



# ADMINISTRATIVE SERVICES

Council Meeting Date: April 8, 2008  
Staff Report #: 08-046

Agenda Item #: F1

**REGULAR BUSINESS:** Adoption of a Resolution Approving a Memorandum of Understanding (MOU) Between the City of Menlo Park and the Menlo Park Police Officers' Association (POA) for the Period Beginning July 1, 2008 through June 30, 2011.

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## RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution approving a Memorandum of Understanding (MOU) between the City of Menlo Park and the Menlo Park Police Officers' Association (POA) for the period beginning July 1, 2008 through June 30, 2011.

## BACKGROUND

The Menlo Park Police Department has historically experienced a stable work force. However, over the past three years, the City has lost thirty officers out of a department of fifty. This has created a serious staffing challenge and concerns regarding the maintenance of a seasoned, experienced workforce. The problem is statewide, and not unique to Menlo Park.

The reasons for departure have included pay and benefits, tiring of long commutes, a highly competitive labor market, a shrinking labor pool, opportunities for special assignments elsewhere, retirements, opportunities for more special assignments elsewhere, and differences in organizational culture. At the same time, a shrinking candidate pool has made recruiting replacements difficult, resulting in an overall labor shortage. Because Police operations and patrol coverage depends upon a minimum staffing level, vacancies are filled with mandatory overtime and temporary elimination of specialty assignments. As this situation persists, the problem compounds as mandatory overtime takes its toll on officers, resulting in a workforce that is vulnerable to being attracted to other agencies that are also competing in this shrinking labor market.

In addition to the operational impacts listed above, officer turnover has had a very real economic impact on the City. It is estimated that it takes between \$80,000 and \$120,000 and at least ten months to train a new police officer to the point they can function independently in the field. That investment is lost when officers leave to other agencies that may offer higher pay and/or a variety of opportunities. Another factor to

be considered is that, when a number of vacancies exist, resources must be focused on patrol services, often at the expense of other important specialty functions, such as traffic enforcement, investigations and code enforcement. Full staffing allows the department to better serve the community in these areas.

In response to this challenge, staff presented some short-term strategies to Council on September 11, 2007, resulting in an expansion of the referral bonus program, approval of three overfill officer positions and the creation of a recruitment and retention task force to generate ideas for additional short, medium and long term strategies.

The task force was comprised of officers, dispatchers, sergeants, the Police Chief and command staff, the Personnel Director, the Assistant City Manager and the City Manager. The group met several times to discuss the key issues affecting retention and recruitment and to brainstorm possible solutions. A number of ideas were generated. The officers stated that the most important factor in keeping and attracting officers would be to make Menlo Park's salary and benefits more competitive within the regional police labor market. Throughout these discussions, the need to address the department's staffing challenges within the City's financial limits was emphasized. It was also firmly stated that compensation should be looked at in the context of a broader set of strategies designed to make the Menlo Park Police Department an employer of choice.

One of the task force recommendations was to begin contract negotiations well in advance of the June 30, 2008 deadline. This was suggested because it was felt that knowledge of future changes in the contract would have a more immediate positive impact on retention. Council concurred and authorized staff to enter into contract negotiations early, with the understanding that department staffing challenges be balanced with the financial resources of the City. The team was mindful of the fact that financial incentives should be carefully designed and implemented as part of a broader overall strategy that would address recruitment and retention issues.

Staff also observed that the longstanding Council policy of paying the average among its traditional comparison cities was not sufficient to retain experienced staff in a highly competitive labor environment where the supply of available quality labor was not keeping up with demand. As a result, the target salary would need to be elevated to a point that helped to insulate, at least to some degree, the City from other agencies seeking to attract experienced staff. It was in this context that the City began negotiating a package that would have a meaningful positive impact on recruitment and retention.

The Menlo Park POA represents thirty-nine sworn officers in the Police Department. The current MOU with this unit expires June 30, 2008. Representatives from City management have held seven bargaining sessions over the past five months with Union representatives to negotiate a successor agreement, in accordance with the Meyers-Milias-Brown Act that governs public sector labor relations. On March 13, 2008, a tentative agreement was reached with the POA within Council authorization. On Sunday, March 16, as is customary to ensure the package is set, the POA voted 27-6 to

accept the tentative agreement. The agreement is now before the Council for consideration.

## ANALYSIS

The unit represents 39 police officer positions out of a total of 50 sworn safety positions. The recommended agreement is three years and will become effective July 1, 2008. The salary adjustments contained in the recommended agreement are designed to elevate the ranking of the unit from 10<sup>th</sup> (out of 12 comparison cities that have a Police Officer classification) to 3<sup>rd</sup> or 4<sup>th</sup> over a three year period:

<u>Effective Date</u>	<u>Salary Adjustment</u>
July 6, 2008	6.00%
January 4, 2009	3.00%
July 5, 2009	6.00%
January 3, 2010	2.00%
July 4, 2010	3.00%
January 2, 2011	3.00%

Other economic components include:

- A 2% shift differential for officers assigned to nights effective July 5, 2009, which will encourage senior officers to work midnight shifts.
- A longevity schedule based on years of service as an officer with the City, effective July 4, 2010:
  - 2% after seven years of service through eleven years of service
  - 4% after eleven years of service through fifteen years of service
  - 6% after fifteen years of service through twenty years of service
  - 8% after twenty years of service

The percentage received for years of service is not cumulative. For instance, the amount received after eleven years of service is 4% total (not 2% + 4%). The longevity award also contains a performance component that removes the longevity award if performance does not meet the established requirements of the department.

- Increased premium received for having a Police Officer Standards Training (POST) advanced certificate from 7.50% to 10.00%, effective July 5, 2009.
- Increased annual uniform allowance from \$800 per year, to \$910 per year in 2008 and \$1,040 per year in 2010.
- Adjustments to the City cafeteria contribution for health benefits detailed in the table below:

Coverage Type	Current	Effective July 2008	Effective January 2009	Effective January 2010 and 2011
Family Coverage	1,349.69	1,385.62	City increases cafeteria amount by highest HMO less \$10-\$30 depending on coverage	City increases cafeteria amount by 85% of highest HMO increase
Two Person Coverage	1,038.22	1,065.86		
Single Coverage	519.11	532.93		
No Coverage	154.68	154.68	154.68	154.68

Cash payment of any remainder after paying for cafeteria benefits will be made post tax at 100% (rather than the current 80%).

- Increased the educational reimbursement fund available to officers in this unit from \$16,500 to \$39,000 available for educational betterment.
- Addition of an employee cafeteria contribution option to a City sponsored deferred compensation plan.
- Increased City contribution to the self insured dental plan from \$102 per officer per month to \$106 (2008), \$110 (2009) and \$115 (2010).
- Adjustment to the compensation an officer will receive for care and maintenance of their canine partners, reflecting recent court decisions.

Non-economic components of the proposed agreement include:

- An agreement for the parties to meet and discuss the current status of health savings accounts (HSA).
- A commitment to meet and confer over changing the current self insured dental plan to a third party vendor. If such a change is made, the City will contribute the monthly amounts listed above towards the dental premium at the rates stated above.
- Addition of domestic partner, children and siblings to bereavement leave language.
- Incorporation of the 4/12 work schedule into the contract and clarification regarding overtime provisions. Removal of language mandating meet and confer to discuss implementation of 4/11 plan when number of patrol officers

reaches 26.

- Deletion of contract language related to outside employment and safety equipment. The items are now contained in the Department manual.
- Increases in the amount of vacation that may be accrued from 420 hours to 440 hours, and removes City Manager approval for accruals above 350 hours.
- Deletion of contract language which has been superseded or rendered obsolete.

The cost of this package in the first year, based on a \$6,820,000 unit payroll and benefits base, is estimated to be \$566,500 (8.31%). The cost of the package in the second year, on a \$7,657,000 unit payroll is estimated to be \$646,400 (8.44%). The cost of the package in the third year, on a \$8,476,500 unit payroll is estimated to be \$503,600 (5.94%).

The attached agreement contains all proposed changes to the Memorandum of Understanding. The recommended agreement has been ratified by the POA and the document text is being reviewed by the POA negotiating team. The final document may contain non-substantive corrections.

Maintaining a stable police unit is vital to the overall public safety of the community. The proposed contract reflects this importance and focuses on recruiting quality personnel as well as retaining them, and the investment we have placed in them, for the long term.

## **IMPACT ON CITY RESOURCES**

If approved, the costs will be factored into the 2008-09 operating budget. Additionally, staff will continue to review and evaluate revenue options that may include the use of savings and other financial resources, both existing and new, that are available to the City to ensure long term sustainability.

## **POLICY ISSUES**

This recommendation does not represent any change to existing City policy, will elevate police officer compensation above the market average of our comparison cities in order to improve retention, and assist the department's recruitment and retention goals.

## **ENVIRONMENTAL REVIEW**

No environmental review is required.

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Glen H. Kramer  
Personnel and Information Services Director  
Report Author

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

**ATTACHMENT**      Tentative Agreement with POA

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



~~July 1, 2006 to June 30, 2008~~  
July 1, 2008 through June 30, 2011



## PREAMBLE

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

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

This Memorandum of Understanding shall be presented to the City Council of the City of Menlo Park as the joint recommendation of the undersigned parties for the period commencing July 1, ~~2006-2008~~ and ending June 30, ~~2008~~ **2011**.

