

RESOLUTION NO. 2021-40

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
TO ADOPT THE MEMORANDUM OF UNDERSTANDING WITH LOS ALTOS
PEACE OFFICERS ASSOCIATION**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Los Altos (City) and the Los Altos Peace Officers Association (LAPOA) expired on June 30, 2021; and

WHEREAS, representatives from the City and LAPOA met and conferred in good faith to reach a successor MOU; and

WHEREAS, on July 2, 2021, LAPOA members completed voting and successfully ratified the terms of a two-year successor MOU.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby approves and adopts the Memorandum of Understanding with LAPOA for a term from July 1, 2021 through June 30, 2023.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 13th day of July, 2021 by the following vote:

AYES: Council Memebtrs Lee Eng, Meadows, Weinberg, Vice Mayor Enander and Mayor Fligor
NOES: None
ABSENT: None
ABSTAIN: None



Neysa Fligor, MAYOR

Attest:



Andrea Chelemengos, MMC, CITY CLERK

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF LOS ALTOS
AND
LOS ALTOS PEACE OFFICERS' ASSOCIATION

JULY 1, 2021 THROUGH JUNE 30, 2023

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MEMORANDUM OF UNDERSTANDING
Between the
CITY OF LOS ALTOS
and the
LOS ALTOS PEACE OFFICERS' ASSOCIATION
JULY 1, 2021 - JUNE 30, 2023

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Section 3500 *et. seq.*) and has been jointly prepared by the parties.

SECTION 1. PARTIES TO THE AGREEMENT

This Memorandum of Understanding (MOU or Agreement) has been executed by representatives of the City Council of the City of Los Altos (City) and by representatives of the Los Altos Peace Officers' Association.

SECTION 2. RECOGNITION

The Los Altos Peace Officers' Association (Association) is acknowledged as the recognized representative for all full-time employees assigned to the classifications set forth in Appendix A, which is attached hereto.

SECTION 3. AUTHORIZED AGENTS

For the purpose of administering the terms and provisions of the MOU, the following authorized agents have been designated:

The City's principal authorized agent shall be the City Manager or designee. The address shall be: City of Los Altos, 1 North San Antonio Road, Los Altos, California 94022.

The Association's principal authorized agent shall be the President of the Los Altos Peace Officers' Association, P.O. Box 1311, Los Altos, California 94023.

SECTION 4. MANAGEMENT RIGHTS

The City reserves all rights with respect to matters of general legislative, managerial and financial policy including, among others: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards and the levels of service; determine the procedures and standards of selection for employment; direct and schedule its employees; establish and enforce performance standards; take disciplinary action; relieve its employees of duties because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which governmental operations are to be conducted; require overtime; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and technology of performing its work. These rights shall be limited only as specified in this Agreement.

Nothing in this section shall be construed to limit, amend, decrease, revoke or otherwise modify the rights vested in the City by any law regulating, authorizing or empowering the City to act or refrain from acting.

SECTION 5. ASSOCIATION RIGHTS

The Association will be notified and given the opportunity to meet and confer prior to changes in the terms and conditions of employment which are within the scope of representation as defined by the Meyers Milias Brown Act. The City retains the right to act on matters within the scope of representation after discharging all of its obligations under the Meyers Milias Brown Act.

SECTION 6. ASSOCIATION SECURITY

- 6.1 DUES DEDUCTIONS: Payroll deductions for membership dues and assessments (“Dues Deductions”) shall be made by the City to the Association. The following procedures shall be observed in the withholding of employee earnings:
- a. Dues Deductions shall be for an amount set by the Association. Dues deductions shall be made upon notice from the Association that it has and will maintain employees’ written authorization to be a dues-paying member of the Association.
 - b. Employees who have elected not to join or participate in activities of the Association shall not be required to pay dues to the Association.
 - c. Dues Deductions withheld by the City shall be promptly transmitted to the Association electronically unless the parties agree to another method of transmission.
 - d. The City shall implement new, changed, or cancelled Dues Deductions by the second full pay period following receipt of notice of the new, changed or cancelled Dues Deductions from the Association.
 - e. When an employee is in a non-pay status for an entire pay period, no Dues Deductions will be made to cover that pay period from future earnings nor will the employee deposit the amount with the City which would have been withheld if the employee had been in pay status during that period. In the case of an employee who is in a non-pay status during a part of the pay period, and the salary is not sufficient to cover the full withholding, no Dues Deduction shall be made. In this connection, all required deductions have priority over the Association Dues Deductions.
 - f. The Association shall refund to the City any amount paid to it in error upon presentation of supporting evidence.
 - g. The Association shall indemnify the City and any Department of the City and hold it harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any action taken by the City or any Department of the City for the purpose of complying with the provisions of this Section. This duty to indemnify and hold harmless shall not apply to actions

related to compliance with this Section 6 brought by the Association against the City. This paragraph shall not apply to any claim against the City where the City failed to process a timely request to change or cancel Dues Deduction, as provided in paragraph d, above.

- 6.2 NEW EMPLOYEE ORIENTATION: The City shall provide the Association with written notice of new employee orientations at least ten (10) calendar days prior to the orientation, unless unfeasible, in which case the City shall provide as much advanced notice as reasonably possible. The notice shall include time, date, and location of the orientation. Representatives of the Association shall be permitted to meet with the new employees for up to thirty (30) minutes during a portion of the orientation for which attendance is mandatory.
- 6.3 EMPLOYEE LIST: The City shall provide the Association with the name and job title of all employees in the bargaining unit once every 120 days, which the parties agree will occur in September, January and May of each year.
- 6.4 COMMUNICATION WITH EMPLOYEES: The Association shall be allowed use of available bulletin board space as determined by the City Manager or designee. The bulletin board shall be used to notify employees of matters pertaining to official Association business and shall not contain any derogatory, defamatory, or inflammatory statements concerning the City or City personnel, nor any materials which could impair the operation of the City.

Prior to posting any notice or material on the Association bulletin board, the Association shall provide one (1) copy of the notice or material to the Chief of Police.

- 6.5 TIME OFF FOR MEETING AND CONFERRING: The City agrees to provide reasonable paid time off for up to four (4) individuals who will serve as the Association representatives for the purposes of meeting and conferring (“paid release time”). Paid release time is subject to staffing availability may not interfere with the efficiency, safety and security of City operations, and requires advance authorization from the City Manager or designee. When an employee participates in meet and confer session(s) during non-scheduled work hours, the employee shall not be entitled to receive any pay or benefits from the City for such time spent in the meet and confer session(s), however, to avoid the risk of fatigue and exhaustion that may occur due to prolonged negotiations, at the request of the Association representative(s) participating during non-scheduled work hours, the City will make reasonable efforts to modify, adjust or flex the representative’s work hours to credit such time as non-overtime hours worked. Reasonable efforts does not include the authorization of overtime.
- 6.6 ADVANCED NOTICE: Except in cases of emergency, reasonable advance written notice shall be given to the Association if it is affected by any new or proposed change to any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council, by any board or commission of the City, or by any department. The Association shall be given the opportunity to meet and confer with designated City representatives prior to the adoption or implementation of said new or proposed change only as they pertain to

the items directly relating to matters within the scope of representation and not those matters outside the scope of representation such as, but not limited to, those reserved by the City in Section 4 Management Rights.

SECTION 7. LIGHT / MODIFIED DUTY

7.1 POLICY STATEMENT: It is the policy of the Los Altos Police Department that light duty or modified work assignments may be assigned on a temporary and limited basis only at the discretion of the City Manager or designee. Each request for light duty or modified work assignment, whether initiated by management or by the individual involved will be evaluated on a case-by-case basis.

