



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Human Resources

Prepared by: Sylvia Gonzalez-Shelton,  
Human Resources Operations Manager

City Manager Approval: \_\_\_\_\_

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**TOPIC: MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SAN RAFAEL AND SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION**

**SUBJECT: RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING PERTAINING TO COMPENSATION AND WORKING CONDITIONS FOR SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION (JULY 1, 2021 THROUGH JUNE 30, 2024)**

**RECOMMENDATION:** Adopt Resolution.

**BACKGROUND:**

The San Rafael Police Mid-Management Association (“SRPMMA”) currently represents 6 full-time positions in the San Rafael Police Department. The most recent Memorandum of Understanding (“MOU”) for SRPMMA expired on June 30, 2020 and was extended by side letter through June 30, 2021. Over the past few months, representatives of the City and SRPMMA have met in good faith to negotiate the terms of a successor MOU. The City and SRPMMA reached a tentative agreement on June 22, 2021, for a three-year successor MOU and SRPMMA membership subsequently ratified the tentative agreement.

**ANALYSIS:**

The following are the highlights that reflect the terms and significant economic items included in the tentative agreement between the City and SRPMMA. In addition to the economic items, some operational items were also addressed in the tentative agreements, all of which can be found in the attached successor MOU.

1. **Term of the Agreement:** July 1, 2021 through June 30, 2024
2. **Salary Increase:** Individual classification salary increase percentages may be lower or higher than the percentages listed below, based on the amount of labor market adjustment agreed to for each position in the bargaining unit. The salary schedule included in the attached successor MOU authorizes the proposed new salary for each position.
  - a. Year 1: Value of a 4% base wage increase for the bargaining group, effective July 1, 2021

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

- b. Year 2: Value of a 4% base wage increase for the bargaining group, effective July 1, 2022
- c. Year 3: Value of a 4% base wage increase for the bargaining group, effective July 1, 2023

**3. Non-Economic Items:** In addition to items discussed above, tentative agreement was reached on other proposals, which reflect minor changes to existing provisions with no additional cost. The attached MOU includes all of the changes agreed to by the parties. A brief overview of these negotiated MOU sections includes:

- Educational Incentive (Section 3.3.2): Incorporating side letter agreement language regarding education pay.
- Sick Leave (Section 5.1.3): Update familial relationships under definition of “immediate family” to be more in line with definition under California Paid Family Leave.
- City Manager and Arbitration (section 7.3.3): Update language to allow the mutually acceptable Arbitrator to provide an alternative recommendation for disciplinary action in addition to the ability to affirm or reject the City’s form of discipline.

**FISCAL IMPACT:**

The current total annual salary and benefit cost to the City for the 6 FTE positions represented by SRPMMA is \$ \$2,227,022. The additional ongoing incremental cost of the successor MOU beyond the FY 20/21 budget is:

	<b><u>Incremental FY 2021-22</u></b>	<b><u>Incremental FY 2022-23</u></b>	<b><u>Incremental FY 2023-24</u></b>
<b>Wages:</b>			
Base Salary	\$42,589	\$44,292	\$46,064
<b>Other costs:</b>			
Pension*	\$33,032	\$34,353	\$35,727
Taxes (Medicare, W/C)	<u>\$ 4,710</u>	<u>\$ 4,898</u>	<u>\$ 5,094</u>
<b>Total Incremental Cost:</b>	<b>\$80,331</b>	<b>\$83,543</b>	<b>\$86,885</b>

*\*This incremental pension cost results only from the negotiated wage increase and does not include the cost of associated MCERA rate changes. The terms and conditions of the pension benefit plan remain unchanged.*

While the incremental cost is \$80,331 for fiscal year 2021-2022, \$83,543 for fiscal year 2022-2023, and \$86,885 for fiscal year 2023-2024, the increases are compounding and therefore the projected total salary and benefit cost increase for the items specified above is \$494,964 for the three-year term. The increase in compensation included in this resolution is in line with the City’s current budget projections. Funding for these positions is provided for in the City’s General Fund.

**OPTIONS:**

The City Council has the following options to consider in this matter:

- Staff’s recommendation to adopt the resolution.
- Adopt resolution with modifications.
- Direct staff to return with more information.
- Take no action.

**RECOMMENDED ACTION:**

Staff recommends that the City Council adopt the Resolution to Approve the Memorandum of Understanding between the City of San Rafael and San Rafael Police Mid-Management Association pertaining to compensation and working conditions (July 1, 2021 through June 30, 2024).

**ATTACHMENTS:**

- Resolution with attached MOU between the City of San Rafael and San Rafael Police Mid-Management Association for July 1, 2021 to June 30, 2024 (and all attachments).

**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION (SRPMMA) PERTAINING TO COMPENSATION AND WORKING CONDITIONS (JULY 1, 2021 THROUGH JUNE 30, 2024)**

**WHEREAS**, the San Rafael Police Mid-Management Association (SRPMMA) labor agreement with the City will expire on June 30, 2021, after a one-year extension; and

**WHEREAS**, the City of San Rafael and representatives of SRPMMA have met and conferred in good faith with regard to wages, hours and working conditions in accordance with the provisions of the Meyers-Milias-Brown Act; and

**WHEREAS**, a Memorandum of Understanding (“MOU”) pertaining to the three-year period from July 1, 2021, through June 30, 2024, and has been ratified by SRPMMA members;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

Section 1: From and after the date of adoption of this Resolution, the City of San Rafael and San Rafael Police Mid-Management Association (SRPMMA) shall utilize the MOU for the period beginning July 1, 2021, attached hereto, as the official document of reference respecting compensation and working conditions for employees represented by SEIU.

Section 2: The schedules describing classes of positions and salary ranges are attached to said MOU and, together with the MOU itself, are hereby adopted and shall be attached hereto and incorporated in full.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 19<sup>th</sup> of July 2021, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

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Lindsay Lara, City Clerk

**MEMORANDUM OF UNDERSTANDING**

*between*

**CITY OF SAN RAFAEL**

*and*

**SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION**

*JULY 1, 2021 - JUNE 30, 2024*

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Exhibit A      Salary Schedule for September 1, 2021 – June 30, 2024



**MEMORANDUM OF UNDERSTANDING**  
**between**  
**CITY OF SAN RAFAEL**  
**and**  
**SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION**

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 representative 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 San Rafael as the joint recommendation of the undersigned parties for salary and employee benefit adjustments for the period commencing July 1, 2021 and ending June 30, 2024.

**1 GENERAL PROVISIONS**

**1.1. INTRODUCTION**

*1.1.1. Scope of Agreement*

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City of San Rafael (herein-after called "CITY") and the San Rafael Police Mid-Management Association (herein-after called "ASSOCIATION") and shall apply to all employees of the City working in the classifications and bargaining unit set forth herein (See Exhibit A).

In accepting employment with the City of San Rafael, each employee agrees to be governed by and to comply with the City's Personnel Ordinance, City's Personnel Rules and Regulations, City's Administrative Procedures, and Police Department Rules & Regulations, General Orders and Procedures.

*1.1.2. Term of MOU*

This agreement shall be in effect from July 1, 2021 through June 30, 2024.

**1.2. RECOGNITION**

*1.2.1. Bargaining Unit*

City hereby recognizes the Association as the bargaining representative for purposes of establishing salaries, hours, fringe benefits and working conditions for all employees within the San Rafael Police Mid-Management Association Bargaining Unit (as referenced in Exhibit A attached).

**1.3. NON-DISCRIMINATION**

*1.3.1. In General*

The parties to this contract agree that they shall not, in any manner, discriminate against any person whatsoever because of race, color, age, religion, ancestry, national origin, sex, sexual orientation, perceived sexual orientation, gender, gender expression, gender identity, marital

status, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history) or physical or mental disability.

Any employee who believes they are being discriminated against should refer to the City of San Rafael's Harassment Policy for the process of receiving an internal administrative review of their complaint. This administrative procedure shall be used as the internal complaint procedure in lieu of the grievance procedure outlined in this MOU (Article 7.4).

#### *1.3.2. Bargaining Unit Discrimination*

No member, official, or representative of the Association shall, in any way, suffer any type of discrimination in connection with continued employment, promotion, or otherwise by virtue of membership in or representation of Association.

