

AGREEMENT BETWEEN  
**SAN FRANCISCO BAY AREA  
RAPID TRANSIT DISTRICT**  
AND  
**BART POLICE OFFICERS’  
ASSOCIATION**  
(BPOA)

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EFFECTIVE JULY 1, 2018 – JUNE 30, 2022





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\* See Minute Clarification, Memorandum of Understanding and/or Side Letters.



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**1.0 MUTUAL AGREEMENTS**

**1.1 DEFINITIONS**

For the purpose of this Agreement:

- A. The terms “BART”, “District”, “Employer” and/or “Management” mean the San Francisco Bay Area Rapid Transit District.
- B. The term “Police Unit” means the unit of sworn and civilian employees described as the “Security Unit” in the decision of the Director of the California Department of Industrial Relations, dated March 6, 1973: “In the Matter of Bargaining Units of The San Francisco Bay Area Rapid Transit District.”
- C. The term “Association”, or “BPOA” means the BART Police Officers’ Association, the bargaining agent for all employees in the Police Unit described above.
- D. The terms “Employee” and/or “Employees” mean any person and/or all persons in the Police Unit described above.
- E. The rates of pay described in this agreement shall have the following definitions:
  - i. Base rate of pay: An employee’s hourly rate of pay as indicated in the Wage Schedule
  - ii. Straight time rate of pay: An employee’s hourly rate of pay plus the following percentage-based or flat-hourly premiums: Longevity Pay, Education Allowance, Holiday Conversion, FTO Pay, CSO Special Assignment Pay, Class A Driver’s License Premium, and EPMC Final Year Compensation.
  - iii. Regular rate of pay: Refers to the Fair Labor Standards Act (“FLSA”) definition of regular rate of pay.

**1.2 NON-DISCRIMINATION, AFFIRMATIVE ACTION**

There shall be no discrimination in the application of provisions of this Agreement. In recognition of such, the parties are committed to ensure these provisions are applied equally to all employees without regard to race, color, religion, disability, gender, marital status, sexual orientation, age or national origin and in a manner consistent with the stated Affirmative Action Policy of the District.

No employee covered by this Agreement shall suffer discrimination because of his/her membership and participation in the Association.

**1.3 MANAGEMENT RIGHTS**

The management of the operations and business of the District and the management and direction of the work and work force are vested solely and exclusively in the District unless expressly limited or provided for elsewhere in this Agreement or by any other rule, or regulation, of the District. All other inherent management rights not expressly limited by this Agreement or any rule or regulation of the District are reserved by the District. The foregoing is not intended to be all inclusive or a complete enumeration of the management rights of the District, but to indicate, in general, the types of rights generally inherent in management and is not deemed to exclude the exercise of other inherent management rights nor to ban the filing, processing, and the resolving of any grievance under Provision 3.1A, Grievance Procedure, of this Agreement concerning the exercise of any such management right. The right of management to establish or enforce rules, or regulations, separate and apart from this Agreement implementing or enforcing any area which solely concerns management rights is hereby recognized subject only to the provisions of the grievance procedure herein set forth.

**1.4 NO STRIKES AND NO LOCKOUTS**

A. It is the intent of the District and the Association to assure uninterrupted service to the public and protection of District property during the life of this Agreement.

Accordingly:

1. No employee or Association signatory hereto shall engage in, cause, or encourage any strike, slowdown, picketing, concerted refusal to work or other interruption of the District's operations for the duration of this Agreement as a result of any labor dispute.
2. The District shall not lock out any employees covered by this Agreement during its term as a result of any labor dispute.
3. It shall not be a violation and shall not be cause for discharge or other discipline for a District employee to refuse to enter upon any property involved in a labor dispute. This exception shall not be applicable to sworn Police Officers. In the event of a labor dispute, sworn Police Officers shall only be assigned work sworn Police Officers are assigned when there is no labor dispute, and will not replace striking employees.
4. In any case where employee conduct occurs in violation of this Provision, the Association will promptly take all necessary action to bring about a termination of such conduct, and where so requested by the District, will give individual notification to the employees involved to cease any such conduct.
5. The District may, at its option, discontinue sick leave payments if more than twenty-five percent (25%) of the employees covered by this Agreement are absent from their regularly scheduled duty assignments on the same day.

B. In the event of any alleged violation of Paragraph A of this Provision, either the District or the Association may seek immediate arbitration before one (1) of the named arbitrators to be selected in accordance with the arbitration procedures set forth in Provision 3.1A, Grievance Procedure. The party seeking such arbitration shall use its best efforts to notify the other party of the referral to arbitration by means of telephone or written notice including telegraphic, delivered to the principal office of the party against whom the award is being sought. The question in such arbitration shall be whether either party or any employee covered by this Agreement has engaged or is engaging in activities in violation of this Provision.

The arbitrator shall have full equitable power to resolve the dispute, including the power to issue immediately an order to terminate the activities in violation of this Provision. Such award shall be binding on both parties and employees. The expenses of the arbitration shall be borne by the party against whom the award is entered.

Unless the parties agree that the arbitrator shall retain jurisdiction to decide the underlying dispute at the same hearing, the moving party shall refer the dispute leading to or determined to be the cause of the alleged violation of Paragraph A of this Provision to the appropriate grievance and arbitration procedure provided under this Agreement. If either party raises an issue of arbitrability of the dispute allegedly causing the violation of Paragraph A of this Provision, said preliminary issue of arbitrability shall be decided by the same arbitrator selected to hear the underlying dispute on the merits.

## **1.5 BENEFICIAL PRACTICES**

The District agrees that rules, regulations, or practices within the scope of bargaining will not be changed without notice and opportunity to bargain the impact of the changes.

## **1.6 SUCCESSOR RIGHTS**

In the event the operations of the District, in whole or in part, are assumed by any other entity, public or private, the successor organization or organizations shall agree, as a condition precedent of said assumption, to all terms and conditions of this Agreement as though said Agreement were more fully set forth in the assumption agreement by and between the District and the assuming party or parties.

## **1.7 AGREEMENTS FURNISHED**

The District will ensure that copies of this Agreement are printed within sixty (60) days of receipt of the Association's concurrence with the proof copy following signing and will pay the full cost of printing such Agreements. The District shall post on webBART a copy of all Agreements and side letters within sixty (60) days of being signed by both parties.

The District will provide twenty (20) printed and bound copies and a PDF of the Agreement to the Association. All printed copies of the Agreement will be in 8½” x 11” format.

Copies of any side letters or other modifications agreed to within the life of the Agreement shall be provided by the District to the Association for attachment to each copy.

**1.8 DURATION OF AGREEMENT**

This Agreement shall become effective on July 1, 2018 and remain in full force and effect through June 30, 2022.

**1.9 SIDE LETTERS OF AGREEMENT**

Side Letters of Agreement and Memoranda of Understanding existing prior to ratification of this Agreement, unless mutually extended, are null and void.

The parties have mutually agreed for the life of this Agreement to extend SL-010 Deferred Compensation for Non-Sworn and MOU Implementation of Pension Cost-Sharing.

**1.10 ENTIRE AGREEMENT**

This Agreement and all side letters and assurances entered into now or hereafter shall be understood to express and constitute the entire Agreement between the parties.

**1.11 SEVERABILITY CLAUSE**

In the event any portion of this CBA is held to be illegal, void, or unenforceable, the remaining provisions shall not be affected or impaired thereby.

**2.0 ASSOCIATION SECURITY**

**2.1 ASSOCIATION RECOGNITION**

The District recognizes the Association as the exclusive bargaining representative for all District Police employees in classifications of Police Officer, Sr. Police Officer Intermediate, Sr. Police Officer Advanced, Master Police Officer, Community Services Officer, Fare Inspection Officer, Police Administrative Specialist, Revenue Protection Guard, Police Dispatcher, Police Administrative Analyst, and Crime Analyst.

**2.2 ASSOCIATION REPRESENTATIVES**

Two (2) Association representatives, the Association President and Vice President or designee, shall be recognized to assist employees in resolving grievances at the lowest possible administrative level. The Chief of Police or

designee shall be notified in writing of the Association's representatives, including any changes thereafter, in a timely manner.

Except in cases of emergency, the Association President and Vice President or designee shall be afforded reasonable time off to conduct Association business: e.g., investigation and processing of grievances, meetings with management, without loss of pay or benefits provided advance notification is given to, and approved by, the Chief of Police or designee.

The Association President or designee shall, except in cases of emergency, be released from District duty two (2) days per week without loss of pay or contractual or other benefits to which they may be entitled to attend to Association business which may include, Executive Board or general membership meetings and other Association related meetings. These release days shall be during normal business hours, Monday through Friday, determined by the President at the beginning of the term and approved by the Chief of Police. Release days may be changed with approval from the Office of the Chief.

The Association Vice-President shall, except in cases of emergency, be released from District duties up to one (1) day per month without loss of pay or contractual or other benefits to which he/she may be entitled to attend to Association business which may include Executive Board or general membership meetings, and other Association related meetings provided forty-eight (48) hours advance notice is provided to the Association Vice-President's supervisor.

The District shall provide the Association with a bank of three hundred and thirty (330) hours of release time each fiscal year, which shall be used for the sole purpose of attending to Association business. Release time will be available to the Association Executive Board members, I.A. Representatives, and Association Stewards approved by the Association President or designee. A list of employees who will be using the bank shall be provided to the Chief of Police no later than fifteen (15) calendar days after the ratification of this Agreement. Any changes thereafter shall be provided as the changes occur. Requests for release time must be submitted, on a District approved form, to the requestor's supervisor for approval. Operational needs shall dictate approval, however, all attempts will be made to grant approval, if feasible. If the Association has used the three hundred and thirty (330) hour bank prior to the end of the fiscal year, requests for release for the purpose of Association business shall be made on a case by case basis to the Chief of Police or designee.

Upon full operation of a designated BART Police Zone, including the establishment and occupancy of a zone facility, the Association shall be authorized to appoint one (1) shop steward per zone. The appropriate Zone Lieutenant or designee shall be given advance written notification of the steward authorized to handle first step grievances in the assigned zone. Any changes will be forwarded, in writing, to the appropriate Zone Lieutenant(s) or designee in a timely manner.

Zone shop stewards shall be afforded reasonable time off, at no additional cost to the District, to conduct Association business: e.g., investigation and processing of first step grievances, meetings with management, without loss of pay or benefits provided advance written notification is given to, and approved by, the appropriate Zone Lieutenant. The Association will be afforded reasonable time during the orientation program for new employees to meet and advise new bargaining unit employees on Association matters. These meetings shall be conducted during the President's weekly release time as set forth above.

The representatives will be given the privilege of utilizing the District's inter-office mail, email, fax and existing telephone facilities as may be reasonably necessary in the conduct of Association business.

Each employee recognized by the District as a member of the duly elected or appointed Association Negotiating Committee, who attends Association-Management contract negotiation meetings will be compensated for actual work time lost as a result of such meetings.

### **2.3 ASSOCIATION ACCESS TO WORK LOCATIONS**

Non-employee and employee Association representatives will be permitted access to District office facilities, except for specific facilities reasonably excluded by the Chief of Police or for which access is precluded by law, for the purpose of conducting Association business. Where reasonable and practical, Association representatives will notify area supervisors of their intent to visit and/or of their arrival at a given work location. They will be permitted entry upon presentation of acceptable identification and will be required to observe all safety and other rules and regulations of the District.

### **2.4 DUES DEDUCTION**

Upon certification from the Association that an employee has signed an authorization for the deduction of Association membership dues, the District shall make payroll deductions at an amount to be determined by the Association and communicated to the District annually. The District shall promptly remit deductions to the Association. Employee requests to cancel or change membership dues deductions must be directed to the Association. Upon notification from the Association that an employee has canceled or changed membership dues, the District shall promptly cease Association dues deductions from the employee's paycheck.

The Association shall hold the District harmless from any and all claims and will indemnify it against any unusual costs in implementing these provisions, and shall indemnify the District for any claims made by the employee for deductions made in reliance on that certification, in accordance with Government Code §1157.12(a).

## **2.5 CONTRACTING WORK**

- A. It is the intent of the parties that work connected with the operation of the Police Department be performed by department personnel.
- B. Work normally performed by employees in other bargaining units will not be required of employees in this unit during any general cessation of services by those other employees except as hereafter provided. Such work will only be required where special circumstances require brief and temporary action by Police Department personnel in order to assure normal transit service to the public and in a manner which minimizes interference with normal Police Department work.

BPMA employees shall not fill BPOA positions nor work overtime normally performed by BPOA employees except in urgent situations, and then only until the positions can be filled by the appropriate BPOA classifications. However, nothing in this clarification shall prohibit BPMA employees from performing normal police duties.

- C. Background investigations may be performed by a contract agency until June 30, 2022. Contracting out for backgrounds shall not result in a reduction of staffing in backgrounds by BPOA members and shall not result in assignment to patrol on a regular workday except during emergency staffing. If the number of assigned full-time background investigators drop below four (4) for more than three (3) months, then contracting out for backgrounds shall be terminated.

## **2.6 JOB STANDARDS**

The District will discuss the establishment of job standards for department hiring and promotions as well as requirements, tests, and policies for establishment of a list for each special assignment, as determined by the Chief of Police, and each classification within the BART Police Officers' Association with the Association prior to implementation.

In any event, the maximum possible amount of notice of forthcoming promotional examinations will be provided.

## **3.0 EMPLOYEE AFFAIRS**

### **3.1 GRIEVANCE AND PROGRESSIVE DISCIPLINE PROCEDURES**

#### **3.1A GRIEVANCE PROCEDURE**

Each employee covered by this Agreement shall receive fair and just treatment in the employment relationship. No employee shall be disciplined, suspended or discharged except for just and sufficient cause. The following procedure shall be administered to assure the orderly resolution of employee grievances. A grievance

is a claimed violation, misinterpretation, inequitable application or non-compliance with the provisions of this Agreement or of District rules, regulations, or practice affecting status of working conditions of employees including matters of discipline.

The Association or any employee may file a grievance and any employee may elect to have representation of his/her choosing at any step of the grievance procedure.

However, in no event will the District process a grievance at any step of the grievance procedure without Association representation in the absence of express written consent of the Association. The Association shall submit to the Chief of Police or designee with a copy to the Manager of Labor Relations, a list of designated representatives, legal firms or lawyers authorized to process grievances on behalf of the Association.

The parties recognize that disputes should be resolved expeditiously at the lowest possible administrative level. However, grievances protesting a policy directive or policy decision may by-pass the initial step(s) of the procedure provided the decision-maker who rendered the policy directive or policy decision is at a higher administrative level. In such instances, the grievance may be filed directly at Step 2 of the grievance procedure. This provision does not apply to grievances pertaining to the application or interpretation of such policy directives or policy decisions. Such grievances must be filed at the lowest possible administrative level.

**Step 1: Informal Grievance Resolution**

Consistent with the overall intent of Section 3.1A Grievance Procedure, the aggrieved employee (“Grievant”) will attempt to discuss the grievance with their Sergeant or immediate supervisor before filing a formal, written grievance. The employee shall have the right to participate in meetings conducted to discuss the grievance at Step 1.

**Step 2: Initial Formal Grievance**

1. Within twenty-five (25) calendar days from the date of the occurrence of the alleged grievance, or when the Association knew or should have reasonably known of the occurrence, the Grievant or Association may file a written grievance with the Lieutenant or next level manager. For the purposes of calculating time limits, the first calendar day after the occurrence date or the date the Association knew or should have reasonably known of the occurrence shall be counted as the first day.
2. Grievances may be sent and acknowledged by e-mail.
3. The Lieutenant or next level manager will discuss the grievance with the Grievant and/or Association before responding.
4. The Lieutenant or next level manager will respond in writing within fifteen (15) calendar days of actual receipt of the grievance.



5. If the Lieutenant or next level manager fails to respond within fifteen (15) calendar days, the grievance will automatically go to the Deputy Chief.

**Step 3: Appeal to Deputy Chief**

1. Within fifteen (15) calendar days from the date of the Step 2 written response, the Grievant or Association may progress the initial grievance to the Deputy Chief.
2. The Deputy Chief will respond in writing within fifteen (15) calendar days of receipt of the grievance.

**Step 4: Appeal to Chief**

1. Within fifteen (15) calendar days from the date of the Step 3 written response, the Association may request, in writing, either a meeting with the Chief or designee or a written decision from the Chief or designee regarding the grievance.
2. If a meeting is held, it will be within fifteen (15) calendar days of the written request for a meeting, unless the time limits are extended by mutual agreement.
3. The Chief or designee will meet with the Association. Labor Relations and/or the Grievant may attend the meeting.
4. The Chief or designee will respond in writing within fifteen (15) calendar days after the meeting or the written request for a decision from the Chief or designee.

**Step 5: Arbitration**

1. Should the matter remain unresolved in Step 4 above, the Association may, within fifteen (15) calendar days of the determination, request arbitration of the dispute.

2. Arbitration Panel

The Arbitration Panel appended as Attachment "A" shall consist of nine (9) arbitrators selected to the panel by mutual agreement. When a vacancy exists, the District and the Association will exchange proposed Arbitrators. The parties will add names to the list by mutual agreement. The panel shall be revised in July every even year. The parties may mutually agree to change the makeup of the panel at any time.

3. Arbitration Selection

An impartial arbitrator shall be selected from the Arbitration Panel. The parties shall select an arbitrator by striking names until one remains unless another procedure is mutually agreed upon.

4. Arbitrator's Scope of Authority; Party Payment

The decision of the arbitrator shall be final and binding on the parties. The arbitrator's award shall be rendered promptly. The expenses of the

arbitration and/or court reporter shall be borne equally by both parties unless, by prior agreement, the parties agree the losing party shall bear all such expenses.

5. Witnesses

Parties who may have direct knowledge of circumstances relating to the grievance may be present at the request of either party during any stage of the procedure. In the case of employees, they shall be compensated at their regular rate of pay for actual time lost in such meetings.

6. Extension of Time Limits

The time between the steps of the procedure may be extended by mutual agreement. Failure by the employee or the Association to follow the time limits, unless extended by mutual agreement, shall cause the grievance to be considered withdrawn; failure by either party to follow the time limits in step 3 and above, unless extended by mutual agreement, shall cause the grievance to be advanced to the next step.

**Expedited Arbitration**

By mutual agreement the parties may waive the time limits specified herein and proceed to expedited arbitration in any case except discharge. In any such case, the arbitrator shall have full equitable powers to frame a decision, including an order to the party initiating the grievance to abide by the time limits provided in this provision or a restraining order against the party threatening the action or any other form of arbitration order that would resolve the matter in an equitable and just manner. Expedited Arbitration requires a bench decision and there will be no briefs or transcripts.

The arbitrator selection process shall conform to the requirements outlined in the arbitration section of this provision above.

**3.1B PROGRESSIVE DISCIPLINE PROCEDURE**

The District agrees to comply with the following progressive discipline procedure:

1. Informal Discipline

- a. Informal Counseling (Not Documented)
- b. Letter of Discussion (Documented, kept in personnel file for up to one (1) year)
- c. Oral Counseling (Documented, kept in personnel file for up to one (1) year)

2. Formal Discipline

- a. Written Reprimand (Documented, kept in personnel file for up to three (3) years)
- b. Pay Step Reduction (up to six (6) months maximum, documented, kept in personnel file for up to three (3) years)

- c. Suspension Without Pay (Thirty (30) days maximum, documented, kept in personnel file for up to three (3) years)
- d. Demotion (Kept in personnel file for up to five (5) years)
- e. Termination

### **3.1C DISCIPLINE INVESTIGATION**

Due to the law enforcement nature of employees' duties, when any employee is under investigation and subject to interrogation by a supervisor which could lead to punitive action, such interrogation shall be conducted under the following conditions. For purposes of this provision, punitive action is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

However, this provision shall not apply to any interrogation of an employee in the normal course of duty, counseling, instruction, or verbal reprimand by, or other routine or unplanned contact with, a supervisor or any other employee, nor shall this provision apply to an investigation concerned solely and directly with alleged criminal activities.

- A. The employee under investigation shall be informed of the nature of the investigation prior to any interrogation.
- B. The complete interrogation may be recorded. If an audio recording is made of the interrogation, either party shall have access to the recording if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The employee shall be entitled to copies of any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential.
- C. If prior to or during the interrogation of an employee it is deemed that they may be charged with a criminal offense, they shall be immediately informed of their constitutional rights.
- D. Upon the filing of formal written statement of charges, or whenever an interrogation focuses on matters which are likely to result in punitive action, the employee, at their request, shall have the right to be represented by a representative of their choice who may be present at all times during such investigation.
- E. District lockers may be periodically inspected as determined by management, but such routine locker checks will not be initiated without prior notification to a Union representative to include an offer to be present during such inspection. Inspections deemed necessary as part of an investigation to determine a violation of law shall not be subject to restriction, except that nothing herein shall be construed as consent by an employee to a warrantless locker search.

**3.2 ACCESS TO PERSONNEL AND BPD ADMINISTRATIVE FILES \***

Employees shall be provided a copy of all performance related memoranda (including performance evaluations) placed in their official personnel file which is retained in the Human Resources Department, and their administrative file which is retained in the Police Department. Personnel files shall be kept in a secured location. Items that are to be removed shall be returned to the employee for disposition.