7.2 EVALUATION CRITERIA: An attending physician's statement must be obtained prior to assignment to light or modified duty. The statement must estimate a recovery date, which can be adjusted based upon accelerated rehabilitation, recovery or aggravated circumstances.

The duration of light or modified duty shall be determined on a case-by-case basis, but permanent assignment will not be approved. Any light or modified duty for more than six (6) months will be reevaluated by the City Manager or designee. The final approval of light or modified duty assignments lies with the City Manager or designee, based on the needs of the Department.

7.3 ADMINISTRATION OF LIGHT OR MODIFIED DUTY ASSIGNMENTS: Assignment to light or modified duty can be initiated by a request from the employee or in the form of a directive from the City Manager or designee. A memorandum shall be prepared and routed through the chain of command stating the reasons for the light or modified duty assignment and the duties to be performed. Appropriate physician endorsements shall accompany the memorandum.

Employees assigned to light or modified duty shall receive immediate supervision from the supervisor of the section to which the employee is assigned.

An employee assigned to light or modified duty shall generally work a standard eight (8) hour, five (5) day workweek. However, other alternate work schedules may be assigned by the City Manager or designee based on the needs of the Department.

Sworn officers assigned to light or modified duty may, depending on circumstances, retain their peace officer status. However, since the intent of this section is to keep employees working without subjecting them to conditions that might aggravate their medical condition, assignments shall be confined primarily to non-line functions including, but not limited to: community surveys, dispatching (unless not properly trained), court officer assignments, background investigation, clerical functions, non-critical criminal investigations, desk officer duty, etc.

Assignments will be determined based upon the individual characteristics of the injury or illness involved, and shall be at the discretion of the City Manager or designee.

SECTION 8. SALARY

- 8.1 GENERAL SALARY INCREASE FOR 2021/2022: Effective the pay period that includes July 1, 2021, or the pay period during which Council approves this MOU (whichever is later), base salaries of all represented classifications shall be increased by three and eight-tenths percent (3.8%).
- 8.2 MARKET/EQUITY SALARY INCREASE FOR 2021/2022: Effective the pay period that includes July 1, 2021, or the pay period during which Council approves this MOU (whichever is later), base salaries of sworn classifications shall be increased by an additional one and two-tenths percent (1.2%).
- 8.3 GENERAL SALARY INCREASE FOR 2022/2023: Effective the pay period that includes July 1, 2022, base salaries of all represented classifications shall be increased by the April 2022 12-month Consumer Price Index for the San Francisco Area set by the U.S. Department of Labor Bureau of Labor Statistics (minimum 3% / maximum 3.5%).
- 8.4 RATIFICATION PAYMENT TO NON-SWORN CLASSIFICATIONS: Effective the pay period that includes July 1, 2021, or the pay period during which Council approves this MOU (whichever is later), all employees serving in non-sworn classifications shall receive a non-pensionable lump sum ratification payment in an amount of one and two-tenths percent (1.2%) of their respective salaries as of June 30, 2021. The lump sum ratification payment shall be issued via separate check.
- 8.5 LUMP SUM PAYMENTS: Effective the pay period that includes July 1, 2021, or the pay period during which Council approves this MOU (whichever is later), all employees serving in represented classifications shall receive a non-pensionable lump sum payment of one thousand dollars (\$1,000).
- 8.6 Salary schedules for all represented classifications during the term of this Agreement are listed in Appendix A.

SECTION 9. SPECIAL ASSIGNMENT PAY

The City will provide an additional five percent (5%) of base pay to employees assigned to the following:

- 9.1 Canine Officer Premium. Employees who are routinely and consistently assigned to handle, train and board a canine.
- 9.2 Motorcycle Patrol Premium. Employees who are routinely and consistently assigned to operate and/or patrol on a motorcycle.
- 9.3 Detective Division Premium. Employees who are routinely and consistently assigned to the detective or investigative division or the following intelligence duties: Santa Clara County Special Enforcement Team (SCCSET), School Resource Officer (SRO), Regional Auto Theft Task Force (RATTF).
- 9.4 Administrative Officer Premium: Employees who are routinely and consistently

assigned to provide support for the police chief and command staff in the operation of the police department.

The Parties agree that to the extent permitted by law, special assignment pay is special compensation and shall be reported as such pursuant to Title 2 CCR Sections 571(a)(4) and 571.1(b)(3).

SECTION 10. EDUCATIONAL INCENTIVE PAY

The City will provide the following educational incentive pay:

10.1 Peace Officer Standards and Training (POST) Certificate Pay

The City shall provide an additional five percent (5%) of base pay to employees who possess a POST Intermediate Certificate.

The City shall provide an additional two and one half percent (2.5%) of base pay to employees who possess an Advanced POST Certificate. This two and one-half percent (2.5%) shall be in addition to the five percent (5%) specified above.

The City shall provide an additional two and one-half percent (2.5%) of base pay to supervisory employees (Sergeants and Lead Dispatcher) who possess the Supervisory POST Certificate. This two and one-half percent (2.5%) shall be in addition to the seven and one-half percent (7.5%) specified above.

10.2 Crisis Intervention Training Pay

Employees shall receive one percent (1%) of base pay for completing the Crisis Intervention Training Program (CIT).

10.3 Effective Date

Educational incentive pay shall begin on the first full pay period after the employee has documentation to the Police Chief or designee that shows the requisite certificate(s), training and/or education has been attained. Each employee is singularly responsible for submitting all documentation to qualify for Educational Incentive Pay.

The Parties agree that to the extent permitted by law, educational pay is special compensation and shall be reported as such pursuant to Title 2 CCR Sections 571(a)(2) and 571.1(b)(2).

SECTION 11. BILINGUAL PREMIUM PAY

The City shall pay thirty-four dollars and sixty two cents (\$34.62) per pay period to employees approved to receive bilingual pay. To receive this pay, employees must demonstrate the ability to both understand and effectively communicate in a language other than English that the Police Chief or designee has determined is necessary for the effective or efficient operation of the City. The Police Chief or designee maintains the right to determine the number of employees eligible to receive this pay.

Employees receiving this pay are required to speak the second language in the course and scope of

their employment when it is necessary and may be asked to assist in translating.

The Parties agree that to the extent permitted by law, bilingual premium pay is special compensation and shall be reported as such pursuant to Title 2 CCR Sections 571(a)(4) and 571.1(b)(3).

SECTION 12. HOSTAGE, TACTICAL, SWAT TEAM PARTICIPATION

All full-time unit employees designated as members of the City Hostage Negotiation, Tactical Response, or SWAT teams will receive an additional five percent (5%) of base pay while acting in this capacity for each hour actually worked, including training.

- Hostage Negotiation
- Tactical Response
- SWAT (Special Weapons And Tactics)
- Field Training Officer (Sergeants are not eligible).
- Communications Training Officer

The Parties agree that to the extent permitted by law the premium pays set forth above qualify as special compensation under 2 CCR 571 and 2 CCR 571.1. In the event that the City or the Association learn that any of the pay items listed above may or will not be recognized as special compensation, the parties will reopen negotiations on the narrow and specific issue of providing the compensation associated with those premiums in a manner that complies with CalPERS reporting requirements.

SECTION 13. ACTING CAPTAIN OR POLICE SERVICES MANAGER

All full-time unit employees designated as Acting Captain or Police Services Manager will receive an additional five percent (5%) of base pay for each hour worked while acting in this capacity.

