or violates City policy or the law. The Department may remove this type of literature immediately and shall notify the Union of its removal.

### **I.J. APPRENTICESHIP PROGRAM**

71. The parties agree to meet to discuss the development of mutually agreeable apprenticeship program. The specific provisions of the apprenticeship program shall be subject to agreement between the City, the Civil Service Commission (where appropriate), and the Union.
72. The following journey-level class (“Apprenticeable Class”) shall be eligible for an apprenticeship program:

7346 Painter

**ARTICLE II - EMPLOYMENT CONDITIONS**

**II.A. NON DISCRIMINATION**

73. The City and the Union agree that discriminating against or harassing employees, applicants, or persons providing services to the City by contract because of their actual or perceived race, color, creed, religion, sex/gender, national origin, ancestry, physical disability, mental disability, medical condition (associated with cancer, a history of cancer, or genetic characteristics), HIV/AIDS status, genetic information, marital status, age, political affiliation or opinion, gender identity, gender expression, sexual orientation, military or veteran status, or other protected category under the law, is prohibited. This paragraph shall not be construed to restrict or proscribe any rule, policy, procedure, order, action, determination or practice taken to ensure compliance with applicable laws.

**II.B. AMERICANS WITH DISABILITIES ACT**

75. 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 including the Americans with Disabilities Act 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.C. PROBATIONARY PERIOD**

76. The probationary period as defined and administered by the Civil Service Commission shall be:
77. 2080 hours for new appointees.
78. 1040 hours for a promotive appointment.
79. 520 hours for any other appointment type (i.e. bumping, transfers).
80. Upon permanent appointment, time worked as a provisional appointment in the same classification under the same appointing authority shall be treated as time worked and credited to the employee's probationary period as defined and administered by the Civil Service Commission. Provided however, upon permanent appointment, all employees must serve no less than a 173 hour probationary period as defined and administered by the Civil Service Commission regardless of time worked in the provisional appointment.
81. The parties may extend the duration of the probationary period by mutual consent in writing.

**II.D. PERSONNEL FILES**



## ARTICLE II – EMPLOYMENT CONDITIONS

82. 1. Only one (1) official personnel file shall be maintained on any single employee. The official file shall be located in the Department's personnel office unless another location is designated and the employee notified in writing. Each employee shall have the right to review the contents of the employee's official personnel file upon request. Nothing may be removed from the file by the employee but copies of the contents shall be provided to the employee at the employee's request. Copies in excess of 100 pages shall be at a charge of ten (10) cents per page.
83. 2. An employee shall have the opportunity to review, sign and date any and all material to be included in the file. The employee may also attach a response to such materials within thirty (30) days of receipt. All material in the file must be signed and dated by the author, except for routine payroll and personnel administration documents. The City may transmit documents to the employee at the employee's last known address by means of U.S. mail or hand delivery, except disciplinary notification which must be sent by certified mail when the employee is on leave.
84. 3. With the written permission of the employee, a representative of the Union may review the employee's personnel file when in the presence of a departmental representative and obtain copies of the contents upon request.
85. 4. With the approval of the Appointing Officer or designee, the employee may include material relevant to the employee's performance of assigned duties in the file.
86. 5. Upon request of an employee subject to the approval of the Appointing Officer or designee, material relating to disciplinary action in the employee's file which has been in the file for more than two (2) years may be "sealed" (i.e. shall remain confidential) to the maximum extent legally permissible, provided the employee has had no subsequent disciplinary action since the date of such prior action. The envelope containing the sealed documents will be retained in the employee's personnel file, to be opened only for purpose of assisting the City in defending itself in legal or administrative proceedings. In no event will the sealed material be used for disciplinary proceedings against the individual in whose file the document (s) have been sealed. Performance evaluations are excluded from this provision.
87. 6. The above provision shall not apply in the case of employees disciplined due to misappropriation of public funds or property; misuse or destruction of public property; misconduct stemming from drug or alcohol abuse; mistreatment of persons (except mere verbal altercations not involving discrimination or threats of violence); acts which would constitute a felony or misdemeanor involving moral turpitude; and/or acts which present an immediate danger to the public health and safety.

## ARTICLE II – EMPLOYMENT CONDITIONS

88. 6. No action to impose discipline against an employee shall be initiated more than thirty (30) days from the date the employer knows of the conduct after diligent and timely investigation except for conduct which would constitute the commission of a crime. Presentation of the charging letter will signify the initiation of the disciplinary action. The discipline imposed may take into account conduct that is documented in the employee's personnel file or was the subject of a prior disciplinary action.

### II.E. JURY DUTY

89. An employee shall be excused from work on a work day on which the employee performs jury services, providing the employee gives prior notification to the employee's supervisor.
90. Employees assigned to jury services whose regular work assignments are swing, graveyard, or weekend shifts shall not be required to work those shifts when performing jury service, providing the employee gives prior notification to the employee's supervisor.
91. Employees shall be required to provide proof of jury service to verify actual appearance for each day of jury service.

### II.F. SUBSISTENCE PAY

92. The City agrees to provide any eligible employee covered by this Agreement with daily subsistence pay in accordance with the Annual Salary Appropriation Ordinance, Section 17.

### II.G. SUBCONTRACTING

Subcontracting of Work – City Charter Section 10.104-15

#### 1. “PROP. J” CONTRACTS

93. 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.
94. 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.
95. 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

## ARTICLE II – EMPLOYMENT CONDITIONS

including, but not limited to:

- 96. (1) possible alternatives to contracting or subcontracting;
- 97. (2) questions regarding current and intended levels of service;
- 98. (3) questions regarding the Controller's certification pursuant to Charter Section 10.104-15,
- 99. (4) questions relating to possible excessive overhead in the City's administrative-supervisory/worker ratio; and
- 100. (5) questions relating to the effect on individual worker productivity by providing labor saving devices;
- 101. d. The City agrees that it will take all appropriate steps to ensure 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. ADVANCE NOTICE TO UNION ON PERSONAL SERVICES CONTRACTS**

- 102. a. Departments shall notify the Union of proposed personal services contracts where such services could potentially be performed by represented classifications. At the time the City issues a Request for Proposals (“RFP”)/Request for Qualifications (“RFQ”), or thirty (30) days prior to the submission of a PSC request to the Department of Human Resources and/or the Civil Service Commission, whichever occurs first, the City shall notify the affected union of any personal services contract(s), including a copy of the draft PSC summary form, where such services could potentially be performed by represented classifications.
- 103. b. If an affected Union wishes to meet with a department over a proposed personal services contract, the affected union must make its request to the appropriate department within two weeks after the union’s receipt of the department’s notice.
- 104. c. The parties may discuss 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 affected 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.
- 105. d. In order to ensure that the parties are fully able to discuss their

## ARTICLE II – EMPLOYMENT CONDITIONS

concerns regarding particular proposed contracts, the City agrees that it will take all appropriate steps to ensure that parties (excluding the Board of Supervisors and other boards and commissions) who are responsible for the contracting-out decision(s) are present at the meeting(s) referenced in paragraph b.

106. e. The City agrees to provide affected union with notice(s) of departmental commissions and Civil Service Commission meetings during which proposed personal services contracts are calendared for consideration, where such services could potentially be performed by represented classifications.

### **3. ADVANCE NOTICE TO EMPLOYEE ORGANIZATIONS OF THE CONSTRUCTION/MAINTENANCE OR JOB ORDER CONTRACTS**

107. a. At the time the City issues an invitation for a Construction/Maintenance or Job Order Contract, the City shall notify the affected Union and also notify the San Francisco Building and Construction Trades Council of any construction/maintenance or job order contract(s) where such services could potentially be performed by represented classifications.
108. b. Twenty days prior to the time the City issues a Task Order/Work Order funded by a Construction/Maintenance or Job Order Contract, the City shall notify the affected Union and also notify the San Francisco Building and Construction Trades Council of any such task order/work order.
109. c. If an employee organization wishes to meet with a department over a proposed construction/maintenance contract and/or task order/work order, the employee organization must make its request to the appropriate department within ten calendar days after the receipt of the department's notice. The parties shall meet and discuss, within ten calendar days of receipt of request to meet and discuss 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 employee organization, the City shall make available for inspection any and all pertinent background and/or documentation relating to the service contemplated to be contracted out.
110. d. In order to ensure that the parties are fully able to discuss their concerns regarding particular proposed contracts, the City agrees that it will take all appropriate steps to ensure that parties (excluding the Board of Supervisors and other boards and commissions) who are responsible for the contracting-out decision(s) are present at the meeting(s) referenced in paragraph c.

## *ARTICLE II – EMPLOYMENT CONDITIONS*

111. e. The City agrees to provide the San Francisco Building Trades Council with notice(s) of departmental commissions and Civil Service Commission meetings during which proposed construction/maintenance contracts are calendared for consideration, where such services could potentially be performed by represented classifications.

### **II.H. MINIMUM NOTICE FOR DISPLACEMENTS**

112. The City will provide ten (10) business days' notice to employees who are subject to displacement due to layoffs. To the extent this notice period extends beyond the date the displacing employee is to start in the position, the employee who is to be displaced will be placed in a temporary exempt position in the employee's classification and department for the remainder of the notice period.

### **II.I. UTILIZATION OF PROP F AND TEMPORARY EXEMPT EMPLOYEES**

113. The Human Resources Director agrees to work with City departments to ensure proper utilization of Proposition F and temporary exempt ("as needed") employees when such positions would more appropriately or efficiently be filled by permanent employees. In addition, the City will notify holdovers in represented classifications of any recruitment for exempt positions in their classifications.

### **II.J. BARGAINING UNIT WORK**

114. The City agrees that it will not assign work currently performed by employees under this Agreement to City employees in other bargaining units.

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

**III.A.**

**1. WAGES**

115. Represented employees will receive the following base wage increases:
116. Effective July 1, 2022, represented employees shall receive a base wage increase of 5.25%.
117. Effective July 1, 2023, represented employees shall receive a base wage increase of 2.50%, except that if the March 2023 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2023-2024 that exceeds \$300 million, then the base wage adjustment due on July 1, 2023, will be delayed by approximately six (6) months, to be effective January 6, 2024.
118. Effective January 6, 2024, represented employees shall receive a base wage increase of 2.25%, except that if the March 2023 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2023-2024 that exceeds \$300 million, then the base wage adjustment due on January 6, 2024, will be delayed by approximately six (6) months, to be effective close of business June 30, 2024.
119. All base wage increases shall be rounded to the nearest whole dollar, bi-weekly salary.

**III.B.**

**MAINTENANCE AND CHARGES**

120. 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.

**III.C.**

**WORK SCHEDULES**

**1. NORMAL WORK SCHEDULES**

121. a. A normal work week for Painters (classes 7346 Painter, 7242 Painter Supervisor I and 7278 Painter Supervisor II), shall be five (5) consecutive days Monday through Friday, inclusive, a normal work day is a tour of duty of eight (8) hours completed within eight and one-half (8 ½) hours. A regular tour of duty may commence at a time not earlier than 6:00 a.m. and all regular tours of duty shall conclude not later than 4:30 p.m.
122. b. Notwithstanding the above, effective July 1, 2006, a regularly

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

scheduled graveyard shift shall be established at the Airport, consisting of a regular eight (8) hour tour of duty commencing at 11:00 p.m. and ending at 7:30 a.m., Sunday through Thursday.

123. At the request of either the City or the Union, and after meeting and conferring with the Union, the City may enter into cost equivalent alternate work schedules for some or all represented employees.

#### **2. FLEX-TIME SCHEDULES**

124. 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, forty (40) hours per week, and must execute a document stating that the employee is voluntarily participating in a flex-time program and waiving any rights the employee may have on the same subject.

#### **3. ALTERNATE WORK SCHEDULES**

125. By mutual agreement the City and Union may enter into cost equivalent alternate work schedules for some or all represented employees. Such alternate work schedules may include, but are not limited to, core hours flex-time; full-time work weeks 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 five (5) day, forty (40) hour a week schedules.

#### **4. EXCEPTIONS**

126. a. Specially funded training programs approved by the Department of Human Resources.
127. b. 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.
128. c. Employees shall receive no compensation when properly notified two hours prior to the start of their shift that work applicable to the classification is not available because of inclement weather conditions, shortage of supplies, traffic conditions, or other unusual circumstances.
129. 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.
130. 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

ARTICLE III – PAY, HOURS, AND BENEFITS

worked beyond four hours, computed to the nearest one-quarter hour.

131. The bi-weekly schedules of compensation contained in this Agreement for the classifications indicated will be adjusted to an hourly amount by dividing said schedule by 80 and then multiplying by the number of hours of employment of the particular classification in a bi-weekly period to the nearest whole cent to determine the bi-weekly rate of pay.
132. d. Work Schedule -- Remote Locations  
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 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.
133. e. Camp Mather  
Overtime Work schedules at Camp Mather shall continue per current practice, described below. The Recreation and Parks Department shall seek voluntary sign-up four (4) weeks prior to the Spring and Fall tours of duty. The Recreation and Parks Department shall make best efforts to continue the current practice as follows:
- Day One (Monday): Travel and work day: 8 hours
- Day Two Through Five (Tuesday through Friday): Work 10 hours per day; paid overtime for hours nine and ten
- Day Six and Seven (Saturday and Sunday): Eight hours per day paid overtime
- Day Eight Through Eleven (Monday through Thursday): 10 hours per day; paid overtime for hours nine and ten
- Day Twelve (Friday): Eight hours work and travel day
134. In the event the Recreation and Parks Department cannot offer weekday and/or weekend overtime work, the parties shall meet to discuss the availability of overtime work and make best efforts to resolve any disagreements that may arise. Room and board while at Camp Mather are provided per the Annual Salary Ordinance. All employees assigned to work at Camp Mather shall be paid travel time to and from Camp Mather.



ARTICLE III – PAY, HOURS, AND BENEFITS

135. f. Voluntary Reduced Work Week  
Employees subject to the approval by the Appointing Officer 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) hours per week. Pay, vacation, holidays and sick pay shall be reduced in accordance with such reduced work week.
136. g. Alternate Schedule  
The Employee Relations Division of the Department of Human Resources may authorize any department head, board or commission to meet and confer with an employee, group of employees, or their representatives on proposals offered by the employee, group of employees, or their representatives or the department relating to alternate scheduling of working hours for all or part of a department. Such proposals may include but are not limited to core-hour flex time, full time work weeks of less than five (5) days, work days of less than eight (8) hours or a combination of plans which are mutually agreeable to the employee, group of employees, and their representatives and the department concerned. Any such agreement shall be submitted to the Mayor's Budget Office for its approval or rejection.
137. h. Voluntary Time off Program  
The mandatory furlough provisions of Civil Service Commission Rule 120 shall not apply to covered employees.
- (1) General Provisions:
138. 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.
139. 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.
- (2) Restrictions on use of Paid Time Off while on Voluntary Time Off
140. i. All voluntary unpaid time off granted pursuant to this section shall be without pay.
141. ii. Employees granted voluntary unpaid time off are precluded from using

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

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.

#### (3) Duration and revocation of Voluntary Unpaid Time Off

142. Approved voluntary time off taken pursuant to this section may not be changed by the Appointing Officer without the employee's consent.
143. Any change in the “normal work week” shall be the subject of meeting and conferring between the Union and the appointing officer.