Affected employees shall be provided a copy of derogatory matters placed in their official personnel file, and shall have access to derogatory material placed in their administrative file maintained by the Police Department. No employee shall have any derogatory material placed in his/her file without them first reading and signing indicating awareness of such derogatory material. Should an employee refuse to sign, the derogatory material will nevertheless be placed in his/her file. An employee shall have thirty (30) days within which to file a written response to any derogatory material entered into his/her personnel file. Such written response shall be attached to, and shall accompany, the derogatory material. Derogatory material contained in the personnel file over two (2) years old will not be utilized in evaluating an individual for promotion, but all material in the personnel file not more than three (3) years old may be utilized in progressive discipline and/or grievance proceedings, except for Demotions, which can be considered in promotions, progressive discipline, and grievance proceedings for the five (5) years they remain in the personnel file. Upon written request of the employee, derogatory material in the personnel file and administrative file shall be removed in accordance with the timelines prescribed in Section 3.1B above. Derogatory material pertaining to attendance problems may be used to support discipline only if the discipline was primarily imposed for an incident involving attendance problems. References to Letter of Discussion and Oral Counseling shall be articulated on a separate piece of paper for each event and removed after one (1) year.

An employee shall be permitted at any time during regular office hours to inspect his/her personnel or administrative files provided notice is given to the custodian department which is sufficient to allow it up to three (3) of its working days to make the files available. He/she may also authorize, in writing, the Association representative to also inspect his/her personnel file provided the same advance notice is given. Such reviews shall be made in the Human Resources Department or Police Department subject to the presence of a member of the Human Resources Department or Police Department staff or its designee.

No matter not in the official personnel file or referred to in the official personnel file shall be used as the basis of discipline. Material in personnel files shall be regarded as confidential and disclosed only in accordance with provisions of law.

Material contained in the Internal Affairs Section files, administrative file and the employees personnel file shall be removed and destroyed after five (5) years from placement in the files, unless litigation relating to such material is pending. In such

case, the potentially relevant material shall be retained in the files until the matter has been fully and finally adjudicated or until at least five (5) years have passed since the material was placed in the file, whichever occurs later.

**\* Minute Clarification**

For purposes of performance evaluations, if a Letter of Discussion or discipline was given at the beginning of the evaluation year and was deactivated prior to the actual evaluation, the District may reference the events leading up to the Letter of Discussion and/or discipline, but not the fact that Letter of Discussion and/or discipline had been given.

**3.3 TRUTH DETERMINATION EXAMINATIONS**

No employee shall be requested or required to submit to, or in any way provide data for, any mechanical “truth determining” device. No disciplinary actions or other recrimination, including involving promotion, shall be taken against an employee refusing or not volunteering to submit to such an examination, nor shall any comment be entered anywhere that the employee refused or did not volunteer to take such an examination.

**3.4 EDUCATIONAL ASSISTANCE PROGRAM**

The District’s Educational Assistance Program will be continued during the life of this Agreement. Employees who wish to enroll in job-related and promotion oriented courses, which will improve their job knowledge and performance, will be compensated by the District for expenses as follows:

- A. When an employee is in the process of acquiring a sixty (60) calendar semester unit or a ninety (90) quarter unit degree (e.g., Associate of Arts, Certificate of Achievement), or when an employee is properly authorized to enroll in a correspondence course and/or a specific course of study that may not result in a degree, said employee shall be reimbursed up to a maximum of two thousand dollars (\$2,000) per fiscal year.
- B. When an employee exceeds sixty (60) semester units or ninety (90) quarter units and is enrolled in upper division course work, said employee shall be reimbursed up to a maximum of four thousand dollars (\$4,000) per fiscal year.
- C. The maximum amount that an employee may be reimbursed under this program in any fiscal year is four thousand dollars (\$4,000).

Out-of-pocket expenses for required textbooks and course materials may be included for reimbursement within the above dollar limits. Textbooks may be retained by the employee upon completion of the course.

Courses must be taken at an accredited institution or at a non-accredited institution, if approved by the Chief of Police, or by correspondence if comparable courses are not available in local schools or if the work assignment of the

individual is such that it does not permit regular classroom attendance. Courses offered by Law Enforcement organizations, associations and training providers shall be reimbursed up to the limits of one (1) above.

Except for unusual circumstances, employees will not be granted time off from their regular work schedule to attend courses taken under this Provision.

Courses must be approved by the Chief of Police, or designee, prior to enrollment. Reimbursement shall be made after presentation of proper receipts and upon completion of the course with at least a "C" grade or its equivalent.

**Tuition Advance**

At the employee's option, an advance may be secured from the District against tuition costs by agreeing to payroll deduction of the amount of the advance if:

1. Satisfactory evidence of completion of the course taken is not provided to the District within thirty (30) days following completion of the course, or
2. The course is not completed with at least a grade "C" or its equivalent, or
3. The course is failed, or
4. The employee voluntarily drops the course for any reason, including voluntary shift change or termination of employment with the District.

If the employee's course is not completed due to a District required shift change or reduction in force, repayment of the advance will not be required.

**Definitions**

1. District required shift change: a reorganization or District mandated classification rebid resulting in an involuntary shift change due to the seniority of an employee.
2. District required reduction in force: reduction in force action as described in Provision 13.1 of this Agreement, resulting in employee being placed in lay-off status with recall rights.
3. Voluntary shift change: any shift change in which the individual has the ability to control movement affecting him/her adversely, i.e., promotion, reverting to his/her former position, shift sign ups, etc.

**Reimbursement**

The reimbursement of tuition advances may not be required in the following situations, after a case-by-case review of the circumstances by the appropriate management staff member:

1. The employee involved sustains an injury which precludes completion of the course(s).
2. The employee formally advises management of his/her unsuccessful attempt(s) to obtain verification of satisfactory completion of the course(s) from the accredited institution or correspondence school within the prescribed thirty

(30) days. In such cases, the employee must obtain the verification of satisfactory completion as soon as possible after the time period has expired.

It is understood that the above exceptions are subject to verification by management.

### **3.5 P.O.S.T. TRAINING**

The District shall provide maximum training consistent with need and available funding. The Department shall maintain a training notification binder which will be made available to personnel seeking information upon request.

#### **A. Mandatory Training**

If an employee is assigned by the District to mandatory training of twenty-four (24) hours or more, the District may change the employee's RDO's provided there is a fourteen (14) day notice given to the employee.

B. If the District does not change the employee's RDO's, or if the District scheduling does not permit the changing of RDO's, and the mandatory training session for less than forty (40) hours overlaps with the employee's RDO's, then the employee shall receive applicable overtime compensation.

#### **C. Non-Mandatory Training**

In the event an employee volunteers for a non-mandatory training session of any duration, the employee's RDO's may be changed at the discretion of the District, without incurring overtime compensation.

D. In the event of a District emergency the above provisions shall not apply.

### **3.6 AMMUNITION**

The District will provide a reasonable amount of ammunition, upon written request for all approved firearms, but not less than one hundred (100) rounds per year.

## **4.0 VACATION, LEAVES AND OTHER ABSENCES**

### **4.1 VACATION**

A. The District will grant three (3) weeks of vacation (accrued at 4.62 hours per pay period) following one (1) year of service, four (4) weeks of vacation (accrued at 6.16 hours per pay period) after eight (8) years of service, five (5) weeks of vacation (accrued at 7.69 hours per pay period) after fifteen (15) years of service, and four (4) weeks of vacation (accrued at 6.16 hours per pay period) following twenty (20) years of service. On July 1<sup>st</sup> following the date on which the employee has completed twenty (20) years of District service and on every July 1<sup>st</sup> thereafter, the employee shall forfeit three (3) vacation days. Revenue Protection Guards and all Sworn personnel forfeit all "pop-up"

vacation time. Employees may carry over up to sixty (60) days (up to forty-eight [48] days for employees on a 4-10 Plan) of vacation.

In the event that an employee's bid vacation has been cancelled, he/she must attempt to reschedule at least one (1) week or forty (40) hours of that vacation within thirty (30) days of the date of cancellation. If an approved vacation is cancelled by the District, the employee is entitled to be reimbursed for actual and reasonable unrecovered expenses. Any unused vacation, if caused by action or inaction of the District, may be carried over into the next calendar year. The District may, in its discretion, require an employee to take up to one (1) week of vacation during a calendar year.

Employees will select their vacation in accordance with the applicable seniority provisions consistent with the scheduling ability of their department, division or section. An Association representative will be assigned to monitor the bid, but will not bid or assign another employee to a vacation period.

Employees bidding late will not change the previous bids, nor will they be allowed to bump a less senior employee who bid at his/her regular scheduled time. Employees will be allowed to split selected vacation periods into forty (40) hour blocks up to their annual accrual during their scheduled bid based on departmental seniority. At the time of vacation signup, employees shall be eligible to select vacation time that will have been earned on or before the actual vacation period, not to exceed the accrual for that year. However, after twenty (20) years of District service, employees will be permitted to sign up for six (6) weeks of vacation if they already have the time accrued prior to the sign-up. Leave accrual excludes sick leave; however, compensatory time and holiday time may be counted towards the six (6) week sign-up request.

One continuous fifty-two (52) week block of vacation will be posted for every ten (10) persons, on a given roster. Units of less than ten (10) persons, shall be entitled to at least one vacation slot. Units of the department consisting of at least ten (10) persons, but less than twenty (20) persons, shall be entitled to two (2) vacation slots.

Vacation requests for less than a forty (40) hour block may be approved by a Watch Commander, Bureau Commander or Chief of Police. Employees will be notified of approval or denial of their written request within two (2) working days. Employees requesting emergency usage of their accrued vacation will be notified of approval or denial as soon as practicable.

Years of service shall be based upon the employee's years of service with the Bay Area Rapid Transit District.

Vacation accrual will not be continued in the event an employee is in an unpaid status.

1. An enhancement to the vacation sign-up will take place at the same time as the annual vacation sign-up. Four (4) additional positions for each of the fifty-two (52) weeks will be listed as alternates. All employees will be



allowed to select a combination of vacation and alternate positions, not to exceed the total number of weeks of vacation accrued for the present year. When a week of vacation is cancelled, the first alternate will be given that week of time.

If a week of vacation is cancelled and no alternate is listed, then the week is available to the first person who requests that week off in writing.

**B. Vacation Buyback**

During the month of December each year, employees will be given the opportunity to make an irrevocable annual election to buy back vacation which will be newly earned during the following calendar year but not used during that year (unused calendar year accrual) as follows:

1. Employees may elect that in the event they have a total of four (4) or more weeks of total accruals at the end of the following calendar year, they will buy-back up to a specified number of days, not to exceed sixty (60) hours of unused calendar year accrual, if any.
2. An employee may elect to deposit the post- tax equivalent value of the unused calendar year accrual that is eligible for buy-back, as provided above, into the employee's MPPP account, subject to applicable law and the terms of the MPPP.
3. In the event an employee fails to make an election during the election period regarding the following calendar year's unused accrual or makes an incomplete election, such accruals may be carried-over, subject to the maximum annual vacation carry-over provided in A., above.

**C. Optional Additional Day**

Members may choose one additional day of vacation contiguous to each selected vacation period, respectively; provided however, that no such use shall include New Year's Eve or New Year's Day. This additional vacation day(s) shall be deemed part of the guaranteed vacation period(s). The additional day can be applied to the beginning or the end of the vacation. A thirty (30) day advance written notice must be given to their supervisor.

**D. Cancellation Due To Illness**

If an employee becomes ill while on vacation, the employee must notify the District immediately should he/she wish to change his/her pay status from vacation leave to sick leave subject to the following conditions:

1. The employee shall present a physician's medical verification of the illness to the District upon his/her return to work.
2. The sick leave used shall not extend the employee's scheduled vacation.
3. Vacation, which is not used due to illness, must be rescheduled consistent with Departmental operating needs.

## 4.2 BEREAVEMENT LEAVE

When a death occurs or appears imminent in the immediate family of an employee, the employee shall be granted up to a total of forty (40) hours for current spouse/child and for other immediate family members or eligible domestic partner (per Board Resolutions 4455 and 4757) of cumulative leave without loss of pay, payable only if the days of leave are regularly scheduled workdays. Such leave shall not be deducted from any other leave accrual. To be eligible for compensation for bereavement pay, the employee, upon his/her return, shall provide upon request, written verification by the attending physician of death or imminence and indication of relationship of the member of the immediate family involved. False information given concerning the death, imminence, or relationship shall be cause for discharge. The immediate family of an employee is defined as spouse, or an employee's eligible domestic partner, child, eligible dependent child of an employee's domestic partner, parent, brother, sister, grandparent; and current mother-in-law, father-in-law, step-parent, step-child, and legal guardian.

The Chief may approve alternate forms of leave, e.g., vacation, floating holidays, leaves of absence without pay, for employees who may wish to extend the bereavement period. The Chief may not unreasonably deny said requests.

## 4.3 MILITARY LEAVE

Employees of the District who are ordered to active duty with the Armed Forces for a period not to exceed one hundred eighty (180) calendar days in any fiscal year (July 1 - June 30), including travel time, will be granted a temporary military leave of absence for time required to meet military obligations as established by State and Federal law. Employees must furnish the District with a copy of the orders as early as possible prior to such leave.

During such military leave, employees with one (1) year of District service will be eligible for their existing straight time rate of pay for the first thirty (30) calendar days in any fiscal year (July 1 - June 30), of any such absence.

For purposes of this Provision, weekend military training sessions shall not be considered as military leave; however, employees who have military training sessions on weekends (Saturday and Sunday), and whose assigned workweek includes Saturday or Sunday, or both, may request adjustment of their scheduled rest day or days off where work is available which they are qualified to perform in order to attend such sessions shall not be considered as military leave. However, employees who have military training sessions on weekends (Saturday and Sunday), and whose assigned workweek includes Saturday or Sunday, or both, may request adjustment of their scheduled rest day or days off where work is available which they are qualified to perform in order to attend such sessions without loss of pay. Employees must request such arrangements, in writing, as far in advance as possible and provide verification of attendance upon return to work.

No additional compensation, shift premiums or other extra costs to the District shall result from such adjustments.

**4.4 MINIMUM REST**

Except in a District emergency, employees will be allowed to have a minimum of ten (10) hours time off duty between scheduled shift assignments, scheduled shift and training assignments, and scheduled shift changes on the effective date of a sign-up.

When practical, this minimum rest will also apply prior to court appearances if minimum staffing will allow for the time off.

**1. Late Case/Hold Over/Inverse**

When an employee is directed to hold over as the result of a late case, personnel shortage, or inverse, that employee shall not be required to report to their next scheduled shift for a period of ten (10) hours.

**2. Training**

When an employee has been ordered to report to training, which is scheduled to begin less than ten (10) hours after the end of the prior shift, that employee shall be granted ten (10) hours rest prior to commencement of training.

**4.5 HOLIDAYS**

A. As described below, the District shall observe thirteen (13) contractual holidays per year as follows:

|                        |  |
|------------------------|--|
| New Year's Day         | (January 1st) *  |
| Memorial Day           | (last Monday in May)   |
| Independence Day       | (July 4th)   |
| Labor Day              | (1st Monday in September)                                      |
| Columbus Day           | (2nd Monday in October -<br>Federal government observed day)   |
| Veteran's Day          | (Federal government observed day)                              |
| Thanksgiving Day       | (4th Thursday in November)                                     |
| Day after Thanksgiving | (Friday following the 4 <sup>th</sup> Thursday in<br>November) |
| Christmas Day          | (December 25th)  |

Civilian employees (excluding Dispatchers), will receive four (4) floating holidays, except employees who have completed twenty (20) years of District service shall receive no floating holidays.

\* Swing shift and graveyard shift employees shall be given New Year's Eve as this holiday and day shift employees shall be given New Year's Day as the holiday.

B. For Civilian Classifications (Excluding Dispatchers):

1. In order to be eligible for holiday compensation, an employee must be in a paid status the workday before and after the holiday. Should any holiday fall on an employee's day off, the employee shall receive an extra eight (8) hours of pay at the employee's straight time rate of pay during that pay period, or an extra eight (8) hours off with pay, to be taken at the option of the employee consistent with department scheduling.
2. Should a contractual holiday occur during an employee's recognized vacation, the employee will receive an extra day of compensation at the employee's straight time rate of pay during that pay period, or an extra eight (8) hours off with pay, to be taken at the option of the employee, consistent with department scheduling. Floating holidays shall be granted consistent with the scheduling ability of the employee's department. Employees must give five (5) working days' notice of intent to take a floating holiday. Failure of an employee to give such notice may be cause for refusal of such floating holiday request.
3. Holiday overtime work outside the employee's regular work schedule shall be compensated at two (2) times the employee's regular rate of pay for actual hours worked in addition to straight time holiday extra pay. In the case of holiday work performed within the regular work schedule, employees shall receive one and one-half (1½) times the straight time rate of pay for actual hours worked in addition to the straight time holiday pay.
4. In advance of a contractual holiday, if the holiday occurs on an employee's regular day off (RDO), an employee may elect eight (8) hours of compensatory time off in lieu of holiday pay. If an employee works on an off duty holiday the employee may elect compensatory time for all hours worked on that holiday which are in excess of forty (40) hours worked during the employee's workweek at time and one-half in lieu of holiday overtime pay. An employee may also elect straight time compensatory time for holiday work on a regular work day in lieu of the holiday extra pay provided above.
5. During the month of June each year, employees shall have the option to make an irrevocable election to buy-back floating holidays newly earned during the following fiscal year but not used during that year (unused fiscal year accrual) as follows:
  - a. Employees may elect to buy back all or part of any unused fiscal year accrual up to a maximum of four (4) days, with such floating holidays paid off subsequent to the end of the fiscal year earned.
  - b. An employee may elect to deposit the post tax equivalent value of the unused fiscal year accrual that is eligible for buy-back, as provided above, into the employee's MPPP account, subject to applicable law and the terms of the MPPP.

c. In the event an employee fails to make an election during the election period regarding the following fiscal year's unused accrual or makes an incomplete election, such accruals may be carried over, subject to the maximum carry-over provided in 6. below.

6. Up to four (4) unused floating holidays may be carried over per year. A terminating employee shall be compensated for any unused floating holidays and/or unused optional hours then credited to his/her records.

7. For the purposes of employees who work a 4-10 workweek, Provision 10.1D 4-10 Workweek, of this Agreement shall govern.

C. For Sworn Personnel and Dispatchers only: Holiday Conversion

Sworn personnel and Dispatchers, who are in positions that are scheduled to work without regard to the holidays listed above, shall receive compensation in the amount of six and six-tenths percent (6.6%) of their base rate of pay in lieu of receiving any other form of holiday compensation.

Overtime work on a holiday outside the employees' regular work schedule shall be compensated at the applicable overtime rate for actual hours worked; employees may not elect compensatory time.

Employees who wish to take a holiday off must follow Department procedures to request the day off, and if approved, must use available vacation or compensatory time.

An employee who takes unscheduled sick leave on a shift commencing on the contractual holiday and/or the calendar days before or after the contractual holiday shall be subject to Section 8.1 F.

#### 4.6 PARENTING LEAVE

A. A Parenting Leave of absence will be granted each employee covered by this Agreement who becomes pregnant. Such leave will begin no later than the date the employee's doctor states in writing, or once it is established by the process set forth in Paragraph D herein, it is established that she should discontinue working. An employee shall notify the Chief of Police immediately upon determination of pregnancy.

B. The Parenting Leave will continue until the date on which the employee's doctor states in writing she is capable of returning to work, or until such time as an additional leave of absence, granted by the District, expires. The District may require confirmation of ability to work from a doctor acceptable to the District.

C. Employees may utilize unused sick leave for pregnancy consultations as provided by Provision 8.1, Sick Leave, and to the extent possible, should there

be a determination that there is a pregnancy-related disability, the Disability Insurance provided by the District.

- D. A sworn or civilian employee whose duties involve law enforcement activities including the protection of District property shall provide her doctor with a detailed description of her assigned duties, prepared by the District, which will include the physical requirements associated with her position. She should also consult her doctor at least every four (4) weeks while working during her pregnancy, or more frequently if requested by her doctor, in order to assure that her doctor will have a frequent opportunity to review her ability to continue working and her doctor's opinions shall be furnished, in writing, to the District. At any time after determination of pregnancy the District may require such an employee to obtain approval to continue working from a doctor acceptable to the District. District required examinations shall be paid for by the District, and the employee shall suffer no loss of income, as the same is provided in Provision 9.3, Medical Examinations. Moreover, inconsistent findings shall be resolved as provided in Provision 9.3, Medical Examinations.
- E. The parties agree that "Parenting Leave" shall be granted in compliance with applicable State and Federal Laws.

#### 4.7 PERSONAL LEAVE OF ABSENCE

Employees may occasionally request time off without pay. When such time off becomes necessary, it must be requested through the employee's immediate supervisor. A leave of absence, for purposes of this Provision, is defined as an absence from work requested in writing by a District employee and approved in writing by the Chief of Police and by the Human Resources Department Manager. Such leaves must specify an agreed upon period of time normally longer than two (2) days but not to exceed six (6) calendar months.

Leaves of absence generally fall into the following categories:

- A. **Emergency Leave** - To assist an employee in taking care of crisis circumstances or conditions which cannot normally be handled while working full time.
- B. **Vocational/Educational Leave** - To assist an employee in preparation for possible upward mobility in the District. (The District makes no representation that leave for such purpose will result in promotions or transfers.)
- C. **Leave for Personal Matters** - To allow employees time off to attend to such matters which are not urgent and are purely personal in nature, but which are of such character as to require a short absence from work.

The District will determine the length of time it will grant for such leave in each individual case.

The District reserves the right to extend a given leave if it deems it desirable to do so.

The District may grant a leave of absence when an employee still has accrued leave in a leave bank(s), however, the District may require usage of all available accrued leave prior to granting leave without pay.