### **1.4. INSPECTION OF MEMORANDUM OF UNDERSTANDING**

Both City and Association agree to keep duplicate originals of this agreement on file in a readily accessible location available for inspection by any City employee, or member of the public, upon request.

### **1.5. EXISTING LAWS, REGULATIONS & POLICIES**

This MOU is subject to all applicable laws.

### **1.6. STRIKES & LOCKOUTS**

During the term of this MOU, the City agrees that it will not lock out employees, and the Association agrees that it will not encourage or approve any strike or slowdown growing out of any dispute relating to the terms of this Agreement. The Association will take whatever lawful steps are necessary to prevent any interruption of work in violation of this Agreement, recognizing with the City that all matters of controversy within the scope of this Agreement shall be settled by established procedures set forth in the City's charter, ordinances, and regulations, as may be amended from time to time.

### **1.7. SEVERABILITY**

If any article, paragraph or section of this MOU shall be held to be invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with or any enforcement of any provision hereof be restrained by such tribunal, the remainder of this MOU shall not be affected thereby, and the parties shall enter into meet and confer sessions for the sole purpose of arriving at a mutually satisfactory replacement for such article, paragraph or section.

### **1.8. PREVAILING RIGHTS**

All matters within the scope of meeting and conferring which have previously been adopted through rules, regulations, ordinance or resolution, which are not specifically superseded by this MOU, shall remain in full force and effect throughout the term of this Agreement.

### **1.9. FULL UNDERSTANDING, MODIFICATION, WAIVER**

#### *1.9.1. Understanding*

The parties jointly represent to the City Council that this MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein.

#### *1.9.2. Waiver & Modification*

Except as specifically otherwise provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right and agrees that the other shall not be required to meet and confer with respect to any subject or matter covered herein, not as to

wages or fringe benefits during the period of the term of this MOU. The foregoing shall not preclude the parties hereto from meeting and conferring at any time during the term of this Agreement with respect to any subject matter within the scope of meeting and conferring for a proposed MOU between the parties to be effective on or after July 1, 2024.

## **2 MMBA**

### **2.1. BARGAINING UNIT RIGHTS**

#### *2.1.1. Bargaining Unit Stewards Designation*

The Association shall by written notice to the City Manager designate certain of its members as Employee Representatives.

#### *2.1.2. Release Time*

One hundred (100) hours per calendar year shall be provided for union release time, apart from MMB activity, with ten days advance notice and approval of the Police Chief. Any additional hours shall be granted only with ten days advance notice and approval of the Police Chief.

#### *2.1.3 Association Orientation of New Employees*

Whenever the City hires an employee within any classification covered by this Memorandum of Understanding and represented by the Association, the City will provide the new employee with a copy of the current Memorandum of Understanding. The City shall make available two hours, at a mutually agreeable time, during the initial thirty (30) days of employment for new employee orientation by the Association. In addition, the City will also provide reasonable advance notice to the Association of all employee orientations conducted by the City.

#### *2.1.4 Employee Information*

The City shall provide the Association with the name, job title, department, work location, work, home and personal cell phone numbers, home address and personal email address on file with the City for all employees within the Association every 120 days. In addition, a report with similar information of each Association new hire will be provided to the Association within 30 days of the hire date.

### **2.2. DUES DEDUCTION**

#### *2.2.1. Collection of Dues*

The City agrees, upon written consent of the employee involved, to deduct dues as established by the Association from the salaries of its members. The sums so withheld shall be remitted by the City along with a list of employees who have had said dues deducted.

#### *2.2.2. Dues Collection during Separation from Employment*

The provisions specified above shall not apply during periods of separation from the representative bargaining unit by any such employee but shall reapply to such employee commencing with the next full pay period following the return of the employee to the representative bargaining unit. The term separation includes transfer out of the bargaining unit, layoff, and leave without pay absences with a duration of more than five (5) working days.

### **2.3. MANAGEMENT RIGHTS**

The City reserves, retains, and is vested with, solely and exclusively, all rights of management which have not been expressed abridged by specific provision of this Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of this

Memorandum of Understanding. The sole and exclusive rights of management, as they are not abridged by this Agreement or by law, shall include, but not be limited to, the following rights:

1. To manage the City generally and to determine the issues of policy.
2. To determine the existence or non-existence of facts which are the basis of the management decision.
3. To determine the necessity of organization or any service or activity conducted by the City and expand or diminish services.
4. To determine the nature, manner, means, technology, and extent of services to be provided to the public.
5. Methods of financing.
6. Types of equipment or technology to be used.
7. To determine and/or change the facilities, methods, technology, means and size of the work force by which the City operations are to be conducted.
8. To determine and change the number of locations, relocation's and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract for or subcontract my work or operation of the City.
9. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments.
10. To relieve employees from duties for lack of work or similar non-disciplinary reasons.
11. To establish and modify productivity and performance programs and standards.
12. To discharge, suspend, demote or otherwise discipline employees for proper cause in accordance with the provisions and procedures set forth in City Personnel rules and Regulations.
13. To determine job classifications and to reclassify employees.
14. To hire, transfer, promote and demote employees for non-disciplinary reasons in accordance with this Memorandum of Understanding and the City's Personnel Rules and Regulations.
15. To determine policies, procedures and standards for selection, training, and promotion of employees.
16. To establish employee performance standards including, but not limited to quality and quantity standards; and to require compliance therewith.
17. To maintain order and efficiency in its facilities and operations.
18. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with this Agreement.
19. To take any and all necessary action to carry out the mission of the City in emergencies.

Nothing contained within Article 2.3, Management Rights, is intended to, in any way, supersede or infringe upon the rights of the recognized employee Association as provided under applicable Federal and State law, including, but not limited to California State Government Code Sections 3500 through 3510 inclusive.

#### **2.4. COMMENCEMENT OF NEGOTIATIONS**

Both parties agree to begin the meet and confer process no later than February 1, 2024, regarding the terms and conditions applicable to an MOU effective July 1, 2024. The process will be initiated by the San Rafael Police Mid-Managers Association through the submittal of upcoming contract requests it wishes to be considered.

### **3 COMPENSATION**

#### **3.1. GENERAL WAGES AND COMPENSATION**

The City embraces the succession planning model and values promotion from within. The City recognizes that this model works best when the salary ranges and total compensation align appropriately. Due to the fact that Police Sergeants are eligible to receive both overtime and a variety of specialty pays, and Police Lieutenants and Captains are limited in these areas, the current alignment is not optimal. Thus, the viability of the succession plan model is compromised. The City recognizes that there is a compaction issue between the Lieutenants and Sergeants when considering the various special pay differentials that are applied to the Sergeant pay. The City agrees to utilize the expertise of a classification and compensation consultant to conduct a total compensation survey of the Sergeant, Lieutenant and Captain job classes with comparable agencies. The City commits to complete the study and for staff to recommend an implementation plan to City Council by June 30, 2017. If adjustments are warranted, SRPMMA positions will be prioritized as funds are available.

##### *3.1.1. Pay Dates*

City employees are paid twice per month on the 15<sup>th</sup> and the last working day of the month. When a holiday falls on a pay day, the pay day will be transferred to the following day of regular business unless the Finance Department is able to complete the payroll by the previous work day. The method of the distributing payroll shall be established by the Finance Director.

##### *3.1.2. General Wage Increase*

In the Year 1, compensation increases will take effect the pay period including July 1, 2021 or the first full pay period following Council ratification of a new MOU, whichever occurs later.

In Year 1, the City will provide a 1.6% general salary increase plus a 2.4% equity adjustment (4% total);

In Year 2, the City will provide a 1.6% general salary increase plus a 2.4% equity adjustment (4% total); and,

In Year 3, the City will provide a 1.6% general salary increase plus a 2.4% equity adjustment (4% total).

##### *3.1.3. Definitions*

**Total Compensation** shall be defined as: Top step salary (excluding longevity pay steps), educational incentive pay, holiday pay, uniform allowance, employer paid deferred compensation (except for such portion that may be part of employee cafeteria plan), employer's contribution towards employees' share of retirement, employer's retirement contribution, employer paid contributions toward insurance premiums for health, life, long term disability, dental and vision plans, and employer paid cafeteria/flexible spending accounts.

The **CPI** shall be the percentage change in the San Francisco-Oakland-San Jose Area All Urban Consumer index as published by the Bureau of Labor Statistics for the one-year period ending the month of October 2016 and each October thereafter during the term of the contract.