### III.D. COMPENSATION FOR VARIOUS WORK SCHEDULES

#### 1. NORMAL WORK SCHEDULE

144. 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 SCHEDULE

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

### III.E. OVERTIME COMPENSATION

146. Voluntary overtime shall be offered equitably among employees covered under the provisions of this MOU within each work unit and/or work location, subject to departmental operational needs.
147. Mandatory overtime shall be distributed equitably among employees covered under the provisions of this MOU within each work unit and/or work location, subject to departmental operational needs.
148. Appointing officers may require employees to work longer than the normal work day or longer than the normal work week. Any time worked under proper authorization of the appointing officer or designated representative or any hours suffered to be worked by an employee in excess of a) forty (40) hours per City workweek for weekly overtime, and b) the regular or normal work day for daily overtime, shall be designated as overtime and shall be compensated at one-and-one-half times the base hourly rate which may include a night differential if applicable.
149. The use of any sick leave shall be excluded from determining hours worked in excess of 40 hours in a week for determining eligibility for overtime payment.
150. For the purposes of determining the rate of pay (i.e. straight time or time-and-one-half), the department will look back to the previous five (5) work days to determine whether

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

sick leave was used. However, the five day look back requirement shall not apply to mandatory emergency overtime assignments.

151. Employees working in classifications that are designated in this Agreement as having a normal work day of less than eight (8) hours or a normal work week of less than forty (40) hours shall not be entitled to overtime compensation for work performed in excess of said specified normal hours until they exceed eight (8) hours per day or forty (40) hours per week, provided further, that employees working in a flex-time program or alternate work schedule shall be entitled to overtime compensation as provided herein when required to work more than forty hours per week. Overtime compensation so earned shall be computed subject to all the provisions and conditions set forth herein.
152. For employees working an alternative schedule (such as 4-10s), daily overtime shall be compensated at one-and-one-half times the base hourly rate (including a night differential where applicable) for hours worked in excess of the number of hours in the workday as set forth in the alternative work schedule. Weekly overtime shall be determined as set forth above.
153. 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.
154. The Department of Human Resources shall determine whether work in excess of eight (8) hours a day performed within a sixteen (16) hour period following the end of the last preceding work period shall constitute overtime or shall be deemed to be work scheduled on the next work day.
155. 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.
156. Employees occupying positions determined by the Department of Human Resources as being exempt from the Fair Labor Standards Act and designated by a "Z" shall not be paid for overtime worked but may be granted compensatory time off at the rate of one-and-one-half times for time worked in excess of normal work schedule.
157. 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.

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

158. A non-“Z” classified employee who is appointed to a position in another department shall have the employee’s entire compensatory time balances paid out at the rate of the underlying classification prior to appointment.
159. A non-“Z” classified employee who is appointed to a position in a higher, non-“Z” designated classification or who is appointed to a position in a “Z” designated classification shall have the employee’s entire compensatory time balances paid out at the rate of the lower classification prior to promotion.
160. Employees working overtime at the end of their regular shift may request, and the department shall grant, a non-paid break period of up to thirty (30) minutes before the commencement of the overtime period. Employees working more than four (4) hours of overtime may request, and the department shall grant, a non-paid break period of up to thirty (30) minutes prior to the assigning of further overtime.

#### **1. RECORDATION OF OVERTIME**

161. All overtime worked which is authorized by the appointing officer shall be recorded on separate timerolls.
162. Compensation for overtime worked as provided in this Section shall be paid on an hourly basis.
163. 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 timerolls.
164. Painters (classes 7346 Painter, 7242 Painter Supervisor I and 7278 Painter Supervisor II) shall be paid at the rate of time and one-half for hours worked either before or after the starting and concluding time of the regular tour of duty as referenced herein.
165. Overtime Assignments: Overtime scheduled more than twelve (12) hours in advance shall be on a revolving seniority basis. Said workers must be qualified to perform such work. Workers denied overtime due to not being qualified must within sixty (60) days be given the opportunity to acquire the skills necessary to perform such work.

### **III.F. ADDITIONAL COMPENSATION**

#### **1. ACTING ASSIGNMENT PAY**

166. 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 on the tenth (10<sup>th</sup>) consecutive work day of such an assignment. Acting assignment pay shall be retroactive to the first (1<sup>st</sup>) day of the assignment.

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

167.                   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.
168.                   c.       Acting assignments are intended to be used for short term temporary assignments of six months or less.

#### **2.       CALL BACK PAY**

169.                   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 their work day and departure from their 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.
170.                   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.

#### **3.       CORRECTIONAL FACILITY PREMIUM**

171.                   A premium of \$2.50 per hour shall be paid to employees working in a secured and restricted area of the correctional facilities listed below.
172.                   This premium shall not be added to the employee's base rate of pay for the purpose of calculating overtime.
173.                   Those facilities where this premium shall apply are listed below:
- 1)       County Jail Facilities in San Bruno
  - 2)       Youth Guidance Center
    - (a) 375 Woodside, San Francisco
    - (b) Log Cabin Ranch in La Honda
  - 3)       Hall of Justice in San Francisco
  - 4)       County Jail located at 425 7<sup>th</sup> Street
  - 5)       San Francisco General Hospital or successor facility
    - (a) locked unit
    - (b) locked psychiatric unit

#### **4.       EPOXY & INDUSTRIAL COATINGS PREMIUM**

174.                   An epoxy premium of \$1.25 per hour will be authorized for those hours actually

spent in the application of epoxy.

**5. EXTENDED TOUR OF DUTY PREMIUM**

175. An extended tour of duty shall be a tour of duty of eight hours work completed within eleven consecutive hours but extended over more than nine hours. There shall be only one split in any tour of duty. Employees on an extended tour of duty shall be paid for time actually worked and shall be paid 50% above their base rate after the ninth hour.
176. Exception: Employees of Camp Mather who during the summer season work a tour of duty of eight hours completed within thirteen consecutive hours shall be paid \$2.00 per day above the compensation to which they are otherwise entitled.

**6. HEIGHT WORK PAY**

177. Employees in classes 7346 Painter, 7278 Painter Supervisor I, and 7242 Painter Supervisor II shall be entitled to a height work premium when the work performed required personal fall restraints to be worn by the employee as follows:
178. When working over fourteen (14) feet above ground or water level the employee shall be paid three dollars (\$3.00) per hour above the base rate for all such work;
179. When working from one hundred (100) to one hundred eighty (180) feet above ground or water level the employee shall be paid three dollars (\$3.00) per hour above the base rate for all such work.
180. When working over one hundred eighty (180) feet above ground or water level the employee shall be paid three dollars (\$3.00) per hour above the base rate for all such work.

**7. LEAD WORKER PAY**

181. Employees in the covered classes, when designated in writing by their supervisor or foreman as a lead worker, shall be entitled to a fifteen dollars (\$15.00) per day premium where required to plan, design, sketch, layout, detail, estimate, order materials, and take the lead on any job where at least two painters are assigned.
182. Employees are not eligible to receive both Lead Worker Pay and Acting Assignment Pay.

**8. NIGHT DUTY PREMIUM**

183. Members of SFCWU (Painters) shall be paid fifteen percent (15%) more than the base rate for each hour regularly assigned to the SFO graveyard shift (11:00 p.m. to 7:30 a.m.).

**9. SANDBLASTING PREMIUM**

184. Effective July 1, 2019, employees who are assigned to do sandblasting work will be paid a new premium of one dollar (\$1.00) per hour for each hour the employee

is actually sandblasting.

**10. STANDBY PAY**

185. a. Employees (except those working at the Public Utilities Commission) who, as part of the duties of their positions are required by the Appointing Officer to standby when normally off duty to be instantly available on call for immediate emergency service for the performance of 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 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 communication device or cell phone. 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 emergency service the usual rate of pay for such service as provided herein. However, standby pay shall not be allowed in classes whose duties are primarily administrative in nature.
- b. STANDBY PAY FOR EMPLOYEES OF THE PUBLIC UTILITIES COMMISSION ONLY
186. Employees of the Public Utilities Commission (“PUC”) who, as part of the duties of their positions are required by the Appointing Officer to standby when normally off duty to be instantly available on call for immediate emergency service to perform their regular duties, shall be paid twenty (20%) percent of their regular straight time rate of pay for the period of such standby service. 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 emergency service at the usual rate of pay for such service as provided herein. However, standby pay shall not be allowed in classes whose duties which are primarily administrative in nature.

**11. SUPERVISORY DIFFERENTIAL ADJUSTMENT**

187. The Appointing Officer or Human Resources Director is authorized to adjust the compensation of a supervisory employee if:
188. a. the supervisor, as part of the regular responsibilities of the supervisor’s class, supervises, directs, and is accountable and responsible for the work of subordinates;
189. b. the supervisor actually supervises the technical content of subordinate work and possesses the education and/or experience appropriate to the technical assignment;
190. c. the organization is a permanent one approved by the Appointing Officer,

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Board or Commission where applicable, and is a matter of record based upon review and investigation by the Department of Human Resources;

191. d. the classifications of both the supervisor and the subordinate are appropriate to the organization and have a normal/logical nexus to each other; and
192. e. the compensation schedule of the supervisor is less than one full step (approximately 5%) over the employee supervised. In determining the compensation grade of a classification being paid a flat rate, the flat rate will be converted to a bi-weekly rate and the compensation grade the top step of which is closest to the flat rate so converted shall be deemed to be the compensation grade of the flat rate classification.
193. If all of the above conditions are met, the supervisory adjustment shall be granted as follows:
194. a. The adjustment of compensation of the supervisor shall be 5% above the base wage of the employee supervised.
195. b. No supervisory adjustment may exceed two full steps (approximately 10%) over the supervisor's current basic compensation in any fiscal year.
196. c. The compensation adjustment is retroactive to the date the employee became eligible, but not earlier than the beginning of the current fiscal year.
197. d. Requests for adjustment must be submitted to DHR before the end of current fiscal year.
198. e. An Appointing Officer requesting a supervisory adjustment under this section must notify the Department of Human Resources of what changes in organizational structure or compensation support the adjustment.

#### **12. TAPER PREMIUM**

199. Employees in classification 7346 Painter shall receive an additional one dollar and twenty-five cents (\$1.50) per hour for each hour assigned as a taper.

#### **13. THERMO-PLASTIC APPLICATORS**

200. Employees in classifications 7242 Painter Supervisor II, 7278 Painters Supervisor I, and 7346 Painter who are assigned to operate a thermo-plastic applicator shall be paid a premium of two dollars (\$2.00) per hour for each of those hours that said individual actually operates such an applicator. This premium shall be payable only to the individual who operates said applicator.

#### **14. THERMOPLASTIC APPLICATOR TRUCK OPERATOR PREMIUM**



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201. Effective July 1, 2019, employees who are assigned to drive the Thermo-Plastic Applicator Truck will be paid a new premium of one dollar (\$1.00) per hour for each hour the employee actually drives the Thermo-Plastic Applicator Truck.

#### **15. TRAVEL FOR TEMPORARY ASSIGNMENTS**

202. If a department temporarily assigns an employee(s) to work at another location, the City shall provide the employee(s) transportation in City-owned vehicles(s) for travel with no loss of pay, provided that the employee's regular and temporary work locations are not both within the City and County of San Francisco. In these circumstances, the employee will first report to the employee's regularly-assigned work location and then travel to the temporary work location.

203. The provision in the paragraph above shall not apply to employees who must be temporarily reassigned due to facility closure. In the event of such closure, the City will provide the Union with notice and an opportunity to meet and confer over the impact of the closure.

#### **16. WASTE WATER TREATMENT FACILITY PREMIUM**

204. Employees who are assigned to work at a Waste Water Treatment Facility shall receive \$4.00 a day for each actual day worked at the facility.

#### **17. HYDRO-BLASTER OPERATOR PREMIUM**

205. Effective July 1, 2019, employees who are assigned to operate the Hydro-Blaster Truck will be paid a new premium of one dollar and twenty five cents (\$1.25) per hour for each hour the employee actually operates the Hydro-Blaster Truck.

#### **18. NO PYRAMIDING**

206. There shall be no pyramiding of overtime and premium pay under this MOU. If an employee working overtime is eligible for overtime pay and is also covered by other premium pay provisions, unless otherwise noted, that employee shall be compensated in the following manner: the overtime premium pay will be computed on the straight time hourly base rate of pay and any other premium pay will then be added on.

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

207. 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)  
June 19 (Juneteenth)  
July 4 (Independence Day)  
the first Monday in September (Labor Day)

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the second Monday in October (Indigenous Peoples Day, Italian American Heritage Day)  
November 11 (Veterans' Day)  
Thanksgiving Day  
the day after Thanksgiving  
December 25 (Christmas Day)

208. Provided further, if January 1, June 19, July 4, November 11 or December 25 falls on a Sunday, the Monday following is a holiday.

209. 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 is a holiday.

#### **1. HOLIDAYS THAT FALL ON A SATURDAY**

210. 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 the department head's jurisdiction on such preceding Friday so that said public offices may serve the public as provided in Section 16.4 of the Administrative Code. 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 or next fiscal year.

#### **2. HOLIDAY COMPENSATION FOR TIME WORKED**

211. Employees required by their respective Appointing Officers to work on any of the above designated or observed 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 (i.e.: 12 hours pay for 8 hours worked or a proportionate amount for less than 8 hours worked). 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 this Agreement.

212. 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.

#### **3. HOLIDAYS FOR EMPLOYEES ON WORK SCHEDULES OTHER THAN MONDAY THROUGH FRIDAY**

213. 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 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.

214. If the provisions of this Section deprive an employee of the same number of holidays that an employee receives who works Monday through Friday, the employee 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.

**4. HOLIDAY PAY FOR LAID OFF EMPLOYEES**

215. 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.

**5. EMPLOYEES NOT ELIGIBLE FOR HOLIDAY COMPENSATION**

216. 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.

**6. FLOATING HOLIDAYS**

217. Eligible employees covered by this Agreement shall receive five (5) floating holidays in each fiscal year to be taken on days selected by the employee subject to prior scheduling approval of the Appointing Officer or designee. 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. Floating holidays received in one fiscal year but not used may be carried forward to the next succeeding fiscal year. The number of floating holidays carried forward to a succeeding fiscal year shall not exceed the total number of floating holidays received in the previous fiscal year. Floating Holidays may be taken in hourly increments up to and including the number of hours contained in the employee's regular shift. No compensation of any kind shall be earned or granted for floating holidays not taken.

**7. FLOATING HOLIDAY PAY FOR EMPLOYEES WHO SEPARATE**

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

**III.H. TIME OFF FOR VOTING**

219. 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.I. VOLUNTEER/PARENTAL RELEASE TIME**

220. Represented employees shall be granted paid release time to attend parent teacher conferences of up to four (4) hours per fiscal year (for children in kindergarten or grades 1 to 12).
221. In addition, an employee who is a parent or who has child rearing responsibilities (including domestic partners but excluding paid child care workers) of one or more children in kindergarten or grades 1 to 12 shall be granted unpaid release time of up to forty (40) hours each fiscal year, not exceeding eight (8) hours in any calendar month of the fiscal year, to participate in the activities of the school of any child of the employee, providing the employee, prior to taking the time off, gives reasonable notice of the planned absence. The employee may use vacation, floating holiday hours, or compensatory time off during the planned absence.

**III.J. VESTED LEAVE CASHOUTS**

222. 1. Cashouts of vested sick leave upon separation are made pursuant to Charter Section A8.363.
223. 2. Cashouts of vested vacation leave upon separation are made pursuant to Administrative Code 16.13.

**III.K. SALARY STEP PLAN AND SALARY ADJUSTMENTS**

224. Appointments to positions in the City and County Service shall be at the entrance rate established for the position except as otherwise provided herein.