During the period of time in which an employee is on leave of absence, the employee shall not accumulate service with the District. Any employee who fails to return to work upon conclusion of the agreed upon leave of absence shall be considered to have voluntarily terminated employment with the District. Employees on leave of absence shall have the option to pay any costs involved with and continue to participate in the Health and Welfare programs and life insurance.

#### **4.8 JURY/WITNESS DUTY \***

##### **A. Jury Duty**

Pursuant to State law, an employee shall be excused from work on a workday on which he/she performs jury service, providing he/she gives prior notification to his/her supervisor. During such excused absence, an employee shall be paid up to an amount of the difference between jury fees and his/her existing shift earnings, exclusive of reimbursable travel expenses.

No such payment will be made to an employee excused for jury service unless a statement is provided to the District showing the amount of fees paid or payable and the time spent in jury service. When an employee has served five (5) consecutive days on jury duty when working a 5-8 workweek or four (4) consecutive days on jury duty when working a 4-10 workweek and that service conflicts with one or more of the employee's RDO's, the employee has the option to reschedule their RDO's with his/her supervisor without additional cost to the District.

##### **B. Witness Duty**

An employee shall be excused from work on a workday on which he/she is subpoenaed as a witness in court, before a Grand Jury or for a deposition, providing he/she gives prior notification to his/her supervisor. During such excused absence, an employee shall be paid up to an amount of the difference between the witness fees and his/her existing shift earnings, exclusive of reimbursable travel expenses.

If an employee is subpoenaed as a witness in court, before a Grand Jury or for a deposition on his/her regular day off on a matter related to his/her employment with the District, the employee shall be paid up to an amount of the difference between the witness fees and his/her applicable rate exclusive of reimbursable travel expenses. In such cases, the employee must provide to his/her supervisor a copy of the subpoena and a statement of the witness fees paid or payable as a condition of being paid.

The pay provisions of this Provision shall not apply when an employee is required to appear in court or at a deposition in any matter in which he/she is the plaintiff or as a result of any activities related to other employment.

**\* Minute Clarification**

The parties understand that the compensation provisions of this Provision are not applicable where attendance as a witness is related to either prior employment or current non-BART employment (outside employment).

**4.9 COMPENSATORY TIME OFF**

Compensatory time shall be accrued at the applicable rate for time worked. A maximum of two hundred (200) hours of compensatory time may be accrued.

If sworn vacancies exceed seventeen percent (17%), the Chief shall have the option of denying sworn employees the accrual of compensatory time. Vacancies must be authorized and fully funded and shall not include employees who have been on leave for less than six (6) months. When calculating vacancies, newly added positions shall not be included for the first twelve (12) months. The Chief must provide the BPOA a list of vacancies with the percentage of vacancies prior to denying the accrual of compensatory time.

- A. Compensatory time credit shall be allowed only when an employee's record permits full crediting of the applicable hours worked. No credit shall be allowed in those cases where the hours worked exceed the record limits set forth above or when a partial payment would result.
- B. Once an election of compensatory time has been made, no employee shall be permitted to receive cash payment for credited time up to the accrued limit, at a rate higher than the employee's regular rate of pay, as required by the FLSA.
- C. Employees requests to use accumulated compensatory time off shall be subject to mutual agreement taking into consideration District scheduling requirements.
- D. Employees who terminate their employment with the District shall be paid for all accumulated unused compensatory time off at the employee's then current regular rate of pay, as required by the FLSA, or at the average of the employee's regular rate of pay during the last three (3) years of the employee's employment, whichever is higher.

**5.0 INSURANCE**

**5.1 ASSAULT INSURANCE**

The District will provide Assault Insurance as indicated under the existing insurance policy in the amount of seventy-five thousand dollars (\$75,000) for each employee.



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## 5.2 DENTAL INSURANCE COVERAGE

Present coverage for preventative care, restorative care, prosthodontics care, and orthodontic care will continue. Coverage will be as follows:

- A. **Preventative Care:** Insurance will pay one hundred percent (100%) of Usual and Customary charges.
- B. **Restorative Care:** Insurance will pay one hundred percent (100%) of the Usual and Customary charges, with the employee paying the balance.
- C. **Prosthodontics:** Insurance will pay one hundred percent (100%) of the Usual and Customary charges, with the employee paying the balance.
- D. **Orthodontics:** Insurance will pay seventy five percent (75%) of the Usual and Customary charges, with the employee paying the balance.

Maximum benefit payable for a combination of preventative, restorative, and prosthodontic care is two thousand dollars (\$2,000) for each calendar year. Each calendar year, the employee may place the maximum benefit payable for preventative, restorative and prosthodontic care for each employee and dependent in a family bank. Maximum benefit payable for orthodontic care is three thousand five hundred dollars (\$3,500) lifetime maximum, with fifty dollars (\$50) deductible for employees and dependents.

An employee's eligible domestic partner and their children shall be entitled to the same coverage under this provision as spouses and dependent children of the employee, per Board Resolution 4455 and 4757.

## 5.3 DISABILITY COVERAGE

The District will no longer provide the Peace Officers Research Association of California (PORAC) sponsored Premier Plus – Long Term Disability Plan (hereinafter referred to as PORAC) for all BPOA members.

## 5.4 PERS-MEDICAL AND PRESCRIPTION DRUG BENEFITS

### A. PERS-Medical & Prescription Drugs

The District will provide group medical and prescription drug benefits, as provided below through the Public Employees' Retirement System (PERS). PERS rules, regulations and plan documents will control on all issues concerning benefits, including the types and levels of benefits offered and eligibility for those benefits.

The Association acknowledges that it understands that these benefits may not equate to benefits previously available to employees and retirees through the various optional medical plans and the prescription drug plan. Because coverage will be provided through PERS, the District and the Association understand that PERS may terminate or change covered expenses, benefit

payments and co-payments on covered benefits, deductibles, lifetime and/or annual maximums and may implement various cost control features.

Except for Survivors Benefits, as provided for in Provision 5.5, the Association waives the right to any group medical or prescription drug benefit granted expressly or impliedly under other provisions of this Agreement, or by any other agreement between the parties or by any District guideline, policy or practice if that benefit is not offered through the PERS medical plan.

Employees' premium co-payments will be paid for through payroll deductions. Retiree premium co-payments will be deducted from the retirement allowance paid by PERS. If a retiree's retirement allowance is not sufficient to pay the entire co-payment, the retiree must pay the balance due on such premium co-payment directly to PERS. If such payment is not received by the due date, health care coverage will automatically, immediately and permanently cease. These rules are intended to comply with the premium co-payment procedures established by PERS, which may be modified by PERS. The District, Association and employees shall comply with the PERS procedures in effect from time to time.

**B. Employee and Retiree Contributions for Health Insurance**

All employees eligible for PERS medical benefits who enroll for such benefits shall be responsible for a premium contribution as follows:

1. The employee's monthly employee contribution toward the medical insurance premium shall increase in January of each year by an escalator amount of three percent (3%). The total monthly employee contribution on January 1, 2018, will be one hundred fifty dollars and ninety-three cents per month.

| <u>DATE</u>  | <u>Maximum Employee Monthly Contribution</u> |
|--------------|--|
| 01 Jan. – 18 | \$150.93                                     |
| 01 Jan. – 19 | \$155.46                                     |
| 01 Jan. – 20 | \$160.12                                     |
| 01 Jan. – 21 | \$164.93                                     |
| 01 Jan. – 22 | \$169.87                                     |
| 01 Jan. – 23 | \$174.97                                     |
| 01 Jan. – 24 | \$180.22                                     |
| 01 Jan. – 25 | \$185.62                                     |
| 01 Jan. – 26 | \$191.19                                     |
| 01 Jan. – 27 | \$196.93                                     |
| 01 Jan. – 28 | \$202.84                                     |
| 01 Jan. – 29 | \$208.92                                     |
| 01 Jan. – 30 | \$215.19                                     |
| 01 Jan. – 31 | \$221.65                                     |
| 01 Jan. – 32 | \$228.30                                     |

|              |          |
|--------------|----------|
| 01 Jan. – 33 | \$235.15 |
| 01 Jan. – 34 | \$242.20 |

2. Effective July 1, 2013 and continuing through June 30, 2034, for sworn employees the District shall retain all or part of the 1.627% of payroll (as defined by the Money Purchase Pension Plan), provided for under Section 6.4. If 1.627% of an employee’s payroll exceeds one thousand eight hundred sixty-eight dollars and sixty-five cents (\$1868.65), the base salary of the employee, will be reduced by the amount necessary to make up the shortfall and achieve a total of 1.627% of payroll. The terms of subsection D.3 below shall govern the retention of Money Purchase Pension Plan contributions and the reduction of base salary as provided for herein.
3. Each eligible retiree shall pay the same premium contribution as active employees. Employees’ premium contributions will be paid for through tax-exempt payroll deductions. Retiree premium contributions will be deducted from the retirement allowance paid by PERS. If a retiree’s retirement allowance is not sufficient to pay the entire contribution, the retiree must pay the balance due on such premium contribution directly to PERS. If such payment is not received by the due date, health care coverage will automatically, immediately and permanently cease. These rules are intended to comply with the premium contribution procedures established by PERS, which may be modified by PERS. The District, Association and employees shall comply with the PERS procedures in effect from time to time.

**C. Maximum District Contributions for Health Insurance**

The District shall contribute an amount up to the applicable level of plan participation (i.e., one party, two party, or family) and the same Medicare status as elected by the eligible employee or retiree, equal to the Bay Area Basic Premium Rates for the PERS HMO Blue Shield Access + or PERS HMO Kaiser Plan, whichever is greater, less the employee and retiree contributions provided for in 5.4B above. This District contribution shall be the District’s maximum payment toward employee health insurance premiums. Employees and retirees electing coverage with a cost greater than the District’s maximum contribution shall have the difference deducted automatically from the unit member’s pay or as set forth in 5.4B3 above, in addition to amounts to be deducted in accordance with subsection B above.

**D. Retiree Insurance Funding**

1. The District shall contribute into its Retiree Health Benefit Trust (“RHBT”) amounts that, at minimum, reflect an eight (8) year “ramp up” to District payment of the full Government Accounting Standards Board (“GASB”) compliant Annual Required Contribution (“ARC”) beginning July 1, 2013 using an open group valuation method with a closed thirty (30) year amortization schedule for unfunded liability ending June 30, 2034.

2. The District shall, at minimum, contribute into the RHBT an amount equal to three and twenty-two one-hundredths percent (3.22%) of straight time bargaining unit base pay paid in FY 06 and three and thirty-six one-hundredths percent (3.36%) of straight time bargaining unit base pay paid in FY '07. These figures represent the “ramp up” percentages for those fiscal years.
3. The District shall retain all or part of the 1.627% of payroll (as defined by the Money Purchase Pension Plan), for civilian employees and implement the base salary reductions provided for in B.2 above, to the extent necessary to compensate the District for paying the difference between the actual ARC and the baseline ARC described below. The District shall retain this amount through June 30, 2034. In any year in which the actual ARC does not exceed the baseline ARC by an amount equal to the amount of the retained MPPP contributions and salary reductions provided for in B.3, the District shall make appropriate adjustments to the base salaries of sworn personnel first and then appropriate contributions to the MPPP’s of civilian personnel, but only to the extent that the amount the actual ARC exceeds the baseline ARC is less than the dollar value of the salary reduction and of the retained MPPP 1.627% of payroll. For sworn personnel, the District shall first adjust base salary up to the amount it was reduced for the period provided in B.2, before reinstatement of any portion of the MPPP contribution retained pursuant to B.2.

The baseline ARC is as follows:

| <u>FY Year Beginning</u> | <u>Baseline ARC</u> |
|--------------------------|---------------------|
| 7/1/18                   | 12.18%              |
| 7/1/19                   | 12.24%              |
| 7/1/20                   | 12.30%              |
| 7/1/21                   | 12.36%              |
| 7/1/22                   | 12.42%              |
| 7/1/23                   | 12.48%              |
| 7/1/24                   | 12.54%              |
| 7/1/25                   | 12.60%              |
| 7/1/26                   | 12.66%              |
| 7/1/27                   | 12.72%              |
| 7/1/28                   | 12.78%              |
| 7/1/29                   | 12.84%              |
| 7/1/30                   | 12.90%              |
| 7/1/31                   | 12.96%              |
| 7/1/32                   | 13.02%              |
| 7/1/33                   | 13.08%              |

4. The District shall direct the Trustee of the RHBT to pay retiree health insurance premiums from the RHBT.

**E. In Lieu of Medical Payments**

During any open enrollment period, an eligible employee who has medical coverage under a spousal or other alternate plan may elect, in accordance with procedures established by the District, to opt out of the group medical and prescription drug benefits covered under Section 5.4A. Coverage.

Commencing at the time of the change in medical premium specified in paragraph B.1, the District shall increase the monthly payment to three hundred and fifty dollars (\$350.00) “in lieu of medical” to each eligible employee who opts out of 5.4A. Coverage. Tax treatment of these payments will be subject to applicable Internal Revenue Code (“IRC”) and Internal Revenue Service (“IRS”) rules. The payments will be made in a manner that will not impact the income tax status of medical premiums under IRC requirements and to allow an employee to receive the amounts as cash monthly payments.

An eligible employee who opts out of 5.4A. Coverage may subsequently enroll in such coverage as permitted under the terms of the plan(s) described in section 5.4A. Coverage.

**F. Trust Review Committee**

1. The District’s three (3) Unions and two (2) Associations shall each appoint one (1) member to serve on a trust review committee (“TRC”). The District Labor Relations Manager and Human Resources Manager shall serve on the TRC for the District. The TRC shall meet quarterly. Employee members of the TRC will be released from regularly scheduled duty with pay for quarterly TRC meetings.
2. The District will direct the Trustee of the Trust to provide the Unions/Associations with quarterly reports of all RHBT operations, including audited and un-audited financial statements and investment performance reports, and other consultant reports in advance of the quarterly TRC meeting. (The parties acknowledge that audited financial statements are performed only once per year.)
3. The Trustee will attend the TRC meeting to answer questions concerning the information provided to the TRC. However, the TRC shall in no way attempt to assist, direct, or otherwise involve itself in matters concerning the investment of Trust assets. However, the TRC may advise the Trustee on other Trust matters to the extent such advisory activity does not affect the legal status of the Trust. It shall be within the sole discretion of the Trustee whether to follow or not follow such advice.
4. The TRC members shall be released from regularly scheduled duty with pay to attend meetings of the Human Resources Manager and Labor Relations Manager with the District’s actuaries and other professionals to discuss assumptions to be included in annual GASB valuation studies, and the preliminary and final results of such studies. Such studies shall include

ARC projections through at least the year 2035. The District will provide the Unions/Associations with a copy of the final version of such study on or before February 1st each year or as soon thereafter as is practicable.

5. The parties agree that if the BPOA retains a professionally recognized actuarial firm that reviews the Trust documents provided to the Trust Review Committee and the firm hired by the BPOA does not agree with the conclusions reached by the District's actuary, that the details of the conflicting conclusions may be reported to the Trust Review Committee and the Trustee.

**G. Retiree Health Benefits Trust**

The Trust Agreement provides that:

1. Trust assets shall be held for the sole and exclusive purpose of providing health benefits to eligible BART retirees and to defray the reasonable expenses of administering the RHBT.
2. The only District benefit plans for which payments may be made from the RHBT shall be those retiree health benefit plans offered to eligible District retirees as a result of its collective bargaining agreements, or District policy which extends such plans to non-represented employees. In addition, for District personnel on a District plan that is no longer generally offered to District employees, payments may be made from the RHBT. However, the District shall ensure sufficient separate funding and the Trustee shall separately account for benefits paid for such personnel.
3. The District may terminate the trust, subject to its duty to bargain in good faith to agreement or impasse over such termination with the Association. If the District gives the Association notice of the termination of the RHBT, the trust shall not terminate until the assets then remaining are exhausted. Such assets shall be used only as provided in paragraph 1 above.

**H. Retiree Medical Insurance Eligibility for Employees Hired After July 10, 2014**

Employees first hired after July 10, 2014, the District's contribution for post-retirement health benefits shall be a percentage of the employer contribution for applicable credited years of service as follows:

|            |      |
|------------|------|
| 10 years - | 50%  |
| 11 years - | 60%  |
| 12 years - | 70%  |
| 13 years - | 80%  |
| 14 years - | 90%  |
| 15 years - | 100% |

Employees who receive a service disability retirement shall receive a District contribution of 100%. The implementation of this agreement required statutory changes to the California Government Code.

Each eligible retiree pays the same premium co-payment as active employees.

Employees' premium co-payments will be paid for through payroll deductions. Retiree premium co-payments will be deducted from the retirement allowance paid by PERS. If a retiree's retirement allowance is not sufficient to pay the entire co-payment, the retiree must pay the balance due on such premium co-payment directly to PERS. If such payment is not received by due date, health care coverage will cease automatically, immediately and permanently. These rules are intended to comply with the premium co-payment procedures established by PERS, which may be modified by PERS. The District, Association and the employees shall comply with the PERS procedures in effect from time to time.

The District reserves the right to terminate or change any part or all of the health benefits program at any time with respect to active or retired employees, however, any such action will be taken only after the District has satisfied its obligations under applicable Collective Bargaining Agreements. The District's contractual obligation to provide health benefits coverage to retired employees shall terminate upon the expiration of this Agreement. By providing benefits to retirees, the parties do not intend to vest retirees with such benefits.

#### **I. Understanding of the Parties**

The parties mutually understand that the only obligation to continue the health benefits of active employees after the expiration of the Agreement is that which may arise from the general legal duty to bargain in good faith.

### **5.5 SURVIVOR BENEFITS**

Subject to the restrictions, limitations and eligibility requirements of the applicable health plans, employees may elect a survivor benefit which would pay a portion of premiums or provide reimbursement for the enrollment of their previously eligible covered survivor(s) in the medical, dental, and vision care plans upon the death of the employee. The cost for this program is fifteen dollars (\$15) per month. After the employee's death, the survivor must continue to contribute fifteen dollars (\$15) per month to receive the medical, dental, and vision coverage.

Part-time employees (less than forty [40] hours per week) and employees who are ineligible for District health plan coverage, including, without limitation, limited term intermittent employees, are ineligible for the Survivor Benefits Program. In order for the survivor of an employee or retiree who dies before the effective date of this Survivor Benefits Program to be eligible for survivor benefits, the employee and survivor must have been covered by District medical benefits at the time of termination by death or retirement. In order for the survivor of an employee or retiree who dies after the effective date of this Survivor Benefits Program to be eligible for survivor benefits, the employee/retiree and survivor must have been covered by District medical benefits and enrolled in the Survivor Benefits Program at the time of death.

Payment for those who choose this benefit must commence within ninety (90) days of the beginning of the one time open enrollment period for the program. This benefit shall be made available to eligible new hires when they commence the fifteen dollars (\$15) monthly assessment within ninety (90) days of hire. Former employees who retired prior to the effective date of this Survivor Benefits Program are not eligible for this program. Survivors of employees or retirees who died after 11/17/88 and prior to the effective date of this program will have a specified one time open enrollment period to elect this or a similar reimbursement benefit described below.

Failure to pay the required fifteen dollars (\$15) per month assessment by the due date established by the District shall permanently and irrevocably terminate eligibility for the Survivor Benefits Program.

The various categories of individuals eligible to elect this program, and the additional conditions applicable to each category, are described below.

### **Survivors Of Employees Who Die In Service After The Effective Date Of Survivor Benefits Program**

The survivors of employees who were not eligible for a PERS retirement allowance and who die in service after the effective date of the Survivor Benefits Program are eligible for benefits if they are eligible under the optional PERS Survivor Benefits Program provided for at Government Code 22821 (the optional program). The District will pay the entire premium to PERS for the optional program upon payment of the fifteen dollars (\$15) per month contribution.

The survivors of employees who were eligible for a PERS retirement allowance and who die in service after the effective date of the Survivor Benefits Program are eligible for survivor benefits only if the survivors are receiving a survivor's allowance from PERS and having the survivor's portion of the retiree medical premium withheld from the allowance. They will be reimbursed for the difference between the amount withheld and the required fifteen dollars (\$15) per month contribution. However, if the surviving spouse is not eligible for a PERS annuity only because he/she was married to the employee for less than a year, or only because he/she was a PERS annuitant and became ineligible for an annuity because of remarriage, the District will provide medical benefits as follows:

1. If the survivor meets the eligibility requirements for the optional PERS program, the District will pay the entire premium to PERS for the optional program upon payment of the fifteen dollars (\$15) per month contribution;
2. If the survivor does not meet the eligibility requirements for the optional program, the District will reimburse the survivors for medical premiums paid for any medical plan or coverage in which they may participate, less the required fifteen dollars (\$15) per month contribution. The maximum medical reimbursement will be based on the highest PERS medical plan premium applicable to their covered family size or the actual cost of their medical



insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

**Survivors Of Employees Who Died In Service After 11/17/88 But Before Effective Date**

The survivors of employees who died in service after November 17, 1988 but before the effective date of this program may elect the survivor benefits. If the survivors are receiving a survivor's allowance from PERS and having the survivor's portion of the retiree medical premium withheld from the allowance, they will be reimbursed for the difference between the amount withheld and the required fifteen dollars (\$15) per month contribution. If the survivors are not receiving a survivor's allowance from PERS, the District will provide dental and vision coverage and will reimburse the survivors for medical premiums paid for any medical plan or coverage in which they may participate, less the required fifteen dollars (\$15) per month contribution. The maximum medical reimbursement will be based on the highest PERS medical plan premium applicable to their covered family size or the actual cost of their medical insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

**Survivors Of Retirees Who Died After 11/17/88 But Before Effective Date**

The survivors of retirees who died after November 17, 1988 but before the effective date of this program may elect survivor benefits. If the survivors are receiving a survivor's allowance from PERS and having the survivor's portion of the retiree medical premium withheld from the allowance, they will be reimbursed for the difference between the amount withheld and the required fifteen dollars (\$15) per month contribution. If the survivors are not receiving a survivor's allowance from PERS, the District will provide dental and vision coverage and will reimburse the survivors for medical premiums paid, less the required fifteen dollars (\$15) per month contribution. The maximum medical reimbursement will be based on the highest PERS medical plan premium applicable to their covered family size or the actual cost of their medical insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

**Survivors Of Retirees Who Die After Effective Date Of Program**

The survivors of retirees who retired before the effective date of this program but who die after the effective date are ineligible for this program. If an employee who elected this program retires and then dies, his or her survivors are eligible for dental and vision coverage, but medical coverage will be provided only if the survivors are receiving a PERS survivor's allowance. However, if the PERS survivor's allowance is not available only because the survivor and employee were married less than one year, or because the survivor remarries, then the District will reimburse the survivor for medical premiums paid, less the required fifteen dollars (\$15) per month contribution. The maximum medical reimbursement will

be based on the highest PERS medical plan premium applicable to their covered family size or the actual cost of their medical insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

The District reserves the right to terminate or change any part or all of the Survivor Benefits Program at any time with respect to active or retired employees or survivors. However, any such action will be taken only after the District has satisfied its obligations under applicable Collective Bargaining Agreements. The District's obligation to provide survivor benefits coverage shall terminate upon the expiration of this Agreement.