##### *3.1.4. Compensation Plan*

The Compensation Plan adopted by the City Council shall provide for salary schedules, rates, ranges, ascending salary steps for all members of the Association and any other special circumstances or items related to the total compensation paid employees.

Each position within the classified services shall be allocated to an appropriate classification in the compensation plan on the basis of duties and responsibilities. Each classification shall be assigned a five-step salary range with corresponding ascending salary rates assigned to each step. All persons entering the classified service shall be compensated in accordance with the salary plan then in effect.

### **3.2. STEP INCREASES**

#### *3.2.1. Entry Level Step*

All initial employment shall be at the first step of the salary range. The Police Chief may authorize a position at an appropriate higher salary when, in his/her opinion, it is necessary to obtain qualified personnel. Initial employment appointments above Step C will require City Manager Approval.

#### *3.2.2. Consideration for Step Increases*

An employee shall be considered for a step increase annually until the top step has been reached. Advancement to a higher salary within a salary step schedule may be granted for continued satisfactory service by the employee in the performance of his/her duties. Salary step advancement shall be made only upon the recommendation of the Police Chief concerned, with the approval of the City Manager or his/her designee, and are not automatic, but based on acceptable work performance.

Accelerated salary step increases may be granted an employee based upon the recommendation of the Police Chief and approval of the City Manager for exceptional job performance.

#### *3.2.3. Merit Increases*

Employees at the maximum step of their salary step schedule may be granted a merit performance step increase of up to five percent (5%) above and beyond their top salary step. A merit step increase may be effective for up to one (1) year. A merit step increase may be withdrawn after the specified period of time and is not a disciplinary action and is not appealable. Merit step increases may be granted in recognition of meritorious performance beyond the scope of regular duties and in response to extraordinary conditions.

Management and Mid-Management employees shall be evaluated annually based on the evaluation program adopted by the City Council in October of 1996 and incorporated by reference herein.

### **3.3. ADDITIONAL PAY**

#### *3.3.1. Shift Differential Pay*

A five percent (5%) shift differential shall be paid for Police Lieutenant regularly scheduled to work fifty percent (50%) or more of their shift after 5:00 p.m.

Shift differential shall not be considered an additional percentage on salary for personnel involved but shall apply only to hours actually worked; e.g., differential does not apply to sick leave, vacation or compensatory time, but does include overtime for employees regularly assigned to the swing or graveyard shifts. The current operational policies and provisions for shift rotation and assignment remain in effect.

#### *3.3.2. Educational Incentive*

The Educational Incentive for Police Captain and Police Lieutenant who have received their POST Management Certificate will be a flat dollar amount of \$264.50 bi-monthly.

### *3.3.3. Educational Expense Reimbursement*

The Educational Expense Reimbursement Program shall apply to all employees of the Police Department represented by this contract who have completed a total of two (2) or more continuous years of full-time service with the San Rafael Police Department. The Educational Expense Reimbursement Program shall relate to the completion of college credits while off-duty for job-related courses awarded from an accredited community college or an accredited college or an accredited university. Job-related courses are defined as those which contribute to current job performance or prepare the employee for other City positions, including but not limited to obtaining bilingual skills. An eligible employee who takes a job-related course during off-duty hours at an accredited institution of learning shall be eligible to receive reimbursement for the costs of tuition, fees, and course materials, up to a maximum of \$1,500 per fiscal year.

### *3.3.4. Bilingual Pay*

#### Full Fluency Program

A five percent (5%) bilingual pay incentive shall be paid to designated bilingual employees at the full fluency level

#### Conversational Fluency Program

A two and one-half percent (2.5%) bilingual pay incentive shall be paid to designated employees who speak Spanish at the conversational level.

#### Foreign Language Pay Provisions

The City will pay, in advance, for any authorized training or educational costs related to an employee becoming fluent in a foreign language up to an amount equal to the cost of the industry standard. Employees enrolled in such bilingual training are obligated to reimburse the City through payroll deductions over a period of three (3) years for one half the cost of any such education after the completion of such course. The employee is obligated to reimburse the City for the full amount of such education costs if he/she drops out of the education program or does not successfully pass the certification test. In the event an employee must reimburse the full amount, reimbursement shall be through payroll deductions over the course of three (3) years or in full upon separation.

Within the limits established in items 1 and 2 of this section, to qualify for either the Full or Conversational Programs, employees must be certified as proficient in a language deemed to be of work related value to the Police Department as determined by the Police Chief and approved by the City Manager by established standards. It is agreed that full fluency or conversational proficiency certification may be obtained by passing a standardized departmental test (to be developed by the department) or fluency certification issued by an agency approved by the Police Chief. Conversational proficiency certification may be obtained by an employee achieving a Certificate of Completion from One Twelve USA, or passing a departmental conversational test, or a conversational certification issued by an agency approved by the Police Chief.

Fluency in more than one foreign language does not entitle an employee to more than the 5% bilingual pay differential. Both parties agree to annual re-certification of proficiency to continue eligibility for the bilingual differential.

Shift assignments and distribution of bilingual employees shall be at the discretion of the Police Chief.

### 3.3.5. *Uniform Allowance*

The represented classification will receive a uniform allowance of \$885.00 for each six (6) months of service ending June 30 and December 31. A pro-rated portion of the allowance may be given for the first and last six (6) months of service upon recommendation of the Police Chief and approval of the City Manager or their designee.

## **4 BENEFITS**

### **4.1 EMPLOYEE BENEFITS COMMITTEE**

Both parties agree to continue to utilize the Employee Benefits Committee for ongoing review of benefit programs, cost containment and cost savings options. The Committee shall be made up of representatives of the SEIU, SEIU-Childcare, Western Council of Engineers, Local 1 – Confidential, Police, Fire, Management, and Mid-Management employees.

The Employee Benefits Committee may make recommendations for changes to existing benefits. However, changes to benefits identified in this agreement shall only occur after the City and Association have mutually agreed to meet and confer on such changes and have completed the meet and confer process, including impasse resolution.

### **4.2 HEALTH & WELFARE**

Upon reasonable advance notice to the Association, the City shall have the option of either contracting with the Public Employees Retirement System (PERS) Health Benefits Division for health insurance or contracting directly with some or all of the providers of health insurance under the PERS program; provided, however, contracting directly with the providers shall not cause any material reduction in insurance benefits for active or retired employees from those benefits available under the PERS program; and provided further such contracting shall not cause a material increase in premiums for either the City or the employees. There shall be no requirement for the City to meet and confer upon the City's exercising the option described above in accordance with the provisions of this paragraph.

#### *4.2.1 Full Flex Cafeteria Plan*

Effective January 1, 2010, the City implemented a full flex cafeteria plan for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan. The ongoing monthly flex dollar allowance shall be:

For employee only:	\$ 813.18
For employee and one dependent:	\$1,473.00
For employee and two or more dependents:	\$1,915.00

The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) Minimum contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The monthly flex dollar allowance (including the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health benefits or may be converted to taxable income. For example, in calendar year 2016, a single employee's monthly flex dollar allowance for health was \$813.18, which includes the \$125.00 designated by CalPERS as the City's monthly PEMHCA contribution. The flex dollar allowance must be used to purchase health coverage and any remaining balance would be converted to taxable income.



#### 4.2.2 *Retirees Health Insurance*

Employees represented by the Police Mid-Management Association who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's retiree group health insurance program offered through PEMHCA. The City's contribution towards retiree coverage shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

- a. **Employees hired by the City before January 1, 2010.** The City shall make a monthly retiree health insurance payment on behalf of employees hired before January 1, 2010 and who retire from the City of San Rafael as described in this section. The City's monthly payment shall not exceed \$566 per month. This monthly payment shall include the PEMHCA minimum contribution. The City's retiree health insurance payment shall continue for the lifetime of the retiree and retiree's spouse, in accordance with PEMHCA eligibility provisions for coverage.
- b. **Employees hired by the City on or after January 1, 2010** and who meet the eligibility requirements for retiree health insurance are eligible to continue in the City's group health insurance program. The City's maximum contribution towards retiree coverage under this subsection, 4.2.2b, shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner, or dependents upon the employee's retirement from the City in excess of the PEMHCA minimum contribution as required by CalPERS.