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

225. An employee following completion of six months continuous service who is appointed to a position in a higher classification, either permanent or temporary, deemed to be promotive by the Department of Human Resources shall have the employee's salary adjusted to that step in the promotive class as follows:

226. a. If the employee is receiving a salary in the employee's 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.
227. b. If the employee is receiving a salary in the employee's 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.
228. c. For purpose of this Section, appointment to a position with a higher salary schedule shall be deemed promotive.
229. 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. EXEMPT APPOINTIVE POSITION**

230. 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 grade, 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**

231. 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 UPON TRANSFER OR RE-EMPLOYMENT**

- a. **Transfer**
232. An employee transferred in accordance with Civil Service Commission rules from one Department to another, but in the same classification, shall transfer at the employee's current salary, and if the employee 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

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increment anniversary date in the former Department.

233.           b.     **Re-employment in Same Class Following Layoff**  
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.
234.           c.     **Re-employment in an Intermediate Class**  
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 increments shall be based upon the increment anniversary date that would have applied in the higher classification.
235.           d.     **Re-employment in a Formerly Held Class**  
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.L.               METHODS OF CALCULATION

##### 1.     BI-WEEKLY

236.           An employee whose compensation is fixed on a bi-weekly basis shall be paid the bi-weekly salary for the employee's 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.

#### III.M.               VACATION ACCRUAL

237.           **The following is for informational purposes only.**
238.           Definitions. "Continuous service" for vacation allowance purposes means paid service pursuant to a regular work schedule which is not interrupted by a breach in paid service.
239.           Award and Accrual of Vacation. Beginning with the first full pay period after the effective date of this Agreement, an employee shall be awarded the employee's vacation allowance on the first day of the pay period following the pay period in which the allowance is accrued.

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240. a. An employee does not accrue vacation allowance in the first year of continuous service, however, at the end of one (1) year of continuous service, an employee shall be awarded a vacation allowance computed at the rate of .0385 of an hour for each hour of paid service in the preceding year.
241. b. At the end of five (5) years of continuous service, an employee shall be awarded a one-time vacation allowance computed at the rate of .01924 of an hour for each hour of paid service in the preceding year except that the amount of the vacation allowance shall not exceed forty (40) hours.
242. c. At the end of fifteen (15) years of continuous service, an employee shall be awarded a one-time vacation allowance computed at the rate of .01924 of an hour for each hour of paid service in the preceding year except that the amount of the vacation allowance shall not exceed forty (40) hours.
243. d. The maximum number of vacation hours an employee may accrue consists of two hundred and forty (240) hours carried forward from prior years plus the employee's maximum vacation entitlement which is based on the number of years of service. The maximum number of vacation hours which an employee may accrue is as follows:

<u>Years of Continuous Service</u>	<u>Maximum Accrual</u>
1 through 5 years	320 hours
more than 5 through 15 years	360 hours
more than 15 years	400 hours

244. Per Diem or Hourly 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.

#### **III.N. SICK LEAVE WITH PAY LIMITATION**

245. 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 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.O. WORKERS COMPENSATION**

246. An employee who is absent because of an occupational or non-occupational disability

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and who is receiving Temporary Disability, Vocational Rehabilitation Maintenance Allowance, State Disability Insurance, may request that the amount of disability indemnity payment be supplemented with salary to be charged against the employee's accumulated unused sick leave with pay credit balance at the time of disability, compensatory time off, or vacation, so as to equal the normal salary the employee would have earned for the regular work schedule. Use of compensatory time requires the employee's appointing officer's approval.

247. An employee who wishes not to supplement, or who wishes to supplement with compensatory time or vacation, must submit a written request to the appointing officer or designee within seven (7) calendar days following the first date of absence. Disability indemnity payments will be automatically supplemented with sick pay credits (if the employee has sick pay credits and is eligible to use them) to provide up to the employee's normal salary unless the employee makes an alternative election as provided in this section.
248. Employee supplementation of workers' compensation payment to equal the full salary the employee would have earned for the regular work schedule in effect at the commencement of the workers compensation leave shall be drawn only from an employee's paid leave credits including vacation, sick leave balance, or other paid leave as available. Pursuant to Civil Service Rule 120.–24, an employee returning from disability leave as defined by CSC Rule 120.24 will accrue sick leave and/or supplemental disability credits at an accelerated rate.
249. Salary may be paid on regular time-rolls and charged against the employee's sick leave with pay, vacation, or compensatory time credit balance during any period prior to the determination of eligibility for disability indemnity payment without requiring a signed option by the employee.
250. Sick leave with pay, vacation, or compensatory time credits shall be used to supplement disability indemnity pay at the minimum rate of one (1) hour units.

#### *Return to Work*

251. The City will make a good faith effort to return employees who have sustained an occupational injury or illness to temporary modified duty within the employee's medical restriction. Duties of the modified assignment may differ from the employee's regular job duties and/or from job duties regularly assigned to employees in the injured employee's class. Where appropriate modified duty is not available within the employee's classification, on the employee's regular shift, and in the employee's department, the employee may be temporarily assigned pursuant to this section to work in another classification, on a different shift, and/or in another department. The employee will receive the base wage rate of their regular class during the temporary assignment but not including additional compensation (premiums), out of class pay, or acting assignment pay as listed in this Agreement. The decision to provide modified duty and/or the impact of such decisions shall not be subject to grievance or arbitration. Modified duty



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assignments may not exceed three (3) months.

#### **III.P. STATE DISABILITY INSURANCE (“SDI”)**

252. Employees covered by this Agreement shall be enrolled in the State Disability Insurance program (“SDI”). The cost of SDI will be paid by the employee through payroll deduction at a rate established by the State of California Employment Development Department.

#### **III.Q. LONG TERM DISABILITY INSURANCE**

253. The City shall provide to employees with six months continuous service a Long Term Disability (LTD) plan that provides, after a one hundred eighty (180) day elimination period, sixty percent (60%) salary (subject to integration) up to age sixty-five. Employees who receive payments under the LTD plan shall not be eligible to continue receiving payments under the City's Catastrophic Illness Program.

#### **III.R. HEALTH BENEFIT CONTRIBUTIONS**

##### **1. EMPLOYEE HEALTH CARE**

254. 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.

##### **2. DEPENDENT HEALTH CARE PICK-UP**

255. The City shall contribute the greater amount of up to \$225 per month or 75% of the dependent rate charged by the City to employees for Kaiser coverage at the dependent plus two level.

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

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

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

258. Employees who enroll in the Delta Dental PPO Plan shall pay the following premiums for the respective coverage levels: \$5/month for employee-only, \$10/month for employee + 1 dependent, or \$15/month for employee + 2 or more dependents.

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

259. As set forth in Administrative Code section 16.701(b), covered employees who

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are not in active service for more than twelve (12) 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 they have no alternative coverage.

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

260. Effective January 1, 2014, for “medically single employees” (Employee Only) enrolled in any plan other than the highest cost plan, the City shall contribute ninety percent (90%) of the “medically single employee” (Employee Only) premium for the plan in which the employee is enrolled; provided, however, that the City’s premium contribution will not fall below the lesser of: (a) the “average contribution” as determined by the Health Service Board pursuant to Charter Sections A8.423 and A8.428(b)(2); or (b), if the premium is less than the “average contribution”, one hundred percent (100%) of the premium.
261. For the period January 1, 2014 through December 31, 2014 only, for “medically single employees” (Employee Only) who elect to enroll in the highest cost plan, the City shall contribute ninety percent (90%) of the premium for the second highest cost plan, plus fifty percent (50%) of the difference between: (a) ninety percent (90%) of the premium for the second highest cost plan; and (b) one hundred percent (100%) of the premium for the highest cost plan. Thereafter, the City shall contribute 90% of the premium for the second highest cost plan for such employees.
262. The provisions in paragraphs 286 and 287 above shall not apply to “medically single employees” (Employee Only) who are permanently assigned by the City to work in areas outside the health coverage areas of Kaiser and Blue Shield for the term of this Agreement. For such “medically single employees” (Employee Only), the City shall continue to contribute one hundred percent (100%) of the premium for the employees’ own health care benefit coverage.

#### **6. HETCH HETCHY AND CAMP MATHER HEALTH STIPEND**

263. The City will continue to pay a stipend to eligible employees pursuant to the Annual Salary Ordinance Section 2.1.
264. The aforesaid payments shall not be considered as part of an employee’s salary for the purpose of computing straight time earnings, compensation for overtime worked, premium pay, retirement benefits or retirement contributions; nor shall such contributions be taken into account on determining the level of any other benefit which is a function of or percentage of salary.

### **III.S. PRE-TAX CAFETERIA 125 PLANS**

265. The City agrees to maintain the provisions and coverages of the Pre-Tax Cafeteria Plan.

**III.T. RETIREMENT**

266. Represented employees agree to pay their own employee retirement contribution to SFERS. For employees who became members of SFERS prior to November 2, 1976 (Charter Section A8.509 Miscellaneous Plan), the City shall pick up one-half (0.5%) of the employee retirement contribution to SFERS.
267. Any City pick-up of an employee's 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.
268. 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 the impasse procedures of Charter Section A8.409.
269. The parties acknowledge that the San Francisco Charter establishes the levels, terms and conditions of retirement benefits for members of the San Francisco Employees Retirement System (SFERS). The fact that a MOU does not specify that a certain item of compensation is excluded from retirement benefits should not be construed to mean that the item is included by the Retirement Board when calculating retirement benefits.

**PRE-RETIREMENT SEMINAR**

270. 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.
271. 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.
272. All such seminars must be located within the Bay Area.
273. This section shall not be subject to the grievance procedure.

**III.U. FEDERAL MINIMUM WAGE**

274. Notwithstanding any of the other provisions of this Agreement, no employee working in a federally funded position shall be paid at a rate less than the established Federal Minimum Wage if that is a condition upon receipt of the Federal funds.

**III.V. FAIR LABOR STANDARDS ACT**

275. The City agrees that it will, at a minimum, compensate in a manner consistent with the Fair Labor Standards Act. No employee covered by this Agreement shall suffer any reduction in benefits as the result of the application of this language.

**III.W. AUTOMOBILE USE, ALLOWANCE AND PARKING; MUNI PASSES**

**1. PARKING**

276. Current employee parking practices at the locations identified below which have no direct cost to the City on facilities operated by City departments will continue subject to the availability of existing facilities for this purpose.

277. MUNICIPAL TRANSPORTATION AGENCY

Effective 7/1/2013, MTA employees shall be required to pay for their own parking based on fees established by MTA.

278. DEPARTMENT OF PUBLIC WORKS

2323 Cesar Chavez

279. AIRPORT

682 McDonnell Road

280. RECREATION & PARKS

100 Martin Luther King Drive

281. DEPARTMENT OF PUBLIC HEALTH

Laguna Honda

Laguna Honda will not charge for parking for one Teamster driver per shift, provided the parking space that is used is the space occupied by a City vehicle to be used by the driver.

SFGH

282. WATER DEPARTMENT

Millbrae

Sunol

Hetch Hetchy

1900 Newcomb Avenue

283. As long as the Maintenance Division is located at Pier 50, employees will have access to parking at either Pier 50 or Pier 90. To the extent parking is made available at other job sites, employees will have access to such parking. When parking is not available at other job sites, the Port will provide transportation for employees from either Pier 50 or Pier 90 to the job site.'

*ARTICLE III – PAY, HOURS, AND BENEFITS*

**III.X. ADMINISTRATIVE CODE CHAPTER 12W – PAID SICK LEAVE ORDINANCE**

284. San Francisco Administrative Code, Chapter 12W, Paid Sick Leave Ordinance, is expressly waived in its entirety with respect to employees covered by this Agreement.

**III.Y. AIRPORT EMPLOYEE COMMUTE OPTIONS PROGRAM**

285. The San Francisco International Airport (SFIA) Employee Commute Options Program (Eco Program) will be available for the term of the Agreement to SFIA employees. Under the Eco Program, employees who relinquish their SFIA-provided free parking privileges will receive a monthly allowance in an amount set by SFIA. Participation is voluntary and approved on a first come first serve basis. The SFIA reserves the right to amend or discontinue the Eco Program in its sole discretion, at any time for any reason including but not limited to a lack of funding as determined by the SFIA. The Eco Program, including but not limited to denial of participation, change in allowance amount, or amendment or termination of the Eco Program, is not subject to the grievance procedure.

**III. Z. LIFE INSURANCE**

286. Upon becoming eligible to participate in the Health Service System under San Francisco Administrative Code Section 16.700, the City shall provide term life insurance in the amount of \$50,000 for all employees covered by this agreement.

*ARTICLE IV - TRAINING, CAREER DEVELOPMENT AND INCENTIVES*

**ARTICLE IV - TRAINING, CAREER DEVELOPMENT AND INCENTIVES**

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

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

**IV.B. TUITION REIMBURSEMENT**

288. The City agrees to allocate a total of two thousand dollars (\$2,000) per year to the Tuition Reimbursement Program for the exclusive use of classifications represented by the Painters, San Francisco City United Workers. The maximum annual allocation for each employee shall be two-hundred and fifty dollars (\$250.00) per fiscal year for courses approved in accordance with guidelines established by the Department of Human Resources. Classes that will enhance an employee's work skills shall be considered as qualifying for tuition reimbursement.

**ARTICLE V - WORKING CONDITIONS**

**V.A. WORK ENVIRONMENT**

289. The City acknowledges its responsibility to provide a safe and healthful work environment for City employees. The City agrees to investigate and give consideration to departmental recommendations to improve the working environment for represented employees. The City agrees to maintain safety standards for represented employees as required by the pertinent provisions of Cal-OSHA.
290. When an employee has a good faith belief that a work assignment presents health and safety risks outside those normally associated with the work, the employee may refuse to begin or continue a work assignment.
291. When in such case an employee declines to begin or continue a work assignment, the employee shall notify the in house safety officer of the situation. The in-house safety officer shall promptly investigate the complaint. While the employee is awaiting the arrival of the in-house officer and until the officer has made a determination, the employee shall not be required to perform the disputed assignment, and may be reassigned if other work is available.
292. If the safety officer determines that the complaint is valid, the safety officer's decision shall override the departmental management decisions, including abatement procedures or employee reassignment.
293. Right to Know: Material Safety Data sheets shall be available for inspection by employees or their Union representative.

**V.B. SAFETY EQUIPMENT AND PROTECTIVE CLOTHING**

294. A. The City agrees to provide up to six (6) shirts and six (6) overalls (or work pants) to employees in classes 7346 Painter, 7242 Painter Supervisor I, and 7278 Painter Supervisor II during each fiscal year covered by this Agreement. The overalls (or work pants) and shirts shall be the property of the City. Before a replacement for a worn out shirt or overall (or work pants) is authorized, the worn out garment must be returned to the department for appropriate disposal.
295. B. As an alternative to providing work clothing as set forth in (a) above, individual departments may, at their discretion, and after consultation with the Union, agree to allow employees in classes 7346 Painter, 7242 Painter Supervisor I, and 7278 Painter Supervisor II to purchase up to a value of \$130/year appropriate work clothing as determined by the department after consultation with the employee. The employee shall receive reimbursement upon presentation of purchase receipts.
296. C. Employees who have elected option (b) above and who perform a work

## *ARTICLE V – WORKING CONDITIONS*

assignment which causes them to come into contact with raw sewage shall be paid a work clothing maintenance allowance of \$3.00 per day for each day during which they spend at least six (6) hours on such assignment.

297. D. All eligible employees in a department must be under the same work clothing option (i.e. either a or b). For purposes of applying this subsection, both S.F. General Hospital and Laguna Honda Hospital shall be considered a department.
298. E. The City agrees to provide one pair of safety shoes every fiscal year to employees covered by this Agreement.
299. F. The City shall provide an annual respiratory fitness test and an annual respirator face seal test for Painters (classes 7346 Painter, 7242 Painter Supervisor I and 7278 Painter Supervisor II). This provision shall not be grievable.