The effective date of this Survivor Benefits Program shall be the first day of the second month following the effective date of the PERS Medical contract.

**5.6 VISION CARE PLAN**

The District will continue to provide a Vision Care Plan for employees, an employee's eligible domestic partner (per Board Resolutions 4455 and 4457), and their eligible dependents providing the following:

| <b>Coverage</b>     | <b>Intervals</b> |
|---------------------|------------------|
| Visual Examinations | 12 months        |
| Lens Replacement    | 12 months        |
| Frames Replacement  | 24 months        |

There shall be a ten dollar (\$10) deductible. The District shall pay the full premium for all employees and eligible dependents.

Employees shall have the option to purchase, at their own expense, an enhanced Vision Care Plan. Benefits and premiums shall be established by the District annually based on plan experience. Premiums for this benefit will be paid through payroll deduction.

**5.7 GROUP LIFE INSURANCE PLAN**

The District shall no longer provide group life insurance.

**5.8 GROUP INSURANCE AND DISTRICT SELF-FUNDED PLANS—GENERAL**

The terms, conditions and provisions of all current group insurance policies issued by insurance companies to the District, or hereafter negotiated between the parties, and of all self-funded employee benefits plans, exclusive of the Money Purchase Pension Plan and Deferred Compensation Plan, under which individual employees are to receive benefits, are incorporated by reference herein and shall be controlling, in all matters pertaining, to benefits hereunder.

The District agrees that it will not change, or seek to change, the benefits under the group insurance policies, or under the self-funded benefit plans or fail to provide reasonable and customary claims services under which individual employees are to receive benefits, without mutual agreement of the parties to this Agreement.

The District agrees that it will promptly notify the Association of any changes to group insurance policies or self-funded benefit plans which may be mandated by law or required by insurers, or adopted by the District.

Married employees and employees in an eligible domestic Partnership who both work for the District shall receive full coverage under group insurance policies and self-funded benefit plans. They shall each receive their allotted employee and dependent coverage. In no event will these employees or their dependents be entitled to such combined coverage in excess of their actual expenses.

### **Dependent Definition**

The definition of a dependent for purposes of District-paid medical benefit plans shall be as follows:

1. The covered employee's legally wedded spouse or domestic partner per Board Resolutions 4455 and 4757 and BART and Health plan eligibility guidelines.
2. The unmarried a) natural born child, b) legally adopted child, c) stepchild, or d) child of the employee or the employee's domestic partner for whom the covered employee or employee's domestic partner became the legal guardian before age 19, who is under age 19 and dependent on the covered employee for their principal support and maintenance. This also includes any such maintenance. This also includes any such child as listed above who is under age 23 (24 under certain health plans), provided they are attending school on a continuous, full time basis (12 units or more), at an accredited academic or vocational institution. This also includes any such child as listed above who is incapable of sustaining employment by reason of mental retardation or physical handicap, if such was incurred prior to age 19 (or prior to age 23 or age 24 in accordance with certain health plans), if the child was attending school as a full-time student as defined above, provided the child resides in the covered employee's household or a custodial facility.
3. Any unmarried child (including the eligible child of an employee's domestic partner) under age 19 (or prior to age 23, or prior to age 24 in accordance with the individual health plan, if attending school as a full-time student as previously defined) for whom the covered employee is mandated by court decree to provide health benefits. Proof of dependency and/or incapacity must be furnished annually during the period specified by BART or as required by the individual health plan.
4. The District and the Association agree that it is not the intent of this provision to eliminate coverage from those currently receiving District paid benefits. To that end any person or group currently receiving District paid benefits shall

continue to receive them up to the limits provided above, as long as they qualify.

This Provision shall not apply to benefits which are provided pursuant to Provision 5.4, PERS-Medical & Prescription Drug Benefits and Provision 5.5, Survivor Benefits. Provision 5.4, PERS-Medical & Prescription Drug Benefits and the PERS rules, regulations and plan documents shall control on all issues concerning medical and prescription drug benefits.

**6.0 RETIREMENT BENEFITS**

The District shall amend its contract with PERS to include Section 20516, Employees Sharing Cost of Additional Benefits to reflect the amounts below.

**6.1 SAFETY EMPLOYEES**

Sworn personnel shall remain “safety members” of the California Public Employees’ Retirement System (“CalPERS”).

**A. Classic Employees**

Those sworn employees who are Classic employees as defined by State Law and as determined by CalPERS shall receive the three percent (3%) at Age 50 Safety Retirement Plan, including the Fourth (4th) Level 1959 Survivors Benefits, but not including the one-half (½) survivors continuance and will not be covered by the Federal Old Age, Survivors, Disability and Health Insurance Program (Social Security).

Classic sworn personnel shall continue to be eligible for the one (1) year “final compensation” with PERS pursuant to Section 20692 of the California Public Employees’ Retirement System 1996 Optional Public Agency Contract Provisions and Amendment Procedures. By doing so, the District will stop paying those contributions during the final compensation period (one year) and increase the pay rate of the members by the amount of employer-paid member contributions (EPMC).

For Classic employees, the District shall continue to pick up the employee’s contribution to the Public Employees’ Retirement System (PERS) per Section 20692 Employer Paid Member Contributions Converted to Payrate during the Final Compensation Period. Classic employees shall cost share according to the following schedule:

|        |        |        |        |
|--------|--------|--------|--------|
| Year 1 | Year 2 | Year 3 | Year 4 |
| 7%     | 8%     | 9%     | 10%    |

In Year 1 of the Contract, the cost share percentages for all employees will be effective on the first full pay period following ratification of the Contract by the Board of Directors. For Years 2, 3, and 4 of the Contract, the cost share percentage for all employees will be effective on the first full pay period after July 1st of each respective fiscal year.

B. PEPRA Employees

Those sworn employees, as defined by State Law and as determined by CalPERS, first employed by the District on or after January 1, 2013 shall receive the two and seven tenths percent (2.7%) at Age 57 Safety Retirement Plan including the Fourth (4th) Level 1959 Survivors Benefits, but not including the one-half (½) survivors continuance and will not be covered by the Federal Old Age, Survivors, Disability and Health Insurance Program (Social Security).

Employees not designated as Classic employees shall pay half the normal cost of the applicable pension as determined by CalPERS and the District will not pay any portion of the employee's share. In addition, such employees shall cost share according to the following schedule:

| Year 1 | Year 2 | Year 3 | Year 4 |
|--------|--------|--------|--------|
| 3%     | 2%     | 1%     | 0%     |

In Year 1 of the Contract, the cost share percentages for all employees will be effective on the first full pay period following ratification of the Contract by the Board of Directors. For Years 2, 3, and 4 of the Contract, the cost share percentage for all employees will be effective on the first full pay period after July 1st of each respective fiscal year.

**6.2 CIVILIAN “MISCELLANEOUS” EMPLOYEES**

Civilian employees shall be classified as “miscellaneous members” of the California Public Employees’ Retirement System (“CalPERS”).

A. Classic Employees

Those civilian employees who are Classic employees as defined by State law and as determined by CalPERS shall receive for the two percent (2%) at Age 55 Miscellaneous Retirement Plan.

Classic civilian employees shall continue to be eligible for the one (1) year “final compensation” and the Employer Paid Member Contribution (EPMC), pursuant to Section 20692 of the California Public Employees’ Retirement System 2001 Optional Public Agency Contract Provisions and Amendment Procedures. By doing so the District will stop paying those contributions during the final compensation period (one year) and increases the pay rate of members by the amount of employer-paid member contributions (EPMC).

For Classic employees, the District shall continue to pick up the employee’s contribution to the Public Employees’ Retirement System (PERS) per Section 20692 Employer Paid Member Contributions Converted to Payrate during the Final Compensation Period. Classic employees shall cost share a total of four percent (4%).

**B. PEPRA Employees**

Those civilian, as defined by State Law and as determined by CalPERS, employees first employed by the District on or after January 1, 2013 shall receive the two percent (2%) at Age 62 Miscellaneous Retirement Plan.

All civilian "miscellaneous" employees, not designated as Classic employees, shall pay half the normal cost of the applicable pension as determined by CalPERS and the District will not pay any portion of the employee's share. In addition, such employee's shall cost share a total of four percent (4%).

**6.3 PENSIONERS' LIFE INSURANCE**

1. Life insurance will be provided to all employees who retire from the District before January 1, 2019 on either a service or a disability retirement as follows:
  - A. The first year of retirement, fifty percent (50%) of the employee's annual base earnings rounded to the next higher even thousand dollars (\$1,000);
  - B. The second year of retirement, forty percent (40%) of the employee's annual base earnings rounded to the next higher even thousand dollars (\$1,000);
  - C. The third year of retirement, thirty percent (30%) of the employee's annual base earnings rounded to the next higher even thousand dollars (\$1,000);
  - D. The fourth and subsequent years of retirement, twenty percent (20%) of the employee's annual base earnings rounded to the next higher even thousand dollars (\$1,000).

The District agrees to discuss any changes proposed by the insurance carriers in insurance plans.

This Provision is subject to Provision 5.8 - "Group Insurance & District Self-Funded Plans."

2. The District will no longer provide Pensioners' Life Insurance for employees who retire from District service on or after January 1, 2019.

**6.4 MONEY PURCHASE PENSION PLAN**

- A1. Except as provided in Provision 5.4 of this Agreement, for civilian employees, the District will continue to deposit an amount equivalent to six and sixty-five hundredths percent (6.65%) of the employee's base rate monthly compensation (after deducting the first one hundred thirty-three dollars and thirty- three cents (\$133.33) paid during the month) up to a maximum annual contribution of one thousand eight hundred and sixty-eight dollars and sixty-five cents (\$1,868.65) into a Money Purchase Pension Plan. The base rate monthly compensation equals one hundred seventy-three and one-third (173.33) hours X base straight time hourly rate.

- A2. Except as provided in Provision 5.4 of this Agreement the District shall, for civilian employees, deposit an additional one and six hundred twenty-seven thousandths percent (1.627%) payroll contribution to the District Money Purchase Pension Plan.
- B. Except as provided in Provision 5.4 of this Agreement, the District shall, for sworn employees, contribute an amount equivalent to six and sixty-five hundredths percent (6.65%) of the employee's base rate monthly compensation (after deducting the first one hundred thirty-three dollars and thirty-three cents (\$133.33) paid during the month) up to a maximum annual contribution of one thousand eight hundred and sixty-eight dollars and sixty-five cents (\$1,868.65).
- C1. If the District's employer PERS account becomes super-funded in any fiscal year commencing before the fiscal year beginning July 1, 2034 and, if in the next fiscal year the Retiree Health Benefit Trust (See Provision 5.4) has an unfunded actuarial liability as determined by the District's actuaries, the District shall, at the commencement of the fiscal year after super-funding status begins, discontinue its payment of the EPMC for members of the bargaining unit from the operating budget and shall, instead, direct an equal amount into the District's Retiree Health Benefit Trust.
- C2. Except as provided above, for the period(s) during which the District's PERS account is superfunded, the District shall make an additional contribution to each civilian employee's Money Purchase Pension Plan account in the amount of 3.5% of gross straight-time wages. This contribution is 50% or one half of the 7% PERS Employee Paid Member Contribution (EPMC). The other 3.5% will be available to the District for discretionary obligations and purposes. The 7% EPMC will be discontinued during the period(s) of superfunding.

To the extent it is within their respective authority, the District and Association will amend the Money Purchase Pension Plan as needed to implement this Provision.

## **6.5 ADDITIONAL PERS OPTION**

Employees may purchase up to four (4) years of service credit for any continuous active military service prior to employment with BART pursuant to Government Code Sections 20930.3 and 20930.33. The employees will bear all costs for this PERS option.

## **6.6 FOURTH LEVEL OF 1959 SURVIVOR BENEFITS**

The District will amend its PERS contract to provide for the Fourth Level of 1959 Survivor Benefits for Safety Members pursuant to Government Code Section 21574 pursuant to CalPERS requirements.

The covered employees will bear all costs for this benefit. To that end, the employer contribution will be deducted from the Member Surplus in the 1959

Survivor Benefits Account until such time as that account is exhausted. Thereafter, deductions will be made from the paychecks of covered employees to cover the employer cost.

The employee will continue to be responsible for the employee contribution.

## **6.7 INVESTMENT PLANS COMMITTEE**

- A. The parties shall continue to participate in the Investment Plans Committee (hereinafter "IPC") that administers the District's Deferred Compensation and Money Purchase Pension Plan programs, subject to the Joint Agreement that established this administrative arrangement, as that Joint Agreement has been amended from time to time.
- B. The IPC shall continue to meet at least quarterly or more often on District time as necessary to administer the plans, although no paid time off will be authorized for individual members of the Committee acting independently.
- C. The District and each of the four (4) participating unions/association shall each designate a committee member and an alternate committee member.
- D. The IPC shall review, grant or deny requests for withdrawal of funds based on hardship.
- E. The District and each of the four participating unions/association shall have a vote. A Proposed IPC action will take effect only if it receives four (4) votes.

## **7.0 ASSIGNMENTS AND PROGRESSIONS**

### **7.1 CSO SPECIAL ASSIGNMENTS**

The Chief of Police has the discretion to create Community Service Officer (CSO) special assignments, including assignments that are routinely and consistently responsible for administrative records of the Police Department, within any bureau of the Department. A CSO is considered to be "routinely and consistently" responsible for administrative records whenever he/she is in a special assignment responsible for administrative records, because they are part of the normally required duties of that assignment. If an assignment is created, the following guidelines will be followed:

- A. Management determines the duties, scheduling, operational need, minimum qualifications, selection process, and training;
- B. Only non-probationary CSOs, with two (2) years departmental experience are eligible to apply for any CSO special assignment;
- C. Applicants shall be required to go through a testing process which may include a written examination and/or an oral examination;



- D. After being selected and upon successful completion of on-the-job training, CSOs, while in special assignments, will receive a 5% temporary premium over their pre-existing base-pay rate. For certain special assignments designated as requiring enhanced skill or responsibility by the Chief of Police, with the General Manager's approval, the temporary premium will be 10% over the existing base-pay rate. Premium pay will not be compounded or pyramided in an overtime situation outside of the employee's special assignment; the employee's regular base rate of pay shall be used for the computation of overtime;
- E. CSO special assignments may be granted for up to five (5) years from the date employee completes training in the special assignment functions. At end of the five (5) years, if the Chief of Police determines that positions will continue, the position will be posted to allow other qualified, interested CSOs the ability to apply for the position.

### **Call-Takers**

- 1. Applicants must be certified as being able to type a minimum of thirty-five (35) error-free words per minute. Applicants must provide a typing certificate to prove the existence of minimum typing skills as a provision for consideration.
- 2. Duties of call-takers are limited to: receiving incoming phone calls; typing inquiries and entries into various law-enforcement automated systems; inputting data on case dispositions into CADS; monitoring alarm and closed-circuit systems; broadcasting computer-inquiry returns and messages. Only during an emergency, when directed by a Dispatch Supervisor or a Dispatcher when a Supervisor is not available, may a Call-taker broadcast a call over the air.
- 3. Call-takers will not replace police dispatchers. Call-takers may be the third person, when the minimum staffing level is three and a Call-taker may be the second person between 0200-0600 hours. Officers and CSOs who are designated as dispatch qualified may count towards minimum staffing.
- 4. There will be no more than three (3) Call-taker positions assigned to Dispatch. Only one (1) CSO will be assigned to Dispatch per shift. Shift selections will be based on seniority within the communications section.
- 5. Call-takers may be subject to mandatory overtime within the communication section.
- 6. Management determines the scheduling and training of all Call-takers.

## **7.2 SENIOR POLICE OFFICER PROGRESSION**

- A. The base rate of pay for Senior Police Officer Intermediate shall be three percent (3%) over the top step Police Officer base rate of pay. To achieve Senior Police Officer Intermediate the officer must complete thirty-six (36) calendar months of employment, obtain a "competent" or better performance

rating in all applicable categories, and possess an intermediate POST certificate.

- B. The base rate of pay for Senior Police Officer Advanced shall be three percent (3%) over the Senior Police Officer Intermediate base rate of pay. To achieve Senior Police Officer Advanced the officer must complete thirty-six (36) calendar months of employment, obtain a “competent” or better performance rating in all applicable categories, and possess an advanced POST certificate.
- C. Applications for Senior Police Officer shall be approved or disapproved by the Chief or designee in writing. If requested, a meeting with the Chief of Police or designee will be made available to discuss the denial. A denied applicant may reapply no sooner than six (6) months after denial.
- D. Once attained, Senior Police Officer status shall become permanent.

### **7.3 SERGEANT APPOINTMENTS**

Appointments to the position of Sergeant shall, where practicable, be made from within the unit.

Note: “Where practicable” means that it requires a pool of three (3) or more candidates to permit a reasonable opportunity for management to select a person fully qualified for the position.

“Police” experience is more restricted than “Peace Officer” experience.

### **8.0 SICK LEAVE AND DISABILITY**

#### **8.1 SICK LEAVE \***

- A. Covered employees will accrue one (1) day of sick leave for each full month of employment. Sick leave credits may be accumulated to a total of two thousand and five hundred (2500) hours.

Sick leave will be paid when an employee is required to be absent because of:

1. Illness, injury, quarantine or similar exposure to contagious disease.
2. Required attendance upon a seriously ill spouse or child.
3. Verifiable medical and/or dental appointments which cannot be scheduled outside the normal working hours of the employee, provided that a minimum of forty-eight (48) hours advance notice is given and provided subsequent confirmation that the appointment was kept is given if requested by management.
4. An employee whose attendance is required by a doctor upon a seriously ill mother or father, subject to verification, shall be allowed to use sick leave.

All sick leave may be verified by telephone or by personal visit during the affected employee’s scheduled hours of duty provided:

The employee's supervisor or next higher in command shall "only" contact the employee at home for verification purposes when he/she calls in sick, where there is an identifiable pattern of abuse or suspected pattern of abuse of sick leave.

If, after several attempts, an employee cannot be contacted at the address/telephone number provided at the time the employee reported the illness, the supervisor will request a memo from the employee explaining his whereabouts on the day and time in question. In addition to said memo, a supervisor may request medical verification of the illness. In either case, the affected employee must respond within seven (7) calendar days and the absence shall remain denied until acceptable verification has been received.

Employees whose record of absenteeism gives evidence of being excessive or shows a pattern shall be subject to having future absences verified by acceptable medical documentation. Such medical verification may be required from the employee for a specified period of time, as determined by the employee's supervisor.

Inability of the District to obtain such verification shall result in the affected employee not receiving sick leave payment for any such work shift during which verification is unavailable. Within forty-eight (48) hours of the employee's return to work, the District shall notify the affected employee of the withholding of sick leave benefits. In any instance where the District is unable to verify per above paragraph and consequently proposed to deny sick leave benefits, parties agree written evidence of an employee's having received professional health services at the time during which District was unable to verify per above paragraph shall constitute such verification. It is further agreed such written proof of professional health service having been received shall be submitted within seven (7) calendar days of employee's return to work.

**B. Incentives for Sick Leave Accrued and Unused on or after October 19, 2009:**

To encourage employees to maintain maximum attendance and improve performance the District offers employees the following two (2) incentives:

**1. PERS Retirement Service Credit for Sick Leave:**

The District provides California Government Code Section 20965 option for service credit for unused sick leave for eligible CalPERS members in the bargaining unit. The Public Employees Retirement Law (PERL) and CalPERS rules will govern the eligibility of unused sick leave earned on or after October 19, 2009, for service credit. Those rules presently grant 0.004 years of service credit for each certified unused day of sick leave accrued by the member during the normal course of his/her employment. For employees whose effective date of retirement is within four months of separation from employment with the District, the District shall certify to CalPERS all such unused days of sick leave that were accrued by the employee on or after October 19, 2009. For purposes of Government Code

Section 20965, leave accrued prior to October 19, 2009, shall not be considered “unused” sick leave and the District will not certify such sick leave to CalPERS, unless the employee has made the one-time election to convert such pre-October 19, 2009 sick leave to PERS credit eligible sick leave pursuant to Paragraph C below.