## ARTICLE 1: RECOGNITION

### 1.1 Union Recognition

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

### 1.2 City Recognition

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

## ARTICLE 2: P.O.A. RIGHTS

### 2.1 Dues Deduction

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

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

2.2 Use of City Facilities

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

2.3 No Strike

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

ARTICLE 3: MANAGEMENT RIGHTS

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

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

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

ARTICLE 4: NON DISCRIMINATION

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

ARTICLE 5: HOLIDAYS

5.1 Except as otherwise provided, officers within the representation unit shall have the following fixed holidays with pay:

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Lincoln's Birthday	February 12
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Admission Day	September 9
Veterans Day	November 11
Thanksgiving	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25

One full day either December 24 or December 31

- 5.1.1 Designation of which one full day on either December 24 or December 31 is taken off shall be made by the officer's department head, considering the needs of the service and the officer's desires.
- 5.1.2 In the event that any of the aforementioned days, except December 24 or 31, falls on a Sunday, the following Monday shall be considered a holiday. In the event that any of the aforementioned days fall on a Saturday, the preceding Friday shall be considered a holiday. In the event that December 24 and 31 fall on a Sunday, then the preceding Friday will be designated for purposes of the full day holiday.
- 5.1.3 Work on a Fixed Holiday. Any employee required to work on a fixed holiday and in addition to regular hours shall be paid time and one-half for such work in addition to his/her holiday pay. Work on a fixed holiday beyond the number of hours in a regular shift shall be compensated at double time.

ARTICLE 6: LEAVE PROVISIONS

6.1 Sick Leave

- 6.1.1 Each employee shall accrue sick leave each month at a rate of ten (10) hours per month.
- 6.1.2 Sick leave shall cease to accrue when an employee's accrual reaches the limit of one thousand five hundred hours (1,500) hours.

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

6.1.6 Award for Non-Use

Represented employees who are employed the entire fiscal year with no interruptions in service and, as of June 30 of each year have taken no more than one shift of sick leave hours during the course of the year, will receive an award of fifteen (15) hours of compensatory time off or fifteen (15) hours cash payment based upon their current hourly rate, as specified by the worker. Officers who have taken no more than two shifts of sick leave hours during the course of the year will receive an award of ten (10) hours of compensatory time off or ten (10) hours cash payment based upon their current hourly rate. Officers who have taken no more than three shifts of sick leave hours during the course of the year will receive an award of five (5) hours of compensatory time off or five (5) hours cash payment based upon their current hourly rate.

6.1.7 Compensation for Accumulated Sick Leave

6.1.7.1 Resignation

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

## 6.1.7.2 Retirement

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

- 6.1.7.2.1 Twenty percent (20%) of his/her accumulated sick leave balance, based on the officer's rate of pay on his/her last day of paid service to the City; or
- 6.1.7.2.2 One month of paid health insurance for each unit of retirement health credit. At the time of retirement, the accrued sick leave balance may be converted to retirement health credits at the rate of one (1) unit for every eight (8) hours of accumulated sick leave with any remainder being rounded to the next higher credit; or
- 6.1.7.2.3 Cash compensation for twenty percent (20%) of accumulated sick leave based on the officer's rate of pay on his/her last day of paid service to the City, with the balance of accumulated sick leave converted to retirement health credits at the rate of one (1) unit for every eight (8) hours of accumulated sick leave and any remainder being rounded to the next higher credit. A unit of retirement health credit is equal to one month of paid health insurance.
- 6.1.7.2.4 Sick Leave Credit. At retirement, any unused sick leave you have may be converted to additional retirement service credit. (The additional service will not change your age at retirement.) You will receive credit for all unused sick leave certified by the Personnel Officer. It takes 125 days or 1000 hours of sick leave to receive half (0.5) a year of service credit with PERS. If the credit is indicated and verified on your retirement application, it is added to the first retirement check. If not, an adjustment is calculated after your retirement date and paid retroactively to you by PERS. To receive sick leave credit, your retirement date must be within 120 days of the date of separation from employment.

- 6.1.8 Any officer who chooses the option of converting their accumulated sick leave balance to retirement health credits under 6.1.7.2.2 or 6.1.7.2.3 that has at least twenty (20) years of service with the City may elect to have their accrued sick leave balance converted to retirement health credits at the rate of one (1) unit for every six (6) hours of accumulated sick leave with any remainder being rounded to the next higher credit. The retirement health credit calculated pursuant to this Section 6.1.8 shall not exceed the highest HMO health plan premium as may be in effect at the time such credit is applied. The election pursuant to this Section 6.1.8 shall be made at the time of retirement.
- 6.1.9 Double Coverage. Workers who qualify for the retirement health credit conversion may elect double coverage at the rate of two (2) units for every month of paid health insurance.
- 6.1.10 Family Coverage. Workers who qualify for the retirement health credit conversion may elect family coverage at the rate of three (3) units for every month of paid health insurance.
- 6.1.11 Transfer of Sick Leave for Catastrophic Illness. Transfer of sick leave for catastrophic illness is designed to assist officers who have exhausted sick leave due to a catastrophic illness, injury or condition of the worker. This policy allows other workers to make voluntary grants of time to that worker so that he/she can remain in a paid status for a longer period of time, thus partially ameliorating the financial impact of the illness, injury or condition.

A catastrophic illness is defined as an illness which has been diagnosed by a competent physician, requiring an extended period of treatment or recuperation, and which has a significant risk to life or life expectancy. Confirmation of the condition and prognosis by a health care provider chosen by the City may be required.

The Personnel Division will discuss with the POA or their designated representative an appropriate method of soliciting contributions from coworkers. The contributions shall be submitted to the Personnel Division and Personnel will process the contribution list in the order established. Any officer shall be allowed to contribute a maximum of eighty (80) hours of sick leave from their accrued sick leave balance to another full-time or permanent part-time worker in the City who is suffering from a catastrophic illness and has exhausted his or her own sick leave, provided, however, they have maintained a positive sick leave balance of forty (40) hours or more following the donation. Once the contribution is made it cannot be rescinded.

Upon return to work, an officer may bank any remaining hours that have been contributed up to a maximum of forty (40) hours. If the contribution list has not

been exhausted, the contributing workers will be notified that their contribution was not required and the balance restored.

## 6.2 Long Term Disability

6.2.1 Should any non-work related illness or injury extend beyond thirty (30) working days, the City will insure continued payment to the worker at 66.67 percent of salary, up to a maximum as provided in the long term disability policy. The amounts paid shall be less any payments received from either workers' compensation or retirement. During the first year of disability and so long as no retirement determination has been made by the City, the worker will be entitled to continued City paid health insurance, AD&D, dental and life insurance benefits, and to the accrual of vacation time. At the end of 365 calendar days from the date of illness or injury or unless previously retired, should the worker not be able to return to work, the worker would officially cease being an employee and receive no further entitlements beyond the 66.67 percent requirement as provided in this Section 6.2.

## 6.3 Personal Business Leave

6.3.1 An officer shall be entitled to a maximum of three (3) days per year for Personal Business Leave without loss of pay. Such leave shall be deducted from accrued sick leave, and shall apply toward Section 6.1.6 Award for Non-Use.

6.3.2 Personal Business is defined as business of urgent and compelling importance which cannot be taken care of outside of normal working hours and which is not covered under other leave provisions of this Memorandum of Understanding.

6.3.3 An officer must secure advance permission from the Police Chief for all Personal Business Leave as defined above, and shall normally notify the Police Chief two (2) days before taking this leave, unless an emergency exists which prohibits the officer from providing such advance notice.

## 6.4 Leave Without Pay

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

6.4.2 Requests for leaves of absence without pay must be written and submitted to the department head and Personnel Officer. The Personnel Officer may grant a permanent officer leave of absence without pay for a period not to exceed one (1) year, during which time no benefits and no seniority credit will accrue. Approval shall be in writing and a copy filed with the Personnel Department. Upon expiration of a regularly approved leave, or within five (5) working days

after notice to return to duty, the officer shall be reinstated in the position held at the time the leave was granted. Failure on the part of an officer on leave to report promptly at its expiration, or within three (3) working days after notice to report to duty, may be cause for disciplinary action.

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

6.4.4 During unpaid leaves of absence, the officer may elect to use accrued vacation time.

#### 6.5 Jury Duty and Subpoenas - Not Related to Official Duties

6.5.1 An officer required to report for jury duty or to answer a subpoena as a witness, provided the witness has no financial interest in the outcome of the case, shall be granted a leave of absence with pay from his/her assigned duties until released by the court, provided the officer remits to the City all fees received from such duties other than mileage or subsistence allowances within thirty (30) days from the termination of jury service.

6.5.2 When an officer returns to complete a regular shift following time served on jury duty or as a witness, such time falling within work shift shall be considered as time worked for purposes of shift completion and overtime computation. In determining whether or not an officer shall return to his/her regular shift following performance of the duties above, reasonable consideration shall be given to such factors as travel time and a period of rest.

#### 6.6 Military Leave

Military leave of absence shall be granted and compensated in accordance with Military and Veterans Code Sections 389 and 395 et seq. Officers entitled to military leave shall give the appointing power an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

#### 6.7 Bereavement Leave

An officer shall be allowed regular pay for not more than three (3) working days when absent because a death has occurred in the immediate family. For purpose of bereavement leave, members of the immediate family shall be limited to mother, father, **child, sibling**, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandchild, grandmother, grandfather, ~~of the officer, or spouse~~, **domestic partner**, ~~brother, sister~~, or dependent of the officer. Officers may use personal leave for bereavement purposes for relations not included above provided such leave is approved in advance by the Chief of Police.

6.8 Maternity Leave of Absence Without Pay

- 6.8.1 Maternity leave of absence without pay or benefits may be granted upon request to non-disabled probationary and permanent female officers for that period of time necessary for the officer to prepare for and recover from the effects of childbirth.
- 6.8.2 Maternity leave shall be granted when the following conditions have been met:
- 6.8.2.1 The officer shall notify her department head in writing accompanied by her physician's certificate of pregnancy as soon as possible after pregnancy has definitely been determined, but no later than ninety (90) days prior to tentative date on which the leave is to begin. Such notice shall include the tentative dates on which the leave shall begin and end.
  - 6.8.2.2 Within thirty (30) days of the beginning of the maternity leave, the officer shall submit to the Personnel Officer the specific date she intends to begin the leave, accompanied by her physician's written statement attesting to the officer's ability to continue performing the full schedule of her duties and responsibilities. She shall continue on active duty until the specific date providing she performs the full duties and responsibilities of her position and furnishes additional health statements from her physician upon reasonable request.
  - 6.8.2.3 Prior to the establishment of a specific date for return to duty, the officer shall submit to the Personnel Officer a notice of intention to return to duty, accompanied by her physician's statement certifying that the officer is medically qualified to assume full duties and responsibilities.
  - 6.8.2.4 The Personnel Officer or his/her designee may designate the specific beginning and ending dates to meet the needs of the officer and the City.
- 6.8.3 The officer on leave shall be returned to an equivalent position within her classification.
- 6.8.4 A maternity leave, absent physical disability, is granted without pay for the duration of the leave. The officer may elect to continue medical and dental insurance coverage for up to one (1) year during this leave at her own expense.