### **V.C. PRESCRIPTION SAFETY EYEGLASSES**

300. Covered employees will be provided with prescription safety glasses in compliance with Cal-OSHA regulations. Such prescription safety glasses will be replaced every twenty-four months. In addition, the City will reimburse the employee for prescription safety glasses that are damaged in the course of their work, provided that the employee has exercised reasonable care with respect to the employee's glasses. The reimbursement shall be limited to that portion of the cost of replacement glasses, which are comparable to those damaged, that is not otherwise covered by insurance.
301. To be eligible for reimbursement, the employee must apply for whatever insurance coverage may be available to the employee and meet all the other criteria set forth above.

### **V.D. FOUL WEATHER GEAR**

302. Represented Employees shall not be required to perform their normal work duties in the rain without being provided adequate foul weather gear consisting of hat, coat, pants and boots.

### **V.E. TOOL INSURANCE**

303. As applicable, the City agrees to indemnify employees covered under this Agreement for the loss or destruction of the employee's tools subject to the following conditions:
304. 1. These provisions shall apply when an employee's tools are lost or damaged due to fire or theft by burglary while the tools are properly on City property or being used by the employee in the course of City business.
305. 2. The employee must demonstrate that the employee has complied



*ARTICLE V – WORKING CONDITIONS*

with all of the tool safekeeping rules required by the City at the employee's particular work location.

306. 3. Upon approval of this Agreement and prior to any losses, the employee must submit a list of the employee's tools to the employee's appointing officer and the latter must acknowledge and verify said inventory both as to existence of said tools and their necessity as relates to the employee's job duties. Tools not enumerated on said list shall not be governed by these provisions.
307. 4. The employee shall be responsible for using all reasonable means to preserve and protect the employee's tools. Failure to do so shall relieve the City from any and all obligations under this section. Any employee making false or inaccurate claims under this section shall be subject to disciplinary action by the employee's appointing officer.
308. 5. In the case of theft, the following procedures shall be followed in perfecting a claim:
309. a. The employee shall submit a written statement made under penalty of perjury of the tools stolen to the employee's appointing officer, the local police department and the Union.
310. b. The statement must contain the member's name, location, and details of loss, date of loss and date reported to the police.
311. c. The statement must be submitted to the parties set forth in subsection (1) immediately above within five (5) days of the loss, unless the employee is on authorized leave in which case the employee shall have five (5) days from the date of the employee's return to report the loss.
312. d. In case of damage due to fire, the requirements of Section 5 above shall be followed with the exception that verified reports need not be filed with the police.
313. e. The first Ten Dollars (\$10.00) of any loss shall be borne by the employee. A "loss" is defined as the total dollar amount of tools of the employee lost or damaged in one incident. Approved claims shall be settled by the City paying to the employee the replacement cost of the tool(s) minus Ten Dollars (\$10.00).
314. f. The replacement cost for tools governed hereunder shall be determined by agreement between the employee or the employee's representative and the employee's appointing officer. Where possible, tools shall be replaced by tools of the same brand name

## *ARTICLE V – WORKING CONDITIONS*

and model. Any dispute resulting from attempts to determine tool replacement costs shall be submitted to an appropriate grievance procedure for resolution. In instances where the employee has suffered a loss of a substantial number of tools which would jeopardize the employee's ability to perform the employee's job duties and if there is a dispute as to tool replacement costs, the employee shall not lose any time from work as a result thereof.

### **V.F. MEDICAL EXAM**

315. In instances when covered employees are exposed to conditions hazardous to their health and when required by State law, said employee may request and be entitled to a medical examination. The cost will be paid by the City.
316. Departmental safety/medical monitoring programs shall only be instituted after meeting and conferring, as required by the Meyers-Milias Brown Act, between the parties. Any such program shall assure that reasonable accommodations be made within the department for persons with disabilities.

### **V.G. CLEAN UP TIME**

317. Adequate clean-up time is provided on an as-needed basis.

### **V.H. FAMILY LEAVE**

318. The parties acknowledge the obligation of the City to enforce the rules and regulations set forth in the Family Medical Leave Act and the California Family Rights Act. This provision is not subject to the grievance procedure.

### **V.I. SUBSTANCE ABUSE PREVENTION POLICY**

319. Attached hereto as Appendix B, is the City's current Substance Abuse Prevention Policy; this policy shall remain in effect until the City implements the Substance Abuse Prevention Policy set forth in Appendix C. Appendix C will be implemented after the City engages a vendor to provide oral fluid testing.

### **V.J. PAPERLESS PAY POLICY**

320. The Citywide "Paperless Pay" Policy applies to all City employees covered under this Agreement.
321. Under the policy, all employees shall be able to access their pay advices electronically on a password protected site, and print them in a confidential manner, using City Internet, computers and printers. Such use of City equipment shall be free of charge to employees, is expressly authorized under this section of the Agreement, and shall not be considered "inappropriate use" under any City policy. Pay advices shall also be

*ARTICLE V – WORKING CONDITIONS*

available to employees on a password protected site that is accessible from home or other non-worksites computers, and that allows the employees to print the pay advices. Employees shall receive assistance to print hard copies of their pay advices through their payroll offices upon request. Employees without computer access or who otherwise wish to receive a paper statement shall be able to receive hard copies of their pay advices through their payroll offices upon request, on a one-time or ongoing basis.

322. In addition to payroll information already provided, the pay advices shall reflect usage and balance (broken out for vacation, sick leave, etc.) the employee's hours of compensatory time, overtime, and premiums earned during the relevant payroll period. The City shall maintain electronic pay advices and/or wage statements for at least seven (7) years.
323. Under the policy, all employees (regardless of start date) will have two options for receiving pay: direct deposit or bank pay card. Employees not signing up for either option will be defaulted into bank pay cards.
324. Every employee shall possess the right to do the following with any frequency and without incurring any cost to the employee:
- Change the account into which the direct deposit is made;
  - Switch from the direct deposit option to the bank pay card option, or vice versa;
  - Obtain a new bank pay card the first time the employee's pay card is lost, stolen or misplaced.
325. The City assures that the bank pay card shall be FDIC insured. The City further assures that in the event of an alleged overpayment by the City to the employee, the City shall not unilaterally reverse a payment to the direct deposit account or bank pay card.
326. Training shall be available for employees who need additional assistance.
327. The City will work with the vendor to evaluate options to provide no-cost ATMs available at large worksites and remote worksites.

**ARTICLE VI - SCOPE**

328. The parties recognize that re-codifications may change the references to specific Civil Service Rules and Charter sections contained herein. Therefore, the parties agree, in this event, that such terms will read as if they accurately reference the same sections in their newly codified form.

**VI.A. SCOPE OF AGREEMENT**

329. This Agreement sets forth the full and entire understanding of the parties regarding the matters herein.

**VI.B. REOPENER**

330. Consistent with the provisions of Charter Section A8.409, this Agreement shall be reopened if the Charter is amended to enable the City and the Union to arbitrate retirement benefits.

**VI.C. ZIPPER CLAUSE**

331. 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.

**PAST PRACTICE**

332. The parties agree that any and all past practices and other understandings between the parties not expressly memorialized and incorporated into this Agreement shall no longer be enforceable.

**CIVIL SERVICE RULES/ADMINISTRATIVE CODE**

333. 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

## *ARTICLE VI – SCOPE*

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.

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

### **VI.D. DURATION OF AGREEMENT**

335. This Agreement shall be effective July 1, 2022, and shall remain in full force and effect through June 30, 2024, with no reopeners except as specifically provided herein.

### **VI.E. SAVINGS CLAUSE**

336. Should any part of this Agreement be determined to be contrary to law, such invalidation of that part or portion of this Agreement shall not invalidate the remaining portions hereof. In the event of such determination, the parties agree to immediately meet and confer in an attempt to agree upon a provision for the invalidated portion which meets with the precepts of the law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 12 day of May, 2022.

FOR THE CITY

FOR THE UNION


 5/12/2022

Carol Isen  
Human Resources Director

Date

Jim Leonard  
SFCWU President

Date

 5/13/2022

Ardis Graham  
Employee Relations Director

Date

Douglas Bias  
SFCWU Business Representative

Date

Alan C. Davis  
SFCWU Attorney

Date

APPROVED AS TO FORM  
DAVID CHIU, CITY ATTORNEY

 5/13/22

Jonathan Rolnick  
Chief Labor Attorney

Date

APPENDIX A

Excerpted From Charter Section A8.346

**Section A.346 (a)** As used in this section the word “strike” shall mean the willful failure to report for duty, the willful absence from one’s position, any concerted stoppage or slowdown of work, any concerted interruption of operations or services by employees, or the willful abstinence in whole or in part from the full, faithful, and proper performance of duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions of employment: provided, however, that nothing contained in this section shall be construed to limit, impair, or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of municipal employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

**Section A8.346(b):** No person holding a position by appointment or employment under the civil service provisions of this charter, exclusive of uniformed members of the police and fire departments as provided under section 8.345 of this charter, which persons are hereinafter referred to as municipal employees, shall strike, nor shall any municipal employee cause, instigate, or afford leadership to strike against the city and county of San Francisco. For the purpose of this section, any municipal employee who willfully fails to report for duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdowns, willfully interrupts city operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is “honoring” a strike by other municipal employees, shall be deemed to be on strike.

**APPENDIX B  
SUBSTANCE ABUSE PREVENTION POLICY**

The below Appendix B shall remain in effect until the City has met the conditions outlined in Article V.I. (Paragraph 344).

**1. MISSION STATEMENT**

- a. Employees are the most valuable resource to the City's effective and efficient delivery of services to the public. The parties have a commitment to prevent drug or alcohol impairment in the workplace and to foster and maintain a drug and alcohol free environment. The parties also have a mutual interest in preventing accidents and injuries on the job and, by doing so, protecting the health and safety of employees, co-workers, and the public.
- b. In agreeing to implement this Substance Abuse Prevention Policy (SAPP), the parties affirm their belief that substance abuse is a treatable condition. The City is committed to identifying needed resources, both in and outside of the City, for employees who voluntarily seek assistance in getting well. Those employees who voluntarily seek treatment prior to any testing shall not be subject to any repercussions or any potential adverse action for doing so. However, seeking treatment will not excuse prior conduct for which an investigation or disciplinary proceedings have been initiated.
- c. The City is committed to preventing drug or alcohol impairment in the workplace, and to fostering and maintaining a safe work environment free from alcohol and prohibited drugs at all of its work sites and facilities. In addition, the City maintains a drug and alcohol free workplace policy in its Employee Handbook.

**2. POLICY**

- a. To ensure the safety of the City's employees, co-workers and the public, no employee may sell, purchase, transfer, possess, furnish, manufacture, use or be under the influence of alcohol or illegal drugs at any City jobsite, while on City business, or in City facilities.
- b. Any employee, regardless of how the employee's position is funded, who has been convicted of any drug/alcohol-related crime that occurred while on City business or in City facilities, must notify the employee's department head or designee within five (5) days after such conviction. Failure to report within the time limitation may subject the employee to disciplinary action, up to and including termination.

**3. DEFINITIONS**

- a. "Accident" (or "Post Accident") means an occurrence associated with the Covered Employee's operation of Equipment or the operation of a vehicle (including, but not limited to, any City owned or personal vehicles) used during the course of the Covered Employee's work day if, as a result:



## APPENDIX B

- (1) There is a fatality, loss of consciousness, medical treatment required beyond first aid, medical transport, or other significant injury or illness diagnosed or treated by a physician, paramedic or other licensed health care professional; or
  - (2) With respect to an occurrence involving a vehicle, there is disabling damage to a vehicle as a result of the occurrence and the vehicle needs to be is transported away from the scene by a tow truck or driven to a garage for repair before being returned to service; or
  - (3) With respect to an occurrence involving Equipment, there damage to the Equipment equivalent to the above.
- b. “Adulterated Specimen” means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
- c. “Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weights alcohol including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)
- d. “Cancelled Test” means a drug or alcohol test that has a problem identified that cannot be or has not been corrected or which otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
- e. “City” or “employer” means the City and County of San Francisco.
- f. “Collector” means the staff of the collection facility under contract with the City and County of San Francisco’s drug testing contractor.
- g. “Covered Employee” means an employee in a represented classification covered by this Appendix.
- h. “CSC” means the Civil Service Commission of the City and County of San Francisco.
- i. “Day” means working day, unless otherwise expressly provided.
- j. “DHR” means the Department of Human Resources of the City and County of San Francisco.
- k. “Diluted Specimen” means a specimen with creatinine and specific gravity values that are lower than expected for human urine.
- l. “EAP” means the Employee Assistance Program offered through the City and County of San Francisco.

## APPENDIX B

- m. “Equipment” includes, but is not limited to, the operation of a vehicle (including, but not limited to any City-owned vehicle(s) and personal vehicle(s) used during the course of the employee's work day), painting equipment, rigging and use of scaffolding, spray gun, pressure washer, grinder, blow torch, chemicals and hazardous materials, power and motorized tools, hand tools, machine tools, heavy machinery or equipment that is used to change the elevation of the employee.
- n. “Illegal Drugs” or “drugs” refer to those drugs listed in Section 0.a., except in those circumstances where they are prescribed to the Covered Employee by a duly licensed healthcare provider. Section 0.a. lists the illegal drugs and alcohol and the threshold levels for which a Covered Employee will be tested. Threshold levels of categories of drugs and alcohol constituting positive test results will be determined using the applicable Substance Abuse and Mental Health Services Administration (“SAMHSA”) (formerly the National Institute of Drug Abuse, or “NIDA”) threshold levels, or U.S. government required thresholds levels where required, in effect at the time of testing. If applicable. Section 0.a. will be updated periodically to reflect the SAMHSA or U.S. government threshold changes, subject to mutual agreement of the parties.
- o. “Invalid Drug Test” means the result of a drug test for a urine specimen that contains an unidentified Adulterant or an unidentified substance, that has abnormal physical characteristics, or that has an endogenous substance at an abnormal concentration preventing the laboratory from completing or obtaining a valid drug test result.
- p. “MRO” means Medical Review Officer who is a licensed physician is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results,
- q. “Non-Negative Test” or “positive test” means a test result found to be Adulterated, Substituted, Invalid, or positive for alcohol or drug metabolites.
- r. “Parties” means the City and County of San Francisco and the San Francisco City Workers United (Painters).
- s. “Policy” means “Substance Abuse Prevention Policy” or “Agreement” between the City and County of San Francisco and the Union and attached to the parties’ Memorandum of Understanding (“MOU”).
- t. “Prescription Drug” means a drug or medication currently prescribed by a duly licensed healthcare provider for immediate use by the person possessing it that is lawfully available for retail purchase only with a prescription.
- u. “Refusal-to-Submit” or “Refusing to Submit” or “Refusal to Test” means a refusal to take a drug and/or alcohol test. Examples of Refusal to Submit includes the following conduct:
  - 1. Failure to appear for any test within a reasonable time.

## APPENDIX B

2. Failure to remain at the testing site until the test has been completed.
  3. Failure or refusal to take a first or second test that the Collector has directed the employee to take.
  4. Intentionally providing false information.
  5. Failure to cooperate with any part of the testing process, including obstructive or abusive behavior or refusal to drink water when directed.
  6. Failure to provide adequate urine or breath and subsequent failure to undergo a medical examination as required for inadequate breath or urine, or failure to provide adequate breath or urine and subsequent failure to obtain a valid medical explanation for the inadequate breath or urine condition.
  7. Adulterating, Substituting or otherwise contaminating or tampering with a urine specimen.
  8. Leaving the scene of an Accident without just cause prior to submitting to a test.
  9. Admitting to the collector that an employee has Adulterated or Substituted a urine specimen.
  10. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.
  11. Leaving work, after being directed to remain on the scene by the first employer representative while waiting for verification by the second employer representative under section 6.1.b.
- v. “Safety-Sensitive Function” means the use of Equipment during the course of the Covered Employee’s work day.
- w. “Substance Abuse Prevention Coordinator” (SAPC) means a licensed physician, psychologist, social worker, certified employee assistance professional, or nationally certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.
- x. “Split Specimen” means a part of the urine specimen in drug testing that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified Adulterated or substituted test result.
- y. “Substituted Specimen” means a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine which shall be deemed a violation of this policy and shall be processed as if the test results were positive.