#### 4.2.3 *Health and Dependent Care Spending Accounts*

City will offer as part of its Section 125 Plan for as long as such a plan is desired by the Association and available pursuant to the IRS Code a Health and Dependent Care Spending Accounts. The Flexible Spending Accounts offered by the City include:

- a. **Healthcare Spending Account:** Out-of-pocket medical expenses that qualify under the IRS Code effective January 1, 2013 at IRS Code limit, not to exceed \$2,500.
- b. **Dependent Care Spending Accounts:** Dependent care expenses that qualify under the IRS Code at the IRS Code limit.
- c. **Premium Only Plan:** Excess Medical premiums shall be deducted from employee's pay with pre-tax dollars as long as such deduction is allowable under the applicable IRS Code.

City shall establish annual enrollment period and each employee must re-enroll annually for either plan noted in a. and/or b. City shall have the authority to implement changes to the 125 Programs to comply with changes in applicable IRS laws without having to go through the meet and confer process.

#### **4.3 DENTAL PLAN**

The City will provide a dental insurance program providing 100% coverage for diagnostic and preventative care, \$25 deductible on corrective care (80/20) per patient per calendar year and orthodontic coverage (50/50); and 80/20 coverage of casts, crowns, and restorations in accordance with the plan document of the provider. The coverage limits are as follows:

Annual Program maximum (per covered person) is \$1500

Maximum lifetime orthodontics (per covered person) is \$1,000

Annual Program deductible (per person/per family) is \$25/\$75 for classes I & II only.

#### **4.4 VISION PLAN**

The City will contract for a vision plan for employee only vision benefits. Employees will be eligible to enroll qualified family members and will pay the premium costs for such enrollment.

#### **4.5 LIFE INSURANCE**

The City shall pay premiums for a life insurance and Accidental Death and Dismemberment (AD&D) policy for each employee. The life and AD&D policy shall provide a \$150,000 life insurance and a \$150,000 AD&D benefit.

#### **4.6 LONG TERM DISABILITY POLICY**

The City shall pay premiums for a Long-Term Disability Policy for each employee. The Long-Term Disability policy shall provide for salary replacement of 66.67% of an individual's salary up to a maximum disability benefit of \$7,500 per month

#### **4.7 RETIREMENT CONTRIBUTION**

##### *4.7.1 City Paid Employee Retirement (City Paid Member Contribution)*

Bargaining unit members shall pay the full share of the employee's contribution to the Marin County Retirement System.

Effective the pay period including September 1, 2013, all current and future "classic" and "new" bargaining unit members shall contribute an additional 1% of pensionable compensation to MCERA, over and above the employee's contribution noted above. The only employees excluded from this payment are long-term City employees with thirty or more years of City service who no longer have to pay any employee contribution to the Marin County Retirement System.

##### *4.7.2 Retirement Plans*

The City shall provide the Marin County Employee Retirement Association 3% at 55 retirement program to all classic safety members, as defined under the 1937 Act Government Code Section 31664, subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws that govern such plans. This shall be based on an employee's single highest year of compensation.

The City shall provide the Marin County Employee Retirement Association 2.7% at 55 retirement program to all miscellaneous members, as defined under the 1937 Act Government Code Section 31676, subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws that govern such plans. This shall be based on an employee's single highest year of compensation.

Safety employees hired on or after July 1, 2011 will receive an MCERA retirement benefit at the formula 3%@55 calculated based on the average of their highest three years of compensation, with a 2% COLA benefit cap.

Non-safety employees hired on or after July 1, 2011 will receive an MCERA retirement benefit at the formula 2%@55 calculated based on the average of their highest three years of compensation, with a 2% COLA benefit cap.

New safety members as defined by the Public Employees' Pension Reform Act of 2013 shall receive pension benefits as defined by law.

##### *4.7.3 Member Cost of Living Rates*

Bargaining unit members who are eligible to participate in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Miscellaneous and safety member contribution

rates include both the basic and COLA portions (50% of COLA is charged to members as defined in the 1937 Act).

#### *4.7.4 Pension Costs*

The parties shall discuss pension issues during the term of this MOU utilizing the Labor-Management Committee process memorialized in Section 6.6.5 of this agreement.

## **5 LEAVES**

### **5.1 SICK LEAVE**

#### *5.1.1 Eligibility*

Sick leave with pay shall be granted to each eligible employee. Sick leave shall not be considered as a privilege which an employee may use at his/her discretion but shall be allowed only in case of necessity and actual sickness or disability. The employee is required to notify employee's immediate supervisor or Police Chief according to department Rules and Regulations at the beginning of his/her daily duties. Every employee who is absent from his/her duties for two (2) consecutive work days shall file with the Human Resources Director, a physician's certificate or the employee's personal affidavit verifying the employee's eligibility for sick leave. The inability or refusal by said employee to furnish the requested information, as herein required, shall constitute good and sufficient cause for disciplinary action, including dismissal.

In recognition of exempt status from FLSA, time off for sick leave purposes shall not be deducted from the employee's account, unless the employee is absent for the full work day.

#### *5.1.2 Sick Leave Accrual*

All eligible full-time employees shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment. Unused sick leave may be accumulated to an amount not to exceed twelve hundred (1200) hours. The sick leave accrual rate is prorated for eligible part time employees. The cap on sick leave accrual, twelve hundred (1200) hours, does not apply for accrual purposes but does apply for sick leave separation payoff purposes.

#### *5.1.3 Use of Sick Leave*

An employee may use accrued sick leave during their probationary period. An employee eligible for sick leave with pay shall be granted such leave for the following reasons:

1. Personal illness or illness within the immediate family (immediate family under Section 5.1.3 is defined as employee's spouse, registered domestic partner, children, parents, in-laws, grandparent, grandchild and/or sibling), or physical incapacity resulting from causes beyond the employee's control; or
2. Enforced quarantine of the employee in accordance with community health regulations.
3. Medical appointments that cannot be scheduled during non-working hours shall be charged to sick leave, unless the employee is a sworn peace officer.

#### *5.1.4 Advance of Sick Leave*

Whenever circumstances require, and with the approval of the City Manager, sick leave may be taken in advance of accrual up to a maximum determined by the City Manager, provided that any employee separated from the service who have been granted sick leave that is un-accrued at the time of such separation shall reimburse the City of all salary paid in connection with such un-accrued leave.

### 5.1.5 Service Credit for Sick Leave

Employees who are eligible to accrue sick leave and who retire from the City of San Rafael, on or after July 1, 2002, and within 120 days of leaving City employment (excludes deferred retirement), shall receive employment service credit, for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours said employee is eligible to receive and elects to receive in compensation at the time of retirement, pursuant to Section 5.1.6 Compensation for Unused Portion (Sick leave Payoff).

### 5.1.6 Compensation for Unused Portion

By resignation, retirement or death, an employee who leaves the City in good standing shall receive compensation for all accrued, unused sick leave based upon the rate of three percent (3) for each year of service up to a maximum of fifty percent (50%) of their sick leave balance.

## 5.2 VACATION LEAVE

### 5.2.1 Eligibility

Annual vacation with pay shall be granted to each eligible employee. Vacation leave accrued shall be prorated for those employees working less than full time. Employees will be permitted to use accrued vacation leave after six (6) months of employment subject to the approval of the Police Chief.

### 5.2.2 Rate of Accrual

Vacation benefits shall accrue during the probationary period. Each regular full time employee (part-time regular employees are prorated) shall commence to accrue vacation at the following rate for continuous service. For the purpose of this section, one (1) day equals eight (8) hours.

<u>Years of Service</u>	<u>Leave Accrual rate/year</u>
1 - 5 years	15 days or 120 hours
6 years	16 days or 128 hours
7 years	17 days or 136 hours
8 years	18 days or 144 hours
9 years	19 days or 152 hours
10 years	20 days or 160 hours
11 years	21 days or 168 hours
12 years	22 days or 176 hours
13 years	23 days or 184 hours
14 years	24 days or 192 hours
15 years plus	25 days or 200 hours

### 5.2.3 Administration of Vacation Leave

The City Manager, upon the recommendation of the Police Chief, may advance un-accrued vacation to any permanent regular and part time employee. If the employee leaves City employment before accruing the used vacation leave, said employee will reimburse the City the value of the advanced vacation leave.

In recognition of exempt status from FLSA, time off for vacation leave purposes shall not be deducted from the employees' accrual, unless the employee is absent for the full work day.

