

# **MEMORANDUM OF UNDERSTANDING**

between

**CITY OF SANTA CLARA**

and

**INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS (IBEW) LOCAL  
1245  
UNIT 3**



**December 14, 2008 – December 22, 2012**

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**CITY OF SANTA CLARA**  
**and**  
**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1245**  
**representing**  
**ELECTRICAL WORKERS, UNIT # 3**

**DECEMBER 14, 2008 – DECEMBER 22, 2012**

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**DECEMBER 14, 2008 – DECEMBER 22, 2012**

In accordance with the provisions of Section 18 of the City of Santa Clara Resolution #2979 and with the Meyers-Milias-Brown Act (Government Code Sections 3500 - 3511), this Memorandum of Understanding (MOU) was made and entered into this 19<sup>th</sup> day of May 2009 by and between the designated representatives of the City of Santa Clara (a public agency as defined in Section 3501 (c) of Chapter 10 of Division 4 of Title I of the Government Code of the State of California), hereinafter referred to as the City, and the designated representatives of Local Union 1245 of the International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor-Congress of Industrial Organizations (a recognized employee organization as defined in Section 3501 (b) of Chapter 10 of Division 4 of Title I of the Government Code of the State of California), hereinafter referred to as the Union. This agreement constitutes the results of discussions between the City and the Union on all matters within the scope of representation for the term December 14, 2008 through December 22, 2012.

The provisions of this agreement have application exclusively to regular, full-time employees in the classified service (probationary and permanent) employed by the City of Santa Clara, unless otherwise specified. "Part-time Employees", "Seasonal Employees", or "Temporary Employees", or any other employee who is not in the classified service is specifically excluded from the provisions of this agreement.

Nothing in this agreement shall be deemed to grant any permanent Civil Service rights to probationary employees.

WITNESSETH that:

WHEREAS the parties hereto desire to facilitate the peaceful adjustment of differences that may from time to time arise between them to promote harmony and efficiency to the end that the City, Union, and the general public may benefit therefrom, and to establish fair and equitable wages, hours and working conditions for certain hereinafter designated employees of the City.

NOW, THEREFORE, the parties hereto do agree to propose and recommend that the City Council adopt the following, effective as indicated:

1. **TOTAL COMPENSATION**

A. For the purposes of this agreement, Total Compensation is defined to include the following items:

- 1) Salary
- 2) Fringe Benefits:
  - a. Retirement (including Social Security)\*

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- b. Holiday Pay\*
  - c. Vacation Pay\*
  - d. Insurance
    - (1) Life
    - (2) Health
    - (3) Dental
    - (4) Long-Term Disability
    - (5) Retiree Medical
- \*These elements are tied to salary and move as a function of salary. No independent movement is allowed in these element areas.
- B. The Union shall, to an extent not inconsistent with other terms of this MOU, allocate the distribution of Total Compensation monies among the following element areas: 1) salary, 2) life insurance premiums, 3) medical insurance premiums, subject to the requirement that the amount of the Kaiser single health insurance premium, including the PEMHCA minimum, be included in the mandatory section of the Salary Adjustment Form, and 4) long-term disability insurance premiums, except as otherwise noted in this MOU. It is hereby agreed to and understood by both parties to this Memorandum that distribution of Total Compensation monies is to be made based upon: 1) the Salary Adjustment Form for related benchmark classification, and 2) the maximum premium payable by City and not actual premium to be paid by City, except as noted elsewhere in this MOU.
- C. Except where noted, Total Compensation as defined above will be determined by computing the Total Compensation effective October 1 of each preceding year afforded the classification Journey Lineworker in the City of Santa Clara at the top step salary (excluding seniority or longevity) as defined in this document. For the purpose of comparison of salaries or other benefits as referenced in other sections of this MOU, the comparing agencies are defined as Pacific Gas and Electric Company (PG&E), City of Palo Alto, Sacramento Municipal Utility District (SMUD), Modesto Irrigation District (MID) and Alameda Power and Telecom. Currently those comparison positions for Lineman/Linewoman in Santa Clara are: PG&E - Lineman; Palo Alto - Lineperson/Cable Splicer; SMUD - Lineman/Linewoman; MID - Lineman; and Alameda Power and Telecom - Lineman. The comparison provisions described above are suspended for the duration of this 2008 – 2012 MOU.

2. ADJUSTMENT OF TOTAL COMPENSATION

- A. Year 1 (12/08 – 12/09) Effective the pay period commencing December 14, 2008, the salary schedules for all represented classifications shall be increased by 5.0% (unless the Union modifies their discretionary allocation from the prior year). The City will prepare a Salary Adjustment Form for the benchmark classification of Journey Lineworker that reflects a 5.0% salary increase. In addition, the Salary Adjustment Form shall at the same time be modified from prior years by only including (i.e. putting “above the line”) twenty-five percent (25%) of the City’s CalPERS employer rate instead of fifty percent (50%) and excluding (i.e. placing “below the line”) seventy-five percent (75%) of the City’s CalPERS employer rate. The Salary Adjustment Form shall also exclude (i.e. show “below the line”) the amount of the City’s contribution to retiree health using an actuarial costing methodology. The

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new Salary Adjustment Form shall reflect the applicable City rates for CalPERS, PEMHCA, Social Security and Medicare.

As set forth in Section 4.B., for calendar year 2009, any change in the Union's discretionary health allocation will increase or decrease the 5.0% salary increase described in the prior paragraph by the corresponding amount.

In addition, effective December 14, 2008, for persons employed on the date this MOU was formally approved by the City Council, the salary range for the classifications of Electric Crew Foreperson, Cable Splicer Leader and Sr. Meter Technician shall be increased from D1-36 to D1-38 (i.e. an additional 5.0%). The Union understands that part of the basis for the further 5.0% salary increase for Electric Crew Foreperson and Cable Splicer Leader is that individuals in these classifications become rubber glove certified as described in Section 16. That said, any Electric Crew Foreperson or Cable Splicer Leader who has medical restrictions that prohibit the employee from climbing a pole and rubber gloving will still receive the D1-38 salary.

Effective the beginning of the pay period which includes July 1, 2009, the Salary Adjustment Form prepared by the City in December 2008 will be adjusted to reflect the change in the City's CalPERS employer rate from the period of July 1, 2008 through June 30, 2009 to the period of July 1, 2009 through June 30, 2010. The City will contribute seventy-five percent (75%) of the CalPERS employer rate outside of (i.e. "below the line" on) the Salary Adjustment Form. If the CalPERS employer rate is lower for FY 2009-10 than in FY 2008-09, only the salary and CalPERS contribution elements of the Salary Adjustment Form will change but the total compensation "above the line" on the Salary Adjustment Form will not change. If the CalPERS employer rate is higher for FY 2009-10 than in FY 2008-09, only the CalPERS contribution element of the Salary Adjustment Form will change, and the total compensation "above the line" on the Salary Adjustment Form will increase by the impact of 25% of the increase in the CalPERS employer rate.

- B. Year 2 (12/09 – 12/10) Effective the pay period commencing December 27, 2009, the salary schedules for all represented classifications shall be increased by 5.0% (unless the Union modifies their discretionary allocation from the prior year). In addition, the Salary Adjustment Form shall be modified by not including (i.e. putting "above the line") any of the City's CalPERS employer contribution, and excluding (i.e. placing "below the line") 100% of the City's CalPERS employer contribution. The Salary Adjustment form shall also exclude (i.e. show "below the line") both (1) the amount of the City's contribution to retiree health using an actuarial costing methodology and (2) the City's monthly contributions on behalf of represented employees to VEBA accounts as described in Section 7 of this MOU. The new Salary Adjustment Form shall reflect the applicable employer rates for CalPERS, PEMHCA, Social Security and Medicare.

As set forth in Section 4.B., for calendar year 2010, any change in the Union's discretionary health allocation will increase or decrease the 5.0%

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salary increase described in the prior paragraph by the corresponding amount.

- C. Year 3 (12/10 – 12/11): Effective the pay period commencing December 26, 2010, for all classifications represented by the Union, the City shall increase the total compensation above the line on the Salary Adjustment Form for the benchmark classification of Journey Lineworker by 4.5%. The City will contribute outside of the Salary Adjustment Form used by the City to determine the salary and other adjustments that will result from this total compensation increase: (1) 100% of the CalPERS employer rate; (2) the amount of the City's contribution to retiree health using an actuarial costing methodology; and (3) the City's monthly contributions on behalf of employees to VEBA accounts as described in Section 7 of this MOU. The new Salary Adjustment Form shall reflect the applicable employer rates for CalPERS, PEMHCA, Social Security and Medicare.
- D. Year 4 (12/11 – 12/12): Effective the pay period commencing December 25, 2011, for all classifications represented by the Union, the City shall increase the total compensation above the line on the Salary Adjustment Form for the benchmark classification of Journey Lineworker by 4.5%. The City will contribute outside of the Salary Adjustment Form used by the City to determine the salary and other adjustments that will result from this total compensation increase: (1) 100% of the CalPERS employer rate; (2) the amount of the City's contribution to retiree health using an actuarial costing methodology; and (3) the City's monthly contributions on behalf of employees to VEBA accounts as described in Section 7 of this MOU. The new Salary Adjustment Form shall reflect the applicable employer rates for CalPERS, PEMHCA, Social Security and Medicare.

**E. For the duration of this 2008 – 2012 MOU, the provisions specified below in this Section 2(E) are suspended.**

Effective February 1, 2001 and February 1, 2003, if it is determined by the Union and representatives of the City that any classification represented by the Union is 2.5% below the survey average in base salary for that classification after the adoption of a new Total Compensation amount under this MOU, the City of Santa Clara shall adjust such classifications to the salary step on the salary schedule for those classifications to bring them as close as possible to 2.5% above the survey average on a common salary schedule. For purposes of this comparison the survey agencies are as defined in Section 1(C). The City shall implement this adjustment beginning with the first pay period following verification by the City.

- F. It is recognized by both parties to this agreement that it is their mutual responsibility to independently verify, to the extent possible, the accuracy of the information upon which Total Compensation adjustments are made. Should it be discovered by either party that adjustment(s) to salary and fringe benefits are based on erroneous information or has been erroneously computed, the necessary corrective action will be taken as soon as practical after the discovery and notice of the error has been given. It is the mutual responsibility of both parties to report any suspected error



immediately upon discovery to the other party. However, the period for which there will be a right to recover any monies which are either overpaid by the City or underpaid to the employee shall be limited to an adjustment period of up to 90 calendar days from the date the error was first reported to the other party. The corrective action will be taken even in circumstances where the error may bridge successive MOUs, but the recovery will still be limited to amounts owed or owing during the prior 90 calendar days. The 90 calendar day period will begin upon the date of written notification by personal service upon the other party.