## 4. COVERED CLASSIFICATIONS

All the employees in the classifications listed in Article I.A of the Memorandum of Understanding shall be subject to Reasonable Suspicion and Post Accident testing under this Policy.

5. SUBSTANCES TO BE TESTED

- a. The City shall test, at its own expense, for alcohol and/or the following controlled substances for Reasonable Suspicion and Post-Accident:

- (1.) Amphetamines
- (2.) Barbiturates
- (3.) Benzodiazepines
- (4.) Cocaine
- (5.) Methadone
- (6.) Opiates
- (7.) PCP
- (8.) THC (Marijuana)<sup>1</sup>

- b. Prescribed Drugs or Medications.

The City also recognizes that Covered Employees may at times have to ingest prescribed drugs or medications. If a Covered Employee takes any drug or medication that a treating physician, pharmacist or health care professional has informed the employee (orally, on the medication bottle and/or in the literature accompanying the medication) will interfere with job performance, including driving restrictions or restrictions on the use of equipment, the employee is required to immediately notify the designated Department's human resources representative or the Department's representative who is responsible for interacting with employees regarding disability accommodations of those restrictions before performing the employee's job functions.

- c. Upon receipt of a signed release from the Covered Employee's licensed healthcare provider, the department's human resources representative or the Department's representative who is responsible for interacting with employees regarding disability accommodations may consult with Covered Employee's healthcare provider to confirm specific job duties that the employee can perform while on prescribed medication. If the employee's healthcare provider is not readily available or none is given, the department's human resources representative or the Department's representative who is responsible for interacting with employees regarding disability accommodations may consult with any City-licensed healthcare provider before making a final determination as to whether the employee may perform the employee's job functions. However, if an employee, during the time of restriction, brings in a medical note from the healthcare provider who prescribed the medication clearing the employee to work, then the City shall not restrict that employee from performing the employee's job functions.
- d. If a Covered Employee is temporarily unable to perform Safety-Sensitive Functions because of any potential side effects caused by prescribed medication, the employee shall be reassigned to perform a temporary modified duty assignment consistent with the employee's medical restrictions without loss of pay until either the employee is off the prescribed medication or is

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<sup>1</sup> Prescription marijuana is treated as a controlled substance and will be tested for in the event criteria for Reasonable Suspicion or Post-Accident testing exists.

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cleared by a licensed healthcare provider. This reassignment shall last for a period of no more than thirty (30) working days. If, after thirty (30) working days, the employee is still on said medication and/or not cleared by a licensed healthcare provider to perform safety sensitive functions, the City may extend this accommodation for a period not to exceed thirty (30) working days, provided that the healthcare provider certifies that the employee is reasonably anticipated to be able to resume Safety-Sensitive Functions after that thirty (30) day period. Employees who are unable to return to work under this provision shall be referred to the Department's human resources representative designated to engage with employees regarding possible reasonable accommodations under state and federal disability laws.

- e. For Covered Employees, nothing in this Appendix shall supersede any disability accommodation requirements under state or federal law.

## 6. TESTING

### I. Reasonable Suspicion

- a. Reasonable suspicion to test a Covered Employees for illegal drugs or alcohol will exist when specific, reliable objective facts and circumstances would create a good faith belief in a prudent person that the employee has used a drug or alcohol. Such circumstances include, but are not limited to, the employee's behavior or appearance while on any City jobsite, while on City business or in City facilities, and recognized and accepted symptoms of intoxication or impairment caused by drugs or alcohol, that are not reasonably explained by other causes such as fatigue, lack of sleep, proper use of prescription drugs, or reaction to noxious fumes, smoke or illnesses.
- b. Any individual or employee can report an employee who may be under the influence of alcohol or drugs. Upon receiving a report of possible alcohol or illegal drugs on the job, two (2) trained employer representatives will verify and document the basis for the suspicion and request testing. The first employer representative shall verify and document the employee's appearance and behavior based on the above-stated indicators and, if appropriate, recommend testing to the second employer representative. At work locations within the border of the City and County of San Francisco (including San Francisco International Airport), the second employer representative shall verify and document the appearance and behavior of the employee based on the above-stated indicators and has final authority to require the employee to be tested. At work locations outside the border of the City and County of San Francisco, the second employer representative shall confer with the first employer representative to verify the employee's behavior based on the above-stated indicators, and the second employer representative has the final authority to require the employee to be tested. In the event only one trained employer representative is available on-site, the representative shall confer with any other trained employer representative within the City to verify the employee's behavior. The second trained employer representative shall have the final authority to require the employee to be tested.

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- c. If the City requires an employee to be tested under reasonable suspicion, then the employee may ask for representation. Representation may include, but is not limited to, union representatives and shop stewards. If the employee requests representation, the City shall allow a reasonable amount of time (a maximum of one hour) for the employee to obtain representation. Such request shall not delay the administration of the tests for more than one hour from the time the employee is notified that the employee will be tested.
- d. Moreover, if the City has reason to believe or suspect that a prescription medication may have interfered with or may have had a direct impact on an employee's job performance, it may require that employee to be tested unless the City has prior knowledge and approval of a Covered Employee's health condition requiring the use of prescription medication.
- e. The department representative(s) shall be required to accurately document and file the incident and the employee shall be required to complete a consent form prior to any testing. If an employee refuses to Submit to testing, then the City shall treat the refusal as having tested positive and shall immediately take appropriate disciplinary action pursuant to the attached discipline matrix.
- f. The City shall bear the costs for any required testing for alcohol and/or drugs under this section. Any counseling and rehabilitation services shall be on the employee's time and at the employee's cost, except that employees may use accrued paid time off to attend treatment and may utilize any resources covered by insurance. Employees shall have the right to use any accrued but unused leave balances while enrolled in any counseling or rehabilitation program. Any request by an employee to re-test a specimen shall be at the employee's cost.

### II. Post-Accident

- a. The City may require a Covered Employee who caused, or may have caused, an Accident, based on information known at the time at the time of the Accident, to submit to drug and/or alcohol testing.
- b. Following an Accident, all Covered Employees subject to testing shall remain readily available for testing. A Covered Employee may be deemed to have refused to submit to substance abuse testing if the employee fails to remain readily available, including failure to notify a supervisor (or designee) of the Accident location or leavings the scene of the Accident prior to submitting to testing.
- c. Nothing in this section shall delay medical attention for the injured following an accident or prohibit an employee from leaving the scene of an Accident for the period necessary to obtain assistance in responding to the Accident or to obtain necessary emergency medical care.
- d. If the City requires a Covered Employee to be tested post-Accident, then the employee may ask for representation. Representation may include, but is not limited to, union representatives and shop stewards. If the employee requests representation, the City shall allow a reasonable amount of time from the time the employee is notified that the employee will be tested (a

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maximum of one hour) for the employee to obtain representation provided that the union representative meet the employee at the Accident site, work location or testing center as determined by the City. Such request shall not delay the administration of the tests for more than one hour from the time the employee is notified that the employee will be tested.

- e. As soon as reasonably possible after the occurrence of an Accident, the supervisor or other City representative at the Accident scene shall make best efforts to contact the Department of Human Resources (DHR) or designee, and DHR or designee shall then make best efforts to telephone the union(s) designated representative on file with DHR representing the Covered Employee(s) involved in the Accident. If the first designated representative does not answer, DHR or designee shall leave a voice mail message notifying the union of the Accident. For purposes of this paragraph, a designated representative shall be any union officer or employee whose telephone number is on file with DHR for the purpose of Accident review. The union may change the designated representative, in writing, as necessary from time to time, but it is the sole responsibility of the union to ensure that a current telephone number (with voice mail capability) for a designated representative is on file with DHR. This subsection (e) shall not be grievable.

## 7. TESTING PROCEDURES

### I. Collection Site;

- a. The City shall make best efforts to ensure that a Covered Employee subject to testing is safely transported to and from the collection site.
- b. The staff of the collection facility under contract to the City or the City's drug testing contractor ("Collector") shall collect urine samples from Covered Employees to test for prohibited drugs.
- c. Tests for alcohol concentration on Covered Employees will be conducted with a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). Alcohol tests shall be by breathalyzer.
- d. A Covered Employee appearing at the approved drug collection site must have a minimum of one piece of government-issued photo identification and may not leave the collection site for any reason – unless authorized by the collection agency – until the employee has fully completed all collection procedures. Failure to follow all collection procedures will result in the employee classified as “Refusal to Submit.”
- e. Covered Employees, who refuse to test, may be subject to disciplinary action, up to and including termination, pursuant to Exhibit A.
- f. The specific required procedure for urine collection is as follows:

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- (1.) Urine will be obtained directly in a tamper-resistant urine bottle. Alternatively, the urine specimen may be collected at the employee's option in a wide-mouthed clinic specimen container that must remain in full view of the employee until transferred to, sealed and initialed, in separate tamper-resistant urine bottles.
  - (2.) Immediately after the specimen is collected, it will be divided into two (2) urine bottles, which, in the presence of the employee, will be labeled and then initialed by the Covered Employee and witness. If the sample must be collected at a site other than the drug and/or alcohol-testing laboratory, the specimens must then be placed in a transportation container. The container shall be sealed in the employee's presence and the Covered Employee must be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.
  - (3.) A chain of possession form must be completed by the hospital, laboratory and/or clinic personnel during the specimen collection and attached to and mailed with the specimens.
- g. After being tested for drugs, the Covered Employee will be barred from returning to work until the department is advised of the final testing result from the MRO. During that period, the Covered Employee will be placed on paid administrative leave for so long as the Covered Employee is eligible for such leave under the terms of the applicable provision of the City's Administrative Code. The test shall be deemed a negative test if the MRO has not advised of the final testing result by the time the Covered Employee's paid leave has expired under the terms of the applicable provision of the City's Administrative Code.

### II. Laboratory

- a. Drug tests shall be conducted by laboratories licensed and approved by SAMSHA which comply with the American Occupational Medical Association (AOMA) ethical standards. Upon advance notice, the parties retain the right to inspect the laboratory to determine conformity with the standards described in this policy. The laboratory will only test for drugs identified in this policy. The City shall bear the cost of all required testing unless otherwise specified herein.
- b. Testing procedures, including substances to be tested, specimen collection, chain of custody and threshold and confirmation test levels shall comport with the Mandatory Guidelines For Federal Workplace Testing Programs, established by the U.S. Department of Health and Human Services, as amended and the U.S. Department of Transportation regulations, where applicable. Tests shall be by urine screening and shall consist of two procedures, a screen test (EMIT or equivalent) and if that is positive, a confirmation test (GC/MS).
- c. The initial test of all urine specimens will use immunoassay techniques. All specimens identified as positive in the initial screen must be confirmed using gas chromatography/mass



## APPENDIX B

spectrometry (GC/MS) technique that identifies at least three (3) ions. In order to be considered “positive” for reporting by the laboratory to the City, both samples must be tested separately in separate batches and must also show positive results on the GC/MS confirmatory test.

- d. In the event of a positive drug or alcohol test, the testing laboratory will perform an automatic confirmation test on the original specimen at no cost to the Covered Employee. In addition, the testing laboratory shall preserve a sufficient specimen to permit an independent re-testing at the Covered Employee’s request and expense. The same, or any other, approved laboratory may conduct re-tests. The laboratory shall endeavor to notify the designated MRO of positive drug, alcohol, or adulterant tests results within five (5) working days after receipt of the specimen.

### III. Medical Review Officer (MRO)

- a. All positive drug, or Substituted, Adulterated or positive-Diluted Specimen, or Invalid as defined herein will be reported to a Medical Review Officer (MRO). The MRO shall review the test results and any disclosure made by the Covered Employee and shall attempt to interview the individual to determine if there is any physiological or medical reason why the result should not be deemed positive. If no extenuating reasons exist, the MRO shall designate the test positive.
- b. When the laboratory reports a confirmed positive, Adulterated, Substituted, positive Diluted, or Invalid test, it is the responsibility of the MRO to: (a) make good faith efforts to contact the employee and inform the employee of the positive, Adulterated, Substituted, positive Diluted, or Invalid test result, (b) afford the employee an opportunity to discuss the test results with the MRO; (c) review the employee's medical history, including any medical records and biomedical information provided by the Covered Employee, or the employee’s treating physician, to the MRO; and (d) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. Employees shall identify all prescribed medication(s) that they have taken. If the Covered Employee fails to respond to the MRO within three (3) days, the MRO may deem the Covered Employee’s results as a “positive result.”
- c. The MRO has the authority to verify a positive or Refusal To Test without interviewing the employee in cases including but not limited to: (a) the employee refused to discuss the test result; or (b) the City directed the employee to contact the MRO, and the employee did not make contact with the MRO within seventy-two (72) hours. In all cases, previously planned leaves may extend this time. The parties understand that the MRO’s review of the test results will normally take no more than three (3) to five (5) days from the time the Employee is tested.
- d. If the testing procedures confirm a positive result, as described above, the Covered Employee and the Substance Abuse Prevention Coordinator for the City and departmental HR staff or designee will be notified of the results in writing by the MRO, including the specific quantities. The results of a positive drug test shall not be released until the results are confirmed by the MRO.

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- e. The Covered Employee may request a drug or adulterant re-test within seventy-two (72) hours from notice of a positive test result by the MRO. The requesting party will pay costs of re-tests in advance.
- f. A drug test result that is positive and is a Diluted Specimens will be treated as positive. All drug test results that are determined to be negative and are Diluted Specimens will require that the employee take an immediate retest. If the retest yields a second negative Diluted Specimens result, the test will be treated as a normal negative test, except in the case of subsection (g).
- g. If the final test is confirmed negative, then the Employee shall be made whole, including, if any, the cost of the actual laboratory re-testing. Any employee who is subsequently determined to be the subject of a false positive shall be made whole for any lost wages and benefits and shall have their record expunged.
- h. The City shall assure that all specimens confirmed positive will be retained and placed in properly secured long-term frozen storage for a minimum of one (1) year, and be made available for retest as part of any administrative proceedings.
- i. All information from a covered employee's drug and/or alcohol test is confidential for purposes other than determining whether this policy has been violated or pursuing disciplinary action based upon a violation of this policy.. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the Covered Employee or as required by law.

### IV. On-Site

- a. For post-Accident purposes, the City may conduct "on-site" tests (alcohol breathalyzer testing and "Quicktest" urine testing). If any of those tests are "non-negative" a confirmation test will be performed. This on-site test is to enable the Covered Employee and the City to know immediately whether that employee has been cleared for work.
- b. In order to facilitate the on-site urine testing, an individual's sample will be divided into three separate containers. One of the containers will provide a sample for the on-site test that will be read within 5 to 10 minutes of collection. The other two containers will be sealed and sent to the lab, in the event a confirmation is necessary due to a "non-negative" outcome of the on-site test. The laboratory will store the split sample in accordance with SAMHSA guidelines. One of the two samples will be used for a confirmation test. The other sample will be made available to the employee for testing by a certified laboratory selected by the employee at the employee's expense.