## 6.9 Leave for Pregnancy Disability

- 6.9.1 Officers who are working are entitled to use personal illness and injury leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom on the same terms and conditions governing leaves of absence for other illness or medical disability. Such leave shall not be used for childcare, child rearing, or preparation for childbearing, but shall be limited to those disabilities as set forth above. The length of such disability leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the officer and officer's physician; however, the Personnel Officer may require a verification of the extent of disability through a physical examination of the officer by a physician appointed by the City at City expense.
- 6.9.2 Should the disability set forth in Section 6.9.1 above, continue for more than thirty (30) working days, the City will compensate the disabled officer at 66.67 percent of salary, after the 30th working day, up to the maximum as provided in the long term disability policy.
- 6.9.3 Officers are entitled to leave without pay or other benefits for disabilities because of pregnancy, miscarriage, childbirth, or recovery therefrom when sick leave had been exhausted. The date on which the officer shall resume duties shall be determined by the officer on leave and the officer's physician; however, the Personnel Officer may require a verification of the extent of disability through a physical examination of the unit member by a physician appointed by the City.
- 6.9.4 The officer on leave for pregnancy disability shall be entitled to return to a sworn position equivalent to the position held at the time the leave was granted.

## 6.10 Parental Leave

An officer/parent of either sex may be granted a leave of absence without pay for the purpose of fulfilling parenting responsibilities during the period of one (1) year following the filing of application for adoption and actual arrival of child in the home. Such leave to be for a maximum period of six months.

## 6.11 Miscellaneous Leave Provisions

- 6.11.1 Leaves of absence without pay which exceed four (4) weeks and are for leaves other than military, or job related disability shall not be included in determining seniority.
- 6.11.2 At the conclusion of a leave of absence an officer shall be returned to an equivalent position within his/her classification.

- 6.11.3 For any unpaid leave of absence the officer may elect to continue insurance coverage for up to the duration of his/her leave of absence at his/her own expense.
  - 6.11.4 For any paid leave of absence, all benefits continue to accrue.
  - 6.11.5 The Personnel Officer and his/her designee will designate the specific beginning and ending dates to meet the needs of the work and the City, which shall not exceed one unpaid year.
  - 6.11.6 At the specified date for return to duty from unpaid leave, if the officer has been disabled, the officer's notice of intention to return to duty shall be accompanied by a physician's statement certifying that the officer is medically qualified to assume full duties and responsibilities. If an officer is not medically qualified to assume full duties, on the date specified in 6.11.5, he/she shall be granted a leave accumulated in accordance with section 6.1.1 and Labor Code Section 4850 but shall not be entitled to any other benefits.
  - 6.11.7 At the conclusion of a leave of absence for any disability the officer may be required to submit a physician's statement certifying that he/she is medically qualified to resume work.
  - 6.11.8 Leaves shall not be unreasonably denied.
  - 6.11.9 All provisions of this Article shall be administered in conformance with the Family and Medical Leave Act and the California Family Rights Act.
- 6.12 Educational Leave/Tuition Reimbursement/Child Care/Recreation
- 6.12.1 The City shall contribute ~~Sixteen Thousand Five Hundred Dollars (\$16,500)~~ **One Thousand Dollars (\$1,000) per authorized full time unit position** annually on July 1st of each **fiscal** year to an educational leave/tuition reimbursement/child care/recreation fund for unit members, ~~to a maximum of One Thousand Dollars (\$1,000.00) per officer per fiscal year.~~ **Each officer shall be eligible to use up to Two Thousand Dollars (\$2,000) per year for items covered under this section while a balance remains in the fund.** Any fund balance remaining at the end of the fiscal year shall be applied **on a proportionate basis** to claims in excess of ~~the One Two Thousand Dollars (\$1,000.00)~~ **(\$2,000) per officer limit, up to a maximum of Five Thousand Dollars (\$5,000) per officer.** **Claims for funds in excess of the Two Thousand Dollar (\$2,000) limit shall be submitted no later than July 15 following the close of the fiscal year so that the proportionate amounts can be calculated and disbursed.** ~~Programs must be approved in advance.~~ **All claims must be approved in advance by the Division Commander, and must qualify under applicable IRS code sections.**

- 6.12.2 Officers may request an advance of funds subject to the approval of the **Division Commander, who will consult with the** Personnel Officer. Advances may be granted for tuition, books and other curriculum fees in exchange for a repayment agreement in the event advances are not supported or courses are not satisfactorily completed as indicated by a grade of “C” or better. The officer may not elect to take a “pass-fail” grade if the letter system of grading is offered. In appropriate circumstances with advanced approval of the ~~Police Department~~ **Division Commander**, an officer may elect to take a “pass-fail” grade **or obtain a Certification of Completion.**
- 6.12.3 All officers assigned by the City to attend meetings, workshops, or conventions shall have their dues and reasonable expenses paid by the City and shall be allowed to attend such workshops, meeting and conventions on paid City time. Such required educational functions shall be reimbursed from departmental training funds and shall not be counted against the officer’s \$1,000 allowance or **taken from** the annual tuition reimbursement/child care/recreation fund.
- 6.12.4 Tuition Reimbursement: To qualify for educational reimbursement, the education must maintain or improve the employee’s skills in performing his or her job, or be necessary to meet the express requirements of the City or the requirements of applicable law. The education to which the reimbursement relates must not be part of a program qualifying employees for another trade or businesses; or be necessary to meet the minimum educational requirements for employment. Permissible educational expenses are refresher courses, courses dealing with current developments, academic or vocational courses as well as the travel expenses allocated with the courses.
- 6.12.5 Course work intended to meet the entry level requirements for any positions in the City is not reimbursable. Graduate course work in the pursuit of related graduate professional programs and which enhance the skills of the employee are reimbursable to the extent allowed under Section 127 of the Internal Revenue Code.
- 6.12.6 Recreation: Reimbursement for participation may be made if the reimbursements qualify as “no-additional-cost” services under section 132(b) of the Internal Revenue Code and that to qualify as “no-additional-cost” services the reimbursements must be only for classes in which the employees participate on a space available basis. Under section 132(f)(2) of the Code, spouses and dependent children may also participate in City-sponsored recreation programs and activities on a space available basis.
- 6.12.7 Child Care: The annual amount submitted for reimbursement cannot exceed the income of the lower paid spouse. The reimbursement request must be for employment-related expenses for the care of one or more dependents who are

under age 13 and entitled to a dependent deduction under Internal Revenue Code section 151(e) or a dependent who is physically or mentally incapable of caring for himself or herself.

6.12.8 Payments must not have been made to a child under the age of 19 years or to a person claimed as a dependent. If the services are provided by a dependent care center, the center must comply with all state and local laws and must provide care for more than six individuals (other than a resident). Note: The use of the dependent care provision is guided by a written plan document required by the Internal Revenue Service.

~~6.12.9 In the event that there are unused funds remaining in the educational leave and tuition reimbursement/child care/recreation fund on June 30 of any year, officers who present appropriate receipts verifying expenditures in excess of One Thousand Dollars (\$1,000.00), for items which are reimbursable under this Section 6.12, shall receive a pro rata share of those remaining funds not to exceed the actual amount of the difference between the actual expenditure and One Thousand Dollars (\$1,000.00). These requests for additional reimbursement must be received by the City no later than July 15 of that year.~~

6.12.10 ~~9~~ Any unused balance in the fund shall be added to the subsequent year's fund allotment, provided, however, The maximum accrual in the fund shall not exceed two times the annual fund amount.

### 6.13 Psychological Fitness for Duty Examinations

The City and P.O.A. acknowledge that it is in the best interests of the City and the members of the P.O.A. to have a defined and objective procedure for determining the psychological fitness for duty of any of the members of the P.O.A. Therefore, the parties agree to the following procedure for purposes of determining the psychological fitness for duty for unit members:

6.13.1 In the event that the Chief of Police, or his or her designee, determines that good cause exists to evaluate a member's psychological fitness for duty, a referral shall be made to a practicing and licensed psychiatrist or psychologist having experience conducting psychological/psychiatric examinations for peace officers or peace officer candidates. The City and P.O.A. shall work together to establish and maintain a list of qualified psychiatrists and psychologists. The parties shall review the list every six months. Said evaluation shall be made in writing directed only to the professional conducting the examination, and shall identify the officer's duties and responsibilities as well as any specific areas of concern underlying the referral. The decision to send a member for a fitness for duty examination shall be at the discretion of the Chief of Police or his or her designee. However, in identifying areas of concern, the Chief of Police, or

his or her designee, shall consider only those matters which are relevant to the ability of the member to perform his or her duties. At the time of the initial referral, the bargaining unit member or the P.O.A. shall make a tentative appointment with a second qualified practitioner for examination pursuant to Section 6.13.4.