Right of recovery by the City of overpayment shall be limited to recovery over the same time period as the overpayment was made. Said repayment will begin with the next paycheck following final determination of the amount to be repaid. Underpayment to the employee shall be made by the City in a lump sum of the amount owed on the next regular paycheck following final determination of the amount to be paid.

- G. There shall be no employee generated reclassification requests during the term of this 2008 – 2012 MOU.

**For the duration of this 2008 – 2012 MOU, the provisions specified in this TABULAR DESCRIPTION OF ADJUSTMENT OF TOTAL COMPENSATION are suspended.**

#### TABULAR DESCRIPTION OF ADJUSTMENT OF TOTAL COMPENSATION

February 1, 2001 & 2003	Union presents its comparison data, if any, on represented classifications, which are 2.5% or more below survey average after application of the common salary adjustment on the current salary schedule for verification by the City.
First Pay Period following verification	City implements salary increases for classifications determined to be 2.5% or more below the survey average in amounts necessary to bring those classifications to the salary step closest to 2.5% above the survey average on the common salary schedule.

#### DEFINITIONS

- |  |   |
|--|---|
| 1. Top Step Salary -                               | Maximum step in the monthly salary range for classification (excluding seniority or longevity steps). |
| 2. Life, Health, Dental, LTD and other Insurance - | Maximum City monthly contribution per employee to insurance premiums as                               |

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- defined in Item 1(A)(2)(d) plus maximum agency monthly contribution to other fringe benefit insurance premiums.
3. Retirement - Maximum City monthly contribution per employee to retirement and social security plans.
4. Holiday Pay - Number of paid holidays allowed by City per year times daily salary rate of classification, divided by 12.
5. Vacation Pay - Maximum number of annual paid Vacation hours allowed by City per employee upon completion of five (5) years service times daily salary rate for classification divided by 12.
6. Other - Monthly salary equivalent of or maximum monthly City contribution to other fringe benefits available to all full-time represented employees. This category includes the City's monthly contributions to employee's VEBA accounts (to be included on the Salary Adjustment Form "below the line")
7. Total Compensation - The sum of Items 1 through 6 above.
8. Daily Salary Rate - Top step salary as defined in Item 1 above times 12 divided by total number of regular work hours per year times number of regular work hours per day

3. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

- A. The City has contracted with CalPERS to provide employees the 2.7% at age 55 formula effective December 17, 2006.

For the first year of this MOU commencing on December 14, 2008, the City will contribute seventy-five percent (75%) of the employer CalPERS retirement rate applicable under the enhanced 2.7% at age 55 formula outside of (i.e. "below the line") the salary adjustment form. In addition, in July 2009, represented employees shall not receive a salary decrease as a direct result of an increase in the CalPERS employer rate for July 1, 2009 – June 30, 2010 under the 2.7% at age 55 formula retirement contract between CalPERS and the City.

The employee's contribution will continue to be treated as tax deferred.

- B. The Union and the City previously negotiated to implement the 2% at age 55 retirement formula benefit. At that time the parties negotiated an employer CalPERS rate cost-share as described below. That cost-share provision is suspended as long as the City pays fifty percent (50%) or more of the employer CalPERS rate.

The previously negotiated cost-share is as follows:

The normal cost of the 2% at 55 benefit cited in the June 30, 1997 CalPERS contract amendment cost analysis – valuation basis is stated as 1.503%. This analysis also shows that the cost of the current 2% at 60 Plan is 4.168%.

The City agrees to divide the 1997 normal cost of the 2% at 55 plan amendment (1.503% per June 30, 1997 CalPERS valuation) with the employees. The City will pay the first 0.75% of the cost of the retirement amendment as provided below. The employees will pay the remaining portion which at this point in time is 0.753%. The addition of the City's 0.75% and the employees 0.753% equals 1.503%, the normal cost cited in the June 30, 1997 CalPERS amendment cost analysis.

CalPERS will continue to use accumulated excess assets to cover the cost of the employer's cost of the overall CalPERS plan. Should CalPERS increase the City's contribution rate, the cost of that increase shall be paid for from the employee's Total Compensation structure, as provided for in Section 1 of each current MOU between the City and each of the respective employee organizations. Should the CalPERS contribution rate increase above 4.168%, the City will contribute up to the next 0.75%. This results in additional City funds being added to the Total Compensation structure. At such time as the CalPERS rate reaches 4.918% the employees will be responsible for paying for any additional increases in the CalPERS contribution rate out of the Total Compensation structure.

#### 4. HEALTH INSURANCE PREMIUMS

##### A. Mandatory Health Allocation

Kaiser single employee health insurance will be included in the Salary Adjustment Form as a Mandatory Allocation. The amount allocated for Kaiser single employee health insurance will be the premium minus the statutorily required Public Employees Medical and Hospital Care Act (PEMHCA) contribution. The PEMHCA contribution will remain in the Salary Adjustment Form as a separate Mandatory Allocation. The City will change the dollar amount designated within the Salary Adjustment Form for Kaiser single employee health insurance when the premium amount changes annually and/or when the statutorily required PEMHCA contribution changes. Under State law, the monthly PEMHCA contribution will be adjusted annually by the CalPERS Board of Administration to reflect any change in the medical

care component of the Consumer Price Index.

B. Discretionary Health Allocation

The Union may (on a once-a-year basis, commencing with the beginning of the calendar year) designate within the discretionary portion of the Salary Adjustment Form a fixed monthly sum for all represented employees represented toward employee plus one or full family coverage. The Union's monthly allocation for health insurance premiums may be set to an amount not to exceed 10% above the lowest cost family health insurance coverage available. If the health insurance premium for an individual employee exceeds the amount allocated, the balance is paid by way of a salary deduction from the pay of the individual employee. For calendar years 2009 & 2010, any change in the Union's discretionary health allocation will increase or decrease the 5.0% salary increase described in Sections 2.A and 2.B by the corresponding amount.

C. Health Allocation Refund

All individual employees having health insurance payments made on his/her behalf that are less than the monthly amount allocated by the Union will have the difference refunded on a once-a-month basis. Such payments shall be made on the first paycheck issued in each month. This refund program requires the following qualifications: 1) it must be a health insurance program; and 2) it must be a health insurance vendor with a current contract with the City through the California Public Employees Retirement System (CalPERS) Health Insurance Program. City health insurance coverage will be at the option of the individual employee. It is the intent of this section that employees opting not to have City health coverage will be refunded the full amount allocated on their behalf for health insurance.

D. The City shall comply with the provisions of the Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993 (CFRA).

5. DENTAL REIMBURSEMENT PLAN

The Union agrees to meet with representatives of other City employee groups for the purpose of determining the amount of money to be contributed by the City to the City of Santa Clara Dental Reimbursement Plan. The Union agrees that the amount decided upon by the majority of the Employee Representatives will be binding upon the Union during the life of this MOU. It is understood by the Union that any monies contributed to the Dental Reimbursement Plan will be charged to Total Compensation monies available for allocation. If, during the life of this MOU, the Union desires to withdraw from the City of Santa Clara Dental Reimbursement Plan, they may do so subject to the following conditions:

A. Such withdrawal may be effective only at the end of the calendar year.

- B. At least three (3) calendar months advance written notice will be given the Dental Committee, through the Dental Plan Administrator, of the intention to withdraw.
- C. Allocation of Total Compensation monies for the Dental Plan will continue up to the date of withdrawal from the plan.

6. DISABILITY INSURANCE PROGRAMS

The Union has the option of adopting a long term disability program to be made available to represented employees. The program may, at the option of the Union, be available to employees on an individual enrollment basis or as a mandatory enrollment program. If an individual enrollment program is adopted the employee shall authorize an after tax payroll deduction to be paid to the program provider on a monthly basis for the incurred premium.

If a mandatory program is implemented, the highest level of premium to be paid on behalf of an individual employee will be allocated against Total Compensation. The difference between the monthly allocation of premium payment and the actual payment of premium by the City based upon the actual monthly salary of each represented employee will be refunded to the employee on the same monthly basis as is specified for the health insurance premium refund in Section 4 of this MOU as determined by the City.

The Union may determine that all represented employees are to be enrolled in the State Disability Insurance Program. In the event this determination is made, the program will be mandatory on each represented employee and costs associated with the program will be paid for as an after-tax payroll deduction as required under the program.

7. VEBA

The City established a Voluntary Employee Beneficiary Association (VEBA) trust under Internal Revenue Code Section 501(c)(9) for the purpose of providing a defined contribution post retirement medical benefit for employees. The City previously stopped making contributions to employee VEBA accounts effective December 21, 2003. Employee VEBA accounts remained open for other potential contributions. Effective December 27, 2009, the City will contribute \$50 per month per represented employee. These contributions shall be made "below the line" on the Salary Adjustment Form (i.e. excluded from calculation of salary adjustments based on total compensation adjustments) but shall be included on the Bay Area ERS total compensation surveys. Specific information regarding the Plan is referenced in the Plan Document.

A VEBA is a tax-exempt trust account formed under Internal Revenue Code Section 501(c)(9), designed to accumulate assets to fund the future payment of qualified unreimbursed medical expenses (including specified insurance premiums). At retirement, participants may withdraw the accumulated plan benefits to pay for unreimbursed IRS-qualified health insurance premiums, qualified long-term care insurance premiums, and other qualified unreimbursed medical expenses and will not be taxed under current state and federal law.

Withdrawals cannot be made for non-medical purposes.

8. RETIREE MEDICAL REIMBURSEMENT BENEFIT

- A. The Retiree Medical Reimbursement Benefit shall provide each employee who retires from the City with at least ten (10) years of regular City service with a reimbursement for unreimbursed single retiree health insurance premium beginning with the first full month of retirement from City service and ending with the last full month before the retiree's sixty-fifth (65<sup>th</sup>) birthday. Starting with the month in which the retiree turns age sixty-five (65), the reimbursement will be for unreimbursed Medicare single retiree supplemental health insurance premium. For premiums paid in calendar year 2008 that will be reimbursed in 2009, the City will reimburse an amount of up to \$278 per month, including the PEMHCA minimum, for unreimbursed single retiree health insurance premium or up to \$168 per month, including the PEMHCA minimum, for unreimbursed Medicare single retiree supplemental health insurance premium. The amount of the City reimbursement will be adjusted thereafter once each year by the percentage change from October to October in the San Francisco-Oakland-San Jose urban wage earners and clerical workers (W) consumer price index from the prior year, but in no event will be increased more than 3.5%.
- B. Beginning in 2004, the City will pre-fund this benefit with an amount to be determined by an actuary.
- C. Each retiree will be required to submit proof of health insurance coverage to the City with each claim. The City will pay the reimbursement on a quarterly basis.