The Parties agree that to the extent permitted by law, acting pay is special compensation for Classic members only and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(3).

SECTION 14. ACTING OUT OF CLASS PAY

All full-time unit employees appointed to work out of class will receive a minimum five percent (5%) additional pay for each hour acting in this capacity.

The Parties agree that to the extent permitted by law, acting out of class pay is special compensation for Classic members only and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(3).

SECTION 15. HOLIDAY PAY

15.1 OBSERVED HOLIDAYS: The following are City-observed holidays:

New Year's Day	January 1
Martin Luther King Jr. Birthday	Third Monday in January
Presidents Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September

Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day After Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25

Holidays that fall on Saturday will be observed the prior Friday. Holidays that fall on Sunday will be observed the following Monday.

- 15.2 HOLIDAY IN LIEU: The following classifications receive pay for City-observed holidays in the form of five percent (5%) of base pay for regularly-scheduled hours each pay period: Police Sergeant, Police Agent, Police Officer, Police Officer Trainee, Communications Officer, and Lead Communications Officer.
- 15.3 PAID HOLIDAYS OFF: On each City-observed holiday, every Community Services Officer will receive one (1) full shift of paid time off.
- 15.4 FLOATING HOLIDAYS: In addition to the City-observed holidays identified above, Community Services Officers are entitled to two (2) floating eight (8) hour holidays per year. The first floating holiday accrues on October 1st, the second floating holiday accrues on April 1st.

SECTION 16. HOURS OF WORK AND OVERTIME

- 16.1 FAIR LABOR STANDARDS ACT (FLSA) OVERTIME DEFINED: The established FLSA work period for all sworn employees shall be twenty-eight (28) consecutive days with an FLSA overtime threshold of one hundred seventy one (171) hours actually worked, pursuant to 29 U.S.C. section 207(k). The established FLSA work period for all miscellaneous employees shall be seven (7) consecutive workdays with an FLSA overtime threshold of forty (40) hours actually worked.
- 16.2 CONTRACTUAL OVERTIME DEFINED: Employees shall receive overtime compensation for all hours worked in excess of their regularly-scheduled shifts. Paid leave hours will be counted as hours worked for purposes of calculating contractual overtime.
- 16.3 CONTRACTUAL OVERTIME RATE DEFINED: The contractual overtime rate for each contractual overtime hour worked is an employee’s pay period salary plus includable compensation as defined by the FLSA at 29 U.S.C. section 207(e), divided by eighty (80), times one and one half (1.5).
- 16.4 CANINE HANDLERS: Through December 31, 2021, employees assigned as canine handlers will be assigned to work a ten (10) or twelve (12) hour shift; however, one hour per workday will be allowed for grooming and maintenance of the canine and will be considered on duty time. Duty time worked by the canine handler in excess of the assigned shift shall be compensated at contractual overtime rate. Effective January 1, 2022, employees assigned as canine handlers shall be paid seven (7) hours at the contractual overtime rate per pay period for off-duty time spent on grooming and maintenance of their canine partner. The City and the Association have considered the time that canine handlers typically spend on off-duty canine care and have determined

the reasonable amount of time is seven (7) hours per pay period. Canine handlers are not permitted to work more than seven hours per pay period on off-duty canine care.

- 16.5 COMPENSATORY TIME OFF: Employees shall be allowed to accrue up to one hundred and forty (140) hours of compensatory time off in lieu of paid overtime subject to the approval of the Chief of Police. Effective the last pay period in November, all accrued compensatory time hours above one hundred (100) hours will be cashed out and payment of cashed out hours will be made on the first pay period in December. Compensatory time payment shall be in a separate check.

An employee wishing to use their accrued CTO shall provide their supervisor with reasonable notice. An absence that will unduly disrupt operations of the Department will not be granted.

- 16.6 CONSECUTIVE SHIFTS / EIGHT HOUR REST PERIOD: An employee who works their entire shift or longer will receive no less than eight (8) hours of time off before returning to duty or other required work assignments (required training, court etc.). In no event shall an employee be required to work more than sixteen (16) consecutive hours.

In the event the eight (8) hour rest period between shifts includes time that the employee would normally be scheduled to work, the City will pay the employee straight-time for those hours. However, an employee will return to work to complete his/her normal shift if there is any time remaining on his/her shift after the eight (8) hour rest period is completed.

These provisions do not apply to voluntary overtime, special events or voluntary training. Also exempt are traffic court appearance or work assignments under four (4) hours. The eight (8) hour rest period requirement can be waived if mutually agreed to by the employee and the employee's supervisor.

Exceptions to the above are:

- a. Unforeseen emergency situations such as; extended tactical events, natural disasters or other extraordinary events requiring more than normal police staffing. Backfilling for sick calls or common staffing issues do not constitute an emergency for the purposes of this section.
- b. It is understood that Specialty assignments can be exempt from these provisions and will occasionally require employees assigned to those specialties to work beyond sixteen (16) hours or to require employees to return to duty prior to the eight (8) hour rest period. However, when practical, the Supervisor of the employee or Watch Commander will make every effort to comply with the provisions above.

It is the employee's responsibility to notify their supervisor or the on-duty Watch Commander that their schedule is approaching the sixteen (16) hours of consecutive work and their need for the rest provisions above. Employees should notify their supervisors as soon as practical to ensure that proper staffing is maintained.

- 16.7 ADMINISTRATIVELY ALTERED SHIFTS: When an employee is directed to alter their shift with less than a twenty-four (24) hour notice, the employee shall be compensated at a rate of time and one half (1.5) the employee's base rate of pay for every hour worked outside their normal shift.

The maximum work hours of sixteen (16) hours and the eight (8) hour rest period requirement will be observed for all altered shifts except for employees assigned to Detectives division and RATTF.

- 16.8 LUNCH PERIOD: Employees assigned to specialty positions and Community Service Officers (CSO's) are entitled to one (1) paid thirty (30) minute lunch period during their assigned shift. Employees may be required to handle calls for service or other events during their lunch period.

- 16.9 COURT OVERTIME: An employee who is required to make a work-related court appearance that is not contiguous to their regular work shift, shall be compensated for the actual hours worked or four (4) hours, whichever is greater, at the contractual overtime rate.

If an employee's work-related court appearance is cancelled after he/she reports to court, the employee shall receive the four (4) hour minimum compensation. If the appearance extends beyond four (4) hours, the member shall be compensated on an hour-per-hours basis to the nearest fifteen (15) minute increment.

Actual hours worked for purposes of this section shall include court preparation time, travel time between the Department and court and any break in the court session, including but not limited to lunch periods. Court overtime compensation will terminate when employee's normally-scheduled work shift begins.

At no time will an employee be paid twice for the same work hours. If the employee has overlapping court appearances, the employee will be paid for the true hours worked or the four (4) hour minimum compensation, whichever is greater.

- 16.10 COURT STANDBY: Off-duty employees who are placed on approved telephone standby for a court/hearing appearance shall receive a lump sum of \$200.00 per day.

If an employee on telephone standby is instructed to appear in person at a time consecutive to the standby, the employee will be paid at the employee's contractual overtime rate from the time standby began until the appearance has concluded. In no event shall this amount be less than the four (4) hour minimum set forth in Section 16.9. In this situation, the employee will receive overtime compensation in lieu of standby pay.