The time at which an employee may use his/her accrued vacation leave and the amount to be taken at any one time, shall be determined by the Police Chief with particular regard for the needs of the City, but also, insofar as possible, considering the wishes of the employee.

In the event that one or more City holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave, and the vacation leave shall be extended accordingly.

Employees who terminate their employment shall be paid in a lump sum for all accrued vacation leave earned prior to the effective date of termination.

#### *5.2.4 Vacation Cap*

No employee may accrue more than 250 hours vacation leave. Vacation accruals will resume once the employee's accumulated vacation balance falls below the allowable cap limit.

Employees may, for special situations (i.e., extended medical leave), request an increase in their cap. Each request would need to be in writing, submitted through the department, and receive the approval of the Police Chief and the City Manager. Such requests would be reviewed on a case-by-case basis and would be evaluated based on the reason for the request. This additional vacation accrual could not exceed one-half of the employee's regular annual vacation accrual. In no case would the addition over the cap be extended beyond one additional year.

### **5.3 HOLIDAYS**

The following holidays will be observed:

New Years Day	Martin Luther King Day
Washington's Birthday	Lincoln's Birthday
Cesar Chavez Day	Memorial Day
Independence Day	Labor Day
Admission Day	Veteran's Day
Thanksgiving Day	Day after Thanksgiving
Christmas Day	

### **5.4 OTHER LEAVE**

#### *5.4.1 Administrative Leave*

Mid-Management employees in this Association shall receive eighty (80) hours of Administrative Leave each calendar year subject to the approval of the Police Chief and the City Manager. Unused Administrative Leave does not carry over from one calendar year to the next, nor are unused balances paid off upon an employee's resignation.

In recognition of exempt status from FLSA time off for Administrative leave purposes shall not be deducted from employee's accrual, unless the employee is absent for the full work day.

#### *5.4.2 Bereavement Leave*

In the event of the death of an employee's spouse, registered domestic partner, child, parent, sibling, in-laws, grandparent, grandchild or relative who lives or has lived in the home of the employee to such an extent that the relative was considered a member of the immediate family and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, up to three (3) days of paid bereavement leave within the state and up to five (5) days of paid bereavement leave out-of-state may be granted for bereavement leave.

In those cases where the death involves an individual who had such a relationship with the employee as defined above, the employee shall sign a simple affidavit describing the relationship and submit this to the Police Chief as part of the request for bereavement leave.

#### *5.4.3 Jury Duty*

Employees required to report to jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided that the employee provides advance notice to the Police Chief and remits to the City all per diem service fees except mileage or subsistence allowance within thirty days from the termination of such duty.

#### *5.4.4 Military Leave*

Military leave shall be granted in accordance with the State of California Military and Veteran's Code as amended from time to time. All employees entitled to military leave shall give the City Manager and the Police Chief an opportunity within the limits of military regulations, to determine when such leave shall be taken.

#### *5.4.5 Leave of Absence Without Pay*

Leave of absence without pay may be granted by the City Manager upon the written request of the employee. Applicable accrued leave must be exhausted prior to the granting of leave without pay. Applicable benefits do not accrue during times of leave without pay and Police Officer status is removed.

#### *5.4.6 Industrial Injury Leave*

For benefits under Workers' Compensation, an employee should report any on the job injury to his/her supervisor as soon as possible, preferably within twenty-four (24) hours. The Human Resources Department coordinates benefits for Workers' Compensation claims.

For further information, see the City's Workers' Compensation policy located on the Intranet (<https://intranet.cityofsanrafael.org>).

Employees of the City who have suffered any disability arising out of, and in the course of their employment as defined by the Workers' Compensation Insurance and Safety Act of the State of California are entitled to all benefits allowed them by the Workers' Compensation Insurance and Safety Act of the State of California.

### **SAFETY EMPLOYEES**

Compensation leave payments are governed by Labor Code Section 4850. Labor Code Section 4850 provides that employees who sustain an industrial injury which precludes them from working are eligible to receive full salary for a period of up to one year during the period of such disability.

The following rule applies to both Safety and Non-Safety personnel who have suffered an industrial injury/illness: Available accrued sick leave cannot be used for more than 60 calendar days after one of the following has been determined:

- a. The employee has reached a maximum medical improvement and/or has been determined "permanent and stationary";
- b. The employee has been determined to be unable to return to their usual and customary occupation, with or without reasonable accommodation.

Given the above has occurred, the next steps would include:

- a. The interactive process; attempt to locate other appropriate employment within the City.

- b. If none available proceed with termination process, including disability retirement application and/or Skelly process, if appropriate.

**5.4.7 Medical Leave of Absence**

Family leave shall be granted in accordance with the federal Family and Medical Leave Act of 1993 and the California Family Rights Act of 1991. Requests for Family Care Leave are submitted to the Police Chief for approval and reviewed by the Human Resources Director for consistency with the law prior to approval. Employees approved for this type of leave must use appropriate accrued and unused vacation leave and/or compensatory time before going on leave without pay status. Accrued and unused sick leave may be used if requested. Sick leave usage is to be consistent with the sick leave provisions of the MOU. To be eligible for this family leave benefit, an employee must have worked for the City of San Rafael for at least 12 months and have worked a minimum of 1,250 hours in the previous 12-month period. For details, please see the City’s FMLA policy located on the Intranet (<https://intranet.cityofsanrafael.org>).

**5.4.8 Absence without Authorized Leave**

An unauthorized absence of an employee for three consecutive work days shall constitute an automatic resignation from City service.

**5.4.9 Catastrophic Leave**

All employees of the Police Department should refer to the Citywide Catastrophic Leave Policy located on the City’s Intranet (<https://intranet.cityofsanrafael.org>).

**6 TERMS & CONDITIONS OF EMPLOYMENT**

**6.1 HOURS OF WORK**

The established work week for the Police Department shall be 00:01 hours Sunday through 24:00 hours Saturday. Job classifications covered by this Memorandum of Understanding would be scheduled to work during normal business working hours, Monday through Friday.

**6.1.1 Alternative Work Week**

Police Lieutenants and Police Captains have the option of working a 4-10 or 5-8 plan as shown below:

Schedule	Definition
4-10	Four (4) consecutive ten (10) hour days with three (3) consecutive days off.
5-8	Five (5) consecutive eight (8) hour days with two (2) consecutive days off.

The Police Chief reserves the right to change schedules based on emergency circumstances.

**6.2 OVERTIME**

The following special provisions for the payment of overtime will apply to (the FLSA exempt) Police Lieutenants and Police Captains.

**6.2.1 Special Events, Extra Duty Requests and Grant Operations**

Employees shall be compensated at the overtime rate for the highest Police Sergeant as determined by the Police Department Business Office and shall not exceed grant limitations for extended hours worked for special events and grant operations which are compensated outside of the City’s General Fund. Police Lieutenants and Police Captains will only be allowed to work overtime on such assignments under any of the following circumstance:

- a. Required management staffing at the request of the Police Chief or his/her designee
- b. Backfill of a vacant sworn officer position if the overtime opportunity has been posted for at least seven (7) days and remains unfilled, or if the vacancy remains unfilled less than forty-eight (48) hours prior to the event.

Both parties understand and agree that nothing within this overtime provision shall alleviate represented employees from management duties during special events and grant operations.

### **6.3 PROBATIONARY PERIOD**

#### *6.3.1 Purpose of Probation*

Each employee shall serve a period of probation beginning on the date of appointment. Such period shall be for the purpose of determining the employee's ability to perform satisfactorily the duties prescribed for the position.

#### *6.3.2 Length of Probationary Period*

The probationary period on original and promotional appointments shall be for twelve (12) months.

#### *6.3.3 Rejection During Probation*

During the probationary period, an employee may be rejected at any time by the Police Chief without the right of appeal.

#### *6.3.4 Notification of Rejection*

On determining that a probationary employee's work is not satisfactory, the Police Chief shall notify the Human Resources Director in writing of his/her intention to reject the employee. After discussion with the Human Resources Director, the Police Chief shall notify the employee in writing of his/her rejection.

#### *6.3.5 Extension of Probationary Period*

The probationary period shall not be extended except in the case of extended illness or injury or compelling personal situation during which time the employee was unable to work. In such cases, the probationary period may be extended for the length of time the ill or injured employee was unable to work.