9. VACATION

Represented employees will be entitled to use Vacation as it is earned under the following conditions:

- A. Vacation may not be taken during the first six (6) months of regular employment.
- B. Vacation will be earned on a bi-weekly basis (1/26 of the annual accrual) provided that the employee is in a paid status for at least 2/3 of the hours (53.4 hours) of that pay period.
- C. Employee is required to take at least one-half (1/2) of the Vacation earned during the previous calendar year in the current calendar year.

EXCEPTION: Employees who begin work after July 1 are not required to use at least one-half (1/2) of the Vacation accrued during the first calendar year of employment during the second calendar year.

- D. Vacation may be used in 1/10 hour increments.

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- E. Annual and maximum Vacation accrual rates, calculated to four decimal points for accuracy, are as follows:

<u>COMPLETED YEARS OF SERVICE</u>	<u>ANNUAL ACCRUAL RATE</u>	<u>MAXIMUM ACCRUAL</u>
1 through 4 years	80 hours	400 hours
5 through 9 years	120 hours	400 hours
10 through 15 years	160 hours	400 hours
16 through 20 years	176 hours	400 hours
21+ years	192 hours	400 hours

- F. The existing practice that requires an employee to cease accrual of Vacation in any pay period during which his/her Vacation balance exceeds the maximum accrual as shown in paragraph E of this Section is as follows:

Employees are limited to the maximum accrual of Vacation as defined, based on years of service. Employees may temporarily exceed the allowed maximum Vacation accrual, subject to the Vacation balance as of the end of the pay period which includes December 31 of each year being reduced to the maximum allowable accrual. The current Vacation balance, the year-to-date accrual and the current pay period usage are all shown on the employees' pay check stub, and are the responsibility of the employee to track for compliance with this provision.

Vacation that is temporarily allowed to exceed the maximum allowable accrual and is removed from the Vacation balance as of the end of the pay period which included December 31 of each year may be donated to the Emergency Paid Leave Fund at the direction of the employee.

- G. Subject to having a sufficient balance of accrued vacation available, an employee may, on a once per year basis, be paid at his/her current hourly pay rate for a maximum of 40 hours of accrued vacation if he/she has taken at least 1/2 of the vacation earned in the previous calendar year during the current calendar year.
- H. In lieu of receiving a Vacation cash payout at retirement, the Union may vote to roll accrued Vacation hours into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Union compliance with Federal rules associated with employee contributions of Vacation to their VEBA accounts.

10. HOLIDAYS AND AWARDED COMPENSATORY TIME OFF (CTO)

A. Holidays

The City will observe the following fourteen (14) dates (or days) as City Holidays for represented employees. Represented employees will be entitled to eight (8) hours of paid time off in observation for each of the holidays listed:

New Year's Day (January 1), Martin Luther King Day (3<sup>rd</sup> Monday

in January), Lincoln's Birthday (February 12), President's Day (3<sup>rd</sup> Monday in February), Spring Holiday (observed on Good Friday), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (1<sup>st</sup> Monday in September), Admission Day (September 9), Columbus Day (2<sup>nd</sup> Monday in October), Veteran's Day (November 11), Thanksgiving Day (4<sup>th</sup> Thursday in November), Friday After Thanksgiving, and Christmas Day (December 25). Holidays which fall on a specific date and which fall on Sunday are observed the following Monday. Holidays which fall on a specific date and which fall on Saturday are observed the preceding Friday.

B. Awarded Compensatory Time Off (CTO)

Effective January 1 of each calendar year represented employees employed on that date will continue to receive credit for 16 hours of compensatory time off (CTO) to be used as Priority CTO. This awarded CTO will have priority over utilization of earned CTO and will not be unreasonably denied by the City provided that the request to use CTO on a priority basis is received in writing at least 24 hours in advance of the intended usage. Denial of such usage by the City will be based upon emergency work or inability of the City to provide required services if such request were granted.

Employees hired after January 1, 2004 shall be credited with a pro-rata share of awarded CTO based upon the proportion of the calendar year remaining after their hire date.

11. SICK LEAVE/FAMILY SICK LEAVE/PERSONAL LEAVE

A. SICK LEAVE

- 1) Employees shall accrue ninety-six (96) hours of Sick Leave per year of regular City employment. Sick Leave shall accrue in equal amounts each pay period. Employees shall not accrue Sick Leave while they are on unpaid status.
- 2) Use of Sick Leave will be under the same terms and conditions as are now in place. Vacation and CTO may be used to supplement Sick Leave with Department Head approval, as permitted and set forth in CMD 30 at the time this MOU was adopted.
- 3) In lieu of receiving a Sick Leave cash payout at retirement, an employee may elect to roll accrued Sick Leave hours into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Union compliance with Federal rules associated with employee contributions of Sick Leave to their VEBA accounts. Sick Leave payout at retirement is subject to the provisions and requirements outlined in the Personnel and Salary Resolution.

B. FAMILY SICK LEAVE



- 1) Not more than forty eight (48) hours of Sick Leave within one calendar year shall be granted to any employee for the care or attendance upon members of his/her immediate family, unless the use of additional leave is approved by the City Manager or designee. "Immediate family" is defined as spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, parent by marriage, step-parent, step-child, grandparent by marriage, son-in-law, daughter-in-law, sibling by marriage, foster parent, domestic partner, anyone residing with employee, or anyone dependent on the employee for care.

C. PERSONAL LEAVE

- 1) Each calendar year, an employee is entitled to use twenty-four (24) hours of accrued Sick Leave as Personal Leave, provided he/she has sufficient Sick Leave balance available.
- 2) Personal Leave is intended to provide the employee with paid time off to attend to legitimate personal business that may arise from time to time during the year. Personal Leave may be used to supplement Sick Leave as required.
- 3) The employee has an obligation to provide as much notice as possible so as to allow for proper scheduling by the department.
- 4) Providing that the minimal requirements of proper notification have been met, the use of Personal Leave should not be denied.

The adoption of this program does not modify the existing ability of the employee to exchange up to 96 hours of accrued Sick Leave for up to 48 hours of Vacation, based upon two (2) hours of Sick Leave for one (1) hour of Vacation as provided for and defined in the Personnel and Salary Resolution.

12. BEREAVEMENT LEAVE

- A. The City will provide employees with a paid bereavement leave benefit to attend to the customary obligations arising from the death of a member of an employee's immediate family, as defined in this Section 12(A). Employees are eligible to receive up to forty (40) hours of bereavement leave in the event of the death of a parent, child or sibling of the employee, employee's spouse or employee's domestic partner (including, in each case, step, adoptive and in-law), spouse or domestic partner; up to three (3) work days (regardless of shift assigned) of bereavement leave in the event of the death of a grandparent, grandchild, aunt or uncle of the employee, employee's spouse or employee's domestic partner (including, in each case, step, adoptive and in-law); and up to one (1) work day (regardless of shift assigned) of bereavement leave in the event of the death of a great-grandparent, great-grandchild, niece, nephew, or first cousin of the employee, employee's spouse or employee's domestic partner (including, in each case, step, adoptive and in-law).

- B. The Bereavement Leave benefit is based on each death occurrence and is not charged to the Salary Adjustment Form.
- C. Up to five (5) work days of additional Bereavement Leave may be charged to an employee's Sick Leave balance with City Manager approval.
- D. At the request of the City, the employee will provide verification.

13. OVERTIME

A. DEFINITION

Overtime is defined as (a) time worked in excess of 40 hours in a workweek, (b) time worked in excess of eight hours on a workday, (c) time worked on a non-workday, (d) time worked on a holiday and (e) time worked outside of regular work hours on a workday. The City shall not be required to pay overtime compensation more than once for any single period of time worked. Overtime shall be accumulated each day and shall be compensated to the one-quarter hour.

B. BALANCING OF ACCUMULATED HOURS

A newly hired employee or a person returning to work after an absence of 60 calendar days or more will be initially credited with the average number of overtime hours on record for his/her classification for equitable overtime distribution purposes.

C. OVERTIME PAY RATE

The following overtime payment program is in effect for represented employees:

- 1) Emergency overtime (overtime which is assigned with less than 14 hours notice [24 hour notice for shift employees]) will be paid at two (2) times the regular hourly rate. For emergency overtime that precedes a regular work shift, employees shall be compensated at the emergency overtime rate from the time the employee reports to his/her assigned work station in Santa Clara until he/she is relieved from duty or three (3) hours, whichever is greater. For emergency overtime that follows a regular work shift, employees shall be compensated only for actual overtime hours worked.

EXCEPTION: An employee who is injured and requires medical treatment as a result of an accident that occurred while directly en route from his/her home (or other location from which he/she was ordered to respond) will be presumed to be "at work" for purposes of Workers' Compensation.

- 2) Scheduled (pre-arranged) overtime (overtime which is scheduled more than 14 hours in advance [24 hours for shift employees]) will be paid at one and a half times (1 ½) the regular hourly pay rate. Pre-arranged

overtime on a non-work day will be paid at the time and one-half (1 ½) rate for the first eight hours of work (excluding unpaid meal time) and at the double time (2 times) rate for hours worked in excess of the eight hours. Pre-arranged work that occurs on observed City holidays will be paid at two (2) times the regular hourly rate. If a system emergency occurs while pre-arranged overtime is being performed, the employee will be paid at the time and one-half (1 ½ times) rate until such time as the work required by the pre-arranged assignment is completed or suspended for the day, at which time the employee will begin to be paid at the double-time (2 times) rate until released.

- 3) Pre-arranged overtime that extends the normal work day will be paid at the double time (2 times) rate for time worked in excess of 12 consecutive hours (excluding unpaid meal time). Emergency overtime which extends a regular work shift beyond eight (8) hours (excluding unpaid meal time) will be paid at the double time (2 times) rate.
- 4) If the call back is prearranged for a meeting or training and does not overlap into a normal work day, a minimum of two (2) hours shall be paid at the overtime rate.
- 5) An employee who is scheduled to be off on Vacation or CTO shall not be scheduled or asked to work prearranged overtime for the period between the end of the employee's last regular day of work preceding the employee's time off on Vacation or CTO and the start of the employee's next scheduled day of work.