- 6.13.2 All communications between the member and psychologist or psychiatrist shall be deemed confidential and shall not be disclosed to the City unless a written waiver has been executed by the member. However, the psychologist or psychiatrist shall advise the Chief of Police, or his or her designee, whether the member is, or is not, fit for duty and the basis for that determination.
- 6.13.3 In the event that the psychologist or psychiatrist selected by the Chief of Police, or his or her designee, renders an opinion (“first opinion”) that the member is psychologically unfit to perform his or her duties, the member shall have the right (at his or her own expense) to have an independent professional, with qualifications as identified above, perform a second evaluation and render an opinion (“second opinion”) as to the member’s psychological fitness for duty. The member shall be permitted up to ten (10) working days of paid administrative leave for purposes of procuring the second opinion. If the second opinion requires more than that time for completion, the employee may use discretionary paid leave or unpaid leave.
- 6.13.4 In the event that the second opinion determines that the member is not fit for duty, the City may then take any further action it deems appropriate including, but not limited to, declaring the member temporarily or permanently unfit for duty. Such a member shall have no right to appeal the finding of the first opinion. In the event that the second opinion of the professional retained by the member concludes that the member is able to psychologically perform the duties of a peace officer, the Chief of Police, or his or her designee, shall consider those finding and recommendations, and may return the member to full duty.
- 6.13.5 In the event that (a) the second opinion finds the employee fit for duty; and (b) the Chief of Police, or his or her designee, declines to return the member to full duty, the parties shall mutually select a third licensed psychologist or psychiatrist to conduct an independent examination (“third opinion”). The third professional shall consider the evaluations of both the first and the second opinions as well as his or her own evaluation of the member and render a final determination of the member’s psychological fitness for duty. Should the finding of the third professional conclude that the member is not psychologically fit for duty, the City may then take any further action it deems appropriate including, but not limited to, declaring the member temporarily or permanently unfit for duty. The costs and fees charged by the

third professional shall be shared by the parties equally.

- 6.13.6 The parties acknowledge that the member's psychological condition is a confidential matter and shall not be disclosed unless the member has signed a written authorization waiving his or her confidentiality and privacy rights relative to the psychological fitness for duty issues.
- 6.13.7 The parties acknowledge that the decision to send an officer for a fitness for duty examination is an exercise of rights under Government Code Section 1031 and shall not be subject to the grievance procedure.

## ARTICLE 7: WORK SCHEDULE

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

### 7.1 4/10 Work Schedule

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

- 7.1.1 The "4/10" schedule shall apply to police officers assigned to general patrol and shall not apply for traffic, detectives, crime prevention or special assignments without the approval of the Chief of Police.
- 7.1.2 In the event the City elects to change the scheduling of days off or starting times for the shifts, the City shall provide at least thirty (30) days' advance written notice and an opportunity for the P.O.A. to meet and confer on such proposed change.
- 7.1.3 In the event that staffing level falls to a point where a "4/10" schedule is no longer feasible, or operational needs of the department are not consistent with the "4/10" schedule, the City agrees to consult with P.O.A. prior to changing to an alternative work schedule.
- 7.1.4 If the City determines significant adverse impact of the "4/10" schedule because of increased sick leave, or increased overtime, or insufficiency in staffing levels, the City reserves the right to change to an eight (8) hours per day schedule.

7.1.5 The parties agree that provisions in the Personnel Rules and other City rules and regulations may be modified, expressly or impliedly, as they apply to those represented employees working the “4/10” schedule.

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

7.1.7 The 4/10 schedule shall revert to a five day, eight hour shift for any training that requires attendance at class for a consecutive five day period.

## 7.2 4/11 Work Schedule

A 4/11 work schedule is defined as eleven (11) hours per day worked in four (4) consecutive days totaling 154 hours in a twenty-eight (28) day cycle. An accumulation of seventy-eight (78) hours of debit time per officer shall accrue annually. If utilized, the schedule is subject to the following:

7.2.1 The 4/11 schedule shall apply to police officers assigned to general patrol and shall not apply to detectives, traffic, code enforcement or special assignments without the approval of the Chief of Police.

7.2.2 In the event the City elects to change the scheduling of days off or starting times for the shifts, the City shall provide at least thirty (30) days notice and an opportunity for the P.O.A. to meet and confer on such proposed changes.

7.2.3 If the City determines significant adverse impact of the 4/11 schedule because of increased sick leave, overtime or staffing levels, the City reserves the right to change to an eight (8) hour per day schedule.

7.2.4 The parties agree that provisions in the Personnel Rules and other City rules and regulations may be modified, expressly or implicitly, as they apply to those represented employees working the 4/11 schedule.

7.2.5 Nothing herein shall prevent the City from making temporary changes to address bone fide emergencies that may arise during the term of this Agreement.

## 7.3 4/12 Work Schedule

**A 4/12 work schedule is defined as twelve (12) hours per day worked in four consecutive days totaling 168 hours in a twenty-eight (28) day cycle. If utilized,**

**the schedule is subject to the following:**

- 7.3.1 The 4.12 schedule shall apply to police officers assigned to general patrol and shall not apply to detectives, traffic, code enforcement or special assignments without the approval of the Chief of Police.**
- 7.3.2 In the event the City elects to change the scheduling of days off or starting times for the shifts, the City shall provide at least thirty (30) days notice and an opportunity for the P.O.A. to meet and confer on such proposed changes.**
- 7.3.3 The parties agree that provisions in the Personnel Rules and other City rules and regulations may be modified, expressly or implicitly, as they apply to those represented employees working the 4/12 schedule.**
- 7.3.4 Nothing herein shall prevent the City from making temporary changes to address bone fide non-staffing emergencies that may arise during the term of this Agreement.**

**7.34 Job Sharing**

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

**7.45 Shift Change**

The scheduled shift change dates shall be June 1, October 1 and February 1. Shift changes shall be based upon officer seniority, with the highest seniority being given first choice and so forth until the shifts are filled. This section shall not apply to probationary employees, permanent employees whose assignments do not require shift changes, Acting Watch Commander slots, Field Training Officer slots, and Canine assignments.

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

**ARTICLE 8: GRIEVANCE PROCEDURE**

**8.1 Definitions**

- 8.1.1 A “grievance” is defined as:
- 8.1.1.1 An alleged violation, misinterpretation or misapplication of the provisions of this Memorandum of Understanding, Personnel Rules, or other City ordinances, resolutions, policy and/or procedure manuals affecting the working conditions of the officers covered by this Agreement; or
  - 8.1.1.2 An appeal from a disciplinary action of any kind against an officer covered by this Memorandum of Understanding.
- 8.1.2 A “disciplinary grievance” is a formal written objection or challenge to any punitive disciplinary action including dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment. However, letters of reprimand are not subject to the arbitration provisions of this procedure. Any reduction in pay for change in assignment which occurs in the course of regular rotation and is not punitive shall not be subject to this grievance procedure.
- 8.1.3 A “grievant” is any officer adversely affected by an alleged violation of the specific provision of this Memorandum, or the Union.
- 8.1.4 A “day” is any day in which the administrative offices of the City of Menlo Park are open for regularly scheduled business.

## 8.2 General Provisions

- 8.2.1 Until final disposition of a grievance, the grievant shall comply with the directions of the grievant’s immediate supervisor.
- 8.2.2 All documents dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.
- 8.2.3 Time limits for appeal provided at any level of this procedure shall begin the first day following receipt of the written decision by the grievant and/or the P.O.A.
- Failure of the grievant to adhere to the time deadlines shall mean that the grievant is satisfied with the previous decision and waives the right to further appeal. The grievant and the City may extend any time deadline by mutual agreement.
- 8.2.4 Every effort will be made to schedule meetings for the processing of grievances at time which will not interfere with the regular work schedule of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any employee required by either party to participate as a

witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time.

8.2.5 Any unit member may at any time present grievances to the City and have such grievances adjusted without the intervention of the P.O.A., as long as the adjustment is reached prior to arbitration and the adjustment is not inconsistent with the terms of the Memorandum: provided that the City shall not agree to resolution of the grievance until the Association has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response. Upon request of the grievant, the grievant may be represented at any stage of the grievance procedure by a representative of the P.O.A.

8.2.6 This grievance procedure shall be the sole and exclusive procedure for processing objections or challenges to punitive disciplinary actions and shall satisfy all administrative appeal rights afforded by the Public Safety Officers Procedural Bill of Rights Act, Government Code Sections 3300, et seq.

### 8.3 Procedure

#### 8.3.1 Level I - Informal Resolution

8.3.1.1 Any unit member who believes he/she has a grievance which is an alleged violation of the specific provisions of this Memorandum of Understanding shall present the grievance orally to the immediate supervisor within ten (10) days after the grievant knew, or reasonable should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void. The immediate supervisor shall hold discussions and attempt to resolve the matter within ten (10) days after the presentation of the grievance. It is the intent of this informal meeting that at least one personal conference be held between the aggrieved employee and the immediate supervisor.

8.3.1.2 Any unit member who believes he/she has a grievance which is an objection or challenge to any punitive disciplinary action shall present the grievance orally to the Supervising Lieutenant within ten (10) days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void. The Supervising Lieutenant shall hold discussions and attempt to resolve the matter within ten (10) days after the presentation of the grievance. It is the intent of this informal meeting that at least one personal conference be held between the aggrieved employee and the Supervising Lieutenant.

### 8.3.2 Level II - Formal Written Grievance

8.3.2.1 If the grievance is not settled during the informal conference and the grievant wishes to press the matter, the grievant shall present the grievance in writing on the appropriate form to the Chief of Police within ten (10) days after the oral decision of the immediate supervisor. The written information shall include: (a) A description of the specific grounds of the grievance, including names, dates, and places necessary for a complete understanding of the grievance; (b) A listing of the provisions of this agreement which are alleged to have been violated; (c) A listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable; and (d) A listing of specific actions requested of the City which will remedy the grievance.

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

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

### 8.3.3 Level III - Appeal to Personnel Officer

8.3.3.1 If the grievant is not satisfied with the decision at Level II, the grievant may within ten (10) days of the receipt of the decision at Level II appeal the decision on the appropriate form to the Personnel Officer. This statement shall include a clear, concise statement of the reasons for the appeal. Evidence offered in support of a disciplinary grievance filed pursuant to Article 8.2.3 of this Agreement shall be submitted in the form of written declarations executed under penalty of perjury.