#### *6.3.6 Regular Status*

Regular status in the assigned (new) position shall commence with the day following the expiration date of the probationary period.

#### *6.3.7 Promotion of Probationary Employee*

An employee serving a probationary period may be promoted to a position in a higher classification provided he/she is certified from the appropriate Eligibility List. The employee promoted in this manner shall serve a new probationary period for the position to which employee is promoted and the new probationary period and promotional appointment shall be effective the same date.

#### *6.3.8 Unsuccessful Passage of Promotional Probation*

An employee who does not successfully pass his/her promotional probationary period shall be reinstated to the position in which the employee held regular status prior to his/her promotion and all previous rights and privileges restored. Provided, however, that if the cause for not passing the promotional probationary period was sufficient grounds for dismissal, the employee shall be subject to dismissal without reinstatement to the lower position.



## **6.4 PERSONNEL RULES & REGULATIONS**

This Association accepts the revised Personnel Rules and Regulations presented in a documented dated April 1991.

### *6.4.1 Employer-Employee Resolution*

The City and the Association agree to abide by the City of San Rafael's Employer-Employee Relations Resolution.

### *6.4.2 Drug and Alcohol Policy*

The City and Association jointly recognize alcoholism and drug abuse as illnesses which may be treatable. The parties are concerned regarding alcoholism and drug problems which cause poor attendance and unsatisfactory employment related performance and/or which may pose a danger to employees or the public. Therefore, the City and Association endorse the concept of a drug free work place.

Possession and/or sale of illegal drugs, use of illegal drugs or misuse of prescribed drugs or alcohol, or being under the influence of drugs or alcohol while on the job is strictly prohibited. Employees violating this policy are subject to discipline, up to and including termination. When reasonable cause (relates to readiness and/or ability to perform job responsibilities) exists, the City may require employees to submit to a medical examination, including but not limited to a urine or blood analysis, to determine whether the employee is using drugs or alcohol. Said testing shall occur on City time and be paid for by the City. An employee's failure to submit to a medical examination will be considered an act of insubordination and, therefore, subject to disciplinary action.

Depending on the circumstances causing the order for medical examination, employees testing positive may be subject to discipline, up to and including termination. Upon being informed that the employee tested positive, the employee may request a meeting with the Human Resources Director and the Police Chief to review the test results and provide the employee's explanation for such results.

Employees are encouraged to voluntarily participate in the City sponsored employee assistance program (EAP). However, EAP participation may be a City-mandated alternative to disciplinary action arising out of a violation of the City's drug and alcohol policy.

As a course of participating in the EAP on a mandated basis, an employee may be required to enter into a "return to work agreement" with the City. Said agreement shall stipulate ongoing freedom from drug and/or alcohol use as a condition of continued employment.

Employees who seek voluntary assistance for alcohol and/or substance abuse will not be disciplined for seeking such assistance. Requests from employees to the Police Chief for such assistance shall remain confidential and shall not be revealed to other employees or management personnel who do not have a need to know, without the employee's consent. Employees enrolled in substance abuse programs shall be subject to all employer rules, regulations and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.

An employee who is disciplined/discharged for inappropriate alcohol and/or drug use may appeal such action pursuant to Section 7.4.4 of the Memorandum of Understanding.

### *6.4.3 Outside Employment Policy*

All employees of the Police Department should refer to the Citywide policy located on the City's Intranet (<https://intranet.cityofsanrafael.org>) for policies and procedures related to outside employment.

#### 6.4.4 Harassment Policy

It is the City's intent and purpose to provide all officials, employees, applicants and contractors with an environment that is free from any form of harassment, discrimination or retaliation. Employees shall refer to the City Policy against Harassment, Discrimination and Retaliation which is available on the City's Intranet website.

#### 6.4.5 Wireless Communication Policy

Union members agree to adhere to the provisions of the City's Wireless Communication Policy which is available on the City's Intranet Website.

#### 6.4.6 Use of City Vehicle

The City agrees to allow all currently represented classified positions covered by this agreement (Police Captain and Police Lieutenant) the use of department vehicles, as practiced on the date the MOU was adopted by the City Council for FY 91-92, as they are expected to respond to emergencies. During the term of this contract the Police Chief and members of this Association shall meet and confer on the development of a specific policy related to City Vehicle Use.

#### 6.4.7 Temporary Modified Duty Policy

The purpose of this temporary modified duty program is to minimize the loss of productive time, while at the same time reintroducing the employee to work sooner to prevent deterioration of skills, facilitate recovery and reduce income loss. Modified duty assignments will be structured so that employees are not placed in a duty status that would aggravate or re-incur an injury or illness. Modified duty assignments are to be limited to temporary periods and are not to be used to create a permanent modified duty assignment.

##### 1. Coverage

Any employee who suffers a temporary and partial disability due to an industrial or non-industrial injury or illness will be covered by this modified duty program.

##### 2. Determination/Required Reports

- a. Modified Duty assignments may be made following evaluation and determination by the Police Chief. The determination will be based on available medical information, and consultation with the employee or the affected supervisor. Determination will also be based on the needs of the City and the impact of modified duty departmental operations.
- b. After the initial report, updated medical reports shall be submitted to the Police Chief at two-week intervals, or at other agreed upon intervals, for as long as the employee is off work. Reports will be required for all industrial or non-industrial injuries or illnesses regardless of whether or not a modified duty assignment has been made.
- c. Reports will be evaluated by the Police Chief for purposes of continuing or terminating a current modified duty assignment or to determine when to commence a modified duty assignment.

##### 3. Modified Duty Assignments - Definitions/Restrictions

- a. Modified duty assignments may consist of reduced work hours, limited work or any combination thereof.
- b. Modified duty assignments will not adversely affect the employee's normal wage rate or retirement benefits.
- c. Modified duty assignments will be within the employee's assigned department and will involve work which is consistent with the duties of the employee's classification.

- d. When feasible, modified duty assignments will be during the employee's normal shift and duty hours. However, if it is determined that no useful work will be performed during the normal shift or duty hours, the employee will be assigned modified duty during normal office hours of 8:00 a.m. to 5:00 p.m. Monday through Friday.
  - e. Specific modified duty assignments will be developed based upon a case by case review of the medical restrictions, so as not to aggravate or incur an injury or illness.
  - f. Employees will not be placed in modified duty assignments that, in the normal course of events, will require that they provide direct field emergency response.
4. Holidays/Vacations
- a. Holidays shall be observed in accordance with the modified duty assignment work hours and work week. That is, if an employee is assigned to work hours in a department, division, or operating unit where employees in that work unit take the holiday off, so shall the modified duty employee. If the employees are assigned to work hours on a work holiday, so shall the modified duty employee. Compensation for holidays shall be in accordance with applicable Memorandum of Understanding or the Personnel Rules and Regulations.
  - b. Employees assigned to modified duty shall take their assigned (selected) vacation as normally scheduled. Vacations shall cover the same number of duty and calendar days as would have been enjoyed by the employee if they had remained on full duty. Employees may reschedule their assigned (selected) vacation with the approval of the Police Chief, provided the rescheduling does not result in increased costs or lost time to the City for relief personnel to cover the rescheduled vacation.
5. Return to Full Duty  
Employees will be returned to full duty as soon as possible following medical certification that the employee is able to resume the full duties of his or her classification.

## **6.5 MISCELLANEOUS**

### *6.5.1 Gratuities / Solicitation of Contributions*

All employees of the Police Department should refer to Departmental Rules and Regulations 300.48 and 300.50 for the rules and procedures related to gratuities/solicitation.

### *6.5.2 Return of City Equipment*

Upon termination of employment, all tools, equipment, and other City property assigned to any employee shall be returned to the employee's supervisor.

### *6.5.3 Political Activity*

The political activity of City employees shall comply with pertinent provisions of State and Federal Law.

### *6.5.4 Employment of Relatives*

The City retains the right:

1. To refuse to place one party to a relationship under the direct supervision of the other party to a relationship where such has the potential for creating adverse impact on supervision, safety, security or morale.
2. To refuse to place both parties to a relationship in the same department, division or facility where such has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.

### 6.5.5 Gym Reimbursement

Employees are eligible to receive up to \$50 reimbursement per month for paid gym memberships, workout classes or similar ongoing fitness activities. Such reimbursement shall be paid once per year by the City in a lump-sum check and reported as taxable income to the employee.