If an employee on approved telephone standby is instructed to appear at a time nonconsecutive to the standby, the employee shall be eligible for both court standby pay and court overtime for the time spent appearing. However, no employee shall be entitled to more than one instance of court standby pay per 24-hour period.

- 16.11 “E” DAY: If staffing allows, employees have the discretion of either working at straight time pay or taking time off on their “E” day if approved by their supervisor or the on-duty Watch Commander. Employees working a twelve (12) hour shift on their “E” day shall be paid at the contractual overtime rate for the final four (4) hours of the “E” day shift assignment.
- 16.12 TRAINING/TRAVEL COMPENSATION: All training must be approved by the Police Chief or designee.
- a. Training deemed “mandated” by the Police Chief or designee will be handled as follows:
1. For all mandated training except CPT or SWAT, the employee’s work schedule may be adjusted to minimize the amount of overtime incurred. If any adjustment results in the need for overtime (e.g., to backfill on a shift that had to be flexed off), the employee whose shift has been adjusted will have the right of first refusal to the overtime assignment. For CPT and SWAT, officers must adjust their schedules so as not to incur overtime to attend.
 2. Any overtime for training must be approved by the Police Chief or designee prior to attending the training.
 3. Mileage and all other payments, reimbursements and/or advances will be in accordance with the City of Los Altos Administration Instruction, Travel and Expense Policy. Mileage will be reimbursed according to actual miles travelled between the employee’s home and the training site.
 4. Employees that travel for training on a non-work day (unadjusted) shall be paid for actual travel time between the employee’s home and the training site. Employees that travel for training on a work day shall be paid for actual travel time between the employee’s home and the training site beyond the employee’s normal commute.
 5. All costs associated with trainings must be reviewed and approved by the Police Chief or designee prior to the training.
 6. Any lunch break period during mandated training shall be treated as hours worked.
- b. Training deemed “discretionary” by the Police Chief or designee will be handled as follows:
1. No overtime will be granted for attending “discretionary” training, unless approved in advance by the Chief of Police or designee.
 2. The employees work schedule may be adjusted to attend the training if approved in advance by the Police Chief or designee.

3. If approved by the Police Chief or designee in advance, registration fees will be fully paid directly by the City by check or credit card.
 4. All other costs including but not limited to; travel, mileage, lodging, meals, tolls, parking fees, taxis, and/or public transportation are the responsibility of the employee and are not reimbursable.
 5. If available and approved by the Police Chief or designee in advance, a City vehicle may be used to attend the training.
- c. "Day for a Day"

Employees assigned to a ten (10) hour or twelve (12) hour work shift assignment will be credited with a minimum of ten (10) hours or twelve (12) hours (depending on work assignment) for all training days scheduled to last at least eight (8) hours that occur on the employee's regularly scheduled work days. This is to prevent the employee from having to use his/her time off to make up the difference between a regular work shift and a training day. This section will not apply for training that results in overtime.

- 16.12 CALL BACK COMPENSATION: Full-time employees who are called in, or in any other manner required to work hours that are not contiguous to their regular work shift shall receive a minimum of four (4) hours compensation at the contractual overtime rate. The call back compensation time shall begin once the employee receives notification of the call back request and immediate response is required.

Full-time employees who have received twenty-four (24) hours or more notice of required work hours (excluding court appearances) that are not contiguous to a regular work shift shall receive a minimum of two (2) hours compensation at the contractual overtime rate.

- 16.13 ADDITIONAL LEAVE PROTECTION: Effective July 1, 2021, or the first full pay period following Association ratification and subsequent Council approval of this MOU (whichever is later), for time off requests in addition to days selected pursuant to the Department's vacation sign-up, if an employee wishes to use vacation or compensatory time off hours, which causes their team to fall below minimum staffing, the Department will post overtime for shift coverage for up to thirty-six (36) hours of vacation or CTO leave used by an employee per six month shift cycle. The Department will not order someone to fill the shift, and if the employee fails to use the full thirty-six (36) hours in each six month bid period, the time does not carry over into the next six month shift cycle.

SECTION 17. VACATIONS

- 17.1 VACATION ACCRUAL: Full-time employees shall accrue vacation hours as follows:

<u>Years of Continuous Service</u>	<u>Annual Vacation Accrual</u>	<u>Maximum Accrual</u>
First 4 years	112 hours	264 hours
At the beginning of the 5th year	152 hours	384 hours
At the beginning of the 6th year	160 hours	408 hours
At the beginning of the 8th year	168 hours	432 hours
At the beginning of the 10th year	176 hours	456 hours
At the beginning of the 12th year	184 hours	480 hours
At the beginning of the 14th year	192 hours	504 hours
At the beginning of the 20th year	212 hours	564 hours

Vacation accrual changes will begin the first full pay period following the employee's anniversary date.

- 17.2 VACATION ELIGIBILITY REQUIREMENTS: Employees shall start to accumulate vacation credit as of their date of employment. Employees shall not accrue vacation leave for any pay period during which they are on layoff or other leaves of absence without pay (unless otherwise agreed by the City), or engaged in conduct in violation of Section 27 - No Strike.
- 17.3 VACATION ACCUMULATION: No vacation shall be earned or accrued above the maximum accrual amount. Exceptions to the accrual maximum in extraordinary circumstances may be made with written approval of the City Manager. Any such decision shall not be subject to the grievance procedure.

SECTION 18. UNIFORM ALLOWANCE

The City shall be responsible for provision and maintenance of all uniforms and safety equipment.

The Parties agree that to the extent permitted by law, the City reports the value of uniforms as pensionable to CalPERS for classic members only, pursuant to 2 C.C.R. section 571(a)(5). For sworn classifications, the amount reported is \$39.00 per pay period. For non-sworn classifications, the amount is \$19.50 per pay period.

SECTION 19. SICK LEAVE PAY OUT AT HONORABLE SEPARATION

Upon honorable separation from the City (retirement, death, or resignation with no pending investigation or disciplinary matter), employees with five (5) or more years of continuous service with the City may elect to receive cash payment of their accumulated and unused sick leave hours, up to 100 hours. Each hour of cashed-out sick leave will be paid at the employee's base hourly rate at the time of separation.

Federal taxation law governs this section and the City may require employees to submit an irrevocable election form the calendar year prior to separation to take advantage of this benefit.

SECTION 20. PERFECT ATTENDANCE

Effective July 1, 2021, or the pay period during which the Council approves this MOU (whichever is later) employees no longer accumulate perfect attendance and employees' accrued perfect attendance hours are frozen. As used here, "frozen" means employees are not entitled to use perfect

attendance hours and are not entitled to perfect attendance payouts (unless the employee separates prior to the first full pay period in December 2021, in which case the employee's unused perfect attendance hours will be cashed out at the employee's base hourly rate as taxable wages).

Effective the first full pay period in December 2021, all accrued perfect attendance hours will be converted to vacation hours up to 20 hours below the employee's maximum vacation accrual cap at the time of conversion. For any employee with remaining perfect attendance hours after the vacation conversion, the City will convert such hours to pre-tax contributions to the employee's deferred compensation account in the first full pay period of 2022. If, however, the City learns the deferred compensation plan or applicable law prohibits the conversion of such hours to pre-tax contributions to the employee's deferred compensation account, the City will cash out the remaining perfect attendance hours in the first full pay period in 2022. For any employee with remaining perfect attendance hours after the conversion to deferred compensation (if applicable), the employee will be paid in cash for any such hours via separate check. Each hour of accumulated perfect attendance will be cashed-out at the employee's base hourly rate as taxable wages.