An employee who is off due to illness or injury shall not be scheduled for overtime work until he/she returns to work on a regular work day.

#### 14. WORK HOURS

##### A. Standard Work Schedule

The regular hours of work for represented employees, except for those specifically mentioned elsewhere in this Section, are as follows:

Operations Division (1st shift)	6:00 am to 6:00 pm
Operations Division (2nd shift)	6:00 pm to 6:00 am
Electrical Engineering & Estimating Div.	8:00 am to 5:00 pm
Substation/Municipal Services Division	7:00 am to 3:30 pm
Transmission & Distribution Division	7:00 am to 3:30 pm
Generation Maintenance Division	7:00 am to 3:30 pm
Metering Division	7:00 am to 3:30 pm

The regular hours of work set forth above may be changed by mutual agreement between the City and the Union at the request of the City, the employee, or the Union. Such changes may modify work hours between 7:00 am and 6:00 pm and shall be reduced to writing and signed by both parties. Changes agreed to under this section will be for the mutual benefit of the City and the affected members of Unit #3 for purposes such as, but

not limited to, eliminating problems in connection with traffic congestion at certain commute times or in connection with Daylight Savings Time. Such changes will be in effect for the entire work unit (person, crew, division, or department) for the time period specified.

For the classifications of Senior Electrical Estimator and Principal Electrical Estimator the hours of work are 8:00 am to 5:00 pm, which includes a one (1) hour unpaid lunch period. In accordance with City Manager's Directive #71 (Alternate Work Schedules), represented employees in these classifications may modify their work hours between 7:00 am and 6:00 pm without the concurrence of the Union.

The classification of Troubleshooter regularly works a 12-hour schedule – 6:30 a.m. to 6:30 p.m. - 3 days on, 3 days off, and then 1 day on, 1 day off, and then 3 days on and 3 days off. When a regular Troubleshooter is off work, the City may determine whether to fill the shift with a relief Troubleshooter and, if so, whether the relief Troubleshooter will work a 12-hour schedule or their existing schedule. Overtime under this new 12-hour schedule for Troubleshooters shall be the same as set forth in Section II of Appendix A ("Shift Worker Agreement for Generation Division").

The work schedule for employees in the Generation Division required to work rotating shifts is as set forth in the "Shift Worker Agreement for Generation Division" between the City and IBEW dated January 10, 2005, and shall remain so unless modified by written consent of the City and IBEW. This Shift Worker Agreement is attached to this MOU as Appendix A, and incorporated into this Section by this reference.

B. Alternate Work Schedule (9/80 Schedule)

The City and the Union agree to continue the 9/80 work schedule, which was a Trial Program during the 2003-2005 MOU, for the duration of this MOU, subject to all of the following conditions:

- 1) At the conclusion of the MOU, the 9/80 schedule will be subject to review and evaluated based on the requirements of City Manager's Directive #71 (Alternate Work Schedules).
- 2) The 9/80 schedule does not apply to employees in the Generation Maintenance Division, Operations Division, or Troubleshooter classification.
- 3) Employees must use one (1) hour of paid or unpaid leave for the ninth (9th) hour of any paid City holiday.
- 4) Any challenges or disagreements shall be discussed between the Union and the City, but shall not be subject to any grievance procedure.
- 5) Employees will be charged with nine (9) hours of accrued leave for each Vacation and Sick Leave day taken on a regularly scheduled nine (9) hour shift.

- 6) The existing policy on Jury Duty and Military Leave for employees with a 9/80 schedule shall apply.
- 7) No modification in the amount of break time.
- 8) No overtime shall be paid for regularly scheduled work hours.

The Alternate 9/80 Work Schedule shall be eight (8) nine-hour days and one (1) eight-hour day per two-week work cycle.

15. NIGHT SHIFT PREMIUM – ELECTRIC AND WATER SYSTEM OPERATOR

Electric and Water System Operators who work the entire 2nd shift or who work 6 hours of a split shift within the 2nd shift period shall receive a 5% night differential for the hours worked between 6 p.m. and 6:00 a.m. Sr. Electric and Water System Operators shall receive the same differential when covering a 12-hour night shift of an Electric and Water System Operator.

16. RUBBER GLOVING SPECIALTY PAY

- A. Employees in the classifications of Journey Lineworker, Service Coordinator Inspector, Troubleshooter, Electric Crew Foreperson, Cable Splicer Leader and the four current Journey Lineworker Apprentices shall become rubber glove certified by or before the first full pay period in July 2009, or as soon as the City can provide them with rubber gloving certification training, but no later than December 26, 2009. Employees in the classifications of Journey Lineworker, Service Coordinator Inspector, Troubleshooter and the four current Journey Lineworker Apprentices shall receive 6.0% rubber gloving specialty pay beginning the first full pay period in July 2009, and shall receive this specialty pay even if they have not yet completed their rubber gloving certification training. Employees in the classifications of Electric Crew Foreperson and Cable Splicer Leader shall receive 1.0% rubber gloving specialty pay beginning the first full pay period in July 2009 in addition to the 5.0% salary increase effective December 14, 2008 described in Section 2A, and shall receive this specialty pay even if they have not yet completed their rubber gloving certification training.
- B. All employees hired or promoted in the future into the classifications of Journey Lineworker, Service Coordinator Inspector, Troubleshooter, Electric Crew Foreperson and Cable Splicer Leader will be required to be or become rubber glove certified as a condition of holding these classifications within nine (9) months of appointment. Journey Lineworker Apprentices hired after December 14, 2008 shall be eligible to receive 6% rubber gloving specialty pay after they 1) become rubber glove certified, 2) work at least 1-year for the City as an Apprentice and 3) are able to work on energized high voltage equipment.
- C. Notwithstanding the two prior paragraphs, any employee who has medical restrictions that prohibit the employee from climbing a pole and rubber gloving for a period of three or more consecutive pay periods (six or more

consecutive pay periods if injured on the job) shall not be eligible to receive the rubber gloving specialty pay during the period of medical restriction. (If the employee does not initially know, or the City is not made aware, that the employee's medical restrictions will prohibit the employee from climbing a pole and rubber gloving for the number of pay periods indicated above, the City may deduct the overpayment of rubber gloving specialty pay from a subsequent paycheck.) The restriction on rubber gloving specialty pay set forth in this paragraph applies beginning with and after the first full pay period in July, 2009.

17. AGENCY SHOP

- A. For the term of this MOU, the City agrees that the Union shall remain the sole and exclusive agent for all the employees covered by this agreement in Unit #3 without regard to membership in the Union, with respect to all matters relating to hours, rates, terms and conditions of employment, and all other bargainable issues. The City further agrees that it will not recognize or negotiate with any other person, association, group, committee or entity other than the Union with respect to such matters and will deal solely through the agency of and with the Union herein.
- B. All employees who are members in good standing of the Union on January 1, 1987, and those employees who thereafter become members shall, as a condition of employment, remain members of the Union in good standing during the life of the agreement.
- C. Except for employees hired prior to January 1, 1987, all employees in Unit #3, within thirty (30) days of the date of their initial employment, shall be required to make payment of a cash sum as periodic dues to the Union, if such employee is a member thereof; or an equivalent sum, if not a member, as a charge for the services rendered, and to be rendered hereunder by the Union as the exclusive bargaining agent, for the duration of the agreement. Represented employees employed with the City as of December 31, 1986 have the option of joining the Union.
- D. In the event an employee neglects, fails or refuses to comply with the terms of Sections B or C above, the City hereby agrees, upon the request of the Union, to discontinue the employment of any such employee. The Union agrees to give a delinquent employee ten (10) days notice prior to seeking termination and the City is obliged to terminate for failure to pay sums due and owing. The Union agrees to indemnify, defend and hold the City harmless for any actions that may be taken by the City to enforce this provision.
- E. A dues check off or service fee check off provision will be made available by the City to any employee who voluntarily agrees and executes a written authorization to the employer.
- F. An employee who has conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of

employment. Such employee is required, in lieu of periodic dues and initiation fees, to pay Agency Shop Fees in sums equal to the Union's regular dues and initiation fees to a non-religious, non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by such employee and verified as being a qualifying organization by the Union.

- G. The agency shop provision shall be rescinded by a majority vote of all the employees in Unit #3, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least thirty (30) percent of the employees in the unit; (2) such vote is by secret ballot; (3) such vote may be taken at any time during the term of such memorandum of understanding, but in no event shall there be more than one vote taken during such term.
- H. Any employee who claims financial inability to pay dues (or in lieu Agency Shop fees) may request a waiver of this requirement by filing a petition with the Union. If the Union finds that hardship exists, either a temporary or permanent waiver may be approved.

DEFINITION: For purposes of this Section, Agency Fee is defined as that portion of dues not attributable to social or political activities.

18. ASSIGNMENT OF WORK OR TRAINING OUTSIDE SANTA CLARA

The City shall have the right to assign represented employees to temporary work or training that takes place outside the City of Santa Clara under the following conditions:

A. WORK ASSIGNMENTS

- 1) Such assignments shall be to work locations associated with City projects or to other utilities and Joint Powers Agencies in which the City has a legitimate interest (e.g., a mutual aid agreement, expeditious repair of a major facility).
- 2) Such assignments shall be temporary in nature (no longer than thirty [30] consecutive calendar days per occurrence) and continued daily expenses as provided in Section 18(A)(7) or round trip mileage to the original starting location will be authorized for work breaks of 48 hours or more, as agreed upon prior to the acceptance of the assignment.
- 3) No employee shall be required to take such assignments for more than thirty (30) work days during a fiscal year (July 1 through June 30).
- 4) For such assignments the hours of work will be the regular hours of work except as modified under other provisions of this MOU.
- 5) Travel time to and from the out-of-town location will be accomplished within the normal work hours whenever feasible. Travel time will be included as a part of the eight (8) hour work schedule for the assignment.