8.3.3.2 The Personnel Officer shall communicate the decision to the grievant within ten (10) days. If the Personnel Officer does not respond within the time limits provided, the grievant may appeal to the next level.

### 8.3.4 Level IV - Binding Arbitration

8.3.4.1 If the grievant is not satisfied with the decision at Level III, the grievant may within ten (10) days of the receipt of the decision submit a request in writing to the P.O.A. for arbitration of the

dispute. Within twenty (20) days of the grievant's receipt of the decision at Level III, the P.O.A. shall inform the City of its intent as to whether or not the grievance will be arbitrated. The parties shall jointly submit to the California State Mediation Service a request for the submission to representatives of the parties of a list containing the names of seven (7) Arbitrators who confirm their availability to hold and complete the arbitration hearing within sixty (60) days. Upon receipt of the lists, the parties shall alternately strike names from the list, and the name which remains shall be the designated Arbitrator.

- 8.3.4.2 The arbitrator shall conduct and complete the hearing on the grievance, within sixty (60) days of the date of the P.O.A.'s request for arbitration. The parties may mutually agree to extend that timeline. The parties shall file their post-hearing briefs within thirty (30) days of the close of the hearing and the arbitrator shall render a decision on the issue or issues submitted within thirty (30) days of the submission of the briefs. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step.
- 8.3.4.3 The City and P.O.A. agree that the jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of this Agreement at issue between the parties. The arbitrator shall have no authority to add to, subtract from, alter, amend, or modify any provisions of this Agreement or the written ordinances, resolutions, rules, regulations and procedures of the City, nor shall he/she impose any limitations or obligations not specifically provided for under the terms of this Agreement. The Arbitrator shall be without power of authority to make any decision that requires the City or management to do an act prohibited by law.
- 8.3.4.4 In the event that this grievance procedure is used to challenge punitive disciplinary actions as provided in Article 8.2.6 above, the City and P.O.A. agree that the arbitrator shall prepare a written decision containing findings of fact, determinations, of issues and a disposition either affirming, modifying or overruling the punitive disciplinary action being appealed. The parties expressly agree that the arbitrator may only order as remedies those personnel actions which the City may lawfully impose.
- 8.3.4.5 The award of the arbitrator shall be final and binding.

8.3.4.6 The fees and expenses of the arbitrator shall be shared equally by the City and P.O.A.

All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other. Either party may request a certified court reporter to record the entire arbitration hearing. The cost of the services of such court reporter shall be shared equally by the parties.

8.3.4.7 By filing a grievance and processing it beyond Level III, the grievant expressly waives any right to statutory remedies or to the exercise of any legal process other than as provided by this grievance/arbitration procedure. The processing of a grievance beyond Level III shall constitute an express election on the part of the grievant that the grievance/arbitration procedure is the chosen forum for resolving the issues contained in the grievance, and that the grievant will not resort to any other forum or procedure for resolution or review of the issues. The parties do not intend by the provisions of this paragraph to preclude the enforcement of any arbitration award in any court of competent jurisdiction.

## ARTICLE 9: OUTSIDE EMPLOYMENT

9.1 A unit member shall not engage in any employment, activity or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his/her duties as an employee of the City, or with the duties, functions, or responsibilities of the City.

**All outside employment activity shall be governed by Section 1040 of the Police Department Manual.**

~~9.2 A unit member shall secure written approval from the Chief of Police prior to engaging in any employment, activity, or enterprise for compensation which could be judged to be inconsistent with, incompatible to, or in conflict with the unit member's duties as an employee of the City. Requests for approval of such outside employment shall be submitted on the appropriate City form no less than five (5) days prior to the anticipated commencement date of the outside employment.~~

~~9.3 Any outside employment, activity, or enterprise shall be prohibited if it involves any of the following:~~

- ~~9.3.1 — The use for private gain or advantage of City time, facilities, equipment, or supplies;~~
- ~~9.3.2 — The use of the badge, uniform, prestige or influence of the unit member's City office or employment;~~
- ~~9.3.3 — Receipt or acceptance by the unit member of any money or other consideration from anyone other than the City for the performance of an act which the unit member, if not performing such act, would be required or expected to render in the regular course or hours of his/her City employment or as part of his/her duties as a City employee;~~
- ~~9.3.4 — The performance of an act in other than his/her capacity as a City employee, which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of the City or any of its officers or employees;~~
- ~~9.3.5 — Such time demands as would render performance of his/her duties as a City employee less efficient.~~
- ~~9.4 — Any unit member who is determined to have engaged in an activity prohibited by or in violation of this Article 9 shall be subject to disciplinary action including, without limitation, suspension or termination. The unit member shall receive notice of the proposed discipline and shall have the right to appeal through the Grievance Procedure contained in this Memorandum.~~

## ARTICLE 10: LAYOFFS, RESIGNATION, AND TRANSFER

### 10.1 Layoffs

- 10.1.1 The City Council retains authority to abolish positions, organize and reorganize City departments and determine organizational needs. In the event that the City eliminates a particular position or reduces the number of positions within a City department in a particular classification and the layoff of any employee in the department shall result therefrom, layoffs in the department shall be made in accordance with this Article.
- 10.1.2 All probationary employees in a particular classification shall be laid off before any regular employee in the classification.
- 10.1.3 Except as otherwise provided, layoffs shall be made in reverse order of seniority. The employees with the least time served in a classification shall be laid off first, with ensuing layoffs occurring in reverse order of length of service in the classification. If two employees have served the same time in the classification, then, as between those two employees, the layoff shall be based on total time of service with the City including any contiguous service

as a contract employee. If total time of service with the City is the same, then, as between those two employees, the layoff shall be based on performance ratings, and the need of the department, as determined by the department head.

- 10.1.4 Length of service shall be determined by computing total continuous service starting from the first day of service as a probationary employee in a classification, or, if necessary, the first day of service as a probationary employee with the city. Up to three months a year spent on active military leave and job related education leave shall be included. For employees working less than full time, hours shall be converted into eight hour days for purpose of determining the length of service. Length of service in a classification shall include length of service in higher classification.
- 10.1.5 Regular employees subject to layoff, including regular employees on probation following reclassification, reinstatement, transfer, promotion, or demotion, shall be entitled to displace a less senior employee from a position in a lower classification in the same department so long as the employees were at one time members of the bargaining unit whose members were displaced. Any employee displaced under this subsection is an employee subject to layoff and is entitled to all the rights provided by the Rule, including the right to displace another employee. For any employee retreating within the department, seniority shall be computed as length of service in the classification to which the employee is retreating, plus any time served in any previously held higher classification in the department.
- 10.1.6 The names of all laid off employees shall be placed on a re-employment list for a period of three years following layoff for the position from which the former employee was laid off. Former employees on such list shall have employment preference over persons on eligibility lists. The former employee with the most seniority on this list shall be entitled to preference over other former employees on the list, provided that the position is filled within three years of the former employee's layoff and the former employee accepts the position, and reports to the Personnel Officer within ten calendar days after notice is mailed to the former employee's last known address.
- 10.1.7 Former employees appointed from a re-employment eligibility list shall be restored to all rights accrued at the time of layoff, including rate of vacation accrual and seniority, unless compensation therefor has been received prior to re-employment. Severance pay, if any, shall not be repaid.
- 10.1.8 Regular employees who are laid off, including regular employees on probation following reclassification, reinstatement, transfer, promotion, or demotion, shall be entitled to two weeks severance pay. Employees designated for layoff shall be given at least fifteen calendar days written notice.

10.1.9 No employee shall have greater or lesser seniority or other rights under this Article by virtue of representation by a particular union or lack of representation by any union.

## 10.2 Resignation

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

## 10.3 Reinstatement After Resignation

With the approval of the personnel officer, an employee who has resigned with a good record may be reinstated within two years to his former position, if vacant, or to a vacant position in the same classification. Reinstatement is discretionary with the Personnel Officer and not a matter of right. The re-employment eligibility list for laid off employees shall have preference over reinstatement under this Article. An employee reinstated under this Article shall be a probationary employee.

## 10.4 Transfer

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

# ARTICLE 11: VACATIONS

## 11.1 Vacations

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

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

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

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

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

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

#### 11.2 Effect of Probationary Period

Vacations may be taken after the first six (6) months of employment and after the field training program have been successfully completed; however, the probationary period counts for purposes of vacation accrual.

#### 11.3 Maximum Accrual

Vacation may be accrued up to ~~thirty five (35) working days, or with the approval of the department head and the consent of the City Manager,~~ a maximum of ~~forty two (42) working days~~ **four hundred forty (440) hours**. After reaching said maximum, the officer must take time off or accrual will be frozen. When accrual approaches the limit, the officer will be notified. If the City cannot grant vacation leave so as to keep accrual below the limit, with the approval of the Personnel Officer, accrual may continue for up to six (6) more months.

#### 11.4 Scheduling

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

#### 11.5 Payment on Separation or Leave

Accrued vacation time up to the maximums described in Section 11.3 above shall be paid to an officer permanently separated from City service, or, at the request of the officer, when granted a leave of absence.

#### 11.6 Cashout of Vacation Accrual

An officer may cash out up to one hundred twenty (120) hours of vacation per fiscal year when an officer schedules four (4) or more consecutive days of vacation. Any

cashout request must be submitted to the Personnel Department two weeks in advance of the desired cashout date.

## ARTICLE 12: PERSONNEL ACTIONS

### 12.1 Probation

Lateral appointments to a position in this bargaining unit, who come from another police agency without a break in service and who have obtained a POST basic certificate, shall be subject to a probationary period of twelve (12) months.

All other appointments to a position in this bargaining unit shall be subject to a probationary period of eighteen (18) months.