Effective July 1, 2021, or the pay period during which Council approves this MOU (whichever is later), all employees will receive sixteen (16) hours of vacation in their respective vacation bank.

SECTION 21. DEFERRED COMPENSATION

The City shall make available a deferred compensation program for voluntary employee participation.

SECTION 22. RETIREE HEALTH SAVINGS PLAN

The City shall make available to all employees a retiree health savings plan (RHSP) administered by ICMA-RC. Effective January 1, 2022, the City will contribute to each employee's RHSP account an amount based on continuous years of service at the City as follows:

<u>Years of Service</u>	<u>Pay Period Contribution</u>
0-5	\$25.00
5-10	\$35.00
10+	\$45.00

For probationary employees, the City's contribution will vest upon successful completion of probation.

SECTION 23. HEALTH AND MEDICAL BENEFITS

23.1 MEDICAL PLAN:

The City contracts with CalPERS to provide medical insurance benefits to eligible employees and their dependents, as well as eligible retirees.

- a. Active Employees – the City's monthly contribution for each eligible active employee shall be the minimum employer contribution required under PEMHCA (\$143 per month for calendar year 2021), as may be adjusted by CalPERS from year to year.

- b. Eligible Retirees – The City has implemented the unequal employer contribution method for the City’s contribution to medical benefits for eligible City retirees pursuant to California Government Code section 22892. Under this method, the City’s contribution for each eligible retiree will increase annually by no less than 5% of the monthly employer contribution for active employees, until the employer contribution for retirees equals the employer contribution paid for active employees. For calendar year 2021, the City’s contribution to medical benefits for eligible City retirees is \$143.
- c. The current required employer contribution will remain the minimum contribution allowed by law, unless the statutory contribution is changed, in which case the City reserves the right to discontinue the program.
- d. Active Employee Additional Health Contribution - The City will pay the full cost of monthly plan premiums at the tier at which the employee participates (employee, employee plus one, employee plus family), not to exceed the CalPERS Kaiser Bay Area monthly plan premium.

If the employee elects medical coverage at rates higher than the CalPERS Kaiser Bay Area plan rate, the employee will pay the difference between the CalPERS Kaiser rate at the tier at which the employee participates and the cost of the elected plan, through payroll deduction.

- e. The City will be responsible for paying CalPERS administrative fees and the City’s cafeteria plan administrative fees.
- d. The City maintains the right to select, change, or modify medical plans or providers, as the level of benefits remain substantially the same.

23.2. DENTAL AND VISION BENEFITS:

The Dental and Vision Plan year is January 1 through December 31. The City’s maximum yearly employee dental/vision reimbursement is currently \$1,939 per employee and \$1,291 per dependent. Pursuant to City Council Resolution 2008-45, the annual reimbursement maximum for employees and dependents will be adjusted annually using the 12-month CPI-U, San Francisco Area, set by the U.S. DOL BLS for the month of September, not to exceed 3%, and becomes effective January 1 of the following year. The annual reimbursement maximum may be used for dental and/or vision care.

Covered expenses are detailed in the City’s Reimbursement Plan, which is available from Human Resources. Covered expenses are set by the Plan.

Employees and/or their dependents are permitted to use up to the cumulative maximum yearly reimbursement amount for dental or vision care for the employee and/or his or her dependents, as long as such care is not otherwise covered by a medical insurance plan.

SECTION 24. LIFE INSURANCE

The City shall fund life insurance for each unit employee at the rate of one hundred and fifty percent (150%) of the employee's annual salary subject to a fifty thousand dollar (\$50,000.00) maximum and existing age limitation requirements. Employees shall have the right to purchase an additional one hundred and fifty percent (150%) of their annual salary of additional life insurance.

SECTION 25. RETIREMENT

The City contracts with CalPERS for retirement benefits.

25.1 FOR "CLASSIC" SAFETY MEMBERS

For employees commonly referred to as "classic" employees (i.e., those that are not defined as "New Members" by the Public Employees' Pension Reform Act of 2013 (PEPRA)):

a. 3% AT AGE 50 PLAN

For sworn employees hired prior to December 31, 2011, the City provides the PERS 3% at age fifty (50) retirement plan. Each employee shall pay the nine percent (9%) employee contribution rate to maintain such benefits. Additional benefits currently provided include:

- Single highest year (section 20042)
- Annual 2% COLA (section 21329)
- 1959 survivor benefit level 3 (section 21573)
- Credit for unused sick leave (section 20965)
- Military service credit (sections 21024, 21027)

A comprehensive list of additional benefits is available by viewing the City's contract with CalPERS or the Public Agency Actuarial Valuation Reports regularly prepared by CalPERS.

b. 3% AT AGE 55 PLAN

For sworn employees hired on or after January 1, 2012, the City provides the PERS 3.0% at age fifty-five (55) retirement plan. Each employee shall pay the nine percent (9%) employee contribution rate to maintain such benefits. Additional benefits currently provided include:

- Three year average final compensation (section 20037)
- Annual 2% COLA (section 21329)
- 1959 survivor benefit level 3 (section 21573)
- Credit for unused sick leave (section 20965)
- Military service credit (sections 21024, 21027)

A comprehensive list of additional benefits is available by viewing the City's contract

with CalPERS or the Public Agency Actuarial Valuation Reports regularly prepared by CalPERS.

25.2 FOR “CLASSIC” MISCELLANEOUS MEMBERS

a. 2.7% AT AGE 55 PLAN

For miscellaneous (non-sworn) employees hired prior to July 1, 2011, the City provides the PERS 2.7% at age fifty-five (55) retirement plan. Each employee shall pay eight percent (8%) employee contribution to maintain such benefits. Additional benefits currently provided include:

- Single highest year (section 20042)
- Annual 2% COLA (section 21329)
- 1959 survivor benefit level 3 (section 21573)
- Credit for unused sick leave (section 20965)
- Military service credit (sections 21024, 21027)

A comprehensive list of additional benefits is available by viewing the City’s contract with CalPERS or the Public Agency Actuarial Valuation Reports regularly prepared by CalPERS.

b. 2.0% AT AGE 60 PLAN

For miscellaneous (non-sworn) employees hired on or after July 1, 2011, the City provides the PERS 2.0% at age sixty (60) retirement plan. Each employee shall pay the seven percent (7%) employee contribution to maintain benefits. Additional benefits currently provided include:

- Three year average final compensation (section 20037)
- Annual 2% COLA (section 21329)
- 1959 survivor benefit level 3 (section 21573)
- Credit for unused sick leave (section 20965)
- Military service credit (sections 21024, 21027)

A comprehensive list of additional benefits is available by viewing the City’s contract with CalPERS or the Public Agency Actuarial Valuation Reports regularly prepared by CalPERS.