- 6) Pay rates, provisions for rest periods, and reimbursement for meals under emergency overtime conditions shall be at the rate or practice currently established for straight time, scheduled overtime, or emergency call-back, as applicable. Additionally, represented employees shall receive a special premium out-of-town payment of fifteen dollars (\$15) per day for each day or portion of a day while so assigned. Additionally, employees will receive meal reimbursement at the rate provided under CMD #15 for one breakfast, one lunch and one dinner for each full day that they are so assigned. For the first and last day of such assignment, the employee will be reimbursed for the meal(s) that are included as a part of the assigned time.
- 7) Represented employees will be reimbursed for expenses other than meals as provided for in Resolution #5372 (A Resolution Establishing Policy Regarding Conference Attendance, In-Service Training, and Travel for City Business by the Employees of the City of Santa Clara) or successor Resolutions, provided that they submit appropriate receipts. Mileage for authorized use of a personal vehicle will be paid at the rate provided for in this MOU.
- 8) Assignment to non-emergency out-of-town work will be on a rotational basis for a voluntary sign-up based upon seniority and qualifications. If sufficient volunteers are not available the City may request additional volunteers. Wherever possible, the City will give more than the required fourteen (14) hour advance notice before mandatory assignments are made on a qualifications and rotational reverse seniority basis.
- 9) Emergency assignments for out-of-town work (assignments with less than fourteen (14) hours advance notice) will be paid in accordance with the Emergency Overtime provisions of this MOU, until the employee is either relieved or accepts a voluntary assignment to that location.

#### B. TRAINING

- 1) The City shall have the right to assign represented employees to training outside the City of Santa Clara.
- 2) Reimbursement for expenses incurred by the employee for training shall be as defined in Resolution #5372 or successor Resolutions, provided that they submit appropriate receipts. Mileage for authorized use of a personal vehicle will be paid at the rate provided for in this MOU.

Nothing in this section shall reduce the City's right to assign represented employees to out-of-town assignments of less than twenty-four (24) hours duration without payment of the special out-of-town premium pay where they report to their regularly assigned reporting location in Santa Clara upon arrival for and departure from their normal work day or scheduled overtime assignment.



19. MILEAGE ALLOWANCE

Represented employees will be reimbursed for authorized use of a personal vehicle at the maximum current rate of reimbursement allowable as the standard deduction for mileage which is permitted by the Internal Revenue Service in the filing of personal income tax returns.

20. JOB SPECIFICATIONS, CHANGES TO

Should the City substantially expand or increase the duties, responsibilities, or safety hazards of any job classification represented herein, City will meet with Union no later than thirty (30) days before the effective date of such change or changes, for the purpose of negotiating a salary adjustment for the so changed classification(s) at a level appropriate to compensate for the substantially increased duties, responsibilities, or safety hazards. However, if such changes to the job specifications for the classifications represented herein are implemented by the City simply for the purpose of reflecting or documenting duties, responsibilities, or safety hazards which have been a continuing practice in said classification(s), the City will only consult with the Union on the changes to the job specifications.

21. INDUSTRIAL INJURY/CONTINUATION OF MEDICAL INSURANCE BENEFITS WHILE ON WORKERS' COMPENSATION

Workers authorized by the City's Workers' Compensation Administrator to undergo therapy or treatment due to an industrial injury, who are required to leave work, shall receive leave with pay, including reasonable travel time, providing the treatment falls within the normal working hours, is pre-scheduled and cannot be scheduled during non-work hours.

The City will continue payment toward health, dental and life insurance coverage for the employee and dependents up to the maximum amount allocated under Total Compensation for an employee who is disabled from work because of a work related injury, if the employee is no longer in a paid status sufficient to continue the coverage afforded under the terms of the program, subject to the following conditions:

- A. The employee may not increase the existing coverage after the date of injury, except to add children born within nine months of the injury.
- B. Continuation of payment toward employee health/dental/life insurance up to the maximum allocated under Total Compensation is limited to one (1) year from the date of injury, unless the employee continues to be on temporary disability status for a Workers' Compensation injury. Continuation of payment toward dependent health/dental/life insurance coverage up to the maximum allocated under Total Compensation is limited to one (1) year from the date of injury.
- C. The employee has supplemented his/her Workers' Compensation benefit with Sick Leave, Vacation, CTO or other paid leave sufficient to qualify for

payment of the health, dental and life insurance premium, and is no longer entitled to any salary from the City.

22. REST PERIOD FOLLOWING OVERTIME WORK

Any employee working eight (8) or more hours at the overtime rate during the fifteen (15) hour period immediately preceding the beginning of his/her regular work shift shall be entitled to a rest period of ten (10) consecutive hours on the completion of such overtime work with the following provisions:

- A. No employee shall be required to work in excess of sixteen (16) hours without rest, unless an emergency is investigated and continued work is deemed necessary.
- B. If the ten (10) hour rest period overlaps his/her regular work shift in whole or in part, he/she will be paid at the straight time rate for the time which falls within his/her regular work shift.
- C. If the ten (10) hour rest period overlaps a portion of the first half of his/her work shift, the employee may be excused from work until the beginning of the second half of said shift. If the ten (10) hour rest period overlaps a portion of the second half of his/her work shift, he/she may be excused from work until the following work shift. He/she will be paid, however, for that portion of the rest period which overlaps his/her normal working shift. He/she will not be paid for the time between expiration of the rest period or his/her reporting for work.
- D. Hours worked prior to a ten (10) hour rest period shall not be included in determining another rest period.
- E. If the employee is called back to work during his/her ten (10) hour rest period, a new rest period will commence at the conclusion of such work.
- F. If the beginning of the ten (10) hour rest period coincides with the beginning of the employee's normal work day, the employee will be paid through the remainder of the shift to include lunch.
- G. Any employee who works a minimum of three (3) hours of overtime during the sleep period\* will receive a ten (10) hour rest period commencing at time of release from duty.

\* Sleep period: A period of time starting ten (10) hours and ending one (1) hour before an employee's regularly scheduled shift begins.

- H. Any employee who works less than three (3) hours of overtime during the six (6) hours prior to the start of shift will receive a four (4) hour rest period commencing at the time of release from duty, if released prior to the start of shift. In the event the employee is released less than two (2) hours before the start of his/her regularly scheduled work shift, he/she will have the option of beginning his/her regularly scheduled work shift when released from the overtime assignment and have his/her regular shift end early.

Should the City choose not to release the employee early, the employee will then be working at the double time rate.

- I. Notwithstanding the foregoing, if the employee is required to work during regular work hours on a work shift without having had a rest period for which he/she has qualified as set forth above, he/she shall be paid at the double time rate for all work performed until he/she has been released from duty for at least the number of hours for which he/she has qualified.

23. FOOTWEAR, SAFETY CLOTHING, AND TOOLS

Represented employees who are required to wear special work boots (or shoes) will be reimbursed an amount not to exceed \$200 each fiscal year toward the purchase or repair of the work boots (or shoes), orthotic shoe inserts, or safety clothing. Employees who are required to wear special work boots (or shoes) are subject to disciplinary action if they do not have them available at the work site. Safety clothing shall be limited to overalls/coveralls, jackets, vests and long sleeved shirts. All clothing worn on the job, whether reimbursed or not, must be in compliance with State of California Regulations.

Tools will be provided or replaced for employees in accordance with the Department Tool Replacement & Responsibility Policy.

24. AFFIRMATIVE RESPONSE TO EMERGENCY OVERTIME ASSIGNMENT

It is the policy of the City of Santa Clara to avoid the necessity for overtime work whenever possible. The City recognizes however, the obligation to provide services to the community and, on occasion, may require employees to extend work shifts or to be called back to work due to emergencies. City will continue to allow employees to volunteer before requiring an employee to be called back to work or to work an extended work day for emergency overtime. Employees contacted for emergency overtime work have an obligation to affirmatively respond to this need unless incapacitated or due to extenuating circumstances beyond the control of the employee and reasonably acceptable to the City. Failure on the employee's part to affirmatively respond to such requests and/or to explain in writing such extenuating circumstances or incapacitation will be in violation of the City's rules and regulations and may be subject to formal disciplinary action. The written explanation will be retained by the City until resolution of any dispute as to the validity of the explanation has been reached.

25. REDUCED WORK WEEK/REDUCED PAY AND VOLUNTARY TIME OFF(VTO)

Employee participation in this plan is contingent upon the City's understanding and agreement that employee participation cannot be interpreted as anything other than a temporary and limited good faith effort being made by the employee to do his/her part to help ease the current budget crisis. This is not to be construed as a representation of employee commitment to a permanent program or an admission of any kind that the employee would not be harmed by such a plan becoming mandatory.

A. REDUCED WORK WEEK/REDUCED PAY

*MEMORANDUM OF UNDERSTANDING – UNIT # 3 (2008 – 2012)*

Employees may request a reduced work week schedule (32 hours per week instead of 40 hours per week, for example) at the same hourly rate of pay, subject to the following conditions:

- 1) With the approval of the Department Head and the City Manager, a binding work schedule as requested by the employee will be developed that may be modified only with the approval of both the City and the employee.
- 2) More than a 20% reduction of the work week in a pay period will result in proportionate reduction of accrual of Sick Leave and Vacation.
- 3) No reduction of insurance premium payment or refund as long as sufficient hours are worked to allow for full payment of the premium for an employee working a full time work schedule. If the number of hours worked is less than the number required for full payment of premiums or refunds, the premium or refund payments will be reduced in proportion to the hours required to gain full credit.
- 4) Impact on retirement and other benefits will be determined by the application of actual work hours and rates of pay required under each of those programs.
- 5) Overtime hours will be paid at the straight time rate for hours worked which are less than the employee's regular daily work schedule or 40 hours per week. Overtime hours worked in excess of the employee's regular daily work schedule or more than 40 hours per week will be at the appropriate overtime rate.
- 6) Either party may cancel the program with 30 days written notice.

**B. VOLUNTARY TIME OFF**

Employees may request voluntary unpaid time off under the following conditions:

- 1) Approval of a work schedule that does not adversely impact the operations of the department or other employees in the work unit with the approval of the Department Head and the City Manager.
- 2) No impact on either Sick Leave or Vacation accrual if sufficient hours are worked in a pay period to entitle the employee to his/her regular accrual rate for either benefit.
- 3) No reduction of insurance premium payment or refund as long as sufficient hours are worked to allow for full payment of the premium for an employee working a full time work schedule. If the number of hours worked is less than the number required for full payment of premiums or refunds, the premium or refund payments will be reduced in proportion to the hours required to gain full credit.

- 4) Voluntary time off may be taken without the employee first using all of his/her accrued Compensatory Time Off (CTO).
- 5) Either party may cancel the program with 30 days written notice.

26. EMERGENCY PAID LEAVE POOL

A. ADMINISTRATION

Administration of this program shall be provided by a three (3) member Emergency Paid Leave Board (Board) consisting of two (2) members of the Union and the City's Director of Human Resources (or designee). Determination of eligibility to use the emergency paid leave established in this Emergency Paid Leave pool will be by majority vote of this board. An adverse decision of this board may be appealed to the Union and their determination shall be final.