### 12.2 Unsatisfactory Probation of Promoted Employee

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

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

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

### 12.3 Discharge, Demotion, Suspension, and Reprimand

#### 12.3.1 Grounds

12.3.1.1 Employees may be discharged, demoted, suspended, or reprimanded for just cause, including but not limited to:

12.3.1.1.1 Employee's failure or inability to perform duties required by management for the particular position or to conform to required policies of the City.

- 12.3.1.1.2 Employee's breach of discipline, violation of legal obligations to the Employer, or dishonesty.
- 12.3.1.1.3 Misrepresentation to the Employer, including any false statement or non-disclosure of a material fact, or any actual or attempted deception.
- 12.3.1.1.4 Conviction of a felony that is job related.
- 12.3.1.1.5 Failure to report to work for a period of three consecutive working days and to communicate satisfactory reasons for not reporting to work.

### 12.3.2 Discharge and Demotion

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

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

(b) the Personnel Officer has approved the discharge or demotion following a meeting with the employee as hereafter provided.

### 12.3.3 Suspension

12.3.3.1 The Chief of Police may suspend an employee without pay for disciplinary reasons for a period not exceeding three (3) days of actual time. Except in cases of emergency, the employee must be given a written statement of the reasons for any suspension before it is effective.

12.3.3.2 The Personnel Officer may suspend an employee with pay whenever a department head recommends that the employee be discharged. The period of suspension shall continue until the employee is in fact discharged or the Personnel Officer has decided not to discharge the employee. The Personnel Officer may suspend an employee without pay for a period of up to six (6) months in lieu of discharge.

12.3.3.3 The Personnel Officer may suspend an employee with pay during such reasonable period as is necessary to investigate charges which, if true, would justify discharge of the employee.

12.3.4 Reprimands

12.3.4.1 A reprimand is a written warning to an employee of the existence of grounds for discipline. Reprimands shall not be subject to the arbitration provisions of Article 8, Grievance Procedure.

12.4 Personnel Files

In any disciplinary action the City may not rely upon any previous written warnings, notice of suspension or demotion, or written evaluation not contained in said file as justification for any personnel action which adversely affects the officer in question, but may rely on oral warnings not made a part of the file. and issued within the preceding six (6) months. In the event an officer who has received written warnings or reprimands has completed thirty-six (36) months of work without further disciplinary action, his/her prior disciplinary record of similar instances shall no longer be relied upon in any determination which in any manner affects his/her employment status and such disciplinary record shall be sealed. In cases where an officer is suspended or demoted and such discipline is sustained, a record of such action shall be kept in the personnel file and any such documentation supporting such action shall be kept in a separate file in the Personnel Office.

12.5 Internal Affairs Investigations

Except when internal affairs investigations are assigned to a person(s) from an outside agency, all investigations shall be conducted by sworn officers of the Menlo Park Police Department, who shall be superior in rank to the officer(s) interviewed (except for sexual harassment investigations which may be conducted by the Personnel Office).

12.6 Citizen Complaint Investigations

In conducting Internal Affairs Investigations, the City shall comply with Penal Code Section 832.5 and Menlo Park Police Department Policy 1020 – Personnel Complaint Procedure. When conducting such investigations, the City agrees to provide bargaining unit members with the rights accorded them in Government Code Sections 3300, et seq.

12.7 Contract and Temporary Officers

12.7.1 The use of contract officers shall be eliminated.

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

### ARTICLE 13: PAY RATES AND PRACTICES

#### 13.1 Overall Wage Adjustment

- ~~13.1.1 Effective June 25, 2006, the salary schedule for officers in the representation unit shall be increased by four percent (4.00%) as set forth in Appendix "A-1" to this Agreement.~~
- ~~13.1.2 Effective January 7, 2007, the salary schedule for officers in the representation unit shall be increased by two percent (2.00%) as set forth in Appendix "A-2" to this Agreement.~~
- ~~13.1.3 Effective June 24, 2007, the salary schedule for officers in the representation unit shall be increased by two percent (2.00%) as set forth in Appendix "A-3" to this Agreement.~~
- ~~13.1.4 Effective January 6, 2008, the salary schedule for officers in the representation unit shall be increased by two percent (2.00%) as set forth in Appendix "A-4" to this Agreement.~~
- 13.1.1 Effective July 6, 2008, the salary schedule for officers in the representation unit shall be increased by six percent (6.00%) as set forth in Appendix "A-1" to this Agreement.**
- 13.1.2 Effective January 4, 2009, the salary schedule for officers in the representation unit shall be increased by three percent (3.00%) as an equity adjustment as set forth in Appendix "A-2" to this Agreement.**
- 13.1.3 Effective July 5, 2009, the salary schedule for officers in the representation unit shall be increased by six percent (6.00%) as set forth in Appendix "A-3" to this Agreement.**
- 13.1.4 Effective January 3, 2010, the salary schedule for officers in the representation unit shall be increased by two percent (2.00%) as an**

**equity adjustment as set forth in Appendix “A-4” to this Agreement.**

**13.1.5 Effective July 4, 2010, the salary schedule for officers in the representation unit shall be increased by three percent (3.00%) as set forth in Appendix “A-5” to this Agreement.**

**13.1.6 Effective January 2, 2011, the salary schedule for officers in the representation unit shall be increased by three percent (3.00%) as an equity adjustment as set forth in Appendix “A-6” to this Agreement.**

### 13.2 Step Increases

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

### 13.3 Bilingual Differential

13.3.1 Officers who are assigned to job duties requiring bilingual skills are eligible to receive Seventy-Five (\$75.00) each pay period for the use of bilingual skills in job duties arising during the normal course of work.

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

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

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

#### 13.4 Call Back Pay

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

#### 13.5 Off-Duty Training

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

#### 13.6 Off-Duty Court Appearances

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

#### 13.7 Working Out of Classification

Any officer who with supervisory approval works in Sergeant classification shall be paid for working out of classification at the rate of the lowest step within the range of the higher classification, or at five percent (5%) above the current rate of pay, whichever is higher. Such pay rate shall be paid for the hours duties are actually assigned and performed in the higher classification.

#### 13.8 Overtime and Compensatory Time

13.8.1 Officers on a forty (40) hour assignment shall be paid overtime at the rate of time and one-half (1-1/2) for all hours worked in excess of forty (40) hours in a single workweek. Officers on a **4/11** patrol schedule shall be paid overtime at the rate of time and one-half (1-1/2) for all hours worked in excess of one-hundred and fifty-four (154) hours in the current twenty-eight (28) day work period. Hours worked shall include all hours for which the officer is in a paid status including paid leave time.

**For officers working a 4/12 schedule, the City will code 0.5 hours of straight overtime for each shift the unit member is assigned to the twelve hour patrol schedule regardless of the length of the shift worked. If a unit member is placed on a non-twelve hour schedule to do a special detail, light duty assignment, training, or disability leave (whether work related or non-work related) or any combination thereof lasting more than two weeks, then the overtime shall be paid using the one hundred fifty-four (154) hour standard rather than the 0.5 hours for each shift.**

**In the event that the combination of non-twelve hour shift schedules exceed the two week maximum during the second pay period of the twenty-eight (28) day cycle and the individual unit member received the 0.5 hours of straight overtime pay during the first pay period of the twenty-eight (28) day cycle, the City shall be entitled to an appropriate offset to be taken only after consulting with the affected employee.**

- 13.8.2 Overtime may be assigned on a required basis or requested by an officer and approved by the Police Department. At the option of the officer, overtime shall be paid or accumulated and taken as compensatory time.
- 13.8.3 Compensatory Time. An officer may accumulate a maximum of two hundred (200) hours of compensatory time. Compensatory time may be used when the services of an officer are not needed for the efficient functioning of the department, and must be approved in advance by the Police Chief or designee. Once an officer has reached the limits of compensatory time in this section he/she shall receive cash at the overtime rate for all overtime worked.

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

13.9 On-Call Status for Detectives

Detectives placed in an on-call status shall be compensated for each day, or portion thereof, that he or she is on-call at the rate of forty dollars (\$40.00) per twenty-four (24) hour period. Detectives who are on-call and fail to respond when called may be subject to disciplinary action.

13.10 Daylight Savings Time

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

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

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

13.12 POST Incentive

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

Police officers who have received their POST Advanced certificate shall receive a seven and one-half percent (7.50%) POST incentive premium calculated upon their base pay, in accordance with the current practice. **Effective July 5, 2009, police officers who have received their POST Advanced certificate shall receive a ten percent (10.00%) POST incentive premium calculated upon their base pay.**

13.13 Canine Pay

13.13.1 ~~Each employee who is assigned to the duty of feeding, caring for and supervising police dogs, which duty is performed by the employee at his or her home and during hours when he or she is otherwise not on duty with the Police Department shall be paid an amount equivalent to a special assignment~~ **Canine Handler shall be considered a competitive specialty assignment and each employee assigned to such duties shall be paid at**

Range 41.0 during each biweekly period of such assignment, **in recognition of the additional specialized and continuing training requirements associated with such duties.**

- 13.13.2 **Each Canine Handler assigned to the duty of caring for, feeding and supervising police dogs, shall receive seven (7) hours of overtime each biweekly pay period at time and one-half of the employees pay rate.** Such additional compensation shall not be paid for any two (2) consecutive biweekly periods during which such additional duty is not performed by the employee, whether for the reason that the dog assigned to such employee is boarded at the kennel at City expense or otherwise.
- 13.13.3 The additional compensation provided for in Section 13.13.4 2 is **calculated to equal one-half (1/2) hour per day care of the police dog and** granted in recognition of the personal investment, duties and responsibilities of the K-9 assignment including the time spent by the unit employee while off duty in the care and maintenance of the assigned canine. The additional compensation is based on the expected additional work required for the care of the dog, given the work historically required for such care. This extra compensation is not to be considered premium pay. **Any additional time beyond the biweekly limit of seven (7) hours stated above shall require approval in advance by the Division Commander.** The City shall pay costs associated with the “Initial Basic Training of Handler and K-9” when an officer is assigned for canine duty. **The City agrees to meet and confer with the POA over any modifications to this provision made necessary by changes in FLSA requirements prior to implementation.**

#### 13.14 Employee Vehicle Use Agreement

Officers assigned to detectives, who are assigned to use their personally owned vehicles for City use, shall receive a monthly automobile allowance of five hundred dollars (\$500.00). The automobile allowance shall cover all costs of operating the vehicle for City use, including but not limited to, maintenance, insurance and fuel.