25.3 FOR “NEW MEMBERS”

For “New Members” as defined by the Public Employees’ Pension Reform Act of 2013 (PEPRA):

a. NEW SAFETY MEMBERS – 2.7% AT AGE 57 PLAN

For sworn employees hired on or after January 1, 2013, the City provides the PERS 2.7% at age fifty-seven (57) retirement plan. New members shall pay retirement contributions as required by law, which is currently to fifty percent (50%) of the normal cost rate set forth in the annual CalPERS valuation report. Additional benefits currently provided include:

- Three year average final compensation (section 20037)
- Annual 2% COLA (section 21329)
- 1959 survivor benefit level 3 (section 21573)
- Credit for unused sick leave (section 20965)
- Military service credit (sections 21024, 21027)

A comprehensive list of additional benefits is available by viewing the City's contract with CalPERS or the Public Agency Actuarial Valuation Reports regularly prepared by CalPERS.

b. NEW MISCELLANEOUS MEMBERS – 2.0% AT AGE 62 PLAN

For non-sworn employees hired on or after January 1, 2013, the City provides the PERS 2.0% at age sixty-two retirement plan. New members shall pay retirement contributions as required by law, which is currently equal to fifty percent (50%) of the normal cost rate set forth in the annual CalPERS valuation report. Additional benefits currently provided include:

- Three year average final compensation (section 20037)
- Annual 2% COLA (section 21329)
- 1959 survivor benefit level 3 (section 21573)
- Credit for unused sick leave (section 20965)
- Military service credit (sections 21024, 21027)

A comprehensive list of additional benefits is available by viewing the City's contract with CalPERS or the Public Agency Actuarial Valuation Reports regularly prepared by CalPERS.

SECTION 26. NO STRIKE

The Association, its members and representatives, agree that it and they, will not engage in, authorize, sanction, or support any strike, slowdown, stoppage of work, curtailment of production, concerted refusal of overtime work, or to perform customary duties, and neither the Association nor any representatives thereof shall engage in job action for the purpose of effecting changes in the directives or decisions of management for the City, nor to effect a change of personnel or operations of management or of employees not covered by this MOU.

SECTION 27. EMPLOYEE ASSISTANCE PLAN

The City provides an Employee Assistance Plan at City expense.

SECTION 28. TUITION REIMBURSEMENT PROGRAM

Members may continue to participate in the City's Tuition Reimbursement Program, in addition to any compensation received as Education Incentive Pay. Details of the program will be provided to the Association members and posted in the briefing room.

SECTION 19. SICK LEAVE

Employees shall continue to accrue sick leave at a rate of 3.69 hours per pay period. Sick leave usage shall be in accordance with Section 19.03 of the Personnel Regulations of the City of Los Altos. A copy of the City's Personnel Regulations is attached hereto as Appendix B.

SECTION 30. BEREAVEMENT LEAVE

In the event of a death in the immediate family of a full-time regular employee, up to five (5) working days of bereavement leave per occurrence will be allowed for personal matters relating to the death. Immediate family is defined as wife, husband, domestic partner, mother (in-law) father (in-law), sister (in-law), brother (in-law) son (in-law), daughter (in-law), step child, step parent, grandparent (in-law), or grandchild (in-law). Two (2) working days of bereavement leave, per occurrence, will be allowed for personal matters related to the death of an aunt (great), uncle (great) or nephew (great), or a close relative residing in the household of the employee. Special circumstances beyond this policy (such as other relatives residing within the employee's household) may be considered on a case-by-case basis and must be approved by the City Manager.

Bereavement leave is a separate paid leave benefit. Use of bereavement leave for up to five (5) days does not reduce accumulated sick leave, vacation or compensatory time off. At the request of the City, the employee will provide verification.

SECTION 31. GRIEVANCE PROCEDURE

The Grievance Procedure is established to provide a consistent process for the fair and expeditious resolution of grievances.

- 30.1 Definition of a Grievance: A grievance is an allegation by one or more employees or the Association that there has been a misinterpretation, misapplication or violation of this MOU.
- 30.2 Time Limitations: Should a decision not be rendered within the time limits set forth below, the grievant may appeal to the next step in the procedure. Should the grievant fail to appeal a decision within the time limits set forth below, the grievance will be considered resolved and the grievant will have waived all rights to appeal.
- 30.3 Grievant: An employee, a group of employees, or the Association may file a grievance. If an employee(s) is the grievant, they must initiate their grievance at Step One. If the Association is the grievant, it must initiate the grievance at Step Two.
- 30.4 Steps in the Grievance Process
 - 30.4.1 Step One (Immediate Supervisor)
An employee(s) who alleges a violation of the MOU must present the grievance to their

immediate supervisor. If the Association is the grievant, it shall submit the grievance at step 2.

The grievance must be presented to the immediate supervisor within ten (10) calendar days of the occurrence giving rise to the grievance or the time within which the grievant knew or should have known of the occurrence.

The supervisor will investigate the alleged grievance. The supervisor shall have independent authority to sustain or deny the grievance, and shall provide a decision on the grievance within ten (10) calendar days from the date the employee presented the grievance.

30.4.2 Step Two (Police Chief)

If the employee is not satisfied with the decision of the Step One grievance, the employee or their representative must present the grievance to the Police Chief within fifteen (15) calendar days of the response from the supervisor at Step One.

The Step Two grievance must be in writing and must: (1) state the sections of the MOU alleged to be violated; (2) provide sufficient facts to establish that a violation of the identified provision(s) has occurred; and (3) state the desired remedy to resolve the grievance.

The Police Chief or designee will investigate the alleged grievance. The investigation will include meeting with the grievant. The Police Chief or designee shall provide a written decision on the grievance to the grievant within fifteen (15) calendar days from receipt of the Step Two written grievance.

30.4.3 Step Three (Personnel Review)

If the grievant is not satisfied with the decision on the Step Two grievance, the grievant or their representative must present the grievance in writing to the Human Resources Manager within ten (10) calendar days of the response from the Police Chief at Step Two.

The Step Three grievance must (1) state the section(s) of the MOU alleged to be violated; (2) provide sufficient facts to establish that a violation of the identified section(s) of the MOU has occurred; (3) provide as much narrative as possible as to why the employee is not satisfied with the decision on the Step Two grievance; and (4) state the desired remedy to resolve the grievance. The Step Three grievance must attach the written decision of the Police Chief at Step Two.

The Human Resources Manager or designee shall investigate the alleged grievance. The Human Resources Manager or designee shall provide a written decision on the grievance to the grievant within fifteen (15) calendar days from receipt of the Step Three written grievance.

30.4.4 Step Four (Arbitration)

Should the grievance remain unresolved through the preceding steps, the Association may request binding arbitration as the final step in the grievance process, by notifying the City of their intent to proceed to arbitration. Such notice shall be provided to the City Manager within fifteen (15) calendar days from the date of the Human Resource Manager's decision at Step Three.

- 30.4.4.1 Selection of the Arbitrator: Upon notice of intent to arbitrate, the Association and the City Manager or designee shall meet to select an arbitrator. If unable to mutually agree on the selection of an arbitrator, then a list of seven (7) available arbitrators shall be obtained from the State of California Mediation and Conciliation Services. Upon receipt of such list, the parties shall meet (in person, by phone or virtually) and if unable to mutually select an arbitrator from such list then a coin shall be flipped and the party correctly calling the coin flip shall strike a name from the list. The parties shall then alternately strike names from the list until only one name remains and that individual shall be the arbitrator.
- 30.4.4.2 Decision of the Arbitrator: The decision, opinion, and award of the arbitrator shall be final and binding upon all parties, subject to review only under the provisions of California Code of Civil Procedure Section 1280 et seq., as amended. The arbitrator shall not have the power to add to, subtract from, or modify any of the terms of this MOU.
- 30.4.4.3 If the question of arbitrability is raised, the arbitrator shall make his/her determination on arbitrability prior to hearing the merits of the grievance, unless the parties mutually agree otherwise.
- 30.4.4.4 The City shall prepare in blank and deliver to the arbitrator subpoenas for issuance by him/her. The arbitrator may, in his/her discretion, require a showing of good cause prior to the issuance of any subpoena.
- 30.4.4.5 The Association and the City agree to share equally all costs of the arbitrator and to be responsible for their own respective costs of making their presentation to the arbitrator.
- 30.4.4.6 If by mutual agreement or requirement of the arbitrator, services of a court reporter are utilized, the parties agree to equally share the cost of such service. Any cost for transcription shall be borne by the party requesting it.