B. METHOD OF DONATION

- 1) Contribution of Vacation or CTO to the Emergency Paid Leave pool will be computed at the member's base hourly rate of pay (excluding premium or specialty pay).
- 2) Contribution may be made from earned Vacation, CTO or cash only. Conversion of Sick Leave to Vacation will be immediately credited to the pool.
- 3) In a case where it has become known that an employee has been seriously injured or has a life-threatening illness and is in need of assistance from the Emergency Paid Leave Pool, contributions from accrued Sick Leave, bypassing Vacation conversion, computed at the contributing employee's base hourly rate of pay (excluding premium or specialty pay) may be made for the benefit of that specific employee who has the need.
- 4) Employee may authorize the City to automatically convert Vacation that should be accrued to the employee to the pool when the employee's Vacation accrual has reached the maximum allowed.
- 5) Funds contributed to the Emergency Paid Leave Pool will be placed in an interest bearing Trust Fund. The Trust Fund will be accumulated in total dollars. No record of number of hours contributed to the Pool will be maintained. An employee making a donation to the Pool will not have a vested right to the amount donated.
- 6) Employees may contribute earned Vacation, CTO or cash to the Emergency Paid Leave Pools of other City bargaining groups.

C. USE OF POOL

- 1) Employee must have a verified emergency need for time off to request Emergency Paid Leave from the pool. Medical emergencies for the employee or dependent shall be verified by a doctor's certification and shall include the anticipated duration of the medical emergency. Non-medical emergencies shall be verified by certification acceptable to the Board and shall include the anticipated duration of the emergency.
- 2) Employee must have exhausted appropriate paid leave (Sick Leave including eligible conversion to Vacation, Vacation or CTO) prior to becoming eligible to request Vacation benefits from the pool.
- 3) The maximum time available from the pool (subject to the assets of the pool) will be 320 hours (four [4] pay periods) for Emergency Paid Leave benefits due to the illness or injury of the employee, or the maximum allowable accrual of Vacation for emergency needs of the family of the employee.
- 4) Emergency Paid Leave will be deducted from the pool based upon the employee's base hourly rate of pay (excluding premium or specialty pay).
- 5) Emergency Paid Leave hours will be made available for use in the pay period following approval by the Union.
- 6) Use of Emergency Paid Leave from the pool will be treated in the same manner as use of regular Vacation. The employee will continue to accrue Sick Leave, Vacation, insurance coverage and other benefits in the same manner as he/she would if using regularly credited Vacation.
- 7) Emergency Paid Leave which has been credited to the employee and has not been used when the emergency has terminated will be reinstated to the pool. Vacation, Sick Leave and other benefits which have accrued to the employee will remain in the employee's account.

27. LIMITED/ALTERNATIVE DUTY

A. JOB RELATED ILLNESS OR INJURY

Effective with this MOU, employees who have a job related illness or injury which requires him/her to be off work under Workers' Compensation will be assigned to limited or alternative duty under the following condition:

Supervisors shall be advised of the medical condition of any industrial injury as soon as practical. Upon receipt of a Doctor's report which provides work limitations, the City may identify a regular or modified assignment for which the employee has the required experience and training to be eligible for assignment to. Such assignment may be based upon a 40 hour per week or less basis if mutually agreed upon between the City and the employee.

Employees who have a job related illness or injury which requires him/her to be off work under Workers' Compensation or who do not qualify for limited or alternative duty will be reassigned to a Monday through Friday

work schedule to keep required medical or other workers' compensation commitments.

B. NON JOB RELATED ILLNESS, INJURY OR CONDITION

Effective with this MOU, employees who have a non job related illness, injury or condition which requires him/her to be off work may request to be assigned to limited or alternative duty. Nothing in these provisions is intended to imply that an employee has a right to a limited/alternative duty assignment, unless expressly provided by law. Such request will be accommodated unless no appropriate limited or alternative duty assignment is available under the following conditions:

- 1) Identification by the City of a regular or modified assignment for which the employee has the essential experience and training to be eligible for assignment to. Such assignment may be based upon a 40 hour per week or less basis if mutually agreed upon between the City and the employee.
- 2) Upon a written release from his/her doctor, subject to review by the City doctor, which allows the employee to perform all of the duties of the contemplated assignment.
- 3) Employee may account for his/her regular work schedule through a combination of limited or alternative duty hours and Sick Leave or other paid leave sufficient to maintain eligibility for regular accrual of benefits.

Under both of these limited or alternative duty assignments, employees will be required to work their regularly scheduled number of hours (normally forty [40] hours) per week, unless such assignment is modified by mutual agreement between the City and the employee. It is recognized that performance of limited or alternative duty assignments will not be permitted to interfere with any medically related treatment designed to assist the employee to return to full, unrestricted duty in the earliest possible time frame.

All such assignments, and their duration, are temporary assignments and are subject to periodic sixty (60) day review of the employee's continued need for limited or alternative duty, the employee's continued ability to perform the limited or alternative duty and the department's ability to continue the employee in the assignment. All temporary assignments shall be at the employee's regular rate of pay.

In the event the Americans with Disabilities Act (ADA) requires modification of the provisions of this section, it is agreed that the law will prevail.

28. LAY-OFF POLICY

A. POLICY

The need for reduction in force shall be determined by the City Manager as a result of the resource allocation plan adopted by City Council. The

determination to reduce the work force shall contain reasons for reduction and a listing of programs which are affected, and the specific City classifications and numbers within each classification which shall be reduced.

In the event the City demonstrates it is necessary to reduce the work force of represented employees, the City agrees to meet-and-consult with the Bargaining Group at least thirty (30) days prior to any layoff notifications, to receive recommendations as to how best to accomplish this process with the least impact on represented employees, and to explore alternatives.

If the City implements a reduction in work force, the City will administer the lay-off policy consistent with the following concepts:

- 1) SENIORITY: Seniority shall be determined by the current date of hire with the City as a regular full time or part time employee.
- 2) ORDER: The order of lay-off shall be as follows:
  - a. Temporary (as-needed) employees.
  - b. Probationary employees.
  - c. Permanent employees in inverse order of seniority within the classification being reduced.
- 3) NOTICE: When the City determines that it must implement a reduction in work force, notice to the employee shall be in writing at least thirty (30) days prior to the effective date of the lay-off. The Bargaining Group shall also receive concurrent notification of lay-off. The notice of lay-off shall contain the following:
  - a. Reason for lay-off.
  - b. Effective date of lay-off.
  - c. Opportunity to discuss with a representative of management.
  - d. Conditions governing re-employment.
  - e. Information regarding Unemployment insurance.
- 4) REASSIGNMENT (BUMPING): Employees identified for lay-off shall have reassignment rights (bumping) to the same classification in a different department or division based upon seniority as defined in Section 28 (A) (1) above. Employees must exercise these rights by notifying Human Resources, in writing, within fourteen (14) calendar days after receiving written notification of the lay-off.

In the event of lay-off, any employee so affected may elect to:

- 1) Bump into a position in a lateral or lower class in which he/she has permanent status, or a position in a lateral or lower class within the series containing the class from which the employee is being laid off, provided he/she is otherwise qualified and is more senior than the least senior employee in such lateral or lower class.



- 2) Accept a position in higher class, provided he/she has held permanent status in such higher class, and further provided that the employee's transfer from the higher class was voluntary and occurred during his/her current period of employment, and provided he/she is otherwise qualified and is more senior than the least senior employee in such higher class.
- 3) Accept a vacant position in a lateral or lower class for which he/she is otherwise qualified.
- 4) Any employee entitled to an option noted above, which involves assignment to a lower classification, may elect to be placed on lay-off in lieu of accepting such assignment to the lower class. In the event the employee elects to be placed on lay-off, such employee will only be recalled to the classification from which the employee elected to be placed on lay-off.

#### B. RE-EMPLOYMENT/REINSTATEMENT LISTS

The names of regular or probationary employees laid-off according to this policy will be placed on a Re-employment List for each classification for which the employee is eligible in the reverse order of the lay-off. Individuals' names will be retained on a Re-employment List for classified positions for five (5) years from the effective date of lay-off. Employees whose names are on a Re-employment List for classified positions will be notified of other related openings for which testing is scheduled.

In the event an employee accepts reinstatement to a lower class than the one from which laid-off, such person's name shall remain on the Re-employment List for reinstatement to the class from which laid-off, lateral classes or other higher classes upon which his/her name appears, provided such person, except for lack of seniority, would have been otherwise entitled to such lateral class at the time of the most recent lay-off. Individuals' names will be retained on a Re-employment List for classified positions for five (5) years from the effective date of lay-off. Employees whose names are on a Re-employment List for classified positions will be notified of other related openings for which testing is scheduled.

#### 29. STEP INCREASES

Step increases will be applied as follows:

- A. Employees who have an anniversary date that falls within the first week of the pay period and who have been approved for a step increase will be adjusted on the beginning day of the pay period during which the anniversary date falls.
- B. Employees who have an anniversary date that falls within the second week of the pay period and who have been approved for a step increase will be adjusted on the beginning day of the pay period immediately following the anniversary date.

- C. Upon approval of the Department Head, employees who have passed their probationary period will receive a step increase on the pay scale for their job classification each year on their anniversary date until reaching salary Step “5.”

30. MEAL POLICY

Eligibility for and amounts of reimbursement for meals earned during emergency overtime assignments will be adjusted annually as provided for in City Manager's Directive (CMD) #15.

31. JURY DUTY

Represented employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the Court, provided the employee remits to the City all fees received from such duties. An employee who uses a private vehicle may keep any mileage fees. Employees who use City vehicles for travel to and from Court must remit jury and mileage fees to the City.

- A. Swing shift personnel shall have release time on the day of Court attendance. Time spent in Court, including time spent traveling to and from Court, shall be considered as time worked and shall be deducted from the regular shift.
- B. Graveyard shift personnel must be released from the shift after Court attendance. The time spent in Court, including time spent traveling to and from Court, shall be considered as time worked and shall be deducted from the regular shift. The balance of the shift will be offset by accrued Vacation or CTO. Graveyard shift employees may be assigned to the day shift through a voluntary shift trade with a fellow employee for the duration of the jury duty period.
- C. For divisions with minimum staffing requirements, employees who have been released from work for Court appearance shall take the balance of their shift off as CTO or Vacation. For divisions without minimum staffing requirements, employees who are released from jury duty prior to the end of their regular shift shall have the option of requesting CTO or Vacation for the remainder of their shift or of returning to work.