## 8. RESULTS

- a. Substance Abuse Prevention and Detection Threshold Levels

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Any test revealing a blood/alcohol level equal to or greater than 0.08 percent or the established California State standard for non-commercial motor vehicle operations, or when operating a moving vehicle or performing a Safety-Sensitive Function as defined in this Policy shall be deemed positive. Any test revealing a blood/alcohol level equal to or greater than that 0.04 percent or the established California State standard for commercial motor vehicle operations shall be deemed positive. Any test revealing controlled substance confirmation level as shown in the chart below shall be deemed positive test.

CONTROLLED SUBSTANCE *	SCREENING METHOD	SCREENING LEVEL **	CONFIRMATION METHOD	CONFIRMATION LEVEL
Amphetamines	EMIT	500 ng/ml **	GC/MS	250 ng/ml **
Barbiturates	EMIT	300 ng/ml	GC/MS	200 ng/ml
Benzodiazepines	EMIT	300 ng/ml	GC/MS	300 ng/ml
Cocaine	EMIT	150 ng/ml **	GC/MS	100 ng/ml **
Methadone	EMIT	300 ng/ml	GC/MS	100 ng/ml
Opiates	EMIT	2000 ng/ml **	GC/MS	2000 ng/ml **
PCP (Phencyclidine)	EMIT	25 ng/ml **	GC/MS	25 ng/ml **
THC (Marijuana)	EMIT	50 ng/ml **	GC/MS	15 ng/ml **
* All controlled substances including their metabolite components.				
** SAMHSA specified threshold				

- b. The City reserves the right to discipline in accordance with the chart set forth in Exhibit A, for over-use, misuse or abuse of prescribed and over the counter drugs or medications pursuant to the testing procedures described above as determined by the MRO.

### 9. CONSEQUENCES OF POSITIVE TEST RESULTS

- a. For Reasonable Suspicion or post-Accident, a Covered Employee shall be immediately removed from performing the employee's Safety-Sensitive Function(s) and shall be subject to disciplinary action and further follow-up as set forth in Exhibit A if any of the following takes place:

the Covered Employee:

1. Is confirmed to have tested positive for alcohol or drugs;
  2. Refuses to Submit to testing; or
  3. Has submitted a specimen that the testing laboratory reports is an Adulterated or Substituted Specimen.
- b. If the Union disagrees with the proposed disciplinary action, it may use the grievance procedure as set forth in the parties' MOU provided, however, that such a grievance must be initiated at the Employee Relations Director step, unless the parties otherwise mutually agree.

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- c. All proposed disciplinary actions resulting from a positive drug/alcohol test(s) shall be administered pursuant to the disciplinary matrix set forth in Exhibit A. Notwithstanding the disciplinary matrix which applies to the violation of this Policy, the City may impose discipline based on the Covered Employee's conduct, which may include consideration of whether the conduct at issue occurred while the employee was impaired by drugs or alcohol and/or whether the employee refused to test in addition to any discipline imposed under Exhibit A.
- d. In the event the City proposes disciplinary action, the notice of the proposed discipline shall contain copies of all laboratory reports and any other supporting documentation which the City is relying on to support the proposed discipline.

### 10. RETURN TO DUTY

The Substance Abuse Prevention Coordinator (SAPC) will meet with a Covered Employee who has tested positive for alcohol and/or drugs. The SAPC will discuss what course of action may be appropriate, if any, and assistance from which the employee may benefit, if any, and will communicate a proposed return-to-work plan, if necessary, to the employee and department. The SAPC may recommend that the Covered Employee voluntarily enter into an appropriate rehabilitation program administered by the Covered Employee's health insurance carrier prior to returning to work. The Covered Employee may not return to work until the SAPC certifies that the employee has a negative test prior to returning to work. The SAPC will provide a written release to the appropriate department or division certifying the employee's right to return to work.

### 11. TRAINING

The City or its designated vendor shall provide training on this policy to working line staff, union representatives, first-line, working supervisors and up to the Deputy Director level as needed. In addition, all Covered Employees shall be advised of this policy.

### 12. ADOPTION PERIOD

This Policy shall go into effect six months following the final adoption of this Appendix by the parties.

### 13. JOINT CITY/UNION COMMITTEE

The parties agree to work cooperatively to ensure the success of this policy. As such, a Joint City/Union Committee shall be established with two (2) members from the City and two (2) members from the Union. The Committee shall meet on an annual basis and, in addition, on an as-needed basis to address any implementation issues and other matters of mutual interests concerning this policy. The Committee may also discuss adding or deleting covered classifications from this policy. The Director of Human Resources shall make a final decision based on the recommendations from the Committee.

### 14. SAVINGS CLAUSE

## *APPENDIX B*

Notwithstanding any existing substance abuse prevention programs, if any provision of an existing department policy, rule, regulation, or resolution is inconsistent with or in conflict with any provision of this policy, this policy shall take precedence. Should any part of this policy be determined contrary to law, such invalidation of that part or portion of this policy will not invalidate the remaining parts or portions. In the event of such determination, the parties agree to immediately meet and negotiate new provision(s) in conformity with the requirements of the applicable law and the intent of the parties hereto. Otherwise, this policy may only be modified by mutual consent of the parties. Such amendment(s) shall be reduced to writing.

## EXHIBIT A

## CONSEQUENCES OF A POSITIVE TEST/OCCURRENCE

Testing Types/Issues	First Positive/Occurrence	Second Positive/Occurrence <sup>4</sup>
Reasonable Suspicion	No more than ten (10) working days; Referred to Substance Abuse Prevention Coordinator (SAPC), SAPC Recommendation for Treatment <sup>1</sup> . Return to Duty Test <sup>2</sup> , Follow-up Testing, Subject to disciplinary action except where substantial mitigating circumstances exist. <sup>3</sup>	Will be subject to disciplinary action greater than ten (10) working days up to and including termination except where substantial mitigating circumstances exist.
Post Accident	No more than ten (10) working days; Referred to Substance Abuse Prevention Coordinator (SAPC), SAPC Recommendation for Treatment <sup>1</sup> . Return to Duty Test <sup>2</sup> , Follow-up Testing, Subject to disciplinary action except where substantial mitigating circumstances exist. <sup>4</sup>	Will be subject to disciplinary action greater than ten (10) working days up to and including termination except where substantial mitigating circumstances exist.
Alteration of Specimen ("Substituted," "Adulterated" or "Diluted")	Subject to Termination except where substantial mitigating circumstances exist.	Subject to Termination except where substantial mitigating circumstances exist.
Refusal to Test	No more than 15 working days; Assumption is a positive result; Referred to Substance Abuse Prevention Coordinator (SAPC). SAPC Recommendation for Treatment. <sup>1</sup> Return to Duty Test. <sup>2</sup> Subject to disciplinary action except where substantial mitigating circumstances exist. <sup>5</sup>	Will be subject to disciplinary action greater than 15 working days up to and including termination except where substantial mitigating circumstances exist.

1: Employee may use accrued but unused leave balances to attend a rehabilitation program.

2: Employee may not return to work until the SAPC certifies that the employee has completed recommended rehabilitation program and has a negative test prior to returning to full duty. The SAPC will be chosen by the City.

3: Proposed disciplinary action for a first positive test or Refusal to Test to be no more than 15 working days. A second positive test within three (3) years may also result in disciplinary action up to and including termination.

4: Proposed disciplinary action for Post Accident for a first positive test to be no more than 15 working days. A second positive test within three (3) years may result in more severe proposed disciplinary action, up to and including termination.

5: Proposed disciplinary action for Alteration of Specimen ("Substituted", "Adulterated", or "Diluted") or Refusal to Test for a first positive or occurrence to be no more than 15 working days. A second positive test or occurrence within three years may result in more severe proposed disciplinary action, up to and including termination of employment.

## APPENDIX C

### SUBSTANCE ABUSE PREVENTION POLICY

Pursuant to MOU Article V.I. (paragraph 344), the below Appendix C will be implemented after the City engages a vendor to provide oral fluid testing. However, Appendix B shall remain in effect until the City has met the conditions outlined in Article V.I.

#### 1. MISSION STATEMENT

- a. Employees are the most valuable resource in the City's effective and efficient delivery of services to the public. The City has a commitment to prevent drug or alcohol impairment in the workplace, foster and maintain a drug and alcohol free work environment. The City is also interested in preventing accidents and injuries on the job and, by doing so, protecting the health and safety of employees, co-workers, and the public.
- b. The City affirms its belief that substance abuse is a treatable condition. The City is committed to identifying needed resources, both in and outside of the City, for employees who voluntarily seek assistance in getting well. Those employees who voluntarily seek treatment prior to any testing shall not be subject to any repercussions or any potential adverse action for doing so. However, seeking treatment will not excuse prior conduct for which an investigation or disciplinary proceedings have been initiated.
- c. The City is committed to preventing drug or alcohol impairment in the workplace, and to fostering and maintaining a safe work environment free from alcohol and prohibited drugs at all of its work sites and facilities. In addition, the City maintains a drug and alcohol free workplace policy in its Employee Handbook.

#### 2. POLICY

- a. To ensure the safety of the City's employees, co-workers and the public, no employee may sell, purchase, transfer or possess, furnish, manufacture, use or be under the influence of alcohol or Illegal Drugs at any City jobsite, while on City business, or in City facilities. A City employee whose job duties requires the employee to handle alcohol or Illegal Drugs shall not be in violation of this Policy for carrying out such job duties.
- b. Any employee, regardless of how the employee's position is funded, who has been convicted of any drug/alcohol-related crime that occurred while on City business or in City facilities, must notify the employee's department head or designee within five (5) days after such conviction. Failure to report within the time limitation shall subject the employee to disciplinary action, up to and including termination.

### 3. DEFINITIONS

- a. “Accident” (or “post-Accident”) means an occurrence associated with the Covered Employee’s operation of Equipment or the operation of a vehicle (including, but not limited to, City-owned or personal vehicles) used during the course of the Covered Employee’s work day where the City concludes that the occurrence may have resulted from human error by the Covered Employee, or could have been avoided by reasonably alert action by the Covered Employee, and:
  - (1) There is a fatality, loss of consciousness, medical treatment required beyond first aid, medical transport, or other significant injury or illness diagnosed, or treated by, a physician, paramedic or other licensed health care professional; or
  - (2) With respect to an occurrence involving a vehicle, there is disabling damage to a vehicle as a result of the occurrence and the vehicle needs to be transported away from the scene by a tow truck or driven to a garage for repair before being returned to service; or
  - (3) With respect to an occurrence involving Equipment, there is damage to the Equipment exceeding three thousand dollars (\$3,000); or
  - (4) With respect to an occurrence involving structures or property, there are damages exceeding ten thousand dollars (\$10,000) to the structures or property.
- b. “Adulterated Specimen” means a specimen that contains a substance that is not expected to be present in oral fluid, or contains a substance expected to be present but is at a concentration so high that it is not consistent with oral fluid.
- c. “Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weights alcohol including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)
- d. “Cancelled Test” means a drug or alcohol test that has a problem identified that cannot be or has not been corrected or which 49 C.F.R. Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
- e. “City” or “employer” means the City and County of San Francisco.
- f. “Collector” means an on-site employee trained to collect a drug or alcohol specimen, or the staff of the collection facility under contract with the City and County of San Francisco’s drug testing contractor.
- g. “Covered Employee” means any miscellaneous employee employed by the City and County of San Francisco with the exception of: (a) employees of the SFMTA; and (b)



## APPENDIX C

employees in a non-MTA department currently subject to a departmental substance abuse testing program, as further described in section 4 below.

- h. “CSC” means the Civil Service Commission of the City and County of San Francisco.
- i. “Day” means working day, unless otherwise expressly provided.
- j. “DHR” means the Department of Human Resources of the City and County of San Francisco.
- k. “Diluted Specimen” means a specimen with creatinine and specific gravity values that are lower than expected for oral fluid.
- l. “EAP” means the Employee Assistance Program offered through the City and County of San Francisco.
- m. “Equipment” includes any vehicle (including, but not limited to any City-owned vehicle or personal vehicle used during the course of the employee’s paid work time); any water craft; powder-actuated tools; tools; heavy machinery or equipment; underwater equipment; equipment that is used to change the elevation of the Covered Employee more than five (5) feet; any other device(s) or mechanism(s) the use of which may constitute a comparable danger to the employee or others; firearms when a firearm is required, and approved by the Appointing Officer, to be carried and used by the Covered Employee; banding tools; band-it; power tools; bucket truck; or equipment that is used to change the elevation of the Covered Employee more than five (5) feet.
- n. “Illegal Drugs” refer to those drugs listed in Section 5.a. Section 8.a. lists the drugs and alcohol and the threshold levels for which a Covered Employee will be tested. Threshold levels of categories of drugs and alcohol constituting positive test results will be determined using the applicable Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly the National Institute of Drug Abuse, or NIDA) threshold levels, or U.S. government required threshold levels where required, in effect at the time of testing, if applicable. Section 8.a. will be updated periodically to reflect the SAMHSA or U.S. government threshold changes.
- o. “Invalid Drug Test” means the result of a drug test for an oral fluid specimen that contains an unidentified adulterant, or an unidentified substance, that has abnormal physical characteristics, or that has an endogenous substance at an abnormal concentration preventing the laboratory from completing or obtaining a valid drug test result.
- p. “MRO” means Medical Review Officer who is a licensed physician certified by the Medical Review Officers Certification Council or U.S. Department of Transportation responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

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- q. “Non-Negative Test” or “positive test” means a test result found to be Adulterated, Substituted, Invalid, or positive for alcohol or drug metabolites.
- r. “Oral Fluid” means saliva or any other bodily fluid generated by the oral mucosa of an individual.
- s. “Policy” means “Substance Abuse Prevention Policy” or “Agreement” attached to the parties’ Memorandum of Understanding (“MOU”).
- t. “Prescription Drug” means a drug or medication currently prescribed by a duly licensed healthcare provider for immediate use by the person possessing it that is lawfully available for retail purchase only with a prescription.
- u. “Refusal to Submit,” “Refusing to Submit,” “Refuse to Test,” or “Refusal to Test” means a refusal to take a drug and/or alcohol test and includes, but is not limited to, the following conduct:
  - i. Failure to appear for any test within a reasonable time.
  - ii. Failure to remain at the testing site until the test has been completed.
  - iii. Failure or refusal to take a test that the Collector has directed the employee to take.
  - iv. Providing false information.
  - v. Failure to cooperate with any part of the testing process, including obstructive or abusive behavior or refusal to drink water when directed.
  - vi. Failure to provide adequate oral fluid or breath samples, and subsequent failure to undergo a medical examination as required for inadequate breath or oral fluid samples, or failure to provide adequate breath or oral fluid samples and subsequent failure to obtain a valid medical explanation.
  - vii. Adulterating, substituting or otherwise contaminating or tampering with an oral fluids-specimen.
  - viii. Leaving the scene of an Accident without just cause prior to submitting to a test.
  - ix. Admitting to the Collector that an employee has Adulterated or Substituted an oral fluid specimen.
  - x. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.
  - xi. Leaving work, after being directed to remain on the scene by the first employer representative, while waiting for verification by the second employer representative under section 6.I.b.
- v. “Substance Abuse Prevention Coordinator” (SAPC) means a licensed physician, psychologist, social worker, certified employee assistance professional, or nationally certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The SAPC will be chosen by the City.

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- w. "Split Specimen" means a part of the oral fluid specimen in drug testing that is retained unopened for a confirmation test (if required) or in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified Adulterated or Substituted Specimen test result.
- x. "Substituted Specimen" means a specimen with laboratory values that are so diminished that they are not consistent with oral fluid and which shall be deemed a violation of this policy, and shall be processed as if the test results were positive.

### 4. COVERED CLASSIFICATIONS

All classifications listed in Article I.A of this Memorandum of Understanding shall be subject to post-accident reasonable suspicion testing. This policy shall not apply to employees who are required to be tested under the regulations of the United States Department of Transportation.