**2. Annual Buy-Back or MPPP Incentive:**

The District shall give employees the option each year to make an irrevocable election on the schedule indicated below to buy back or to deposit into their Money Purchase Pension Plan (MPPP) accounts, the dollar value of the sick leave earned within the annual accrual period indicated in paragraph B.2.a. below, less sick leave taken during that same period on an after tax basis.

a. Sick Leave Accrual/Election Periods:

The maximum sick leave which may be earned for each accrual period is ninety-six (96) hours for employees on a 5-8 or 9/80 Work Plan and one hundred twenty (120) hours for employees on a 4-10 Work Plan. Sick leave for which such an election has been made shall not be included by the District in the certification to CalPERS under the retirement service credit plan described above.

During the month of September each year, employees will be given the opportunity to make an irrevocable annual election to buy back sick leave which will be newly earned during the following sick year (Oct. 1 – Sept. 30), but not used during that year (unused sick year accrual).

b. Buy-Back/MPPP Deposit Amounts:

An election to “buy back” or to deposit into the MPPP must also include an election as to the percentage amount of the “buy- back,” based on the percentage increments and maximums provided below. The maximum Buy-Back percentage that will be allowed is based on the employee’s attendance record during the accrual period.

| <b>Days</b> | <b>Eligible Percentage of Unused Earned Sick Leave</b> |
|-------------|--|
| 0           | 5% up to 50% (in 5% increments)                        |
| 1-3         | 5% up to 40% (in 5% increments)                        |

c. Impact of Buy-Back/MPPP Election:

Employees may select only one option (“bank” or “Buy-Back,” or MPPP) for each accrual period.

Once the buy-back or MPPP Incentive election is made for any accrual period it may not be changed. Employees will receive the buy-back checks or MPPP credit no later than December 1, following the end of the accrual period.

Unused sick leave hours for which an election to buy back or transfer into MPPP is not made shall be carried over the next year, subject to the maximum accumulation limit, and will no longer be available for any future annual buy-back/MPPP incentive election.

If an employee's absence which qualifies for paid sick leave also qualifies as statutory family and medical leave (i.e., FMLA/CFRA), the employee may elect to preserve eligibility for participation in the annual buy-back or transfer into the MPPP of eligible accruals, if elected during the election period, by requesting to substitute vacation, floating holidays (for increments of a full day only), or compensatory leave pay, or, if he/she has no accrued vacation, floating holidays, or compensatory leave, requesting to take the leave unpaid. The request must be made before receipt of sick pay.

**C. One Time Election to Convert Sick Leave Accrued Prior to October 19, 2009, to PERS Creditable Sick Leave**

During the month of October 2009, employees were given a one-time opportunity to convert unused sick leave that had been accrued prior to October 19, 2009, to PERS-credit-eligible sick leave (described in paragraph B.1. above. This election is irrevocable, and included all of the employee's unused sick leave, including banked sick leave pursuant to D.1., and/or unbanked sick leave pursuant to D.3. below. If an employee made this election, such accrued leave is no longer eligible for pay-out at termination/retirement (previously banked leave) or at retirement (unbanked leave). All leave converted pursuant to this paragraph C. is subject to CalPERS rules for service credit eligibility. Leave converted under this paragraph is considered, for purposes of disposition at the end of employment only, to have been accrued on or after October 19, 2009.

**D. Sick Leave Accrued Prior to October 19, 2009**

Sick leave accrued prior to October 19, 2009, which is not converted to PERS creditable sick leave pursuant to paragraph C. above, shall be preserved in accounts separate from sick leave accrued on or after October 19, 2009, and shall be used pursuant to the terms of this paragraph D., including subsections 1.– 3.

**1. Banked Sick Leave (under Previously Exercised Option)**

This section refers to sick leave which has been "banked" in accordance with Labor Agreement Section 8.1B.2. as it was in effect on June 30, 2009, or banked pursuant to Agreements previously in effect. It excludes sick leave electively converted to PERS-creditable sick leave pursuant to paragraph C. above. It includes sick leave for which a banking election was made during the 2008 or earlier option periods.

Banked sick leave, as defined above, will be preserved in a separate account for use by the employee in accordance with the provisions of former Section 8.1.B.2., including the following:

- a. Such bank shall be set aside for payment upon death/retirement/termination and shall not be included in the calculation of unused sick leave pursuant to paragraph B.1. above or Government Code Section 20965.
- b. Sick leave hours banked will be paid at the employee's base rate of pay, effective on the employee's date of death or retirement/termination from District's employment.
- c. Employees who experience illness/injury and exhaust their existing sick leave that is available, may utilize sick leave that has been banked under prior Section 8.1.B.2. provided they make a written request to do so through their Department Manager at the time of the illness/injury and the circumstances qualify for sick leave.

2. Sick Leave Buy-Back (under Previously Exercised Option)

Employees who exercised the option during the September 2008 option period specified in Labor Agreement Section 8.1.B. in effect on June 30, 2009, to make an irrevocable election to buy back or deposit into the MPPP the value of sick leave earned during the annual accrual period, less sick leave taken during the annual accrual period shall receive the buy-back payments and the MPPP deposits required by the prior Labor Agreement

Buy-back checks for the 2009 accrual period under former Labor Agreement Section 8.1B. will be distributed to employees no later than December 1 following the end of the accrual period, and MPPP elections for that period will be deposited by that same date.

3. Retirement Buy-Back

Sick leave accrued prior to October 19, 2009, and not (1) banked pursuant to paragraph 1. above; (2) bought back or deposited in the MPPP pursuant to paragraph 2 above; (3) converted to PERS creditable sick leave pursuant to paragraph C. above; or (4) used pursuant to A. and E., shall be available for use as a Retirement Buy-Back incentive. Employees leaving District service on a service retirement shall be paid fifty percent (50%) of this accrued sick leave balance upon the effective date of service retirement. This accrued sick leave shall not be included in the calculation of unused sick leave pursuant to paragraph B above or Government Code Section 20965.

**E. Order of Use of Sick Leave from Separate Accounts**

When using sick leave with pay pursuant to Section A. above, employees' sick leave balances will be deducted in the following order:

1. Sick leave accrued on or after October 19, 2009, if any, including any sick leave accrued before October 19, 2009, which an employee has elected to convert to PERS creditable sick leave pursuant to paragraph C. above, if any.
2. If the accruals described in paragraph E.1. are exhausted, unbanked sick leave accrued prior to October 19, 2009, if any.
3. If the accruals described in paragraphs E.1. and E.2. above are exhausted, banked sick leave, if any, may be used subject to the terms of paragraph D.1.c. above.

**F. Sick Leave on a Holiday**

For Sworn Employees and Dispatchers receiving Holiday Conversion only, an employee who takes unscheduled sick leave on a shift commencing on the contractual holiday and/or the calendar days before or after the contractual holiday and/or the calendar days before or after the contractual holiday shall have one (1) day of vacation deducted for each sick day described herein. If the employee does not have sufficient vacation, then compensatory time will be deducted, and if the employee does not have sufficient compensatory time, then the deduction will be made from the employee's vacation balance and may result in a negative balance. This is separate from, and in addition to, any form of sick leave used for the day. This shall not apply if the employee's absence is protected under state or federal law (e.g., FMLA, CFRA, PSL).

**\* Minute Clarification**

The parties agree that the District may assign employees who are unable to perform the full scope of their current job to temporary modified work consistent with the employee's functional limitations when and where, in the judgment of the District, such work is available and where it may be accommodated without adverse consequence to the department or disruption in services or operations.

Temporary modified work will be considered on a case-by-case basis. Temporary modified work may involve modification of an employee's own job or assignment to work outside of an employee's current position. The Employee Services Division of the Human Resources Department, in consultation with the Police Department, will determine eligibility for participation in the Temporary Modified Assignment Program and will coordinate temporary work positions/assignments. Temporary Modified Assignments shall be for ninety (90) days. However, the District may, within its sole discretion, by and through the Chief of Police, in conjunction with the Employee Services Division in Human Resources, review the Temporary Modified Assignment (TMA) after the 90-day period has expired to determine whether there are other eligible employees who can assume the TMA. If there are no eligible employees, the TMA may be extended on a week-to-week basis, not to exceed an additional ninety (90) days.

When possible, the District will attempt to give the employee relinquishing the TMA a four (4) working day notice.

It shall be the duty of every employee to cooperate fully and promptly with the Coordinators. Notification of changes in medication, medical condition and restriction/limitations shall be promptly communicated to the Benefits Department along with supportive documentation, acceptable to the District. In administering the Temporary Modified Assignment Program, BART may communicate directly with the employee's physician(s) regarding the employee's medical limitations, functional restrictions, job requirements in the employee's regular assignment, job requirements in any modified duty assignment under consideration, and return to work status. Such communication will be done with the employee's written authorization when required by law.

Employees participating in the Temporary Modified Assignment Program shall retain all contractual benefits not inconsistent with the objectives of the Program. If an assignment is identified which, in the judgment of the District, is within the employee's medical limitations and restrictions, the employee shall return to work. The District may change regular days off (RDO) and work hours while an employee is in the Temporary Modified Assignment Program.

However, except for Officers receiving 4850 benefits, employees shall have the option to decline any initial or subsequent assignment which is a change from the employee's last regular bidded shift, RDO or location. If the employee declines the temporary modified assignment, the District and the employee shall meet to determine if an alternate assignment is available subject to the employee's rights as set forth above.

## **8.2 SICK LEAVE ADVANCE**

Upon employment, all civilian employees shall be provided an advance on their first year sick leave entitlement. Such twelve (12) day advance shall be allowed in the first year of employment only and may only be utilized in conjunction with on-the-job injury provisions of this Agreement. Advanced credits must be earned during the year and shall not be in addition to normal credits earned at the rate of one (1) day for each month of employment.

## **8.3 INDUSTRIAL INJURIES**

### **A. All Civilian Personnel**

An employee suffering industrial injury or illness will be entitled to receive for each separate injury or illness up to five (5) days industrial accident leave before normal sick leave credits are utilized. Both industrial and accident leave and sick leave payments will be coordinated with Workers' Compensation payments to maintain the employee's basic straight time earnings.



**B. Sworn Officers Only**

Sworn Police Officers of the BART Police Officers' Association, who become disabled by illness or injury, arising out of and in the course of their duties, will be accorded the benefits of city Police Officers or other law enforcement personnel pursuant to Sections 3212.5, 3212.6 and 4850 of the California Labor Code.

Both industrial accident leave and sick leave payments will be coordinated with Workers' Compensation payments to maintain the employee's basic straight time earnings. Vacation and sick leave shall continue to accrue during the period of industrial absence or for one (1) year, whichever is shorter. Upon return to work sick leave credits utilized during such absence shall be restored.

**C. Revenue Protection Guards**

Revenue Protection Guards are entitled to 4850 Industrial Injury Leave for injuries incurred in the line of duty arising from a robbery or attempted robbery or when instructed by a Sworn Officer on District property to aid in apprehending, subduing or arresting a suspect.

**D. Community Service Officers**

While on duty, if a Community Service Officer (CSO) or other non-sworn employee is injured on District Property while providing immediate emergency assistance to a Sworn Officer who is engaged in a violent circumstance, or if a Fare Inspector or CSO assigned to proof of payment enforcement duties is the victim of a violent attack while performing proof of payment enforcement duties, the District will pay the difference between the employee's Workers' Compensation Benefit and employee's straight time rate of pay for forty-five (45) days after the first five (5) days of benefit that is provided under the District's Workers' Compensation policy. During this forty-five (45) day period, the employee is subject to any and all of the provisions of the District's Workers' Compensation Policy. Nothing in this paragraph is meant to alter the terms and conditions set forth in said policy and the employee's responsibility thereto. After the forty-five (45) day period has expired, the provisions set forth in paragraph "A" of this Provision, shall be implemented for the remainder of the employee's Workers' Compensation absence from the District, if such absence extends past the forty-five (45) day period.

**E. Temporary Modified Duty**

Temporary Modified Assignments shall be for ninety (90) days. However, the District may, within its sole discretion, by and through the Chief of Police, in conjunction with the Employee Services Division in Human Resources, review the Temporary Modified Assignment (TMA) after the 90-day period has expired to determine whether there are other eligible employees who can assume the TMA. If there are no eligible employees, the TMA may be extended on a week-to-week basis, not to exceed an additional ninety (90) days. When possible,

the District will attempt to give the employee relinquishing the TMA a four (4) working day notice.

**9.0 HEALTH AND SAFETY**

**9.1 WATER**

The Police Department shall provide bottled water, water coolers, or water service at all BART Police direct report locations.

**9.2 PRESCRIPTION SAFETY GLASSES/EQUIPMENT REIMBURSEMENT**

- A. Those employees who presently wear prescription glasses will be furnished prescription safety glasses by the District.
- B. Those employees who presently wear prescription glasses will be required to take an eye examination and utilize whatever medical coverage they have which includes eye examinations. If the employee's medical coverage does not include eye examinations, the District will provide; however, this does not include "first time" eye examinations.
- C. Safety prescription glasses provided under this program shall not be altered without prior District approval.
- D. The District will pay for glasses and employees may select whatever style he/she wishes provided the glasses comply with prescription safety glasses specifications (American National Standards, Z87 1-1989) and do not exceed the District's safety glasses plan coverage costs. Only District authorized optical vendors shall be patronized. The District will provide an updated price list and vendor location list to the Association as soon as it is made available to the District.
- E. Prescription safety glasses furnished under this Provision will become the property of the employee and a condition of employment is the requirement to wear them while on the job.
- F. The District will pay for the replacement cost of damaged or destroyed prescription glasses or for the repair of damaged glasses providing District authorized vendors are patronized.
- G. The District shall replace or reimburse an employee at fair market value for personal equipment that is damaged or stolen in direct consequence with the performance of an employee's duties. In order to be reimbursed, an employee must obtain and submit to the District cost estimate(s) for replacement from District approved vendors. If more than one estimate is required, reimbursement shall be for the lowest estimate. If the value of such item is \$100 or less, only a receipt will be required for reimbursement at fair market value.

In the event any covered equipment is stolen, the affected employee must file a police report.

Replacement/reimbursement will be made in accordance with section 2802, subsections (a) and (b) of the California Labor Code.

- H. All CSOs employed by the District may receive District reimbursement for protective vests purchased after January 3, 2014. District reimbursement shall not exceed \$800 per vest, per employee (via the existing Protective Vest Reimbursement process currently used for sworn personnel).

If a CSO elects to purchase a protective vest and obtain District reimbursement, it shall be mandatory that the employee wear said vest while on duty, in any uniformed field duty capacity. The employee shall bear all costs for the upkeep for the vest and the vest shall be submitted to (and shall thereby become the property of) the District, once the warranty of the vest has expired.

CSOs will not be reimbursed for vests purchased prior to the effective date of this section.

### **9.3 MEDICAL EXAMINATIONS**

Any medical examinations, including periodic eye tests, required of employees by the District shall be paid for by the District, with the exception of costs incurred as a result of untimely employee cancellation, missed examinations or appointments without valid or justifiable reason which shall be paid by the employee, provided the employee is given one week notice of the appointment.

Medical examinations or follow-up medical appointments for job-related illness or injury may be scheduled during non-work hours if no appointments are available during employees regularly scheduled work hours. Medical exams or follow-up medical appointments for job-related illness or injury scheduled during work hours will be at the beginning or end of the employee's shift, so as to minimize time lost from work whenever possible.

In the case of any job-related illness or injury, an employee shall have the right to examination/treatment by a doctor of his/her choosing, provided advanced notice is given to the District.

#### **Job Related Illness/Injury**

Any disputes regarding an employee's industrial medical status and/or appropriate compensation shall be handled in accordance with the State of California Laws including the applicable Worker's Compensation Laws and Labor Code.

#### **Non-Job-Related Illness/Injury**

Should the District require any medical examination of an employee with a non-job-related illness/injury, the District may designate a doctor for such purpose. This doctor may be the employee's doctor, however, if the employee's doctor is

selected, the District reserves the right to require a second medical opinion through another District- designated doctor.

If the first medical examination is not performed by the employee's doctor, and if the employee disagrees with any medical findings of the District-designated doctor, said employee shall have the right to examination by a doctor of his/her choosing.

In either case, should the findings of the two doctors be inconsistent, a third doctor shall be mutually selected by the following procedure:

The District and the Association shall mutually agree upon an odd-numbered panel of doctors for such purpose. If they are unable to agree upon the names to be included on such a panel, they shall request the Department of Industrial Relations to submit the names of independent medical examiners most frequently used in the San Francisco Bay Area in the various specialties of medicine and these shall constitute the panel. The District and the Association shall select a third doctor from this panel within five (5) working days of the date the dispute is established. The conclusions of the third doctor shall be final and binding upon the parties, and the fee shall be shared fifty-fifty (50-50) by both parties.

No employee shall suffer any loss of income or other benefits as a result of any directive to report to a physician, and the time required to report and return from such examination shall be considered as time worked unless the employee is found physically unfit to return to work. If the findings of the District-designated and employee-selected doctors are inconsistent, no employee shall suffer loss of income or benefits during the first thirty (30) calendar days after the second doctor's inconsistent conclusions are issued or until the conclusions of the third doctor are issued, whichever occurs first.

Should the third doctor uphold the findings of the District-designated doctor, the employee shall agree in writing to reimburse the District for any income or benefits received to which he/she was not entitled. Reimbursement to the District shall be completed within thirty (30) calendar days from the employee's return to work.

The District may require bargaining unit employees to undergo a physical examination in accordance with the provisions of Human Resources Guideline #09, Medical Examination.

#### **9.4 HEALTH/SAFETY PHYSICAL EXAMINATION**

The District agrees to provide without cost to the employees physical examinations and other appropriate tests including audiometric testing on an annual basis for those employees whose work environment can be detrimental to his/her health or the safety of patrons.

**9.5 DIRECT REPORT FACILITIES**

All direct reporting locations shall be equipped with the following: desk, file cabinet(s), computers, telephone, fax, separate employee lockers and a full length mirror.

All permanent Zone Headquarter facilities will have network computer access and, where practicable, all other direct report locations. All other direct reporting locations shall be equipped with adequate heat and ventilation, separate dressing accommodations, water and where practicable restrooms with showers.

All recognized patrol beats without network access on that beat will be provided a District maintained laptop.

**9.6 JOINT UNION/MANAGEMENT SAFETY COMMITTEE**

A member of the BART Police Officers' Association selected by the Association will be invited to participate on the Joint Union/Management Safety Committee.

The Committee shall meet on a monthly basis. The purpose of these meetings is to recommend safety regulations, guidelines, training programs and necessary corrective action concerning conditions associated with the work environment.

The BPOA representative of the Joint Union/management Safety Committee shall investigate and inspect on a periodic basis, employee safety and health complaints which have not been corrected by the responsible supervisor. Such investigation and inspection shall be made in conjunction with the Safety Engineer appointed as management's representative to the Joint Union/Management Safety Committee.

The finding of this investigative team shall be presented to the Joint Union/Management Safety Committee for appropriate action.

The District shall provide a secretary to record and prepare the minutes of each monthly Joint Union/Management Safety Committee meeting.

**10.0 WORKDAY AND WORKWEEK**

A workweek which has been assigned to an employee will be that employee's scheduled workweek.

The District's established workweek shall begin at 0001 hours on Monday and end at 2400 hours on Sunday. An employee's first regular day off (RDO) will be the first day off an employee has in the workweek.

The staffing of shifts and the weekly distribution of the workforce shall be determined by management.

**10.1 SHIFTS**

- A. The designation of an employee's assigned shift shall be determined in accordance with Shift Differential.
- B. There is a maximum of three (3) shifts within a calendar day: graveyard shift, day shift, and swing shift.
  - 1. Day "A Platoon" is the first shift of a calendar day.
  - 2. Swing "B Platoon" is the second shift of a calendar day.
  - 3. Graveyard "C Platoon" is the third shift of a calendar day.
- C. Subject to Provisions 10.2 Shift Selection, 10.3 Shift Exchange and Representation, 10.6 Notice Periods, and 11.13 Assignment and Transfers of this Agreement, notice of changes in shift assignment shall be given as far in advance as practicable.

**10.1B 5-8 WORKDAY AND WORKWEEK**

Workdays and workweeks for employees working 5-8s are as follows:

- A. A workday consists of eight (8) consecutive hours of work with a scheduled start time. Paid rest and lunch breaks provided herein shall be considered hours worked.
- B. A workweek consists of the employee's five (5) scheduled consecutive shifts of eight (8) consecutive hours of work within a seven (7) day period and two (2) consecutive RDOs.
- C. During the months of January and July of each year, clerical employees and Administrative Assistants may request their choice of either:
  - 1. A 45 minute unpaid meal period, or
  - 2. A 30 minute paid meal period. The 30 minute paid meal period within a continuous 8 hour shift shall be granted at mid-shift to clerical and/or Administrative Assistant employees, provided the employees remain at their work location and receive and process messages.

Management shall grant such request unless section scheduling does not permit it, and once an option has been approved, no further changes shall be made until the following January or July.

If paid meal periods are not possible on a regular basis in a section, they may be scheduled on a voluntary, rotation basis.