32. GRIEVANCE PROCEDURE

The City's employee grievance process is established in City Manager's Directive #47 (CMD #47), titled On the Job Personnel Grievances. This CMD generally describes the process available to individual employees to clarify (and modify, if so required) interpretations of City rules, regulations, procedures and policies. If an employee chooses not to have Union representation, the employee will follow the grievance procedure in CMD #47.

The following procedure is in place for represented employees who choose to have Union representation during the course of the Grievance process.

A. STEP 1

Step 1 of the process is the informal discussion between the employee and his/her supervisor. Should this informal process not result in resolution of the grievance, the employee shall reduce his/her grievance to writing and submit it to his/her department head for formal action.

B. STEP 2

Within five (5) working days (or at a later date by mutual agreement between the employee, his/her representative and the department head in order to accommodate scheduling problems) of the receipt of the formal grievance, the department head shall review the entire grievance file through a meeting with the employee and his/her Union representative. Within five (5) working days from the date of this meeting, the department head will respond in writing to the employee, setting forth his/her resolution to the problem. The employee must respond within five (5) working days to the department head in writing as to whether the grievance has been resolved or is still unresolved. If the matter has not been resolved as a result of this step, the department head shall immediately forward all written material, including the original grievance, to the Municipal Employee Relations Officer (MERO) for action.

C. STEP 3

Within five (5) working days, (or later by mutual agreement), of the receipt of the grievance material, the MERO shall review the entire grievance file through a meeting with the employee, his/her Union representative and any additional parties who the MERO or Union feels can help to resolve the grievance. Within five (5) working days from the date of this meeting, the MERO will respond in writing to the employee, setting forth his/her resolution to the problem. The employee must respond within five (5) working days to the MERO by written acknowledgment on the response as to whether the grievance has been resolved or is still unresolved. If the matter has not been resolved as a result of this step, the MERO shall forward all written material, including the original grievance, to a Joint Grievance Committee.

D. STEP 4

Within fifteen (15) working days of the receipt of the grievance material the Joint Grievance Committee will meet. Such Committee shall be composed of four (4) members: Two (2) members representing the City and two (2) members representing the Union. The Grievant and the Director of Electric Utility (or the Director's designee) shall not be committee members although they shall be present at the meeting. The Committee shall render an advisory opinion to the City Manager within ten (10) working days unless extended by mutual agreement. The City Manager shall render a final decision within five (5) working days.

E. STEP 5

If the employee (through the Union) continues to dispute the decision of the City Manager, the employee (through the Union) shall, within fifteen (15) working days of the City Manager's decision, request that the matter be referred to a Mediator appointed by the California State Mediation/Conciliation Service, who shall render an advisory opinion on the merits of the grievance to the City Manager. The City Manager may accept, modify or reject the advisory opinion of the Mediator. The City Manager's decision shall be final.

33. PAID LEAVE WHILE ON WORKERS' COMPENSATION

When an employee is absent from work by reason of illness or injury arising out of and in the course of employment with the City which comes within the application of the Workers' Compensation and Insurance Chapters of the State Labor Code, the employee shall have a choice to either use or not use Sick Leave or Vacation to supplement his/her temporary disability payment to an amount not to exceed his regular salary.

34. TRAINING COMMITTEE

An Electric Utility Department Training Committee has been established. The purpose of this committee is to review training available to employees in the department and coordinate the development of proposals for use of department resources to provide opportunities for departmental employees to take part in such on the job training during work hours. The committee will be advisory to management and will consist of an IBEW appointed representative of each division of the department and management appointed representative(s). The committee will meet as necessary, but not later than two (2) months prior to the required date of submission of the initial annual budget requests by the department. Either management or the IBEW may call for at least four (4) meetings per year.

35. OUT OF CLASS ASSIGNMENT

Represented employees assigned to work temporarily in a higher classification than their own shall be paid at least 5% more than their prevailing salary or at the same step of the range of the higher classification, whichever compensation pattern is greater.

- A. Such assignment will be paid for all actual time assigned to the higher classification, after a 4 hour elimination period on the first day of said assignment.
- B. If the out-of-class assignment lasts more than 4 hours, out-of-class pay will begin with the first hour of the assignment.
- C. For a continuing out-of-class assignment of less than 4 hour increments which lasts more than 4 hours over the duration of the assignment, out-of-class pay will begin with the first hour of the assignment.

A Utility Electrician or a Lineman/Linewoman who is assigned a "working

clearance" responsibility, as described in the following paragraph, will receive an out-of-class assignment consistent with the level of responsibility assigned while working under that clearance.

For the purpose of this section, a working clearance is defined as any clearance which is issued by Electric Control on the City's high voltage generation, transmission or distribution system, for which a Utility Electrician or Lineman/Linewoman is assigned the responsibility for the performance and/or supervision of all work performed within the bounds of that clearance.

Any represented employee who is assigned to work out of class in an unclassified position will receive a 5% salary differential above the highest paid employee supervised or the salary established as 85% of Control Point for the unclassified position if such salary has been established, whichever compensation pattern is greater, provided that the requirements of (A), (B), and (C) above are satisfied.

To be eligible for out-of-class pay, the assignment must be in writing.

Management will exercise reasonable judgment in making all out-of-class assignments. The City retains the right to determine if an out-of-class assignment will be made. Assignments will be made based upon management's determination that an out-of-class assignment is necessary for the safe and efficient operation of the department or other reason management deems necessary. It will not be necessary to make an out-of-class assignment when two employees of the same classification are working together for the sole purpose of designating an "in charge" employee.

Out-of-class assignments for overtime work will begin immediately (no qualification period).

36. SEVERANCE PAY

Represented employees who are terminated from their position in the City of Santa Clara Electric Utility Department as a result of a buyout, merger or takeover of the electric utility during the term of this MOU shall be compensated at the rate of eighty (80) hours for each year of service as a City of Santa Clara employee to a maximum of (1280) hours [(32) weeks].

37. EMPLOYEE ASSISTANCE PROGRAM

The City will continue to provide a confidential Employee Assistance Program to be funded outside of Total Compensation each year.

38. DOMESTIC PARTNERS

The City shall make all benefit programs available to employees, dependents and domestic partners, subject to the requirements of each benefit provider.

39. FLEXIBLE SPENDING PLAN (INTERNAL REVENUE CODE SECTION 125)

The City has set up a Flexible Spending Plan (IRS Section 125 Plan) for employees, establishing accounts in which employees may contribute pre-tax dollars for dependent care and unreimbursed medical expenses. This Plan will follow the regulations outlined by the Internal Revenue Service. The City will pay for administrative plan expenses. Participating employees will pay the monthly participation cost.

40. RELEASE TIME FOR UNION OFFICERS AND STEWARDS

A. TIME OFF FOR UNION REPRESENTATION

- 1) MEET AND CONFER: Two (2) designated members of the Union shall be allowed time off without loss of compensation for purposes of meeting with City representatives on matters within the scope of representation.

B. STEWARDS

- 1) Employees selected by the Union to act as Union representatives shall be known as "stewards". The names of employees so selected and the areas to which they are assigned shall be certified in writing to the City by the Union. In the absence of the steward, an alternate may be appointed by the Union. A steward, during regular working hours, shall be permitted to investigate and present a grievance to the City without loss of pay, provided that the steward is first excused by his/her supervisor. Permission to perform steward functions shall not be unreasonably denied by the City.
- 2) If it becomes necessary during the course of his/her investigation for a steward to contact an employee in another department or division, the steward shall notify the supervisor of that department or division of the purpose of his/her investigation in advance. When the investigation is complete, the steward shall promptly report back to his/her supervisor.

C. REPRESENTATION

- 1) Whenever an employee is required to meet with a supervisor and the employee reasonably anticipates that such meeting will involve questioning leading to a disciplinary action, he/she shall be entitled to have a steward present if he/she requests.

41. PRIMARY ASSIGNMENT, CHANGES IN

When a change in primary division assignment is to be made, employees in the affected classification will be afforded the opportunity to express their interest to be considered for the new assignment prior to that assignment being made.

Management reserves the right to make such assignments based on various factors including, but not limited to, work experience, length of service in the classification, and employee interest.

42. RE-OPENER / NEXT MEMORANDUM OF UNDERSTANDING

The parties agree to a re-opener on non-economic subjects following the second year of this MOU, if desired and requested by either the City or the Union in writing prior to November 30, 2010. If so requested by either the City or the Union, the parties shall disclose in writing all non-economic subjects on which the parties wish to re-open the MOU no later than January 15, 2011 and shall have their initial meeting no later than February 1, 2011.

The Union will submit to the City Manager its proposals for a MOU for the term commencing at the expiration of the term of this MOU no later than September 29, 2012.

43. EMPLOYEE RIGHTS

All rights, privileges and working conditions enjoyed by the classifications represented by the Union, as defined in Resolution No. 2979, entitled "Employer-Employee Relations" dated December, 1972, and other City resolutions, if any, dealing with employee rights and benefits shall not be reduced during the term of this MOU.

For the duration of this MOU, except as provided herein, the wage and fringe benefits provided represented employees shall not be reduced except by mutual agreement between the City and the Union.

44. MANAGEMENT RIGHTS

Subject to State law and the provisions of City of Santa Clara Employer-Employee Relations Resolution, the rights of the City through its Council and Management include, but are not limited to: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; establish and enforce reasonable dress and grooming standards; direct its employees; determine the methods and means to relieve its employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology to be used; determine and/or change the facilities, methods, technology, means, organizational structure and size and composition of the work force, and allocate and assign work by which the City operations are to be conducted; determine and change the number of locations, relocations 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 any work or operation of the City; to assign work to and schedule employees in accordance with requirements as determined by the City including but not limited to: establish and change work schedules and assignments upon reasonable notice; establish and modify productivity and performance programs and standards; discharge, suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline employees for cause; establish and modify

probationary periods and reasonable employee performance standards including, but not limited to, quality, and quantity standards; and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

The City Council on its own behalf and on behalf of the City hereby retains and reserves unto itself all rights, power, authority, duty, responsibility and obligations conferred on and vested in it by the laws and Constitutions of the State of California and the United States of America. The exercise of such rights, power, authority, duty, responsibility and obligations by the City Council and the adoption of such rules, regulations, policies as are necessary and as they apply to employees represented by the Union shall be in accord with this MOU to the extent that they do not violate any of the reserved duties, responsibilities and obligations conferred on and vested in it by the laws, Charter of the City, Constitutions of the State of California, and the United States of America.