#### 13.15 Night Shift Differential

**Effective July 5, 2009, for officers assigned to patrol, the City shall pay a shift differential of two percent (2.00%) for regular assignment to night shift. The shift differential shall not be paid on any regularly assigned schedule worked which includes day or swing shift.**

**Shift differential shall only be paid to officers assigned to a night shift, and shall not apply to officers filling open shifts or otherwise assigned to nights on a temporary basis.**

### **13.16 Longevity Pay**

**Effective July 4, 2010, unit members who have achieved levels of continuous service time as a full time sworn police officer with the City of Menlo Park, and who have received annual performance reviews with overall ratings of “meets standards” or above shall be eligible to receive the following:**

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

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

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

**13.16.4 The first pay period after completing twenty (20) years of service: eight percent (8.00%) calculated upon base pay.**

**The maximum longevity pay that may be received by an officer is eight percent (8.00%).**

## **ARTICLE 14: RETIREMENT BENEFITS**

### **14.1 Retirement Plan**

Retirement benefits for employees shall be those established by the Public Employees' Retirement System (PERS) for Local Safety Members 3% at age ~~55~~ **50** Formula.

~~Effective June 30, 2006, retirement benefits for employees shall be those established by the Public Employees' Retirement System (PERS) for Local Safety Members 3% at age 50 Formula. The City Council shall begin the process of amending its contract with PERS to implement 3% at 50 no later than March 15, 2006.~~

### **14.2 Optional Provisions**

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

14.2.2 Single highest year.

### **14.3 City's Contribution to Retirement**

The City shall pay the rate prescribed by the Public Employees' Retirement System for employer contributions to the Public Employees' Retirement System in accordance with the rules and regulations governing such employer contributions.

14.4 Officer's Contribution to Retirement System

Effective July 2, 2000, the City's payments on behalf of each unit member's contribution to the Public Employees' Retirement System shall cease. The full unit member's contribution shall be deducted from the unit member's pay by the City and forwarded to the Public Employees' Retirement System in accordance with the rules and regulations governing such contributions.

Effective July 2, 2000, the City will implement Employer Pick-up, Internal Revenue Code 414 (h) (2) on the employee's contribution to the Public Employees' Retirement System.

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

14.6 Honorary Retirement

Upon separation, a unit member who leaves the service of the Menlo Park Police Department shall be considered retired provided the unit member has fifteen (15) years of service with the department and is in good standing at the time of departure.

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

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

Retirement under this section shall be honorary and shall not involve any payment or benefit to the unit member or liability on the part of the City.

ARTICLE 15: UNIFORM ALLOWANCE, SAFETY EQUIPMENT, AND TRAINING

15.1 Uniform Allowance

Officers shall be paid an annual uniform allowance of ~~Eight Hundred Dollars (\$800.00)~~ **Nine Hundred Ten Dollars (\$910.00)** annually **on the twenty-fifth pay period of the year** to be used for the purchase and maintenance of uniforms.

**Effective with payments made after July 4, 2010, officers shall be paid a uniform allowance of One Thousand Forty Dollars (\$1,040.00) annually on the twenty-fifth pay period of the year to be used for the purchase and maintenance of**

**uniforms.**

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

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

~~15.2~~ Equipment Provided

~~The City shall furnish, at its own expense, all safety equipment required by the City and by law. Such furnished safety equipment and any and all replacements furnished by the City at any time shall remain the property of and under the control of the City.~~

~~Any officer hired after July 1, 1991 shall be required to wear soft body armor as furnished by the City. In addition, any officer requesting soft body armor shall have it furnished by the City. Patrol and traffic officers who have such armor issued to them shall wear it on duty. Exceptions may be made by the Chief or his designee.~~

~~Officers shall have the choice of any armor meeting the industry standard of IIIA from any company approved by the Chief of Police.~~

~~Exceptions shall be considered as long as the manufacturer is a member of the Personal Protective Armor Association (P.P.A.A.)~~

~~Armor issued by the City shall be visually inspected once per year to check for obvious signs of wear or abuse. Armor with more than five (5) years of use shall be replaced.~~

~~The City shall pay all costs associated with supply of body armor to officers. This shall include the initial price of the armor, any necessary alterations to provide for better fit, and the replacement of worn out armor carriers and armor damaged in the line of duty. Issued body armor shall remain the property of the City. Addition of accessories to armor already meeting the industry standard of IIIA shall be at the officer's expense.~~

~~Abuse or loss of City provided equipment shall be the responsibility of the officer.~~

ARTICLE 16: DAMAGED PROPERTY OF POLICE OFFICERS

- 16.1 In accordance with Police Department policy 5.5.7 "Use of Authorized Personal Equipment", any officer may be reimbursed for the costs of replacing or repairing property, such as eyeglasses, dentures, watches, or articles of clothing necessarily

worn or carried when such items are damaged in the line of duty, without fault of the officer.

- 16.2 Luxury items such as jewelry, watches over fifty dollars (\$50.00) in value, and other non-required items will not be covered by this section.
- 16.3 Before the allowance or payment is made, the officer shall file a claim with the department. There shall be attached to said claim all receipts showing the monies expended by the claimant for the repair or replacement of said property.
- 16.4 The department shall reserve the right to refer any claim, which is excessive or does not meet the previously stated criteria, to the normal City claim procedure.

ARTICLE 17: BENEFIT PROGRAMS

17.1 Cafeteria Plans

17.1.1 Each active and each retired employee shall receive a City contribution equal to the minimum employer contribution for agencies participating in the Public Employees Medical and Hospital Care Act (PEMHCA).

17.1.2 ~~Effective with the first pay period after ratification of this Agreement by the parties,~~ Each active employee shall be allocated an amount, inclusive of the City contribution specified in Section 17.1.1 to be used to purchase qualified benefits as described in this Section. The amount shall be allocated to each worker according to the health benefits selected, as follows:

<del>\$1,106.30</del> <b>\$1,385.62</b> per month	family coverage
<del>\$851.00</del> <b>\$1,065.86</b> per month	two-person coverage
<del>\$425.50</del> <b>\$532.93</b> per month	single person coverage
\$154.68 per month	no coverage

~~17.1.3 Effective with the implementation of cafeteria plan year 2007, each active employee shall be allocated an amount, inclusive of the City contribution specified in Section 17.1.1, to be used to purchase qualified benefits as described in this Section. The amount shall be allocated to each worker according to the health benefits selected, as follows:~~

<del>\$1,258.95</del> per month	family coverage
<del>\$968.42</del> per month	two person coverage
<del>\$484.21</del> per month	single coverage
<del>\$154.68</del> per month	no coverage

**17.1.3 Effective with the implementation of cafeteria plan year 2009, the amounts for each tier of coverage shall be adjusted to the corresponding basic monthly rate for the highest HMO less \$10.00 per month for single**

**coverage, less \$20.00 per month for two-person coverage and less \$30.00 per month for family coverage. The no coverage option shall remain at \$154.68.**

- 17.1.4 Effective with the implementation of cafeteria plan years 2008 **2010 and 2011**, the City will increase the allocated amount contained in 17.1.3 by ~~seventy five percent (75%)~~ **eighty five percent (85%)** of the average **highest** PEMHCA HMO premium increase of HMO plans available to the ~~zip codes in the area~~ **Bay Area/Sacramento area, or adjust the allocated amount to match each tier for Kaiser rates for the Bay Area/Sacramento area, whichever is the greater amount.** The employee will be responsible for any remaining premium in excess of the allocated amount.
- 17.1.5 Each officer may use his/her allocated amount for:
- (a) **PEMHCA health insurance premiums**
  - (b) long term disability insurance
  - (c) any personal medical, dental and vision care expenses not covered by the City's plans, including but not limited to deductibles, co-payments, medication and medical equipment
  - (d) reimbursement for individual long term disability (LTD) policy premiums paid by employees
  - (e) supplemental life insurance through the City's carrier
  - (f) **contributions to a City offered deferred compensation plan**
- 17.1.6 If any employee expends less than the total of his/her allocated amount above the minimum employer contribution contained in 17.1.1, then such employee shall be entitled to ~~eighty percent (80%) of such~~ **the** unused amount in cash as taxable income, subject to appropriate tax withholding.
- 17.1.7 Each employee must enroll in an available PEMHCA health insurance plan or demonstrate that he or she has health insurance coverage equivalent to the PEMHCA plan in order to receive cash back under Section 17.1.6.
- 17.1.8 Officers who wish to have domestic partners covered under the cafeteria plan may do so after filing the "Declaration of Domestic Partnership" form with the California Secretary of State and complying with any other requirements necessary to qualify for domestic partner health benefits under the CalPERS health program. It is understood that the premiums and benefits provided as a result of covering domestic partners may be taxable, and that the City will administer the program in accordance with State and Federal Tax regulations.
- 17.1.9 The parties share an interest in addressing the increase in the cost of PEMHCA benefits. To that end, the parties agree that the City may contract with different health benefit providers, consortia, or groups to provide health

coverage that is equivalent to that provided under PEMHCA.

If either the benefits provided or the rate structure in place between active and retired employees is not equivalent to that provided under PEMHCA, then the City shall meet and confer with the Union prior to contacting with the alternative provider, consortia or group. However, P.O.A. shall have the option to remain in the PEMHCA program.