### 6.5.6 Public Safety Center Fitness Program

#### PURPOSE AND SCOPE:

The purpose of this policy is to establish guidelines for employees utilizing the Public Safety Center (PSC) fitness facility. The Department requires all those electing to use the PSC fitness facility to adhere to the conditions and policies as described in this policy. Persons who do not meet the conditions as described in this directive will be deemed to be engaging in activities outside the scope of their employment, and the City shall not have any liability for injuries or losses resulting from such activities. The City will not accept responsibility for injuries incurred as a result of recreational exercise/activities or competitive events.

#### PROCEDURES:

It is the position of the City to encourage a high level of physical fitness among police personnel. To assist employees in achieving this goal, the Department has implemented an on-duty work-out policy for all San Rafael Police employees.

- A. On-Duty Participation:
  - 1. On-duty participation is defined as one hour of on-duty time for the purpose of exercise.
- B. Exercise time and use of the PSC fitness facility may not begin until the Waiver and Release of Liability form has been read, signed, and filled out for all employees.
- C. Use of the Public Safety Center fitness facility by Participants:
  - 1) All personnel, regardless of assignment, may use the PSC fitness facility for workouts between the hours of 0500hrs to 2200hrs.
  - 2) There shall be no meals or snacks eaten in the PSC fitness facility; water or other workout drinks are acceptable.
  - 3) All personnel using the PSC fitness facility shall wipe down all equipment after use and pick up any trash.
- D. The PSC fitness facility is the only approved and authorized on-duty work out facility:
  - 1) On duty exercise must take place within the PSC so employees can remain available for emergencies or return to their duty assignment in the event exigencies arise. Employees must be prepared to change into uniform without undue delay if necessary.
  - 2) The PSC fitness facility is located on the second floor. This area is close to the sleeping quarters of the firefighters and police employees should respect the shared area appropriately.
- E. On duty exercise time shall be utilized in lieu of a meal break. Personnel participating in an on-duty work out will remain personally responsible for sustenance at their desk as time permits in the balance of their workload.

- F. Provisions of the on-duty exercise policy that are specifically related to personnel assigned to Patrol are as follows:
- 1) On-duty exercise time is approved by the Watch Commander or his/ her designee only when the shift is above minimum staffing. Due consideration must be given to staffing and activity levels. Exercise time may be canceled at the discretion of the Watch Commander (or designee). The Watch Commander's decision regarding on-duty exercise cannot be grieved.
  - 2) No more than one (1) employee from patrol may exercise on-duty at any given time. When on-duty, there shall only be one (1) on-duty patrol officer in the workout room at a time.
  - 3) A police radio shall be audible inside the PSC fitness facility any time patrol personnel are exercising. Patrol personnel shall respond to their call sign when called from communications.
  - 4) Participants assigned to patrol wishing to use on-duty time for exercise must request the desired time at the beginning of the shift. Requests may also be made a shift in advance. Seniority will be used to determine exercise times.
  - 5) Reports and calls for service have priority over exercise time. No work-related assignments should remain pending while working out unless they can be completed in a timely manner without incurring overtime,
  - 6) Personnel participating in on-duty workouts shall not be permitted to do so in conjunction with briefing at the beginning of their shift or proximate to the completion of their shift. On-duty workouts may only take place at the direction and with approval of the Watch Commander (or designee).
  - 7) On-duty exercise time may not be taken on the last hour of the shift (as enumerated in section 7 of this section).
  - 8) During Field Training, neither the Field Training Officer (FTO) nor the Officer in Training (OIT) may utilize the PSC fitness facility on-duty.
- G. Employees are required to immediately report any injuries or serious illnesses while using the PSC fitness facility to their supervisor:
- H. Miscellaneous provisions of the on-duty exercise policy:
- 1) No exercise program hours will be carried over from one day to the next.
  - 2) Performance issues, at the discretion of the Chief of Police, may be the basis for an individual being denied permission to participate in on-duty exercise.
  - 3) Break periods (rest breaks) cannot be used to extend exercise time.
  - 4) The provisions and implementation of this on-duty exercise policy will not be subject to challenge or grievance by employees.

INJURIES OR SERIOUS ILLNESSES:

Employees are required to immediately report all injuries or serious illnesses that require medical attention. Following such an injury, exercise privileges will be suspended immediately until further notice. Determination of when an injured participant may resume exercise activity will be at the discretion of the Chief of Police or his/her designee following a complete review of the injury report. This determination will be based on the nature of the injury and the health/fitness needs of the individual.

- a) An injured employee may be required to submit a memo detailing their injury/illness and obtain clearance in writing from the attending physician prior to resuming exercise activities.
- b) Once cleared to resume physical fitness activities, the injured participant will follow the exercise prescribed without deviation. Deviation from the prescribed exercise program may result in disqualification from using the PSC fitness facility on-duty and off-duty.
- c) Those participants whose injury/illness requires a "light duty" status may use the PSC fitness facility following a clearance by their attending physician. Exercise activity will be limited to the fitness program prescribed.
- d) Failure to immediately report any injury or illness resulting from working out in the PSC fitness facility may result in loss of facility use privileges both on and off duty.

#### OFF DUTY EXERCISE BY EMPLOYEES:

Employees may use the PSC fitness facility during their off-duty time under the following guidelines:

- a) Must read, sign, and submit the Waiver and Release of Liability form, which must then be authorized by the Chief of Police.
- b) Exercise sessions are on off-duty time only and there is no limit to how many times one can use the facility.
- c) Follow all safety rules.
- d) Follow all guidelines as described in this policy.
- e) Only SRPD employees are allowed to use the facility.

#### GENERAL SAFETY RULES:

- a) Proper warmup and cooldown activities are to be performed before and after weight training and cardiovascular workout sessions.
- b) All safety stops and mechanisms on exercise equipment must be properly adjusted before each use.
- c) All weight plates must be removed from the lifting bar and returned to the proper storage rack immediately after use.
- d) Proper athletic footwear and shirts must be worn while exercising in the PSC fitness facility.
- e) All injuries or exercise equipment needing repair should be reported to the Watch Commander immediately.
- f) Spotters are required for all heavy lifting. If no spotters are available, no heavy lifting will be allowed.

#### PROGRAM LENGTH:

- a) This will be a pilot program for six (6) months. At the end of the six months, the program will be evaluated by the Chief of Police to determine if the program should continue and/or be modified.
- b) If at any time during the program the Chief of Police determines that it is detrimental to the functioning of the department, the Chief may cancel the program. The Chiefs decision to cancel the program will not be subject to challenge or grievance.

## **7 PROCEDURES**

### **7.1 DEMOTION & SUSPENSION**

#### *7.1.1 Demotion*

The City Manager or his/her designee may demote an employee when the following occurs:

- a. The employee fails to perform his/her required duties.
- b. The need for a position which an employee fills no longer exists;
- c. An employee requests such a demotion.

No employee shall be demoted to a classification for which he/she does not possess the minimum qualifications of the position at the time of demotion.

When the action is initiated by the City Manager or his/her designee, written notice of demotion shall be provided to an employee at least ten (10) working days before the effective date of the demotion, and a copy filed with the Human Resources Department.

Withholding a salary step increase or withdrawing a merit step increase within or above the salary range of the employee's position shall not be deemed a demotion.

Disciplinary demotion action shall be in accordance with Article 7.3 "Disciplinary Action."

#### *7.1.2 Suspension*

The City Manager may suspend an employee from a position at any time for a disciplinary purpose. Intended suspension action shall be reported immediately to the Human Resources Director and shall be taken in accordance with Article 7.3 "Disciplinary Action."

### **7.2 TERMINATION OF EMPLOYMENT**

#### *7.2.1 Resignation*

An employee wishing to leave City service in good standing shall file with his/her immediate supervisor, at least fourteen (14) days before leaving the service, a written resignation stating the effective date and reason for leaving. A copy of the resignation shall be forwarded to the City Manager and the Human Resources Department.

#### *7.2.2 Termination - Layoff*

The City Manager or his/her designee may terminate an employee because of changes in duties or organization, abolition of position, shortage of work or funds, or completion of work for which employment was made.

#### *7.2.3 Termination - Disciplinary Action*

An employee may be terminated at any time for disciplinary action, as provided in Article 7.3 "Disciplinary Action."