45. SCOPE OF THIS MEMORANDUM OF UNDERSTANDING

The parties acknowledge that during the meetings which preceded this MOU, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this MOU. Therefore, for the life of this MOU, the City and the Union voluntarily and unqualifiedly waive the rights and each agrees that the other shall not be obligated to meet and confer with respect to any subject or matter not referred to or covered in this MOU, even though such subjects or matters may not have been within the knowledge or contemplation of either or both parties at the time they met and signed this MOU.

Notwithstanding the foregoing, however, in the event any portion of this MOU is declared null and void by superseding Federal, State or City law, the balance of this MOU shall continue in full force and effect, and the parties shall immediately commence the meet-and-confer process to ensure that the superseded portions shall be rewritten to conform as nearly as possible to the original intent.

The City further reserves the right to consider required organizational and operational changes in the economical and efficient operation of the Department, whenever existing or future statutes bring about additional monetary costs.

Nothing in the foregoing shall prevent the parties to this agreement from meeting-and-conferring during the term of this MOU in matters of mutual concern. Such meeting-and-conferring shall be established and continued by mutual consent only. If, after meeting-and-conferring between the management representatives and the majority employee representatives, no agreement has been reached, such items under discussion shall remain unchanged.



MEMORANDUM OF UNDERSTANDING – UNIT # 3 (2008 – 2012)

FOR THE CITY OF SANTA CLARA

Eddie Kreisberg  
9/28/09

Date

Vanessa Guerra  
10/8/09

Date

Paul Foster  
10-8-09

Date

FOR THE CITY OF SANTA CLARA  
ELECTRICAL WORKERS UNIT #3

Bob Burkle  
9/2/09

Date

Dan W. Ryker  
9/2/09

Date

Paul Manchester  
9/2/9

Date

Bill Wallace  
9/2/09

Date

Sheila Lawton  
9/16/09

Sheila Lawton, Business Representative  
Date

APPROVED:

JENNIFER SPARACINO  
City Manager

10/09/09

Date

Tom Dalzell  
Business Manager

9/21/09

Date

APPROVED BY THE CITY COUNCIL ON:

May 19, 2009

RODNEY DIRIDON, JR.  
City Clerk

ATTEST:

10/14/09

Date

**APPENDIX A  
SHIFT WORKER AGREEMENT FOR GENERATION DIVISION**

**City of Santa Clara  
Electric Department  
Generation Division  
January 10, 2005**

**Shift Worker Agreement for Generation Division**

This Agreement shall cover Electric Utility Generation Technicians, including Senior Electric Utility Generation Technicians (and any classifications created and/or modified to support Generation Division Operations & Maintenance), who will be required to work rotating shifts. This Agreement will also cover any employees working in other classifications that may be regularly assigned to the Generation Division and who are assigned to the positions of Electric Utility Generation Technician, Senior Electric Utility Generation Technician or to employees working out of class, or in an underfill or overfill capacity as an Electric Generation Technician or Senior Electric Utility Generation Technician. These shifts are at the request and for the convenience of the City of Santa Clara to ensure the safety, reliability, and operation of the City of Santa Clara's Electric Generation assets.

This Agreement and the Letter of Understanding dated January 13, 2005, implements the authority for changing working hours, Section 14 (WORK HOURS) of the Memorandum Of Understanding (MOU), between the City of Santa Clara and the IBEW Local #1245. This Agreement and the Letter of Understanding dated January 13, 2005, also serves to clarify that all working rules and benefits set forth in the MOU, and those items not discussed referenced in this Agreement, remain in full force and effect during the course of this Agreement.

**I. SHIFT WORK**

Shift work is defined as a job/position that is staffed with a rotating, twenty-four (24) hour per day shift, on a seven (7) day a week basis, including holidays. The City and the Union will determine shift schedule and agreed upon Shift Schedule will be written into this agreement in the area of SHIFT SCHEDULE AND HOURS, Section II. Shift Schedule can be changed in the future by mutual agreement. Any changes made to the existing Shift Schedule and Hours must be presented in writing and be agreed upon by the City and the Union. Shift schedule shall be structured to provide for the health, safety and well being of employees as much as practicable. The Shift Schedule shall be structured to minimize overtime, when possible, for regularly scheduled shifts.

**II. SHIFT SCHEDULE AND HOURS**

The shift schedule shall utilize the Seven (7) Days On – Seven (7) Days Off shift pattern. The twenty-four (24) hour period will be separated into a 12 hour Day and 12 hour Night shift. The regularly scheduled 12-hour shifts (Day 7:00 a.m.-7:00 p.m./Night 7:00 p.m.-7:00 a.m.) shall be considered the normal working hours for those shifts and will not be subject to the overtime provision of eight (8) hour days in Section 13 (OVERTIME) of the MOU. All hours worked in excess of twelve (12) hours a day for a regularly scheduled

shift or forty (40) hours in a work week shall be paid in accordance with Section 13 (OVERTIME) of the MOU, and consistent with Section V (BALANCING HOURS) of this agreement.

The shift cycle shall commence on a Wednesday and end on the following Tuesday to provide for equitable distribution of working hours in each pay period. The Shift Schedule document is available in hard copy only in the Human Resources and Electric Departments.

### **III. START TIME AND WORK WEEK**

Start times shall be 7:00 a.m. to 7:00 p.m. for the Day shift and 7:00 p.m. to 7:00 a.m. for the Night shift. Shift schedules for a workweek shall be staggered to ensure that regularly scheduled work hours are as equal to a 40-hour workweek as possible. Shift schedules, due to their nature, typically result in 36 hour and 48 hour workweeks.

The workweek is assumed to start at 7:00 a.m. on Sunday and end the following Sunday at 6:59 a.m. for the purpose of payperiod calculation.

### **IV. NIGHT SHIFT PREMIUM**

The twelve hour shift schedule to staff the DVR Power Plant will be effective January 30, 2005. There will be two shifts per 24 hour period. The day shift begins at 7:00 a.m. and ends at 7:00 p.m. The night shift begins at 7:00 p.m. and ends at 7:00 a.m. and a 5% night differential shall only be applied to hours worked between the hours of 7:00 p.m. and 7:00 a.m.

### **V. BALANCING HOURS**

Each covered employee shall have a CTO bank for overtime accrued during regularly scheduled shift assignments. Under this Agreement, individuals will work 48 hours per week and then 36 hours per week on their regularly scheduled shifts in a pay period. When working the 48-hour per week shift schedule, individuals shall have twelve (12) hours credited to their CTO bank for that pay period. When working the 36 hours per week shift schedule, four (4) hours CTO will be deducted from the CTO Bank and added to that week's hours to ensure pay for a 40-hour workweek. Excess CTO in the CTO Bank shall be available for employee use/cash out as outlined in the MOU. CTO bank balancing hours shall be the only hours used to balance the work hours in the 36 hour scheduled work week.

### **VI. HOLIDAYS**

Holidays are assumed to be the twenty-four (24) hours starting at 7 a.m. on the observed holiday. An employee who is scheduled to work on an observed holiday shall receive overtime compensation as stated in the MOU. Represented employees will receive eight (8) hours of holiday pay at straight time for observed holidays.

### **VII. LUNCH AND BREAKS**

Time to consume meals and take periodic breaks for shift employees shall be considered as time worked. Meals and breaks will be taken at the workstation or as

otherwise directed by supervisory personnel. No meal allowances shall be paid for regularly assigned shifts.

#### **VIII. OVERTIME**

Overtime and rates of pay for shift workers shall be governed in accordance with this Agreement and with Section 13 (OVERTIME) of the MOU.

#### **IX. CALL OUTS**

Abiding by the overtime rules in Section 13 (OVERTIME) of the MOU and CMD #39, Call Outs will be handled as scheduled (pre-arranged) or emergency overtime when applicable. A detailed call out procedure will be jointly developed that provides employees reasonable time off and minimizes overtime costs.

#### **X. REST PERIODS**

Rest periods following overtime work for shift workers shall be governed in accordance with Section 20 (REST PERIOD FOLLOWING OVERTIME WORK) of the MOU.

#### **XI. PAID LEAVE**

A shift work employee who does not work for an entire regularly scheduled shift, shall use 12 hours of paid leave (Vacation, CTO, PL, Sick, etc.). An employee who works a portion of a regularly scheduled shift will use paid leave for the time not worked in increments of one tenth (1/10<sup>th</sup>) of an hour.

#### **XII. ELECTION DAYS**

Considerations shall be made to ensure employees have time off to vote in elections in accordance with California state law and Federal law.

#### **XIII. BENEFITS**

All benefits which are based on an employee's base rate of pay shall be based upon a forty (40) hour workweek. Benefits based upon an employee's actual earnings will be so determined.

#### **XIV. TRAINING AND MEETINGS**

Employees that are required to attend meetings, training, etc. on regularly scheduled days off or other time off will be subject to overtime pay as outlined in Section 13 (OVERTIME) of the MOU and CMD #39. The City will provide employees with reasonable advance notice of training/meetings scheduled for employees' days off.

#### **XV. MAJOR OVERHAULS, EMERGENCIES, INDIVIDUAL TEMPORARY ASSIGNMENTS**

Employees may be temporarily assigned to a non-rotating shift schedule. The City will determine the number of employees in each classification that are needed for each watch and select volunteers based upon classification and highest seniority from each

watch. In the event there are not enough volunteers (by classification, from each watch), employees will be assigned to the new assignment based upon classification and the lowest seniority individual on the watch. These assignments are to be temporary in nature and not a permanent reassignment. These work reassignments will generally have a known scope and estimated duration.

#### **XVI. ROTATION TO DAY SHIFT MAINTENANCE**

With a normal complement of 14 employees, two employees will be normally assigned to the day shift. The primary purpose of the day shift assignment will be to perform maintenance at Cogen and Gianera but may be used for other assignments such as maintenance at DVR, training, new employee orientation and training, or other assignments as determined by the City. The City will use best efforts to provide equal opportunity for all employees to work this day shift. The expected duration of each assignment will be one to two months and coordinated with the individual employee to ensure he/she receives 40 hours in each workweek as well as the appropriate number of days off. The work hours of the assignment will be a 9-80 or a 5-8 schedule (the actual work day schedule will be the same work day schedule as the day shift employees in Transmission and Distribution). Normal work hours will be 7:00 am to 4:30 p.m. on the 9 hour days (30 minutes for lunch break) and 7:00 a.m. to 3:30 p.m. on the 8 hour day (30 minutes for lunch break).