**17.1.10 During the term of this Agreement, upon request by P.O.A., the parties agree to meet and discuss the current status of Health Savings Accounts (HSA). The discussions are intended to be informational and exploratory, and such participation does not bind the City to additional expenditures or the P.O.A. to voluntary deductions.**

17.2 Dental Insurance

17.2.1 **Effective July 6, 2008**, the City agrees to contribute One Hundred ~~Two Six~~ Dollars (~~\$102.00~~) **(\$106.00)** per officer per month to the self insured dental and vision program.

**Effective July 5, 2009, the City agrees to pay One Hundred Ten Dollars (\$110.00) per officer per month to the self insured dental and vision plan.**

**Effective July 4, 2010, the City agrees to pay One Hundred Fifteen Dollars (\$115.00) per officer per month to the self insured dental and vision plan.**

For purposes of dental reimbursement, the dental claims periods shall run from January 1 to June 30 and from July 1 to December 31.

17.2.2 The maximum reimbursement shall not exceed One Thousand Five Hundred Dollars (\$1,500.00) for a unit member and Nine Hundred Dollars (\$900.00) for a unit member's dependent or qualified domestic partner per claim period.

17.2.3 On presentation of the City's Dental and Vision Reimbursement forms accompanied by appropriate receipts, officers will be reimbursed for dental and vision care expenses not covered by other insurance plans up to the maximums set forth in Section 17.2.2 above. Officer reimbursement requests shall be processed upon receipt. At the midpoint between each claims period, officers may submit dependent or domestic partner reimbursement requests and the City will pay fifty percent (50%) of such request. The balance of any dependent or domestic partner adjustments will be made at the end of the normal claims period, provided funds are available. If the quarterly payments result in the fund having a negative balance, the negative amount will be adjusted during the next claims period. In that case, the parties will

meet and discuss ways of eliminating future negative balances.

- 17.2.4 The final filing date for dental claims shall be thirty (30) days after the end of the claims filing period during which the dental expenses were incurred.
- 17.2.5 Any amounts unused in the dental fund at the end of a fiscal year shall be added to the following year's total, provided, however, the maximum in the fund shall never exceed the current and the prior year's total City contribution.
- 17.2.6 An officer and/or their dependents or qualified domestic partners may utilize the dental fund for dental, orthodontia or vision care expenses. Domestic partner benefits may be taxable to the employee, and the benefit will be administered in accordance with State and Federal Tax regulations.
- 17.2.7 The City agrees to meet and confer with the P.O.A. over a third party dental plan. If the parties agree to a change from the existing self insured dental plan, the maximum City contribution toward plan premiums will not exceed the amounts specified in Section 17.2.1.**

#### ARTICLE 18: FULL UNDERSTANDING MODIFICATION AND WAIVER

- 18.1 This Memorandum of Understanding sets forth a full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, understandings and agreements regarding the matters set forth herein, whether formal or informal, are hereby superseded and terminated in their entirety.
- 18.2 No practice or benefit provided by this Memorandum of Understanding shall be modified without the mutual agreement of the City and P.O.A.
- 18.3 To the extent that any of the following topics are not covered by this Memorandum of Understanding but are within the scope of representation under the Meyers-Milias-Brown Act (Government Code Sections 3500 et seq.), subject to the right of P.O.A. to meet and confer over such changes, the City reserves the right to implement changes therein, in accordance with applicable law:
  - 18.3.1 The impact of a change in practice or procedure necessitated by a change in the statutory or decisional law;
  - 18.3.2 A change in practices or procedures regarding promotion of bargaining unit employees;
  - 18.3.3 A change in practices or procedures regarding evaluation of bargaining unit employees;

- 18.3.4 A change in practice or procedures for assignment or transfer of bargaining unit employees;
  - 18.3.5 Any matter which poses an unanticipated fiscal or operational problem for the City, including but not limited to, a reduction in forecast income from the State or tax revenues;
  - 18.3.6 Any unforeseen matter of an immediate nature which seriously threatens the public safety or the safety of officers, including adoption and implementation of policies addressing vehicular pursuits and use of force by officers.
- 18.4 Except as provided in 18.3, existing practices and/or benefits not covered by the Memorandum of Understanding but within the scope of representation under the Meyers-Milias-Brown Act (Government Code Section 3500 et seq.), shall continue without change during the term of this agreement unless modified by mutual agreement of the parties.
- 18.5 The P.O.A. reserves the right to meet and confer if the City proposes a change in any of the matters listed in 18.3. Except for such reservation, the P.O.A. on behalf of the employees in its bargaining unit, expressly waives the right to meet and confer during the term of this agreement.
- 18.6 In agreeing to the language contained in this section, the City does not waive its right to seek further changes in this section, including the right to propose its elimination, upon expiration of this agreement. The P.O.A. does not waive its right to oppose any further changes in this section.

ARTICLE 19: SEPARABILILTY

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

ARTICLE 20: TERM OF AGREEMENT

- 20.1 This Agreement shall remain in full force and effect up to and including June 30, ~~2008~~ **2011**.

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

Dated \_\_\_\_\_

City of Menlo Park

Menlo Park Police Officers' Association

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CITY OF MENLO PARK  
DENTAL PLAN

ELIGIBLE EMPLOYEES:

Newly hired employees are eligible to participate in the plan following six months of continuous employment.

DEPENDENTS:

Dependents will be covered by the plan only if there should be sufficient funds to pay 100% of allowable employees claims.

Dependents shall be defined under this program as the employee's spouse and his/her children up to the age to 23 provided they are more than 50% dependent upon the employee for support.

MAXIMUM COVERAGE:

For each six-month period reimbursements shall be limited to the maximum coverage as stated in Section 17.2. Payments on claims will be based upon standard fees as determined by the dental committee.

REQUEST FOR REIMBURSEMENT:

A City of Menlo Park Dental Reimbursement Form must be completed by the employee's dentist indicating the type of service before the claim will be approved for reimbursement by the City. These forms are available through the Personnel Division. Forms should be returned to Personnel at the completion of treatment. An accepted and properly completed request for reimbursement form will be eligible for prorated reimbursement within the six-month period in which the work was performed. The six-month periods run from January 1 through June 30 and July 1 through December 31.

TERMINATION OF INSURANCE:

When the employee terminates with the City, his/her dental insurance ceases. Any outstanding claims up to the date of termination will be considered for payment as long as the employee has worked three of the six months in the reimbursement period.

COVERAGE

- Routine office visits and oral examinations, but not including more than one such examination of the same Covered Person in any six-month period.
- Fluoride or other prophylaxis treatments
- Dental X-Rays
- Extraction
- Teeth cleaning
- Oral surgery, including excision of impacted teeth
- Crown, bridges, except as specified under “exclusions and limitations”
- Anesthetics administered in connection with oral surgery or other covered dental services
- Fillings
- Treatment of periodontal and other diseases of the gums and tissues of the mouth
- Endodontic treatment, including root canal therapy
- Initial installation of full or partial dentures or fixed bridgework to replace one or more natural teeth extracted while insured
- Replacement of an existing partial or full removable denture or fixed bridgework to replace extracted natural teeth; but only if evidence satisfactory to the City is presented that:
  - a) The replacement or addition of teeth is required to replace one or more additional natural teeth extracted while insured under the plan; or
  - b) The existing denture or bridgework was installed at least 5 years prior to its replacement and that the existing denture or bridgework cannot be made serviceable; or
  - c) The existing denture is an immediate temporary denture and replacement by a permanent denture is required, and takes place within 12 months from the date of installation of the temporary denture

COVERAGE, continued

- Repair or recementing of crowns, inlays and fixed bridgework
- Repair or relining of dentures
- Other covered charges as determined by the Dental Committee

EXCLUSIONS AND LIMITATIONS

Covered dental expenses will not include charges:

- For any dental work covered under a Major Medical Expense Plan
- Incurred because of an accidental bodily injury which arises out of or in the course of employment, or a sickness entitling to the insured to benefits under the Workers' Compensation Act or similar legislation
- Incurred in a Veteran's Hospital by the hospital or by a dentist employed by the hospital
- Which are primarily for cosmetic purposes and has no therapeutic value
- Incurred for the replacement of a lost or stolen prosthetic device or bridgework
- Incurred as a result or act of war, declared or undeclared
- Incurred for orthodontic care, treatment, services and supplies - Effective July 1, 1992, an officer may utilize the dental fund for dental, orthodontia or vision care expenses.
- Incurred for the initial installation of dentures and bridgework when such charges are incurred for replacement of congenitally missing teeth, or for replacement of natural teeth all of which were lost when the employee was not insured under the plan
- For space maintainers
- Incurred as a result of a need for prosthetic devices including bridges and crowns and the fitting thereof which were ordered while the employee was not insured under the plan, or which were delivered after termination of insurance
- Not found to be valid upon verification with the dentist rendering the service

HOW IT WORKS

The City of Menlo Park has agreed to contribute to a dental fund a monthly amount per employee. Accumulated funds will be used to reimburse employees for dental expenses they have incurred during a particular six-month period.

Example: If the fund contribution during the six-month period exceeds the claims received

7-1-2008	Fund	Claims
to	<u>Contribution</u>	<u>Received</u>
12-31-2008	\$6,000	\$4,000

then the employee will be reimbursed 100% of his dental bill and his dependents' coverage will be as follows:

Remaining	Claims
in	<u>Received</u>
<u>Fund</u>	\$6,000
\$2,000	

then the employee will be reimbursed 33 1/3 % of the total bill for his dependents.

Example: If the fund contribution does not exceed the claims received

7-1-2008	Fund	Claims
to	<u>Contribution</u>	<u>Received</u>
12-31-2008	\$6,000	\$7,500

then the employee will be reimbursed 80% of his total dental bills and would not be reimbursed for any of his dependents' bills.

In both examples above, the amount and nature of claims by an employee and his dependents will be subject to limitations covered in the plan outline.

FORMS PROCEDURE

1. Obtain dental forms from the Personnel Division.
2. Submit the form to your dentist for his completion.
3. At the completion of your dental work or near the end of the reimbursement period, sign the form for that work which has been completed. Your dentist will sign the form and send it to the Personnel Division.