30.4.5 Extension of Time Limits

The Step One time limits set forth above may be extended with prior written approval from the Police Chief. The remaining time limits set forth above may be extended by mutual agreement for good cause.

30.5 General Provisions

- 30.5.1 Nothing in these procedures shall be construed to prevent discussion or meetings between parties at any time to clarify the facts to conclude any matter as promptly as possible.

- 30.5.2 Nothing in these procedures shall be construed to prevent the parties from mutually agreeing to other alternative dispute procedures, such as voluntary mediation, at any point during the grievance procedure.
- 30.5.3 Concurrent grievances alleging violation of the same provision and/or based on the same occurrence may be consolidated upon the agreement of the City and the Association. Consolidated grievances shall be determined in one proceeding.
- 30.5.4 Once a Step Two grievance has been submitted, no other grievance concerning the issue, incident, or action upon which the grievance is based may be initiated.

SECTION 31. DISCIPLINE PROCEDURES

31.1 PREDISCIPLINARY PROCEDURES:

- a. **DELEGATION:** The Police Chief's authority to implement the disciplinary procedures herein may be delegated to an appropriate designee who may perform any or all of the actions/procedures required under this Section.
- b. **"PUNITIVE ACTION":** As used in herein, the term "punitive action" means any action defined as such by Government Code § 3303, i.e., "any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment."
- c. **PUNITIVE ACTION WITHOUT PRIOR NOTICE OR PREDISCIPLINARY MEETING:** Employees subject to a written reprimand will not receive prior notice or an opportunity to be heard before the written reprimand is issued.
- d. **NOTICE OF INTENT:** Prior to taking punitive action against any employee that is not a written reprimand, the Chief of Police or designee shall notify the employee in writing of the following:
1. The proposed punitive action and effective date for such action;
 2. The nature of the charges and/or violation of City regulations, policies, and/or MOU provisions;
 3. The reasons and factual bases for the proposed action;
 4. The relevant written materials, written reports and documents (if any) considered by the departmental manager or supervisor in reaching the decision to propose the disciplinary action;
 5. The right of the employee to respond verbally or in writing within seven (7) calendar days of receipt of the notice; and
 6. The right of the employee to be represented by an attorney or other representative at any further proceedings.
- e. **PREDISCIPLINARY "SKELLY" MEETING:** Any employee who receives notice of intended punitive action according to Subsection 31.2(d), and who desires to respond to said notification, shall submit a written response and/or request a predisciplinary Skelly meeting within seven (7) calendar days of receipt of notification in the manner specified in the

notification. The employee's failure to provide a written response or request a Skelly meeting within 7 calendar days shall be deemed an intentional waiver of the employee's right to respond to the proposed punitive action before the action is taken.

When an employee requests a Skelly conference, the Chief of Police or designee will conduct the conference. The Skelly conference is not an evidentiary hearing and it shall be limited to the informal presentation of information by the employee and their representative in response to the charges and allegations set forth in the notice of proposed discipline.

The timelines applicable to the employee's predisciplinary response may be extended by the Chief of Police, and the Chief may agree to extend the timelines for good cause upon the employee's request.

- 31.3 NOTICE OF FINAL DISCIPLINE: After conclusion of the predisciplinary meeting or after the Chief's receipt and review of the employee's written response, and within 30 days of the final decision, the Chief of Police shall serve on the employee a Notice of Final Discipline wherein the employee will be notified in writing of the nature and extent of the discipline, if any, and the effective date of the discipline. The Notice of Final Discipline shall also contain a statement of charges which shall set forth the acts or omissions with which the employee is charged in order that the employee will be able to prepare his/her defense. The Notice of Final Discipline shall also specify the City/Department rules, regulations, policies and procedures which the employee is alleged to have violated.

The Notice of Final Discipline shall also advise the employee of his/her right to request an appeal hearing by filing a Notice of Appeal within seven (7) calendar days of receipt of the Notice.

31.4 APPEAL RIGHTS

- a. NON-PROBATIONARY PUBLIC SAFETY OFFICER APPEAL RIGHTS: The Informal and Formal appeal procedures set forth at Subsections 31.5 and 31.6 below apply to non-probationary public safety officers. The term "public safety officer" means an employee who is considered a "public safety officer" under Government Code § 3301.
- b. NON-PROBATIONARY, NON-SWORN APPEAL RIGHTS: The Formal appeal procedure set forth at Subsection 31.6 below applies to non-probationary, non-sworn employees. The Informal procedure set forth at Subsection 31.5 below does not apply to non-sworn employees.
- c. NO PROBATIONARY EMPLOYEE APPEAL RIGHTS: A probationary employee shall be subject to any punitive action, including dismissal, at any time during the probationary period without right of an appeal set forth herein.

- 31.5 INFORMAL HEARING PROCEDURE (SWORN PERSONNEL ONLY): The following administrative appeal process shall apply to officers' appeals of written reprimands, non-punitive transfers that result in loss of pay, and any other punitive action for which an officer does not receive a formal appeal hearing under Subsection 31.6 below.

Note: a transfer which is not expressly described as corrective/punitive/disciplinary action shall not be considered a punitive transfer.

- a. **NOTICE OF APPEAL:** Within seven (7) calendar days of the effective date/issuance of a punitive action subject to this informal hearing procedure, the officer shall notify the Chief of Police, in writing, of the officer's request to appeal the punitive action. The Notice of Appeal shall specify the punitive action being appealed and the substantive and/or procedural grounds for the appeal. Within fourteen (14) calendar days from receipt of the Notice of Appeal, the Chief of Police will notify the officer of the time and place of the informal hearing and the identity of the Hearing Officer.
- b. **HEARING OFFICER:** The Hearing Officer shall conduct the informal hearing in accordance with the procedures set forth herein. In an informal hearing, if the punitive action is issued by a lower-ranked supervisor, the Chief of Police shall be the Hearing Officer. The Chief's decision on the appeal shall be final and binding.

If the punitive action is issued by the Chief, or if the Chief cannot serve as the Hearing Officer because of actual bias, prejudice or interest as defined by Government Code section 11425.40, then the City Manager or designee shall serve as the Hearing Officer. In such cases, the determination of the City Manager or designee shall be final and binding.

- c. **BURDEN OF PROOF:** The City shall bear the burden of proof at the hearing. The City must prove the facts which form the basis for the charge(s) by a preponderance of the evidence. The City must also prove that the punitive action was reasonable in consideration of the gravity of the offense and any history of prior discipline.
- d. **CONDUCT OF HEARING:**
 1. The formal rules of evidence do not apply, although the Hearing Officer shall have discretion to exclude evidence which is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time. The Hearing Officer may limit the use of witnesses, testimony, evidence and argument. There is no right of intervention, discovery, or prehearing conferences.
 2. The parties may present opening statements.
 3. The parties may present evidence through documents and testimony. Witnesses shall testify under oath. The oath may be administered by the Hearing Officer. The parties shall only be entitled to confront and cross-examine witnesses if the punitive action involves a loss of compensation (e.g., unpaid suspension of 24 hours or less).
 4. Following the presentation of evidence, if any, the parties may submit oral and/or written closing arguments for consideration by the Hearing Officer.
- e. **REPRESENTATION:** The employee may be represented by an Association representative or attorney of his or her choice at all stages of the proceedings. All costs associated with such representation shall be borne by the employee. The City/Department shall also be

entitled to representation at all stages of the proceedings. All costs associated with such representation shall be borne by the City.