### 5. SUBSTANCES TO BE TESTED

- a. The City shall test, at its own expense, for alcohol and/or the following drugs:

- (1) Amphetamines
- (2) Barbiturates
- (3) Benzodiazepines
- (4) Cocaine
- (5) Methadone
- (6) Opiates
- (7) PCP
- (8) THC (Cannabis)

- b. Prescribed Drugs or Medications.

The City recognizes that Covered Employees may at times have to ingest prescribed drugs or medications. If a Covered Employee takes any drug or medication that a treating physician, pharmacist, or health care professional has informed the employee (orally or on the medication bottle) will interfere with job performance, including driving restrictions or restrictions on the use of Equipment, the employee is required to immediately notify the designated Department representative of those restrictions before performing job functions.

- (1) Upon receipt of a signed release from the Covered Employee's licensed healthcare provider, the department representative may consult with Covered Employee's healthcare provider to confirm specific job duties that the employee can perform while on prescribed medication. If the employee's healthcare provider is not readily available, or none is given, the department representative may consult with any City-licensed healthcare provider before making a final determination whether the employee may perform job functions. However, if an employee, at the time of notification, brings in a medical note from the healthcare provider who prescribed

the medication clearing the employee to work, then the City shall not restrict that employee from performing the employee's job functions.

- (2) If a Covered Employee is temporarily unable to perform the employee's job because of any potential side effects caused by prescribed medication, the employee shall be reassigned to perform a temporary modified duty assignment consistent with the employee's medical restrictions without loss of pay until either the employee is off the prescribed medication or is cleared by a licensed healthcare provider. This temporary modified duty reassignment shall last for a period of no more than thirty (30) working days. If, after thirty (30) working days, the employee is still on said medication and/or has not been cleared by a licensed healthcare provider to return to work without restrictions, the City may extend the temporary modified duty assignment for a period not to exceed thirty (30) working days, provided that the healthcare provider certifies that the employee is reasonably anticipated to be able to be able to return to work without restrictions after that thirty (30) day period. Employees who are unable to return to work under this provision shall be referred to the Department's human resources representative designated to engage with employees regarding possible reasonable accommodation under state and federal disability laws.

## 6. TESTING

### I. Reasonable Suspicion Testing

- a. Reasonable suspicion to test a Covered Employee will exist when contemporaneous, articulable and specific observations concerning the symptoms or manifestations of impairment can be made. These observations shall be documented on the Reasonable Suspicion Report Form attached to this Appendix as Exhibit B. At least three (3) indicia of drug or alcohol impairment must exist, in two (2) separate categories, as listed on the Reasonable Suspicion Report Form. In the alternative, the employer representatives must confirm direct evidence of drug or alcohol impairment as listed on the Reasonable Suspicion Report Form.
- b. Any individual or employee may report another employee who may appear to that individual or employee to be under the influence of alcohol or drugs. Upon receiving a report of possible alcohol or drug use or impairment in the workplace, two (2) trained supervisory employer representatives will independently verify the basis for the suspicion and request testing in person. The first employer representative shall verify and document the employee's appearance and behavior and, if appropriate, recommend testing to the second employer representative. The second employer representative shall verify the contemporaneous basis for the suspicion. If reasonable suspicion to test a Covered Employee arises between 11:00 p.m. and 7:00 a.m., or at a location outside the geographic boundaries of the City and County of San Francisco (excluding San Francisco International Airport), and where a second trained supervisory employer representative cannot reasonably get to the location within thirty (30) minutes, then the

## APPENDIX C

second employer representative shall not be required to verify the basis for the suspicion in person, but instead shall verify by telephone or email. After completing the verification, and consulting with the first employer representative, the second employer representative has final authority to require that the Covered Employee be tested.

- c. If the City requires an employee under reasonable suspicion to be tested, then the employee may ask for representation. Representation may include, but is not limited to, union representatives and shop stewards. If the employee requests representation, the City shall allow a reasonable amount of time from the time the employee is notified that the employee will be tested (up to a maximum of one hour) for the employee to obtain representation. Such request shall not delay the administration of the tests for more than one hour from the time the employee is notified that the employee's will be tested.
- d. Department representative(s) shall document the incident. If a Covered Employee Refuses to Submit to testing, then the City shall treat the refusal as a positive test, and shall take appropriate disciplinary action pursuant to the attached discipline matrix.

### II. Post-Accident Testing

- a. The City may require a Covered Employee who caused, or may have caused, an Accident, based on information known at the time of the Accident, to submit to drug and/or alcohol testing.
- b. Following an Accident, all Covered Employees subject to testing shall remain readily available for testing. A Covered Employee may be deemed to have refused to submit to substance abuse testing if the employee fails to remain readily available, including failing to notify a supervisor (or designee) of the Accident location, or leaving the scene of the Accident prior to submitting to testing.
- c. Nothing in this section shall delay medical attention for the injured following an Accident or prohibit an employee from leaving the scene of an Accident for the period necessary to obtain assistance in responding to the Accident or to obtain necessary emergency medical care.
- d. If the City requires a Covered Employee to be tested post-Accident, then the employee may ask for representation. Representation may include, but is not limited to, union representatives and shop stewards. If the employee requests representation, the City shall allow a reasonable amount of time from the time the employee is notified that the employee will be tested (a maximum of one hour) for the employee to obtain representation provided that the union representative meet the employee at the Accident site, work location or testing center as determined by the City. Such request shall not delay the administration of the tests for more than one hour from the time the employee is notified that the employee will be tested.

## 7. TESTING PROCEDURES

### I. Collection Site

- a. If there is a trained Collector available on site, the City may conduct “on-site” tests (alcohol breathalyzer testing and oral fluid testing). If any of those tests are “Non-Negative,” a confirmation test will be performed. The on-site tests may enable the Covered Employee and the City to know immediately whether that employee has been cleared for work.
- b. If a trained Collector is not available on-site, the staff of a collection facility under contract to the City, or the City's drug testing contractor shall collect oral fluid samples from Covered Employees to test for prohibited drugs.
  - (1) A Covered Employee appearing at the approved drug collection site must have a minimum of one piece of government-issued photo identification and may not leave the collection site for any reason – unless authorized by the collection agency – until the employee has fully completed all collection procedures. Failure to follow all collection procedures will result in the employee classified as a “Refusal to Submit.”
- c. Covered Employees who Refuse to Test may be subject to disciplinary action, up to and including termination, pursuant to Exhibit A.
- d. Alcohol and drug testing procedures.
  - (1) Alcohol Testing Procedure. Tests for alcohol concentration on Covered Employees will be conducted with a National Highway Traffic Safety Administration (NHTSA)-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). Alcohol tests shall be by breathalyzer using the handheld Alco-Sensor IV Portable Breath Alcohol Analyzer device, or any other U.S. Department of Transportation (DOT) approved breath analyzer device.
  - (2) Drug Testing Procedure. Tests for drugs shall be by oral fluid collection. The oral fluid specimens shall be collected under direct visual supervision of a Collector and in accordance with the testing device manufacturer’s recommended procedures for collection. Screening results may be provided by the Collector or by a laboratory. Confirmation tests shall be conducted at a laboratory.
  - (3) The Covered Employee being tested must cooperate fully with the testing procedures.

## APPENDIX C

- (4) A chain of possession form must be completed by the Collector, hospital, laboratory and/or clinic personnel during the specimen collection and attached to and mailed with the specimens.
- e. After being tested for drugs, the Covered Employee may be barred from returning to work until the department is advised of the final testing result by the MRO. During that period, the Covered Employee will be assigned to work that is not safety-sensitive or placed on paid administrative leave for so long as the Covered Employee is eligible for such leave under the terms of the applicable provision of the City's Administrative Code. The test shall be deemed a negative test if the MRO has not advised of the final testing result by the time the Covered Employee's paid leave has expired under the terms of the applicable provision of the City's Administrative Code.

### II. Laboratory

- a. Drug tests shall be conducted by laboratories licensed and approved by SAMSHA which comply with the American Occupational Medical Association (AOMA) ethical standards. Upon advance notice, the parties retain the right to inspect the laboratory to determine conformity with the standards described in this policy. The laboratory will only test for drugs identified in this policy. The City shall bear the cost of all required testing unless otherwise specified herein.
- b. Tests for all controlled substances, except alcohol, shall be by oral fluid testing and shall consist of two procedures, a screen test and, if that is positive, a confirmation test.
- c. To be considered positive for reporting by the laboratory to the City, both samples must be tested separately in separate batches and must also show positive results on the confirmatory test.
- d. In the event of a positive test, the testing laboratory will perform an automatic confirmation test on the original specimen at no cost to the Covered Employee. In addition, the testing laboratory shall preserve a sufficient specimen to permit an independent re-testing at the Covered Employee's request and expense. The same, or any other, approved laboratory may conduct re-tests. The laboratory shall endeavor to notify the designated MRO of positive drug, alcohol, or adulterant tests results within five (5) working days after receipt of the specimen.

### III. Medical Review Officer (MRO)

- a. All positive drug, or Substituted, Adulterated, positive-Diluted Specimen, or Invalid Drug Test, as defined herein, will be reported to a Medical Review Officer (MRO). The MRO shall review the test results, and any disclosure made by the Covered Employee, and shall attempt to interview the individual to determine if there is any physiological or medical reason why the result should not be deemed positive. If no extenuating reasons exist, the MRO shall designate the test positive.

- b. When the laboratory reports a confirmed positive, Adulterated, Substituted, positive-Diluted, or Invalid test, it is the responsibility of the MRO to: (a) make good faith efforts to contact the employee and inform the employee of the positive, Adulterated, Substituted, positive-Diluted, or Invalid test result; (b) afford the employee an opportunity to discuss the test results with the MRO; (c) review the employee's medical history, including any medical records and biomedical information provided by the Covered Employee, or the employee's treating physician, to the MRO; and (d) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. Employees shall identify all prescribed medication(s) that they have taken. If the Covered Employee fails to respond to the MRO within three (3) days, the MRO may deem the Covered Employee's result as a positive result.
- c. The MRO has the authority to verify a positive or Refusal To Test without interviewing the employee in cases where the employee refuses to cooperate, including but not limited to: (a) the employee refused to discuss the test result; or (b) the City directed the employee to contact the MRO, and the employee did not make contact with the MRO within seventy-two (72) hours. In all cases, previously planned leaves may extend this time. The MRO's review of the test results will normally take no more than three (3) to five (5) days from the time the Covered Employee is tested.
- d. If the testing procedures confirm a positive result, as described above, the Covered Employee and the Substance Abuse Prevention Coordinator (SAPC) for the City and departmental HR staff or designee will be notified of the results in writing by the MRO, including the specific quantities. The results of a positive drug test shall not be released until the results are confirmed by the MRO. The Covered Employee may contact the SAPC, or the MRO, to request a drug or adulterant retest within seventy-two (72) hours from notice of a positive test result by the MRO. The requesting party will pay costs of re-tests in advance.
- e. A drug test result that is positive and is a Diluted Specimen will be treated as positive. All drug test results that are determined to be negative and are Diluted Specimens will require that the employee take an immediate retest. If the retest yields a second negative Diluted Specimens result, the test will be treated as a normal negative test, except in the case of subsection (f).
- f. If the final test is confirmed negative, then the Employee shall be made whole, including the cost of the actual laboratory re-testing, if any. Any employee who is subsequently determined to be subject of a false positive shall be made whole for any lost wages and benefits, and shall have their record expunged.
- g. The City shall assure that all specimens confirmed positive will be retained and placed in properly secured long-term frozen storage for a minimum of one (1) year, and be made available for retest as part of any administrative proceedings.



## APPENDIX C

- h. All information from a covered employee's drug and/or alcohol test is confidential for purposes other than determining whether this policy has been violated or pursuing disciplinary action based upon a violation of this policy. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the Covered Employee or as required by law.

### 8. RESULTS

- a. Substance Abuse Prevention and Detection Threshold Levels.

For post-Accident or reasonable suspicion testing where the Covered Employee was operating a commercial motor vehicle, any test revealing a blood/alcohol level equal to or greater than 0.04 percent, or the established California State standard for commercial motor vehicle operations, shall be deemed positive. For all other post-Accident or reasonable suspicion testing, any test revealing a blood/alcohol level equal to, or greater than, 0.08 percent, or the established California State standard for non-commercial motor vehicle operations, shall be deemed positive. Any test revealing controlled substance confirmation level as shown in the chart below shall be deemed a positive test.

CONTROLLED SUBSTANCE *	SCREENING LEVEL	CONFIRMATION LEVEL
Amphetamines	50 ng/ml	5 ng/ml
Barbiturates	20 ng/ml	20 ng/ml
Benzodiazepines	1 ng/ml	0.5 ng/ml
Cocaine	5 ng/ml	8 ng/ml
Methadone	5 ng/ml	10 ng/ml
Opiates	10 ng/ml	10 ng/ml
PCP (Phencyclidine)	1 ng/ml	5 ng/ml
THC (Cannabis)	1 ng/ml	2 ng/ml
* All controlled substances including their metabolite components.		

- b. The City reserves the right to discipline in accordance with the chart set forth in Exhibit A for abuse of prescribed and over-the-counter drugs or medications, pursuant to the testing procedures described above, as determined by the MRO.

### 9. CONSEQUENCES OF POSITIVE TEST RESULTS

For post-Accident or reasonable suspicion, a Covered Employee shall be immediately removed from performing the employee's job or, in the alternative, may be temporarily reassigned to work that is not safety-sensitive if such work is available. The Covered Employee shall be subject to disciplinary action, and shall meet with the SAPC, as set forth in Exhibit A, and section 10 below, if the Covered Employee:

1. Is confirmed to have tested positive for alcohol or drugs;

## APPENDIX C

2. Refuses to Submit to testing; or
  3. Has submitted a specimen that the testing laboratory report is an Adulterated or Substituted Specimen.
- a. If the Union disagrees with the proposed disciplinary action, it may use the grievance procedure as set forth in the MOU, provided, however, that such a grievance must be initiated at the Employee Relations Director step, unless the parties otherwise mutually agree.
  - b. All proposed disciplinary actions imposed because of a positive drug/alcohol test(s) shall be administered pursuant to the disciplinary matrix set forth in Exhibit A. Subject to good cause, the City may impose discipline for conduct in addition to the discipline for a positive drug/alcohol test. The positive test may be a factor in determining good cause for such additional discipline.
  - c. In the event the City proposes disciplinary action, the notice of the proposed discipline shall contain copies of all laboratory reports and any other supporting documentation upon which the City is relying to support the proposed discipline.

### 10. RETURN TO DUTY

The SAPC will meet with a Covered Employee who has tested positive for alcohol and/or drugs. The SAPC will discuss what course of action may be appropriate, if any, and assistance from which the employee may benefit, if any, and will communicate a proposed return-to-work plan, if necessary, to the employee and department. The SAPC may recommend that the Covered Employee voluntarily enter into an appropriate rehabilitation program administered by the Covered Employee's health insurance carrier prior to returning to work. The Covered Employee may not return to work until the SAPC certifies that the employee has a negative test prior to returning to work. In the event that the SAPC does not schedule a return-to-work test before the Covered Employee's return-to-work date, the SAPC shall arrange for the Covered Employee to take a return-to-work test within three (3) working days of the Covered Employee notifying the SAPC in writing of a request to take a return-to-work test. If a Covered Employee fails a return-to-work test, the employee shall be placed on unpaid leave until testing negative but shall not be subject to any additional discipline due to a non-negative return-to-work test. The SAPC will provide a written release to the appropriate department or division certifying the employee's right to return to work.