#### *7.2.4 Retirement*

Retirement from City service shall, except as otherwise provided, be subject to the terms and conditions of the City's contract, as amended from time to time, with the Marin County Retirement System.

#### *7.2.5 Rejection During Probation*

An employee may be terminated from their position during the probationary period of their initial appointment to the City's classified service without Right of Appeal.

## **7.3 DISCIPLINARY ACTION**

### *7.3.1 Right to Discipline & Discharge*

Disciplinary action shall mean discharge/dismissal, demotion, reduction in salary, and suspension resulting in loss of pay.

The City shall have the right to discharge or discipline any employee for dishonesty, insubordination, drunkenness, incompetence, negligence, failure to perform work as required or to observe the Department's safety rules and regulations or for engaging in strikes, individual or group slowdowns or work stoppages, or for violating or ordering the violation of the Memorandum of Understanding.

The City may discipline or discharge an employee for the following:

- a. Fraud in securing appointment.
- b. Negligence of duty.
- c. Violation of safety rules.
- d. Unacceptable attendance record including tardiness, overstaying lunch or break periods.
- e. Possession, distribution or under the influence of alcoholic beverages, non-prescription or unauthorized narcotic or dangerous drugs during working hours.
- f. Inability, unwillingness, refusal or failure to perform work as assigned, required or directed.
- g. Unauthorized soliciting on City property or time.
- h. Conviction of a felony or conviction of a misdemeanor involving moral turpitude.
- i. Unacceptable behavior toward (mistreatment or discourteousness to) the general public or fellow employees or officers of the City.
- j. Falsifying employment application materials, time reports, records, or payroll documents or other City records.
- k. Disobedience to proper authority.
- l. Misuse of City property.
- m. Violation of any of the provisions of these working rules and regulations or departmental rules and regulations.
- n. Disorderly conduct, participation in fights, or brawls.
- o. Dishonesty or theft.
- p. Establishment of a pattern of violations of any City policy or rules and regulations over an extended period of time in which a specific incident in and of itself would not warrant disciplinary action, however, the cumulative effect would warrant such action.
- q. Failure to perform to an acceptable level of work quality and quantity.
- r. Insubordination.
- s. Other acts inimical to the public service.

### *7.3.2 Appeals*

If an employee feels he or she has been unjustly disciplined/discharged, he or she shall have the right to appeal his or her case through the appropriate procedure (Article 7.4). Such appeal must be filed with the City Manager by the employee in writing within five (5) working days from the date of the discipline/discharge; unless so filed the right of appeal is lost.



### *7.3.3 City Manager and Arbitration*

The employee (appellant) may submit the appeal directly to the City Manager or may request arbitration. If arbitration is requested, representatives of the City and the employee (appellant) shall meet promptly to select a mutually acceptable arbitrator. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City.

A hearing before the arbitrator shall be held within sixty days of the selection of the arbitrator unless the arbitrator's schedule does not so permit. The arbitrator shall hear each party's case as presented during the hearing, and shall subsequently have the power to affirm, reject, or provide a lesser form of discipline. Decisions of the Arbitrator on matters properly before them shall be final and binding on the parties hereto, to the extent permitted by the Charter of the City.

In addition to the arbitrators proposed by the State Mediation and Conciliation Service, the parties shall be free to select from a pool of arbitrators mutually selected by the City and the Association.

## **7.4 GRIEVANCE PROCEDURE**

### *7.4.1 Definition*

A grievance is any dispute which involves the interpretation or application of any provision of this Memorandum of Understanding.

### *7.4.2 Initial Discussions*

Any employee who believes that he or she has a grievance may discuss his or her complaint with the Police Chief or with such management official as the Police Chief may designate. If the issue is not resolved within five (5) working days in the Department, or if the employee elects to submit his or her grievance directly to an official of the employee organization which is formally recognized as the representative of the classification of which he or she is assigned, the procedures hereafter specified may be invoked.

### *7.4.3 Referral to the City Manager*

Any employee or any official of the employee organization which have been formally recognized by the City and which has jurisdiction over any position directly affected by the grievance, may notify the City Manager and Police Chief in writing that a grievance exists and, in such notification, state the particulars of the grievance and, if possible, the nature of the determination which is desired.

No grievance may be processed under Section 7.4.4 below which has not first been heard and investigated in pursuance of Section 7.4.2. A grievance which remains unresolved thirty (30) calendar days after it has been submitted in writing may be referred to the next step.

Any time limit may be extended to a definite date by mutual agreement of the Association and the appropriate management representative.

### *7.4.4 City Manager and Arbitration*

If the grievance is not resolved in the previous step, the grievant, the Association, or the City may, after completion of the previous step in the grievance procedure, submit the grievance directly to the City Manager or may request arbitration. If arbitration is requested, representatives of the City and the Association shall meet promptly to select a mutually acceptable arbitrator. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by the Association and the City. Each party, however, shall bear the cost of its own presentations, including preparation and post hearing briefings, if any.

No Arbitrator shall entertain, hear, decide or make recommendations on any dispute involving a position over which a recognized employee organization has jurisdiction unless such dispute falls within the definition of grievance as hereinabove set forth in paragraph (1) of this section.

Proposals to add to or change this Memorandum of Understanding or written agreement or addenda supplementary hereto shall not be grievable and nor proposal to modify, amend or terminate this Memorandum of Understanding, not any matter or subject under this section; and no Arbitrator shall have the power to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment. No changes in the Memorandum of Understanding or interpretations thereof will be recognized unless agreed to by the City Manager and the Association.

A hearing before the arbitrator shall be held within 60 days of the selection of the arbitrator unless the arbitrator's schedule does not so permit, and the arbitrator shall render a decision which is binding on the parties hereto, to the extent permitted by the Charter of the City.

### **7.5 REDUCTION IN FORCE**

In reduction of force, the last employee appointed within the represented classification shall be the first employee laid off, and in re-hiring, the last employee laid off shall be the first employee re-hired until the list of former employees is exhausted, provided that the employee retained or re-hired is capable, in the opinion of the City, to perform the work required. An employee laid off from City services prior to being re-hired must pass the physical examination administered by a City-appointed physician and must pass the background check administered by the Police Department. The names of employees laid off shall be placed on a Re-employment Eligibility List as hereinafter specified.

The Re-employment Eligibility List shall consist of names of employees and former employees having probationary or permanent status who were laid off in that classification. The rank order on such lists shall be determined by relative seniority as specified above. Such list shall take precedence over all other eligible lists in making appointments to the classification in which the employee worked.

The name of any person laid off shall continue on the appropriate Re-employment Eligible List for a period of one (1) year after it is placed thereon. The names of any eligible employees on a Re-employment Eligibility List shall be automatically removed from said list at the expiration of the appropriate period of eligibility.

**SAN RAFAEL POLICE MID-MANAGEMENT  
ASSOCIATION:**

**CITY OF SAN RAFAEL:**

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**Dan Fink, Police Lieutenant**

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**Cristine Alilovich, Assistant City Manager**

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**Scott Eberle, Police Lieutenant**

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**Sylvia Gonzalez-Shelton, HR Operations Mgr**

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**Date**

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**Date**

**SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION**  
**SALARY SCHEDULE**  
Effective July 1, 2021

Exhibit A

<b>Grade</b>	<b><u>Position</u></b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
6103	POLICE CAPTAIN (Benchmark)	\$12,804	\$13,444	\$14,116	\$14,822	\$15,563
6110	POLICE LIEUTENANT	\$11,336	\$11,903	\$12,498	\$13,123	\$13,779

**SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION**  
**SALARY SCHEDULE**  
Effective July 1, 2022

Exhibit A

<b>Grade</b>	<b>Position</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
6103	POLICE CAPTAIN (Benchmark)	\$13,316	\$13,981	\$14,681	\$15,415	\$16,185
6110	POLICE LIEUTENANT	\$11,789	\$12,379	\$12,998	\$13,648	\$14,330

**SAN RAFAEL POLICE MID-MANAGEMENT ASSOCIATION**  
**SALARY SCHEDULE**  
Effective July 1, 2023

Exhibit A

<b>Grade</b>	<b><u>Position</u></b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
6103	POLICE CAPTAIN (Benchmark)	\$13,848	\$14,541	\$15,268	\$16,031	\$16,833
6110	POLICE LIEUTENANT	\$12,261	\$12,874	\$13,518	\$14,194	\$14,903