**10.1C 9-80 WORKDAY AND WORKWEEK**

The District may establish a 9-80 Schedule for its clerical staff. Such schedule shall consist of two workweeks as follows:

- A. Workdays and workweeks for employees working 9-80s are as follows:

1. A workday consists of nine (9) consecutive hours of work with a scheduled start time. Paid rest and lunch breaks provided herein shall be considered hours worked.
  2. There are two workweeks in a 9-80: one week of four (4) workdays, nine (9) hours each and one (1) eight (8) hour workday; a second week of four (4) workdays, nine (9) hours each; and three (3) RDOs, two of which shall be consecutive.
- B. Vacation and Sick Leave shall accrue based on an eight (8) hour workday. Vacation and Sick Leave will be charged on an hour-for-hour basis, e.g., if the employee takes vacation on a scheduled nine (9) hour workday, a total of nine (9) hours of vacation or compensatory time will be charged as applicable and available. If an employee takes sick leave on a scheduled nine-hour workday, a total of nine (9) hours of sick leave will be charged. If no vacation, compensatory time, or sick leave as detailed above is available, the time off will be without pay.
- C. If a holiday falls on a 9-80 employee's normal nine (9) hour workday, the holiday shall be paid at a nine (9) hour rate of pay. Holidays falling on an employee's RDOs or eight (8) hour day shall be paid at an eight (8) hour rate of pay.
- D. The provisions of this Section shall prevail whenever they conflict with other provisions of this Agreement for employees working 9-80s.

#### **10.1D 4-10 WORKDAY AND WORKWEEK**

- A. Workdays and workweeks for employees working 4-10s are as follows:
1. A workday consists of ten (10) consecutive hours of work with a scheduled start time. Paid rest and lunch breaks provided herein shall be considered hours worked.
  2. A workweek consists of the employee's four (4) scheduled consecutive shifts of ten (10) consecutive hours of work within a seven (7) day period and a minimum of two (2) consecutive RDOs.
- B. Vacation and Sick Leave shall accrue and be used based on a ten (10) hour workday.
- C. Holidays as provided under this Agreement shall accrue and be paid based on a ten (10) hour workday.
- D. The provisions of this Section shall prevail whenever they conflict with other provisions of this Agreement for employees working 4-10s.
- E. The Dispatchers shall have a minimum of fifty percent (50%) of the Dispatch staff working a 4-10 schedule if the following minimum staffing levels are met at the time of shift sign-up: two (2) Dispatchers are working day shift, three (3) are working swing shift, and one (1) is working graveyard shift. If the number

of Dispatchers falls below the minimum staffing stated above, the guaranteed fifty percent (50%) 4-10 workweek does not apply and a rebid will occur if there is more than six (6) weeks remaining in the sign-up.

F. The District shall implement a clerical schedule with a minimum of fifty percent (50%) of the clerical staff on a 4-10 workweek. The District shall maintain at least (50%) of the clerical staff on a 4-10 workweek unless it is otherwise operationally impracticable to do so. Should staffing drop below fifty percent (50%) of the budgeted positions, management is under no obligation to maintain the 4-10 workweek. If management does not maintain the 4-10 workweek, it may place employees on either a 5-8 or 9-80 schedule.

G. The District shall maintain a schedule that provides for a minimum of five (5) CSOs on a 4-10 workweek. Zones 1, 3, and 4 will have a minimum of one (1) CSO on a 4-10 schedule. Zone 2 will have a minimum of two (2) CSOs on a 4-10 schedule, with one (1) on the C-line and one (1) on the R-line.

The District shall maintain a schedule that provides for a minimum of twenty-five percent (25%) of allotted CSO patrol positions on a 4-10 schedule.

Unless assigned with a CSO trainer, probationary CSOs will not be eligible to work a 4-10 schedule. Every effort will be made to post 4-10 positions as non-floater.

#### **10.1E 3-12 / 4-12 PATROL WORKDAY AND WORKWEEK**

- A. Workdays and workweeks for employees working 3-12 / 4-12 are as follows:
1. A workday consists of twelve (12) consecutive hours of work with a scheduled start time. Paid rest and lunch breaks provided herein shall be considered hours worked.
  2. There are two workweeks in a 3-12 / 4-12: one week of three (3) workdays, twelve (12) hours each; a second week of four (4) workdays, twelve (12) hours each for a total of 84 hours in a two week pay period with four (4) hours paid at one (1.0) times the straight time rate of pay and one-half (0.5) times the regular rate of pay, provided 80 hours are paid in the pay period, not including sick leave. Two teams shall work this schedule, an A and B Team. The A-Team shall work Monday through Wednesday and every other Thursday; the B-Team shall work Friday through Sunday and every other Thursday.
- B. Vacation and Sick Leave shall be accrued and used based on a ten (10) hour workday.
- C. The provisions of this Section shall prevail whenever they conflict with other provisions of this Agreement for employees working 3-12 / 4-12s.



## 10.1F RATIO OF SHIFTS

Upon request by the Chief of Police or designee, the Association agrees to meet and confer over the ratio of 4/10 and 3/12 - 4/12 shifts.

## 10.2 SHIFT SELECTION

Sign-ups in Patrol Bureau shall be conducted on a semi-annual basis. Sign-ups shall take effect in March and September of each year. Employees shall sign into the posted positions by order of their respective seniority. Sign-up lists shall be posted for a two (2) week period. In the event that an employee is not present for shift selection sign-ups within any of the below listed provisions, the following procedure will be followed:

When an employee is not present for duty during the shift selection, due to injury or illness, the employee may be allowed to select a position as if he/she were present for duty provided that the employee presents a doctor's verification indicating that the employee will be released for full duty on or before thirty (30) days after the implementation of the shift selection.

An employee that has returned to work more than thirty (30) days after the implementation of the shift selection will be allowed to select either A or B platoons. The direct report location, team and RDOs will be at the discretion of the Bureau Commander.

Sign-up lists shall provide for the following:

### A. Patrol Officer Sign-Up

Ten percent (10%) of the non-probationary officer positions will be posted as "floating positions." Officers who bid into floating assignments shall remain a floater during the entire shift sign up. Officers signing into these positions shall then be assigned, and can be reassigned by the Chief of Police to any of the shift positions based upon the needs of the department. If staffing requirements necessitate that two or more employees be reassigned at the same time, the affected employees will be polled in seniority order in determining such assignments. Newly hired officers, until satisfactory completion of probation, shall be considered as filling additional "floating positions" over and above the agreed upon number and shall also be subject to varying assignments. If a bid position within the Patrol Bureau is vacated, (e.g., resignation, promotion, etc.) the vacancy shall be filled via a supplemental sign-up unless there is one month or less remaining in the sign-up period.

No trades will be permitted during the first thirty (30) days of the sign-up. After thirty (30) days, trades may be permitted as long as both employees can fulfill the completions of the sign-up at the time of the trade (i.e. no trades where an Officer has been officially notified that they were selected for a special assignment/promotion, etc.). All trades must be pre-approved by Command

Staff. Any position that becomes available due to special assignment, promotion or injury will be resolved with a supplemental sign-up, unless the special assignment/promotion/injury occurs within two (2) months of the end of the sign-up period.

Probationary employees are not eligible to select a shift and shall be assigned a designated TBA (to be assigned) position. However, once an employee's probation ends, the employee shall not be required to move from the employee's assigned positions for the duration of the sign-up. This position becomes eligible for trades subject to the guidelines set forth in this provision.

**B. Clerical Sign-Ups**

Whenever a PAS position is created or vacated, the Department will announce the open position and accept memoranda-of-interest (MOI) from PAS.

Police Administration Specialists shall be assigned at the discretion of the Department.

**C. Civilian Positions Sign-Ups**

Civilian positions assigned to more than one (1) shift shall be identified by functional classification and posted for seniority sign-up.

Probationary employees are not eligible to select a shift and shall be assigned a designated TBA (to be assigned) position. However, once a civilian's probation ends, he/she shall not be required to move from his/her assigned position for the duration of the sign-up.

**D. Dispatcher Sign-Ups**

For dispatcher, sign-ups shall be conducted on a six (6) month basis for two (2) consecutive three (3) month sign-ups. Employees shall sign into the posted positions by order of their respective seniority. Two (2) positions will be classified as "floating positions" and those positions may be reassigned during the three (3) month period to varying shifts, platoons and/or assignments based upon the needs of the department as determined by the Chief of Police or designee.

**E. Revenue Protection Sign-Ups**

For Revenue Protection Guards, sign-ups for RDOs and shifts shall be conducted on a six (6) month basis. Sign-ups shall take effect in January and July of each year. Employees shall sign into the posted positions on the basis of their respective seniority. Three (3) positions will be classified as "floating positions," and these positions may be reassigned during the six (6) month period to varying shifts, platoons, and/or assignments based on the needs of the department as determined by the Chief of Police. In the event Cash Facility operations change, necessitating alterations in shift and/or RDO assignments,

the District may conduct additional sign-up(s) which shall not be considered as one (or more) of the regular semi-annual sign-ups as set forth in this provision.

**F. Community Service Officers**

For Community Service Officers (CSOs), sign-ups for RDOs, shifts and reporting locations shall be conducted on a six (6) month basis. Sign-ups shall take effect in January and July of each year. Employees shall sign into the posted positions on the basis of their respective classification seniority. Fifteen (15) percent of the non-probationary CSO staff at the time of the sign-up will be designated as floating positions. These floating positions may be reassigned during the six (6) month period to varying shifts, platoons, and/or assignments based on the needs of the department as determined by the Chief of Police.

G. Any employee not available for duty during the shift selection shall not be allowed to exchange shifts prior to his/her return to duty.

**10.3 SHIFT EXCHANGE AND REPRESENTATION**

Exchange is defined as one whole work week for 5-8 and 4-10 schedules, and two work weeks for 3-12/4-12 schedules. Representation is defined as a single work shift or any portion thereof.

Employees may be permitted to exchange or represent shifts provided that:

- A. No additional compensation, shift premiums or other cost to the District results from such assignment.
- B. Exchanging and representing employees are fully qualified to perform the required tasks of both assignments.
- C. Written requests for shift representation must be submitted by the employee requesting to be represented on a prescribed BPD form or via email to and to be approved by the represented employees' immediate supervisor.
- D. No exchange or representation shall result in either employee working in excess of twenty (20) consecutive hours.
- E. Exchanges cannot be for more than two (2) weeks at any given time, there must be a one week break before another exchange can occur.
- F. Written requests for exchanges must be submitted by the employee requesting to exchange on a prescribed BPD form or via email to the requesting employee's immediate supervisor. All Exchanges must be approved by the affected Zone Commanders.
- G. The District does not condone any exchange of money or items of value between employees that represent one another or exchange shifts.

**10.4 LUNCH BREAKS**

Whenever possible, the District will provide a one-half ( $\frac{1}{2}$ ) hour lunch break and two (2) fifteen (15) minute rest breaks for Dispatchers and Revenue Protection Guards. Revenue Protection Guards and Dispatchers who miss rest and lunch breaks by assignment shall be paid at double time and one-half ( $2\frac{1}{2}$ ) rate.

Dispatchers on a thirty (30) minute paid lunch break may leave the immediate work site during the lunch period. However, the employee must remain in the immediate vicinity of the work site and notify his/her supervisor of his/her location so as to be readily available for recall if needed for work during the lunch period.

**10.5 NOTICE PERIODS**

The District shall provide as much notice as is reasonably possible of changes in shifts, days off, or standby assignments. If the notice is less than three (3) days, the slots the employee would have filled shall instead be filled by other employees, including the process of voluntary or mandatory overtime.

It is understood that emergency situations may make it impossible for Management to give other than extremely short notice, and that persons in floating positions are reasonably entitled to less notice than a non-floater.

District shall use reasonable efforts to give the maximum amount of notice to an employee in a call back situation.

**10.6 SHIFT DIFFERENTIAL**

Employees working a 5/8, 9/80, or a 4/10 work schedule the following shall apply:

Where fifty percent (50%) or more of an employee's shift occurs between the hours of 4:00 p.m. and 12 midnight, a swing shift premium of seven percent (7%) will be paid for all hours worked during the shift at the existing straight time rate of pay. When an employee works on a holiday and receives one and one half times their regular rate of pay, in accordance with Section 4.5, this swing shift premium will be multiplied by one and one half times, as well (i.e., 10.5%).

Where fifty percent (50%) or more of an employee's shift occurs between midnight and 8:00 a.m., a graveyard shift premium of nine and one-half percent ( $9\frac{1}{2}\%$ ) will be paid for all hours worked during the shift at the existing straight time rate of pay. When an employee works on a holiday and receives one and one half times their regular rate of pay, in accordance with Section 4.5, this graveyard shift premium will be multiplied by one and one half times, as well (i.e., 14.25%).

Subject to Provisions 10.2, 10.3, and 10.5 of this Agreement governing choice of shifts, notice of changes in shift assignment shall be given as far in advance as practicable.

Employees working a 3/12-4/12 work schedule the following shall apply:

- Graveyard shift shall be defined as “C” Platoon and shall be paid a premium of nine and one half percent (9 ½%) for all hours worked during the shift at the existing straight time rate of pay. When an employee works on a holiday and receives one and one half times their regular rate of pay, in accordance with Section 4.5, this graveyard shift premium will be multiplied by one and one half times, as well (i.e., 14.25%).
- Day shift shall be defined as “A” Platoon.
- Swing shift shall be defined as “B” Platoon and shall be paid a premium of seven percent (7%) for all hours worked during the shift at the existing straight time rate of pay. When an employee works on a holiday and receives one and one half times their regular rate of pay, in accordance with Section 4.5, this swing shift premium will be multiplied by one and one half times, as well (i.e., 10.5%).

## 11.0 COMPENSATION

### **Comparability Compensation Survey**

In the event the parties determine to conduct a comparability compensation survey during the term of this agreement, it is agreed that the following data points will be used:

Top step salary, uniform allowance, maximum education and POST, maximum longevity, EPMC, family insurance (medical, dental, and vision).

The following agencies shall be the comparable market for the purpose of conducting the survey:

1. Alameda County
2. Berkeley
3. Concord
4. Fremont
5. Hayward
6. Oakland
7. Richmond
8. San Francisco Police Department
9. San Jose Police Department
10. San Mateo County

At the end of the MOU, the parties may revise the criteria and/or methodology for selecting the agencies by mutual agreement.

**11.1 GENERAL WAGE INCREASES**

**Fiscal Year 2019**

Effective the first pay period following ratification, the base salary/wage schedule for bargaining unit members shall be increased by two and one half percent (2.50%).

**Fiscal Year 2020**

Effective July 1, 2019, the base salary/wage schedule for bargaining unit members shall be increased by two and one half percent (2.50%).

**Fiscal Year 2021**

Effective July 1, 2020, the base salary/wage schedule for bargaining unit members shall be increased by two and seventy-five hundredths percent (2.75%).

**Fiscal Year 2022**

Effective July 1, 2021, the base salary/wage schedule for bargaining unit members shall be increased by two and seventy-five hundredths percent (2.75%).

**11.2 COMPENSATION**

**A. Sworn Officers**

**Market Adjustment**

Effective the first full pay period following ratification of the 2018-2022 successor CBA, the base salary/wage schedule for Sworn Officers shall receive a one-time market adjustment of six percent (6.0%).

**Police Officer Candidate Pay**

Police Officer Candidates shall be paid a starting salary of seventy-five percent (75%) of the Step 1 salary range for Police Officer until successful completion of the Police Officer Standards and Training (P.O.S.T.) certified Police Recruit Academy. The Candidate shall thereafter receive eighty-five percent (85%) of the Step 1 salary range until successful completion of the BART Police Department's Field Training Program.

**Prior Law Enforcement Experience**

If approved by the Chief in his or her discretion, Sworn officers with prior sworn officer experience may be paid a starting salary rate of not less than Step 1 of the salary range for Police Officer until successful completion of their probationary period.

Initial appointments of persons with prior police experience (with credit for such experience to be determined by the Chief of Police) may be made at any step through the Senior Police Officer range as determined appropriate by

management subject to successful completion of all probationary requirements.

### **Field Training Officers (FTOs)**

Uniformed patrol officers, K-9 officers, and CAP Team members authorized as FTOs by the Chief of Police, and who routinely and consistently train other employees, shall receive a five percent (5%) incentive above base pay. An FTO is considered to be “routinely and consistently” performing training duties whenever he/she acts as an FTO, because they are part of the normally required duties of this assignment. There will be a maximum of 12 FTO assignments. The maximum FTO assignments may be exceeded at the discretion of the Chief of Police. The Chief of Police shall fill FTO vacancies in accordance with the FTO selection procedures set forth in Lexipol Policy 436, dated May 21, 2014. FTO pay shall cease when the employee is no longer working in an FTO assignment.

An FTO who is not engaged in active FTO duties may be assigned OIC duties and other ancillary duties/responsibilities at the discretion of the Chief of Police or designee. An FTO performing OIC or other relative duties shall not receive OIC pay.

An FTO who previously served as an FTO (in accordance with the above provisions) and returns to one of the above listed patrol assignments may apply to the Chief of Police for reinstatement as an FTO. The Chief of Police may waive the FTO selection process and reinstate the FTO.

### **Officer-in-Charge**

An officer temporarily assigned to act as Officer-in-Charge, and who routinely and consistently leads or supervises other employees, will receive five percent (5%) above his/her base rate of pay while fulfilling such assignment. This Provision does not affect the circumstances under which persons are assigned to acting status. An Officer-in-Charge is considered to be “routinely and consistently” performing lead and/or supervisory duties whenever he/she acts as an Officer-in-Charge, because they are part of the normally required duties of this assignment.

### **Master Police Officer**

Only employees in the rank of Master Police Officer at the time of full ratification of the 2018-2022 collective bargaining agreement may remain in the rank of Master Police Officer. No Officers may enter the rank of Master Police Officer after said ratification. The base rate of pay for employees remaining in the rank of Master Police Officer shall continue to be two percent (2%) above the base rate of pay for the rank of Senior Police Officer Advanced.

### **Canine Handler Program**

1. The District will purchase food products directly and provide the handler with supplies as needed.

2. The District will provide vehicles for duty and training assignments.
3. The District will provide a kennel with slab at the handlers' home. The District will board the canine for up to three weeks during handlers' vacation.
4. The District will be responsible for veterinary bills incurred by the canine and the purchase of equipment deemed necessary by the program coordinator for the effectiveness of the canine team.
5. After three continuous years with a District-owned canine, the handler will be given first option to purchase the canine for one dollar (\$1.00).
6. Canine handlers will receive an additional three hundred and fifty dollars (\$350) per pay period for the additional time needed to keep and care for the canine.

**B. Civilians**

**Community Service Officers (CSOs)\***

CSOs will have a four (4) year pay progression with five (5) steps with twelve (12) months between steps. The CSO salaries are identified in the BPOA Wage Schedule.

**\* Minute Clarification**

The final step was introduced on August 1, 2014 and will take place on the employee's next anniversary date.

**Police Dispatchers**

Progression to the top step of Dispatcher shall not be automatic, but shall be contingent upon merit performance at a level determined acceptable by management. After four (4) years of competent or better evaluations at this step, this step shall become permanent.

**Revenue Protection Guards**

Revenue Protection Guards will be paid at a rate equal to 80% of pay steps 1-5 for sworn police officers.

Effective January 1, 2014, Revenue Protection Guards will receive a fifty cent (\$0.50) per hour premium for maintaining a Class A Driver's License, which is required by the District to perform their duties. The District does not have to offer Class A Driver's License training on a regular basis.

**C. Sworn Officers & Civilians**

**Longevity Pay Steps**

The District shall pay the following Longevity Pay to eligible employees:



- a. Upon the completion of 10 years of service as a BART Police Officer, the Officer shall receive longevity pay in the amount of three and one-half percent (3.50%) of base rate of pay.
- b. Upon the completion of 14 years of service as a BART Police Officer, the Officer shall receive longevity pay in the amount of three and one-half percent (3.50%) of base rate of pay.
- c. Upon the completion of 20 years of District service, all bargaining unit employees shall receive longevity pay in the amount of six and one-half percent (6.50%) of base rate of pay.

Civilians are only eligible for the twenty (20) year longevity pay step stated in subsection c above.

#### **Temporary Instructor**

Whenever an employee is assigned to formally instruct another employee, he/she shall receive two (2) hours straight time compensatory time for every eight (8) hours so assigned.

#### **Bilingual Pay**

The District shall pay fifty dollars (\$50) per pay period to active employees certified as fluent in a designated foreign language who occupy positions where the frequency of need and the use of the language is a reoccurring benefit to the District and the communities it serves. The Chief of Police retains the sole discretion to designate the languages, classifications and certification processes associated with this Provision.

#### **On-Call Status**

Any time that management places an employee in an on-call status, the employee shall receive ten (10) hours of compensatory time for each on-call week worked. Employees in an on-call status cannot volunteer for or sign into overtime while in on-call status.

### **11.3 STANDBY TIME, COURT TIME, AND CALL-BACK TIME \***

#### **Standby Time**

Employees assigned to remain on standby duty subject to call-in shall be compensated at one-half ( $\frac{1}{2}$ ) their regular straight time rate of pay for each hour so assigned until such employee is called and released from such standby assignment.

Off-duty employees required to appear in court on District business who are directed to standby shall be paid for the verifiable time spent from subpoena time until reporting time or until time of release at one-half ( $\frac{1}{2}$ ) their straight time rate of pay. Release time shall be deemed to be no later than 3:00 p.m. of the same day unless verified to the contrary.

### **Court Time**

Employees required to appear in court on District business relating directly to Sworn Officer's duties outside of his/her regular shift or workday shall be paid at the applicable rate of pay.

A Sworn Officer who is required to appear in court on District business outside of his or her regular shift or workday shall be paid a minimum of one-half ( $\frac{1}{2}$ ) day's pay at the applicable rate of pay, if there is a break in time between the beginning or end of the officer's regular shift and the time spent in court. The break in time does not include time spent traveling from the officer's work location to court.