- f. **DECISION:** The Hearing Officer shall issue his/her decision in writing to the parties within thirty (30) calendar days of the submission of the case by the parties for decision. The Hearing Officer's written decision shall contain findings regarding the facts which form the basis for the charge(s), and a determination on the reasonableness of the penalty in consideration of the gravity of the offense and any history of prior discipline. The Hearing Officer's decision shall be final and binding.

The decision shall be served on the parties and shall advise the officer that judicial review of the decision is governed by California Code of Civil Procedure section 1094.5 and the time within which judicial review of the decision may be sought is governed by Code of Civil Procedure section 1094.6.

- 31.6 **FORMAL HEARING PROCEDURE FOR SIGNIFICANT DISCIPLINE (SWORN AND NON-SWORN PERSONNEL):** The following administrative appeal process shall apply to all appeals of discharge, demotion, unpaid suspensions, any reduction in salary, and punitive transfers. Note: a transfer which is not expressly described as corrective/punitive/disciplinary action shall not be considered a punitive transfer.

- a. **NOTICE OF APPEAL:** Within seven (7) calendar days of receipt by an employee of Notice of Final Discipline as set forth in Subsection 31.3 above, the employee shall notify the Chief of Police in writing of the employee's intent to appeal the punitive action. The Notice of Appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal.
- b. **HEARING OFFICER:** Upon receipt of the employee's Notice of Appeal, the parties will select a neutral Hearing Officer who will hear the employee's appeal and provide a written advisory decision to the City Manager. The Hearing Officer shall conduct the formal hearing in accordance with the procedures set forth herein.

The parties may mutually agree upon a Hearing Officer, or the parties will jointly select a Hearing Officer from a list of seven (7) arbitrators provided by the State of California Mediation and Conciliation Service. If the parties cannot reach mutual agreement regarding an arbitrator to serve as Hearing Officer, they shall strike names from the list. The parties shall flip a coin to determine who strikes first. The arbitrator's fee and expenses shall be borne equally by the parties.

- c. **BURDEN OF PROOF:** The City shall bear the burden of proof at the hearing. The City must prove the facts which form the basis for the charge(s) by a preponderance of the evidence. The City must also prove that the punitive action was reasonable in consideration of the gravity of the offense and any history of prior discipline.
- d. **CONDUCT OF HEARING:**
 - 1. The hearing shall be conducted in the manner most conducive to determination of the truth, and the Hearing Officer shall not be bound by technical rules of evidence. The

Hearing Officer shall have discretion to exclude evidence which is incompetent, irrelevant or cumulative, or the presentation of which will otherwise consume undue time.

2. Each side will be permitted an opening statement. The City shall first present its witnesses and evidence to sustain the charges and the employee will then present his/her witnesses and evidence in defense.
 3. Witnesses shall testify under oath. The oath may be administered by the Hearing Officer.
 4. Each side will be allowed to call and examine witnesses, to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her.
 5. The Hearing Officer shall, if requested by either party, subpoena witnesses and/or require production of other relevant records or material evidence.
 6. The Hearing Officer may, prior to or during a hearing, grant a continuance for any reason he/she believes to be important to his/her reaching a fair and proper decision.
 7. Following the presentation of evidence, the parties may submit oral and/or written closing arguments for consideration by the Hearing Officer.
- e. REPRESENTATION: The employee may be represented by an Association representative or attorney of his or her choice at all stages of the proceedings. All costs associated with such representation, and any other costs the employee incurs in association with the appeal hearing, shall be borne by the employee. The City/Department shall also be entitled to representation at all stages of the proceedings. All costs associated with such representation, and any other costs the City incurs in association with the appeal hearing, shall be borne by the City.
- f. RECOMMENDED DECISION: The Hearing Officer shall prepare and issue a Recommended Decision in writing within thirty (30) calendar days of the submission of the case by the parties for decision. The Hearing Officer's written Recommended Decision shall set forth whether the charge(s) are sustained, and shall contain findings regarding the facts which form the basis for the charge(s), and a determination on the reasonableness of the penalty in consideration of the gravity of the offense and any history of prior discipline.

The Hearing Officer shall serve the Recommended Decision on the parties.

- g. FINAL DECISION: Upon receipt of the Hearing Officer's Recommended Decision, the City Council will consider the Recommended Decision and make a Final Decision. The City Manager will thereafter sustain, revoke, or modify the disciplinary action.

The City Council's Final Decision shall be served on the parties and shall advise the officer that judicial review of the decision is governed by California Code of Civil Procedure section 1094.5 and the time within which judicial review of the decision may be sought is governed by California Code of Civil Procedure section 1094.6.

SECTION 32. FULL UNDERSTANDING, MODIFICATION AND WAIVER

This MOU sets forth the full and entire understanding of the parties regarding the matters set forth therein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

It is agreed and understood between the parties that during the term of this Agreement, all existing working benefits and working conditions shall remain in full force and effect. It is further agreed and understood that each party hereto voluntarily and unequivocally waives its rights to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein during the term if this MOU, except as provided by this Agreement. Nothing in this paragraph shall preclude the parties from jointly agreeing to meet and confer on any issue(s) within the scope of representation during the term of this Agreement.

No agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the City Council of Los Altos and the Association. The waiver of any breach, term or condition of this Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

SECTION 33. SAVINGS PROVISION

If any provisions of this MOU are held to be contrary to law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law or an agency of the state, but all other provisions will continue in full force and effect.

SECTION 34. TERM

This MOU represents the entire agreement between the City and Association on the subjects contained herein and shall become in full force and effect on July 1, 2021 and shall continue in full force and effect until midnight June 30, 2023.

The Association shall provide the City with its proposals for the period beginning July 1, 2023, no later than March 1, 2023.

Los Altos Peace Officers' Association

City of Los Altos

Jon Maginot
Deputy City Manager

Lisa S. Charbonneau
Chief Negotiator

Peter Hoffmann,
Rains Lucia Stern St. Phalle & Silver, PC

APPENDIX A

SALARY SCHEDULE:

POA -- Salary Schedule FY 21/22	Biweekly				
	Step A	Step B	Step C	Step D	Step E
<u>Police Services</u>					
Police Sergeant	\$4,940.52	\$5,187.55	\$5,446.93	\$5,719.27	\$6,005.24
Police Agent	\$4,395.38	\$4,615.15	\$4,845.91	\$5,088.21	\$5,342.62
Police Officer	\$4,186.54	\$4,395.87	\$4,615.66	\$4,846.44	\$5,088.76
Lead Communications Officer	\$4,092.11	\$4,296.71	\$4,511.55	\$4,737.13	\$4,973.98
Police Officer Trainee	\$3,986.26	\$4,185.58	\$4,394.85	\$4,614.60	\$4,845.33
Communications Officer	\$3,718.37	\$3,904.28	\$4,099.50	\$4,304.47	\$4,519.70
Community Service Officer	\$2,983.59	\$3,132.76	\$3,289.40	\$3,453.87	\$3,626.57

Effective the first full pay period that includes July 1, 2022, base salaries of all represented classifications shall be increased by April 2022 12-month Consumer Price Index for the San Francisco Bay Area set by the U.S. Department of Labor Bureau of Labor Statistics minimum of three percent (3%) to maximum of three and one-half percent (3.5%).