### 11. TRAINING

The City or its designated vendor shall provide training on this policy to first-line, working supervisors and up to the Deputy Director level as needed. In addition, all Covered Employees shall be provided with a summary description of the SAPP notifying them of their right to union representation in the event that they are required to be tested.

## *APPENDIX C*

### 12. LABOR-MANAGEMENT MEETING

To ensure the success of this Policy, the City shall meet with any union covered by this policy that seeks to meet to address any implementation issues regarding this policy, as follows: between June 1<sup>st</sup> and June 30<sup>th</sup>, any Union, covered under this Policy, may request to meet, and said meeting shall be scheduled to occur by July 31<sup>st</sup>.

### 13. ADOPTION PERIOD

This Policy shall go into effect on July 1, 2014, or as soon as practicable. (See MOU Article V.I.)

**EXHIBIT A****CONSEQUENCES OF A POSITIVE TEST/OCCURRENCE**

<b>Testing Types/Issues</b>	<b>First Positive/Occurrence</b>	<b>Second Positive/Occurrence within Three (3) Years</b>
Post-Accident and Reasonable Suspicion	Suspension of no more than ten (10) working days; Referred to Substance Abuse Prevention Coordinator (SAPC); SAPC may Recommend Treatment; <sup>1</sup> Return to Duty Test.	Will be subject to disciplinary action greater than a ten (10) working- day suspension, up to and including termination except where substantial mitigating circumstances exist.
Refusal to Test or Alteration of Specimen ("Substituted," "Adulterated" or "Diluted")	Suspension of no more than ten (10) working days; Referred to Substance Abuse Prevention Coordinator (SAPC); SAPC may Recommend Treatment; <sup>1</sup> Return to Duty Test.	Will be subject to disciplinary action greater than a ten (10) working- day suspension up to and including termination except where substantial mitigating circumstances exist.

- <sup>1</sup>. Employee may use accrued but unused leave balances to attend a rehabilitation program.

EXHIBIT B

REASONABLE SUSPICION REPORT FORM

This checklist is intended to assist a supervisor in referring a person for reasonable suspicion/cause drug and alcohol testing. The supervisor must identify at least three (3) contemporaneous indicia of impairment in two separate categories (e.g., Speech and Balance) in Section II, and fill out the Section III narrative. In the alternative, the supervisor must identify one of the direct evidence categories in Section I, and fill out the Section III narrative.

~Please print information~

Employee Name: \_\_\_\_\_

Department: \_\_\_\_\_ ; Division and Work Location: \_\_\_\_\_

Date and Time of Occurrence: \_\_\_\_\_ ; Incident Location: \_\_\_\_\_

Section I – Direct Evidence of Drug or Alcohol Impairment at Work

\_\_\_\_\_Smells of Alcohol  
\_\_\_\_\_Smells of Marijuana  
\_\_\_\_\_Observed Consuming/Ingesting Alcohol or Drugs at work.

Section II

Contemporaneous Event Indicating Possible Drug or Alcohol Impairment at Work:  
(Check all that apply)

1. SPEECH:

\_\_\_\_\_Incoherent/Confused  
\_\_\_\_\_Slurred

2. BALANCE:

\_\_\_\_\_Swaying \_\_\_\_\_Reaching for support  
\_\_\_\_\_Staggering \_\_\_\_\_Falling  
\_\_\_\_\_Arms raised for balance \_\_\_\_\_Stumbling

3. AWARENESS:

\_\_\_\_\_Confused \_\_\_\_\_Paranoid  
\_\_\_\_\_Lack of Coordination \_\_\_\_\_Cannot Control Machinery/Equipment  
\_\_\_\_\_Sleepy/Stupor/ Excessive Yawning or Fatigue  
\_\_\_\_\_An observable contemporaneous change in the Covered Employee's behavior that

strongly suggests drug or alcohol impairment at work. [Such observable change(s) must be described in Section III below.]

4. APPEARANCE:

Red Eyes

Dilated (large) Pupils

Constricted (small) Pupils

Frequent Sniffing

Section III – NARRATIVE DESCRIPTION

(MUST be completed in conjunction with Section I and/or Section II)

~Please print information~

Describe contemporaneous and specific observations regarding the Covered Employee's symptoms or manifestations of impairment which may include: (a) any observable contemporaneous change in behavior suggesting drug or alcohol impairment; (b) any comments made by the employee; (c) specific signs of drug or alcohol use; (d) recent changes in behavior that have led up to your contemporaneous observations; and (e) the name and title of witnesses who have reported observations of drug or alcohol use. [Attach documentation, if any, supporting your reasonable suspicion determination]

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Section IV

In addition to completing the narrative in Section III above:

- For Section I, you will need to identify at least one (1) contemporaneous observations (direct evident/sign(s) that occurs that causes you to test today) regarding the manifestations of impairment to initiate a test; or

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- For Section II, you will need to identify at least three (3) contemporaneous observations, (signs that occur that causes you to test today), in two (2) separate categories, regarding the manifestations of impairment to initiate a test.

Make note of date and time of the incident. Obtain concurrence of second supervisor and record their signature as noted.

Conduct a brief meeting with the employee to explain why the employee must undergo reasonable suspicion drug and alcohol tests. Escort the employee to the collection site. DO NOT LET THEM DRIVE.

Print name of first on-site Supervisor Employee Representative\_\_\_\_\_

Signature\_\_\_\_\_ DATE:\_\_\_\_\_

Print name of second Supervisor Employer Representative\_\_\_\_\_

Signature\_\_\_\_\_ DATE:\_\_\_\_\_

**APPENDIX D**

**UNION ACCESS TO NEW EMPLOYEES PROGRAM**

**I. Purpose**

The purpose of this agreement is to memorialize the rights and obligations of the City and the Union in accordance with CA Government Code Sections 3555-3559, through the creation of a single, City-wide Union Access to New Employees Program applicable to all City Agencies and all City Employee Unions.

**II. Notice and Access**

- A. The City shall provide the Union written notice of, and access to, new employee orientations (hereinafter NEOs) as set forth below. It is the City's policy that NEOs are mandatory for all newly-hired employees. It is the City's intent that NEOs take place as promptly as possible after the first day of employment. Within thirty (30) calendar days of the start of employment, newly-hired employees will be scheduled to attend the next available NEO. NEOs shall be scheduled during an employee's regularly scheduled, paid time. In the event that a newly-hired employee's regular schedule is outside of a scheduled NEO, the Department may make a one-time adjustment to the employee's work schedule in order to accommodate this requirement.

In the event an employee does not attend the NEO that the employee was scheduled to attend, said employee will be automatically enrolled to attend the next available NEO. If the employee does not attend the subsequently scheduled NEO, the Union NEO Coordinator may contact the Departmental NEO coordinator to arrange a meeting with the employee pursuant to Section F., below.

- B. Application: New employees include, but are not limited to, newly-hired employees whose positions are permanent, temporary, full-time, part-time, per diem, seasonal, provisional, or as-needed.

**C. Notice**

1. Single Point of Contact: The Union agrees to provide the City with a single point of contact (hereinafter, Union NEO Coordinator) and the City agrees to provide the Union with a single point of contact for each Department (hereinafter, Departmental NEO Coordinator), which will be updated by the City and the Union on an as-needed basis.
2. Notice of Schedule: For any NEO that takes place on a regular, recurring schedule, the sponsoring Department shall be responsible for providing annual notice to the Union. For NEOs that are not offered on a regular, recurring schedule, the sponsoring Department shall provide no less than ten (10) business days' notice. Said notices shall be provided by email, to the Union NEO Coordinator. This requirement shall apply to all NEOs in which City personnel provide newly-hired employees with information regarding



employment status, rights, benefits, duties, responsibilities, or any other employment-related matters.

3. Notice of Enrollment: Notice shall include a list of new employees represented by the Union scheduled to attend the NEO. If practical, the City agrees to provide additional identifying information including, but not limited to, classification and department. Six months from enactment, in the event the City is unable to provide classification and department information in the Notice of Enrollment, the Union can reopen this Agreement for the sole purpose of meeting and conferring over the identifying information provided in this Section II.C.3 Notice of Enrollment. Said meeting and conferring shall not be subject to the impasse procedures in Government Code Section 3557. The Department sponsoring the NEO shall provide the foregoing information no less than five (5) business days prior to the NEO taking place. The Department will make best efforts to notify the Union NEO Coordinator of any last-minute changes. Onboarding of individual employees for administrative purposes is excluded from this notice requirement.
- D. Citywide and Departmental NEOs: New employees in those Departments identified in Attachment A shall attend a citywide NEO, sponsored by the Department of Human Resources. This citywide NEO shall take place at minimum on a monthly basis. Departments identified in Attachment B will conduct respective Departmental NEOs. At the City's discretion, Departments may be added to or removed from either Attachment A or Attachment B. For the citywide NEO, DHR will adhere to the Department notice requirements in Section C., above. The City will provide the Union with thirty (30) calendar days' notice prior to moving a Department from Attachment A to B, or vice versa. Every City Department shall be listed on either Attachment A or Attachment B.
- E. Access and Presentation: At all NEOs, the Union shall be afforded thirty (30) minutes to meet with represented new employees who are present, unless the Union's Memorandum of Understanding (MOU) provides for more than thirty (30) minutes. The right of the Union to meet with newly-hired employees is limited to only those employees whose classifications fall within the Union's bargaining unit. The City shall ensure privacy for the Union's orientation, and it shall take place without City representatives present. This requirement can be met by providing either a private room or a portion of a room with sufficient distance from other activities in the room to limit disruption. The Department responsible for scheduling the NEO shall be responsible for including Union presentations on the agenda. The Union's presentation shall occur prior to any meal break, and will not be conducted during a scheduled break time. One (1) of the Union's representatives may be a Union member designated by the Union. Such member(s) shall be released to attend under the terms and conditions specified in the MOU. If not otherwise provided for in the MOU, the Union may request release of a Union-designated member to attend the NEO. Release time shall not be unreasonably withheld. Said request shall be made to the Employee Relations Division no less than three (3) business days in advance of the scheduled NEO. The Union agrees to limit its presentation to only those matters stated in Section H., below.

## APPENDIX D

- F. **Alternate Procedures:** In the event the Union identifies one or more new employees who did not attend the Union's presentation as described in Section E., above, the Union may contact the Departmental NEO coordinator to schedule a mutually-agreeable fifteen (15) minute time slot for the Union to meet privately with the new employee(s). If the number of such identified employees is five (5) or more at a particular location, the Union NEO Coordinator and Departmental NEO Coordinator will work together to schedule a mutually agreeable thirty (30) minute time slot for the private meeting. One (1) of the Union's representatives may be a Union member designated by the Union, and such member shall be released to attend under the terms and conditions specified in the MOU. If not otherwise provided for in the MOU, the Union may request release of a Union-designated member as provided for in Section E., above. This alternate procedure shall also apply to any employee who has promoted or transferred into the bargaining unit.
1. The Union NEO Coordinator shall coordinate with the new employee(s) referenced in the preceding paragraph and the Departmental NEO Coordinator to schedule a fifteen (15) minute meeting during normally scheduled hours, which shall not be during employee's break or meal period, for the Union representative(s) to meet privately with, and provide materials and information to, the new employee(s). City representatives shall not be present during said meeting. The Union agrees to limit its presentation to only those matters stated in Section H., below.
  2. In the event the proposed time cannot be accommodated, the Union NEO Coordinator and the Departmental NEO Coordinator shall work together to find a mutually agreeable time within ten (10) business days of the Union's request.
  3. **Department of Elections:** Any new employee of the Department of Elections who is classified as Temporary Exempt (Category 16), whose duration of appointment is one (1) pay period or less, and works on an as-needed work schedule will receive written materials provided by the Union in lieu of attending a Citywide or Departmental NEO, a private meeting with the Union as provided for in Section F., above, or a Periodic Union Orientation as provided for in Section G., below.
- G. **Process for Periodic Union Orientations:** By mutual agreement, the Union NEO Coordinator and the Departmental NEO Coordinator may schedule periodic thirty (30) minute Union orientations. Periodic Union orientations may be scheduled on an every-other-month, quarterly, or other basis.
- The following Departments shall maintain existing Union orientation arrangements: Department of Emergency Management; Sheriff's Department; and Police Department.
- The 311 Customer Service Call Center shall maintain existing practice with respect to Union access to 311 Customer Service Agent Training.
- H. **Union Orientation Presentations:** The Union agrees to limit its presentation to a general introduction to its organization, history, by-laws, and benefits of membership. The Union agrees not to engage in campaigning on behalf of an individual running for public elected office and

## *APPENDIX D*

ballot measures during the NEO, or other topics that would be considered beyond general discussion on the benefits of Union membership.

### III. Data Provisions

Subject to the limitations contained in CA Government Code Section 3558, the City shall provide the Union with all required information on newly-hired employees to the extent it is made available to the City. In addition, within ten (10) business days of the conclusion of each NEO, the City agrees to provide the Union with a stand-alone report containing a list of employees, including classification code and division, who were scheduled to, but did not attend each NEO.

### IV. Hold Harmless

The Union agrees to hold the City harmless for any disputes that arise between the Union and any new employee over application of this Agreement.

ATTACHMENT A

Adult Probation	Department of Technology
Arts Commission	District Attorney's Office
Asian Art Museum	Ethics Commission
Airport Commission	Fine Arts Museum
Board of Appeals	Fire Department (Non-Sworn)
Board of Supervisors	General Services Agency
Office of Economic & Workforce Development	Health Service System
California Academy of Sciences	Human Rights Commission
Child Support Services	Juvenile Probation Department
Children, Youth and Their Families	Library
City Attorney's Office	Mayor's Office
City Planning Department	Office of the Assessor-Recorder
Civil Service Commission	Office of the Controller
Commission on the Status of Women	Office of the Treasurer/Tax Collector
Department of Building Inspection	Port of San Francisco
Department of Environment	Public Defender's Office
Department of Elections	Rent Arbitration Board
Department of Homelessness	SF Children and Families Commission
Department of Human Resources	SF Employees' Retirement System
Department of Police Accountability	War Memorial & Performing Arts

**ATTACHMENT B**

Airport  
Department of Emergency Management  
Department of Public Health  
San Francisco Public Works  
Human Services Agency

Municipal Transportation Agency  
Public Utilities Commission  
Recreation & Parks Department  
Police Department (Non-Sworn)

## **ATTACHMENT A – Compensation Grades**

**For current rates of pay, please refer to the City and County of San Francisco's Compensation Manual located at:**

**<http://www.sfgov.org/site/uploadedfiles/dhr/compmanual/CompManual.pdf>**.

## **GLOSSARY- CIVIL SERVICE COMMISSION JURISDICTION**

The following provisions are for informational purposes only. They shall be interpreted, applied and administered by the Civil Service Commission, and shall not be subject to the grievance and arbitration procedure set forth in this Memorandum of Understanding.

### **LEAVES OF ABSENCE**

Employees who are absent from their duties because of illness or disability are eligible for sick leave. In addition to normal use sick leave, employees shall be entitled to the following:

- A. Sick Leave – Bereavement
  - 1. Absence because of the death of the employee's spouse or domestic partner, parents, step parents, grandparents, parents-in-law or parents of a domestic partner, sibling, child, step child, adopted child, a child for whom the employee has parenting responsibilities, aunt or uncle, legal guardian or any person who is permanently residing in the household of the employee. Such leave shall not exceed three (3) working days and shall be taken within thirty (30) calendar days after the date of death; however, two (2) additional working days shall be granted in conjunction with the bereavement leave if travel outside the State of California is required as a result of the death.
  - 2. Absence because of the death of any other person to whom the employee may be reasonably deemed to owe respect. Leave shall be for not more than one (1) working day; however, two (2) additional working days shall be granted if travel outside the State of California is required as a result of the person's death.