If there is no such break in time between the beginning or end of the officer's regular shift and the time spent in court, such court time shall be considered "early call-in" or "extended shift" and shall be paid at the applicable overtime rate with no minimum pay guarantee.

Court time pay as provided in this Provision shall not be granted for attendance at court cases or administrative proceedings on regular days off involving employment prior to BART or under any circumstances for outside BART employment.

### **Call-Back Time**

An employee who is called back to work following the completion of his/her work day and the departure from his/her place of employment shall be paid either five (5) hours of pay at the applicable rate or shall be paid for actual time worked at the applicable rate, whichever is greater.

Notwithstanding the above, employees shall not be paid overlapping payments for call-back and work performed in a scheduled shift or overtime assignment (scheduled or unscheduled). In such an event, the call-back pay will end and the employee's applicable rate of pay for the scheduled work or overtime shall begin.

Call-back pay does not apply to "early call-in" (called to work prior to the start time of his/her scheduled shift with no break in time until the scheduled shift begins) or "extended shifts" (kept after the conclusion of the employee's scheduled shift with no break in time after the scheduled shift ends). In such cases, the employee shall be paid at the applicable overtime rate for actual time worked.

Training is not call-back time under this provision. If any employee is required to attend training outside of the employee's regular shift, that training will be for a four (4) hour session or more than four (4) hours. This does not apply to firearms qualifications, where employees are assigned to the range and leave after having completed the qualification course.

## **11.4 PAY PROCEDURES**

Employees shall be paid on a bi-weekly payroll cycle.

The District shall make available an electronic direct deposit system for payroll checks. Such feature shall be available to employees individually on a voluntary basis.

The District shall continue the present system of itemizing deductions during the life of this Agreement.

Shortages above fifty dollars (\$50) shall be corrected within the time limits set below. The employee's immediate or appropriate supervisor shall assure that the documentation necessary to correct the shortage has been delivered to Payroll within one (1) workday, exclusive of weekends and holidays, after the employee receives written notification of the shortage and cause a check to be available at the employee's normal work location within three (3) Accounting working days, exclusive of weekends and holidays, after receipt of written notification. All other shortages shall be added to the next paycheck.

Employees who receive overpayment shall pay in full or establish a reasonable repayment schedule in accordance with the form provided by the Payroll Department. Until such reasonable repayment schedule is established, the District shall not deduct from an employee's paycheck overpayments by the District without written authorization from the employee or as authorized by law.

Final termination paychecks shall be mailed to the employee's address of record.

The District will promptly process Public Employees' Retirement System (PERS) refund forms following an employee's termination.

## **11.5 OVERTIME**

All paid time with the exception of sick leave shall count as hours worked for the purpose of calculating overtime. Employees may elect to be compensated by compensatory time off rather than payment.

Employees, regardless of their regular schedule, shall be compensated at one and one-half (1½) times the employee's regular rate of pay for all hours worked on the employee's first regular day off ("RDO") only if, during the District workweek, the employee has been in paid status for forty (40) hours with the exception of sick leave. "Regular rate of pay," as used in this provision, refers to the Fair Labor Standards Act ("FLSA") definition of regular rate of pay. If the employee has been in an unpaid status or has used sick leave, the employee shall be paid the regular rate of pay on RDOs until the employee has been in paid status for forty (40) hours with the exception of sick leave. After such time, the employee shall be eligible for one and one-half (1½) times the employee's regular rate of pay for all hours worked on the next RDO.

Employees, regardless of their regular schedule, who work their 2nd, 3rd, or 4th RDO shall be compensated at two (2) times the regular rate of pay only if the employee has worked a full shift on a prior RDO and, during the District workweek, has been in paid status for forty (40) hours with the exception of sick leave. If the employee has been in an unpaid status or has used sick leave, the employee shall

be paid the regular rate of pay on RDOs until the employee has been in paid status for forty (40) hours with the exception of sick leave. After such time, the employee shall be eligible for two (2) times the regular rate of pay on the 2nd, 3rd, or 4th RDOs.

Employees working a 5-8 schedule, all hours worked in excess of eight (8) hours in the regular workday or forty (40) hours in the regular workweek shall be compensated at one and one-half (1½) times the regular rate for all hours worked. Subject to the restrictions specified above, all hours worked on the 1st RDO shall be compensated at one and one-half (1½) times the employee's regular rate of pay, all hours worked on the 2nd RDO shall be compensated at two (2) times the employee's regular rate of pay, provided that the employee worked the full shift on the 1st RDO.

Employees working a 9-80 schedule, all hours worked in excess of nine (9) hours, on the employee's nine (9) hour days or in excess of eight (8) hours on the employee's eight (8) hour day, or in excess of the employee's regularly scheduled hours for the workweek (36 or 44 hours), shall be compensated at one and one-half (1½) times the regular rate of pay for all hours worked. Subject to the restrictions specified above, all hours worked on the 1st RDO shall be compensated at one and one-half (1½) times the employee's regular rate of pay; all hours worked on the 2nd or 3rd RDO shall be compensated at two (2) times the employee's regular rate of pay, provided that the employee worked the full shift on a prior RDO.

Employees working a 4-10 schedule, all hours worked in excess of ten (10) hours in the regular workday or forty (40) hours in the regular workweek shall be compensated at one and one-half (1½) times the regular rate of pay for all hours worked. Subject to the restrictions specified above, all hours worked on the 1st RDO shall be compensated at one and one-half (1½) times the employee's regular rate of pay; all hours worked on the 2nd or 3rd RDO shall be compensated at two (2) times the employee's regular rate of pay, provided that the employee worked the full shift on the 1st or 2nd RDO.

Employees working a 3-12/4-12 schedule, all hours worked in excess of twelve (12) hours in the regular workday or eighty (80) hours in a pay period shall be compensated at one and one-half (1½) times the regular rate of pay for all hours worked. Subject to the restrictions specified above, all hours worked on the 1st RDO shall be compensated at one and one-half (1½) times the employee's regular base rate; all hours worked on the 2nd, 3rd, or 4th RDO shall be compensated at two (2) times the employee's regular rate of pay, provided that the employee worked a full shift on their 1st, 2nd, or 3rd RDO.

Each calendar year, employees shall have two (2) sick leave or unpaid time off exceptions, one every six (6) months. Such exception allows the employee to be compensated at one and one-half (1½) times the regular rate or pay for all hours worked on employee's 1st RDO regardless of whether the employee was in an unpaid status or used sick leave during the District's work week. Unused

exceptions may not be carried over into the next calendar year and the use of an exception must be designated by the employee at the time the sick leave is being called in and used.

All overtime must be assigned and approved in advance, and the performance of such overtime is mandatory.

All qualified employees will be given a chance to volunteer for overtime. If no qualified employee volunteers to work overtime, the District shall assign overtime to the employee with the lowest cumulative overtime hours worked and/or scheduled within the sign-up period. If there is a tie in cumulative hours worked and/or scheduled, then the tie shall be broken by seniority, with the less senior employee being ordered to work the overtime. An employee shall be guaranteed at least one day off a week, unless the employee volunteers to work the overtime or if no other employee is available. An employee on vacation may not be ordered to work overtime except in the case of an emergency as declared by the Chief or designee. For the purpose of this section, vacation shall be defined as the vacation time taken and their RDOs preceding or following the vacation.

Except for an emergency as designated by the Chief of Police or designee, employees are restricted from working more than twenty (20) consecutive hours and, as such, are prohibited from signing up for any extra duty, including overtime, that would place the employee in the position of having to work more than twenty (20) consecutive hours.

Except for an emergency as designated by the Chief of Police or designee, employees who work sixteen (16) hours or more within any twenty (20) hour period must have a minimum of eight (8) hours break before the next work shift.

Time spent in court on behalf of the District shall be considered as time worked for purposes of determining overtime premiums.

All hours worked in excess of a regularly scheduled workday on a holiday shall be compensated at double time, in addition to straight time holiday pay with holiday pay not to exceed twelve (12) hours; when requested by management, employees on their RDOs who volunteer to work on a holiday shall be compensated at two (2) times the regular rate of pay, in addition to straight time holiday pay, with holiday pay not to exceed twelve (12) hours.

## **11.6 CONDITIONAL LUMP SUM PAYMENTS**

If all criteria set forth herein are met and no extraordinary unplanned expenses as set forth herein have occurred then, during each fiscal year of this Agreement, the District shall pay each bargaining unit member on active and paid status at the time of the payment a lump sum payment which shall be calculated as set forth below, but which shall not exceed one thousand dollars (\$1,000) in any fiscal year. These calculations shall be made at the conclusion of each fiscal year and will be based on the data available on that date. Payment shall be made within sixty (60) days of the date of the calculation.

A. Criteria for Lump Sum Payment:

Each one (1) percent increase in actual core system annual average weekday ridership growth over the District's Short Range Transit Plan (SRTP) projected growth as specified in the Adopted SRTP\* Oct. 2014 shall result in a lump sum payment of five hundred dollars (\$500), up to a maximum of one thousand dollars (\$1,000), subject to the following limitations:

1. Specified Increased Expenses

Determine whether the following specific District expenses have increased greater than stated:

- District's Employer PERS miscellaneous pension contribution rates increased by more than 16%;
- Health insurance premiums, as reported by CalPERS and measured by the simple average of the annual percent change in Blue Shield Access+ and Kaiser premiums, required by Section 5.4 C. of this Agreement increased by more than 10%.

If either of the increases listed above are exceeded then no lump sum payment will be made.

2. Extraordinary, Unplanned Expenses

The District shall determine whether an extraordinary, unbudgeted, and unanticipated expense exceeding 2.5% of the District's adopted operating expense budget occurred. In the event that such an extraordinary, unbudgeted, and unanticipated expense outside the control of the District has occurred, the District shall have no obligation to make a lump sum payment.

The Parties understand that the Core System excludes various extension projects. Under the terms of the operating agreements governing the San Francisco Airport Extension, the Oakland Airport Connector, and the VTA/BART Silicon Valley Berryessa Extension, BART fare revenue generated by riders using those extensions is dedicated to those extension projects.

\*The conditional lump sum payment provision above is based on the following ridership projections. BART's Short Range Transit Plan ("SRTP") Financial Model: Ridership Estimates projects the following ridership and related revenues:

| <b>Short Range Transit Plan</b>              |         |         |         |         |
|--|---------|---------|---------|---------|
| <i>Average Weekday Core System</i>           | FY18    | FY19    | FY20    | FY21    |
| <i>Average Weekday Ridership Core System</i> | 378,380 | 387,990 | 395,940 | 402,314 |
| <i>% Growth over Prior Year</i>              | 2.6%    | 2.5%    | 2.0%    | 1.6%    |

Upon expiration of the 2013-2021 agreements with ATU and SEIU should the unions negotiate changes to the conditional lump sum language in their collective bargaining agreements, including but not limited to, changes to the criteria for lump sum payment, those changes will also apply to BPOA following Board ratification of the ATU and SEIU agreements and said changes will be incorporated by reference herein in Section 11.6 Conditional Lump Sum Payments.

**11.7 FINAL COMPENSATION LETTER**

The District will provide an employee, upon written request, a copy of the documentation reported to PERS as the employee’s PERSable single highest year compensation. This documentation will consist of a breakdown of each PERSable category reported. This documentation shall include a disclaimer that PERS is the ultimate authority on determining what compensation is PERSable.

Employees who retire may request the final year report after they are provided their final paycheck. Requests must be in writing and sent to Payroll either by mail or email. Requests received prior to issuance of the final check will not be considered valid requests. A final year report will only be generated if a valid request is received by Payroll.

The report shall be transmitted to the employee no later than sixty (60) calendar days from the date of receipt of the request by Payroll, provided no changes were made to the original retirement date elected. In the event that an employee changes his or her last date of employment/retirement after declaring it, the report shall be transmitted to the employee no later than ninety (90) calendar days from the date of receipt of the request by Payroll.

**11.8 UNIFORMS AND MAINTENANCE ALLOWANCE**

**A. Uniforms**

The Department will have a written procedure that will specify all classifications required to wear District-purchased uniforms and state the uniform standards for each classification. All BPOA employees shall be provided with uniforms, appropriate to their classification, upon hire and as items need to be replaced, in accordance with the Department’s written procedure. The value of all uniforms provided to employees (such as protective vests, pistols, bullets and

safety shoes), is anticipated to be less than \$2100 per employee in a year with an anticipated increase of 5% (compounding) per year of this Labor Agreement.

The following BPOA employees who are provided uniforms (Dispatchers, Police Administrative Specialists, and Community Service Officers) shall receive an annual uniform allowance of one thousand fifty dollars (\$1,050), which will include the one hundred and twenty-five dollar (\$125) shoe allowance to be paid quarterly for cleaning and upkeep, excluding tailoring and repairs. No allowance will be paid while any employee is in an unpaid status.

**B. Uniform Shoes**

The Department will provide a written procedure stating which classifications are required to wear uniform shoes. The style of shoes must comply with Police Uniform Specifications.

**C. Reimbursement of Unused Allowances**

Employees who are absent from work for thirty (30) calendar days or more during a quarter, shall receive a reduced uniform allowance in accordance with the following schedule:

| <b>Absence</b>     | <b>Percentage Reduction</b> |
|--------------------|-----------------------------|
| 30 to 60 days      | 25%                         |
| 60 to 90 days      | 50%                         |
| 90 days and beyond | 100%                        |

**11.9 MEAL ALLOWANCE**

A fifteen dollar (\$15) meal allowance shall be paid to employees who have worked thirteen (13) or more continuous hours. (Court time is excluded from the thirteen (13) hours.)

**11.10 EDUCATION ALLOWANCE**

The District shall pay the following Education Allowance to eligible employees:

- A. Employees shall receive three percent (3.0%) of their base rate of pay for a A.A. or A.S. degree.
- B. Employees shall receive four percent (4.0%) of their base rate of pay for a B.A. or B.S. degree (Employees with a B.A. or B.S. degree shall also receive the incentive for an A.A. or A.S. degree).

Education pay shall be cumulative and not compounded. Civilians are only eligible for A.A. or A.S. degree incentive pay.

The effective date of the Education Allowance shall be the pay period following when an employee notifies the District, in accordance with Department procedure, that the qualifications, as cited above, have been met.



### 11.11 SPECIAL ASSIGNMENTS AND SPECIAL ASSIGNMENT PAY

The Chief of Police retains the authority to make special assignments in any manner deemed advisable for the best interest of the department provided the employee possesses the minimum qualifications for the assignment.

The Chief of Police retains the authority to assign personnel as set forth above and seniority modifications shall have no effect upon either the language or intent of this Provision. The Chief of Police also retains the authority to create special assignments within the Patrol Bureau for a duration not to exceed one (1) year.

If such assignments will last for the entire duration of the sign-up period they shall be made not less than forty-eight (48) hours prior to the beginning of the semi-annual shift selection process required in Provision 10.2, Shift Selection.

In order to attract and retain qualified Police Officers for special assignments, the District shall compensate all Police Officers two hundred and fifty dollars (\$250) per month for the duration of the following assignments:

- Backgrounds: Assigned to Police Administration (conducts background investigations) to provide support for Police Chief and command staff in the operation of the police department.
- Canine Team: Assigned to handle, train and board a canine.
- Crime Analysis\*: Assigned to conduct crime analysis and other investigative duties.
- Critical Asset Protection Team ("CAP"): Assigned to patrol in areas considered to be high value terrorism targets.
- Detectives: Assigned to conduct criminal investigations and other detective duties.
- Joint Terrorism Task Force: Serves as the Police Department's liaison with the FBI and other Bay Area law enforcement agencies.
- Traffic\*: Assigned to Police Administration (handles all traffic/parking related matters) to provide support for Police Chief and command staff in the operation of the police department.
- Training Officer: Assigned to organize, coordinate and develop internal and external trainings for BART PD personnel.

\* The Crime Analysis and Traffic Officer special assignment incumbents will continue to receive the special assignment pay until civilian personnel assume those duties. Thereafter, these positions will no longer be considered special assignments under this Section.

**11.12 ASSIGNMENTS AND TRANSFERS**

Assignments or transfers shall not be made in an arbitrary or capricious manner, or to show or to carry out favoritism.

Oral boards for special assignments will include at least one member of the BPOA to be chosen by the BPOA president or designee.

**12.0 TRANSPORTATION**

**12.1 TRAVEL ALLOWANCE**

**A. Transportation Expenses**

Insofar as possible, authorized travel within the District shall be by local transit facilities or by District automobile. In the event taxicab or transportation network company (e.g., Lyft, Uber, etc.) use is necessary, actual reimbursement shall be paid. For District or Police Officer Standards and Training (“POST”) mandated training only, employees may use their personal vehicles without prior approval if the training is within a fifty (50) mile radius of their report to work location and the training location is not within reasonable proximity of a BART station, as determined by the Chief of Police or designee. In the event an employee’s personal vehicle is used in connection with training, the POST reimbursement policy shall apply from the report to work location to the training location. In addition, the actual cost of parking, and tolls will be reimbursed by the District.

**B. Other Travel Expenses**

Hotel and public carrier charges will be reimbursed at actual cost. The Federal per diem rate, as set forth by the General Services Administration (“GSA”), shall apply to the reimbursement of meals while on District travel. An employee may request a reasonable check advance in such sums as may be deemed necessary. Other necessary travel expenses including, but not limited to, local transportation, telephone, laundry and cleaning, will be reimbursed on the basis of actual cost to employee.

**C. Local Training**

Whenever practicable, reasonable travel time, not to exceed two (2) hours in total, shall be included in an employee’s scheduled work shift when the employee is assigned in an alternate work location for training only. An alternate work location is that location other than the employee’s bid reporting location.

Should it be impracticable to include reasonable travel time within an employee’s scheduled shift when assigned to an alternate work location for local training, the employee shall be compensated at the one and one-half (1½) overtime rate for reasonable travel time from the employee’s bid reporting location to the alternate school/training location.

If an employee is attending training on the employee's RDOs, travel time is not included, as the employee is not reporting to the employee's bidded location to start work.

Employees attending training/school shall not receive compensation for rest breaks and lunches.

## 12.2 FREE TRANSPORTATION

The District will provide free transportation over its lines during normal hours of operation to full time employees and pensioners and their spouses and dependent children provided they properly display their District identification card.

- Dependent children under the age of five (5) years will not be required to display their identification cards. Dependent children includes unmarried children (including legally adopted children) to their nineteenth (19th) birthday, or to their twenty-third (23rd) birthday if they are enrolled full time at an accredited institution of learning provided such children are dependent on the employee for their support and maintenance.
- There will be a ten dollar (\$10) fee to replace an employee's identification card. Dependents will be charged a ten dollar (\$10) fee to replace a dependent's first identification card. The fee to replace any subsequent dependent's identification card shall be twenty dollars (\$20). These fees may be waived by the District upon verifiable proof of the reasonableness of loss or destruction.

The District will provide two (2) identification cards to BPOA for representatives designated by name by the Association authorizing free transportation on the system.

Failure to properly display identification or any attempt to misuse this privilege will be cause for refused entry into the system, revocation of privilege and/or disciplinary action.

Pass privileges will be revoked when an employee is terminated from the District. Spouses' pass privileges terminate upon dissolution of marriage.

Spouse's and eligible dependent children's pass privileges shall continue upon the retirement of an employee. When an employee who has retired from District service dies: 1) his/her spouse's pass privileges shall terminate upon the surviving spouse's remarriage; 2) eligible dependent children's pass privileges shall terminate five (5) years after the retiree's death or upon the expiration of the time periods set forth in this Provision, whichever occurs first.

If an employee dies as the result of a District job-related accident, the following shall occur: 1) the surviving spouse's pass privileges shall terminate five (5) years after the employee's death or upon the surviving, spouse's remarriage, whichever occurs first; 2) eligible dependent children's pass privileges shall terminate five (5) years after the employee's death or, upon the expiration of the time periods set forth in this Provision, whichever occurs first.

An employee's eligible domestic partner and their eligible children shall be entitled to the same pass privileges under this provision as spouses and dependent children of the employee, per Board Resolutions 4455 and 4757.

### **13.0 SENIORITY**

#### **13.1 REDUCTION IN FORCE**

- A. An employee shall be ranked by classification grouping in accordance with his/her appointment to the specific classification. Groupings in descending order are:
- Police Officer (including Senior Officer)
  - Administrative Analyst
  - Police Dispatcher
  - Revenue Protection Guard
  - Police Administrative Specialist
  - Community Service Officer
- B. Position reductions within classification groupings shall be in inverse classification seniority order with the least senior employee appointed to the classification affected first.
- C. An affected employee shall be allowed to displace a less senior employee within any descending classification grouping by an exercise of department seniority providing such displacing employee is fully qualified to perform the functional tasks of the displaced employee. No training other than familiarization/orientation shall be conducted by the District. An employee failing to qualify after displacing a less senior employee by an exercise of seniority shall be laid off.
- D. An employee who, by an exercise of department seniority, displaces a less senior employee shall be compensated at the step in the new classification equal to or closest to his/her present step rate of pay provided that no increase in gross pay results.
- E. An employee laid off by the District by the above reduction in force procedure shall be recalled in a time period, one (1) year for every five (5) years of service, to a maximum of three (3) years in accordance with department seniority to a position which he/she is qualified to perform. Recall shall be by certified mail, return receipt requested. Failure to indicate reinstatement intentions within five (5) working days of delivery of the recall letter shall be considered as voluntary resignation and such employee shall be terminated by the District. An employee who fails to return to work within ten (10) additional working days for reasons other than temporary physical disability as certified by a physician shall be terminated in a like manner.

- F. An employee last holding a position of higher rank shall have first opportunity, by classification seniority, to revert to a position classification formerly held whether such employee is temporarily displaced within the department or separated from the District through voluntary lay-off.

### **13.2 PROBATIONARY PERIODS**

#### **A. Police Officers**

The following sworn employees shall have a probationary period of one (1) year from their date of hire:

1. Officers with prior law-enforcement experience and who will not be sent to a police academy;
2. Officers with current POST accreditation from a basic police academy.

#### **B. Officer Candidates**

Any employee who must be sent to a basic police academy shall have a probationary period from his/her date of hire until one (1) calendar year after his/her graduation from the academy.

#### **C. Civilian Employees**

Any new or rehired civilian employee shall satisfactorily complete a probationary period as follows:

1. Administrative Assistants, Police Administrative Specialist, Revenue Protection Guards, or Community Service Officers – six (6) months from date of hire.
2. Dispatchers – one (1) year from date of hire.

#### **D. Probationary Employees - Sworn Officers and Civilian Employees**

Probationary dismissals shall not be subject to the grievance procedure except where performance evaluations have not been written in a timely manner or where discrimination, as defined elsewhere in this Agreement, is charged. Probationary employees (sworn officers and civilian employees) shall have no contractual procedural rights under this Agreement with respect to any matters relating to demotion or termination during the applicable period of their probation.

### **13.3 MANAGEMENT OPTIONS FOR PROBATIONARY EMPLOYEES**

- A. The District may, at its exclusive discretion, move (i.e., demote) an employee during his or her new-hire probationary period from a position in a higher classification in the bargaining unit into a vacant budgeted position (i.e., one with no regular incumbent) in a lower classification in the bargaining unit within the Police Department. However, such action is valid only if the classifications from and to which the employee is moved, or their substantial equivalents, are in existence in the Police Department, as determined by the District's Human

Resources Department and remain in existence in the Police Department at the time of the move. Such action shall be deemed a voluntary termination during new-hire probation from the higher classification and a simultaneous conditional rehire as a new probationary employee in the lower classification. The moved employee shall have no residual rights in the classification from which he or she is moved. Such termination and move shall not be subject to appeal except Section 13.2D. of this Agreement.

- B. After deciding tentatively to implement a conditional move to a lower classification pursuant to paragraph 1, the Police Chief or designee shall confer with the Human Resources Department Manager or designee to ensure that the reasons that render the continued service of the employee in the higher classification unacceptable does not render the employee unsuitable for service in the lower classification as well. After such consultation, the Police Chief may begin to implement the conditional move if the Chief continues to desire to undertake such action.
- C. Except as otherwise provided, an employee moved pursuant to paragraph 1, shall be treated as a new hire in the lower classification. The employee shall serve a complete new-hire probationary period in such lower classification. The District may dismiss or further move such employee to a yet lower classification at any time during such probationary period. Such move or dismissal shall not be subject to appeal. If the employee is moved to a lower classification, the employee shall again be treated as new hire in the lower classification except as otherwise provided in this Provision. The employee shall serve a complete new- hire probationary period in the lower classification into which the employee has been moved.
- D. At least five (5) business days prior to a move pursuant to paragraph 1, the moved employee must complete and deliver to the Human Resources Department a District employment application for employment in the lower classification. If the Human Resources Department determines that the employee's application shows that the employee meets the minimum qualifications required for the lower classification, the employee's name shall be referred to the Police Department as a potentially qualified candidate. If the Human Resources Department determines that the employee does not meet the minimum qualifications, the employee will not be moved to the lower classification. If the Human Resources Department refers the employee's name to the Police Department, the Police Department shall determine, through its applicable testing process, if any, whether the employee possesses any further qualifications required for service in the lower classification. If through the testing process, if any, the Police Department determines that the employee possesses the qualifications required for the lower classification, the Police Department may demote the employee pursuant to paragraph 1. The determinations made by the Human Resources Department and the Police Department under this paragraph shall not be subject to appeal.

- E. An employee moved to a lower classification pursuant to paragraph 1 may remain in the lower classification only if, in the exclusive judgment of the Police Chief or designee, the employee passes such tests and is the best qualified from among all tested applicants. Within thirty (30) days after the employee's conditional demotion pursuant to paragraph 3, the Chief or designee shall notify the employee in writing if the employee has passed the applicable test, if any and if the employee has been deemed the best qualified candidate for the position. If the employee does not receive such written notice from the Chief or designee during this period, the employee shall be terminated. The termination shall take effect upon first delivery to the employee or to the employee's home address on file with the District. If a written "passing" notice is not given within the thirty (30) day period, then, automatically, at the close of business on the thirtieth (30th) day following the effective date of the conditional move to the lower classification, the employee will be terminated. Nothing herein shall be construed as impairing in any way the District's right to terminate the employee from such position prior to the end of such thirty (30) day period if deemed by the Chief to be in the District's best interest to do so. Termination pursuant to this paragraph 4 shall not be subject to appeal. If the employee receives notice from the Chief or designee that the employee passed the applicable test, if any and was deemed best qualified, prior to the thirtieth (30th) day following the effective date on conditional move to the lower classification, the District may retain the employee in the position in the lower reclassification to which the employee was moved.
- F. For the purposes of determining vacation accrual rate and PERS service date, an employee moved to a lower classification pursuant to paragraph 1 who has passed the tests and been deemed most qualified pursuant to paragraph 4 shall be granted District service credit for time served in the classification(s) from which the employee was moved. The accumulated balances in such employee's sick, vacation, holiday and compensatory time off accounts at the time of such move shall be retained on the books for the employee's use in his or her lower classification, subject to normal rules governing such use.
- G. Nothing in this Provision shall be construed as granting any employee serving a new hire probationary period a right to move to a lower classification in lieu of termination.

#### **13.4 SENIORITY**

##### **A. Definition**

Seniority is defined for purposes of this Agreement as an employee's relative position with respect to all other employees of a like classification in the department and is determined by the date of his/her appointment to the classification. If two (2) or more employees are appointed to the classification on the same date, seniority ranking shall be determined first by the date of District employment and, if a tie still exists, then by the date of birth. All

questions pertaining to seniority ranking shall be resolved by the Association in a manner consistent with the terms of this agreement.

The granting of seniority privileges is of secondary importance to the efficient operation of the Department. No assignment shall be made unless the employee possesses the necessary competency and qualifications for the specific assignment.

**B. Days Off Selection**

Days off shall be posted with the shift sign up affording those employees with greater seniority the opportunity of selecting days off of their choice. This Provision shall not apply to probationary employees.

**C. Vacation Period Selection**

Available vacation periods for the succeeding calendar year shall be posted for two (2) weeks each December. Employees shall be allowed to select vacation periods on the basis of their respective seniority. The available periods shall be determined by operational needs of the department.

**D. Job Reversion Rights**

Employees who accept jobs outside the bargaining unit or are reclassified within the bargaining unit shall not be caused to lose their seniority. Such employees who remain within the bargaining unit shall accumulate seniority in their new classification, but shall not accrue seniority in their former classification. If such employees are returned to their former classification within the time specified herein, they shall regain their previously earned seniority and continue to accumulate seniority.

If such employee is out of the bargaining unit as provided herein for a period in excess of twelve (12) months, such right of return shall be forfeited.

**14.0 JOB CLASSIFICATIONS**

**14.1 JOB CLASSIFICATIONS – NEW CLASSIFICATIONS**

In the event the District determines, subsequent to signing of this Agreement, that the needs of the department require the creation of additional classification(s) related to the bargaining unit, the District agrees to discuss with the Association the functions to be performed, the qualifications required, appropriate lines of progression, and to prepare appropriate job descriptions. The salaries of the proposed additional classification(s) shall be subject to negotiations.

Should a dispute develop, the Department Manager of Human Resources shall determine the matter.

Note: The Association may grieve unilateral action by the District.



## **14.2 COMMUNITY SERVICE OFFICER CLASSIFICATION**

It is the intent of the District that the Community Service Officer (CSO) classification assist and supplement police operations in various activities and is not intended to replace the following classifications currently existing within the BPOA bargaining unit: Police Officer, Administrative Analyst, Police Dispatcher, Police Administrative Specialist, and Revenue Protection Guard.

## BPOA WAGE SCHEDULE FY 2019 – 2022

| Step Description                  | FY2019<br>Hourly Rate | FY2020<br>Hourly Rate | FY2021<br>Hourly Rate | FY2022<br>Hourly Rate |
|-----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Community Services Officer Step 1 | 26.053800             | 26.705100             | 27.439400             | 28.193900             |
| Community Services Officer Step 2 | 26.820100             | 27.490600             | 28.246500             | 29.023200             |
| Community Services Officer Step 3 | 27.586400             | 28.276000             | 29.053500             | 29.852400             |
| Community Services Officer Step 4 | 30.651600             | 31.417800             | 32.281700             | 33.169400             |
| Community Services Officer Step 5 | 32.000100             | 32.800100             | 33.702100             | 34.628900             |
| Fare Inspection Officer Step 1    | 31.020400             | 31.795900             | 32.670200             | 33.568600             |
| Fare Inspection Officer Step 2    | 32.465900             | 33.277500             | 34.192600             | 35.132800             |
| Fare Inspection Officer Step 3    | 33.982800             | 34.832300             | 35.790100             | 36.774300             |
| Fare Inspection Officer Step 4    | 35.544200             | 36.432800             | 37.434700             | 38.464100             |
| Fare Inspection Officer Step 5    | 37.222800             | 38.153300             | 39.202500             | 40.280500             |
| Police Admin Specialist Step 1    | 32.468400             | 33.280100             | 34.195300             | 35.135600             |
| Police Admin Specialist Step 2    | 33.696500             | 34.538900             | 35.488700             | 36.464600             |
| Police Admin Specialist Step 3    | 35.124300             | 36.002400             | 36.992400             | 38.009600             |
| Police Admin Specialist Step 4    | 36.452500             | 37.363800             | 38.391300             | 39.447000             |
| Police Admin Specialist Step 5    | 37.946500             | 38.895100             | 39.964700             | 41.063700             |
| Police Dispatcher Step 1          | 33.751400             | 34.595100             | 35.546400             | 36.523900             |
| Police Dispatcher Step 2          | 35.030500             | 35.906200             | 36.893600             | 37.908100             |
| Police Dispatcher Step 3          | 36.517000             | 37.429900             | 38.459200             | 39.516800             |
| Police Dispatcher Step 4          | 37.900400             | 38.847900             | 39.916200             | 41.013800             |
| Police Dispatcher Step 5          | 39.455500             | 40.441800             | 41.553900             | 42.696600             |
| Police Dispatcher Step 6          | 41.080300             | 42.107300             | 43.265200             | 44.454900             |
| Administrative Analyst Step 1     | 36.802600             | 37.722600             | 38.759900             | 39.825700             |
| Administrative Analyst Step 2     | 38.517500             | 39.480400             | 40.566100             | 41.681600             |
| Administrative Analyst Step 3     | 40.317100             | 41.325000             | 42.461400             | 43.629000             |
| Administrative Analyst Step 4     | 42.169600             | 43.223800             | 44.412400             | 45.633700             |
| Administrative Analyst Step 5     | 44.161100             | 45.265100             | 46.509800             | 47.788800             |
| Crime Analyst Step 1              | 37.538500             | 38.476900             | 39.535000             | 40.622200             |
| Crime Analyst Step 2              | 39.287800             | 40.269900             | 41.377300             | 42.515100             |
| Crime Analyst Step 3              | 41.123400             | 42.151400             | 43.310500             | 44.501500             |
| Crime Analyst Step 4              | 43.012800             | 44.088100             | 45.300500             | 46.546200             |
| Crime Analyst Step 5              | 45.044200             | 46.170300             | 47.439900             | 48.744400             |

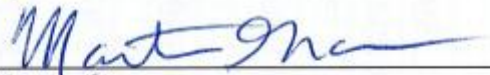
## BPOA WAGE SCHEDULE FY 2019-2022

| Step Description                     | FY2019      |             | FY2020      |             | FY2021      |             | FY2022      |             |
|--------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
|                                      | Hourly Rate | Hourly Rate | Hourly Rate | Hourly Rate | Hourly Rate | Hourly Rate | Hourly Rate | Hourly Rate |
| Revenue Protection Guard Step 1      | 33.296800   | 34.129200   | 35.067600   | 36.032000   |             |             |             |             |
| Revenue Protection Guard Step 2      | 34.848100   | 35.719300   | 36.701600   | 37.710800   |             |             |             |             |
| Revenue Protection Guard Step 3      | 36.476500   | 37.388400   | 38.416500   | 39.472900   |             |             |             |             |
| Revenue Protection Guard Step 4      | 38.152400   | 39.106200   | 40.181600   | 41.286500   |             |             |             |             |
| Revenue Protection Guard Step 5      | 39.954200   | 40.953000   | 42.079200   | 43.236300   |             |             |             |             |
| Police Officer in Academy            | 31.215700   | 31.996100   | 32.875900   | 33.780000   |             |             |             |             |
| Police Officer Field Training Step   | 35.377800   | 36.262200   | 37.259400   | 38.284000   |             |             |             |             |
| Police Officer Step 1                | 41.621000   | 42.661500   | 43.834600   | 45.040000   |             |             |             |             |
| Police Officer Step 2                | 43.560200   | 44.649200   | 45.877000   | 47.138600   |             |             |             |             |
| Police Officer Step 3                | 45.595700   | 46.735500   | 48.020700   | 49.341200   |             |             |             |             |
| Police Officer Step 4                | 47.690600   | 48.882800   | 50.227000   | 51.608200   |             |             |             |             |
| Police Officer Step 5                | 49.942800   | 51.191300   | 52.599000   | 54.045400   |             |             |             |             |
| Senior Police Officer - Intermediate | 51.441000   | 52.727000   | 54.176900   | 55.666700   |             |             |             |             |
| Senior Police Officer - Advanced     | 52.984200   | 54.308800   | 55.802200   | 57.336700   |             |             |             |             |
| Master Police Officer                | 54.043800   | 55.394900   | 56.918200   | 58.483400   |             |             |             |             |


IN WITNESS WHEREOF the parties hereto have caused their names to be subscribed by their duly authorized officers and representatives this \_\_\_\_ day of \_\_\_\_\_, 2019.


FOR THE DISTRICT

By:   
Grace Crunican  
General Manager

By:   
Martin Gran  
Chief Negotiator, Labor Relations


FOR THE ASSOCIATION

By:   
Keith Garcia  
President, BPOA

By:   
Shane Reiss  
Vice-President, BPOA

District Negotiating Team:

Deputy Chief Ed Alvarez  
Deputy Chief Lance Haight  
Amelia Sandoval-Smith  
Shana Dines  
Barbara Greening  
Cassandra Stephens

By:   
Michael W. Jarvis  
Managing Labor Consultant  
Mastagni Holstedt, APC

Union Negotiating Team:

Barrett Wilder  
Steven Dexheimer  
Kyle Flood  
Javier Fregoso  
Evelyn Hammer  
Christina Livesey

**APPENDIX, MEMORANDUMS OF UNDERSTANDING AND  
SIDE LETTERS OF AGREEMENT**

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**MEMORANDUM OF UNDERSTANDING: Implementation of Pension Cost-Sharing**

This Memorandum of Understanding is entered into between the San Francisco Bay Area Rapid Transit District and The BART Police Officers’ Association to memorialize their Agreement related to the implementation of the Pension cost sharing agreed upon and as set forth in Sections 6.1 through 6.2 of the CBA.

The Parties agree that the pension cost-sharing shall be implemented as follows:

- 1. Effective the first full pay period following ratification of the CBA, Classic and PEPRA employees shall pay the pension cost-sharing contributions outlined in Sections 6.1 through 6.2.
- 2. The pension cost-sharing contribution changes shall begin as described in paragraph 1, above, and will thereafter be accomplished through an amendment of the District’s contract with CalPERS.
- 3. In order to accomplish the CalPERS contract amendment, the District shall, within sixty (60) days following ratification, begin to implement the agreed upon pension contributions through Board resolution.
  - a. The CalPERS contract amendment requires, among other things, a member vote approving the amendment.
  - b. If the members fail to pass the CalPERS contract amendment, the Board Resolution shall remain in place and the pension contributions specified in Sections 6.1 through 6.2 shall continue.
- 4. If any future CalPERS contract amendments are necessary, the parties shall endeavor to complete the ratification process outlined in Item No. 3, above, prior to the effective date of the change.
- 5. Pension contributions shall be on a pre-tax basis to the extent permitted by law.

FOR THE DISTRICT:

FOR BPOA:

\_\_\_\_\_  
 Martin Gran                      Date  
 Chief Negotiator

\_\_\_\_\_  
 Keith Garcia                      Date  
 President  
 BART Police Officers’ Association

\_\_\_\_\_  
 Carlos Rojas                      Date  
 Chief of Police

\_\_\_\_\_  
 Michael W. Jarvis                      Date  
 Chief Negotiator

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT  
AND  
BART POLICE OFFICERS ASSOCIATION  
TENTATIVE AGREEMENT  
SIDE LETTER-010**

August 21, 1997

**SIDE LETTER OF AGREEMENT: BPOA/SL-010  
Deferred Compensation for Non-Sworn**

It is agreed by the District that BPOA generated savings of approximately seventeen thousand nine hundred fifty dollars (\$17,950) which will be paid to non-sworn personnel in the Police Department each year.

This amount will be divided equally among all non-sworn personnel on the payroll on the date the contract is approved by the BART Board of Directors. This date of approval shall be the annual eligibility date for each subsequent year.

The money will be paid in a lump sum amount to each eligible employee within two pay periods from the anniversary eligibility date. This lump sum amount will then be transferred to their deferred compensation account subject to maximum allowable limits. If the maximum limit is reached, the lump sum exceeding the limit will be paid out in salary.

CONCUR FOR DISTRICT:

CONCUR FOR UNION:

\_\_\_\_\_  
Walter Kaweck, Jr.      Date  
Labor Relations  
Supervisor

\_\_\_\_\_  
Robert Hamilton      Date  
President, BPOA

FOR THE DISTRICT:

FOR BPOA:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



October 20, 2009

**SIDE LETTER OF AGREEMENT: BPOA/SL-018**

This memorandum serves to notify the District that it is the intent of the BART Police Officers' Association (BPOA) to cooperate and participate with the District in order to improve and correct any identified deficiencies within the BART Police Department. This would include, but not be limited to: the creation and implementation of an approved civilian review model and recommendations suggested by the National Organization of Black Law Enforcement Executives.

We understand that at its sole discretion, the District has the exclusive right to determine the level of discipline to be charged against an Association member.

As both District employees and Police Officers, the BPOA fully understands the need to implement changes for the betterment of the BART Police Department in order to maximize the department's ability to suitably service and protect the communities that we are beholden to. To that end, the BPOA offers its pledge that we will engage with the District and diligently work within all legal and equitable means in order to create a model policing agency.

FOR THE DISTRICT:

FOR THE BPOA:

---

Maria Robinson  
Chief Negotiator

---

Jesse Sekhon  
President, BPOA



November 15, 2018

**MEMORANDUM OF UNDERSTANDING: BPOA/MOU**  
**Implementation Dates for 2018 CBA Economic Provisions**

BART Police Officers' Association  
800 Madison Street  
Oakland, California 94607

The following provisions shall take effect the first full pay period following ratification of the 2018-2022 CBA:

- Section 2.1 Association Recognition
- Article 6.0 Retirement Benefits
- Section 7.2 Senior Police Officer Progression
- Section 8.3D Industrial Injuries
- Section 9.8 Physical Fitness Program
- Section 10.1 Shifts
- Section 11.1 General Wage Increases
- Section 11.2A Market Adjustment
- Section 11.2A Canine Handler Pay
- Section 11.2C Longevity Pay Steps
- Section 11.2C Bilingual Pay
- Section 11.3 Call-Back Time
- Section 11.9 Uniform and Maintenance Allowance
- Section 11.11 Education Pay

The following provisions shall take effect January 1, 2019:

- Section 4.5 Holidays (first full pay period inclusive of January 1, 2019)
- Section 5.3 Disability Coverage
- Section 5.7 Group Life Insurance Plan
- Section 6.3 Pensioners' Life Insurance

The existing provisions from the 2013-2018 CBA shall remain in effect until replaced by the above provisions. Apart from Sections 6.3, Pensioners' Life Insurance and 11.1, General Wage Increases, any effective dates reflected in Tentative Agreements previously signed shall be excluded from the CBA.

FOR THE DISTRICT:

FOR THE BPOA:

\_\_\_\_\_  
 Martin Gran                                      Date  
 Chief Negotiator

\_\_\_\_\_  
 Michael Jarvis                                      Date  
 Chief Negotiator

**ATTACHMENT “A” – ARBITRATOR PANEL**

Effective June 1, 2015, the parties have mutually agreed to the following nine (9) person arbitrator panel. Arbitrators on this panel may change from time to time; however, any change to this panel shall be by mutual agreement by the parties.

|           |            |
|-----------|------------|
| Norman    | Brand      |
| Barbara   | Kong Brown |
| Chris     | Burdick    |
| Alexander | Cohn       |
| Matthew   | Goldberg   |
| Ron       | Hoh        |
| Robin     | Matt       |
| William   | Riker      |
| Jan       | Stieglitz  |

FOR THE DISTRICT:

FOR THE ASSOCIATION:

\_\_\_\_\_  
Ericka R. Mitchell                      Date  
Chief Negotiator

\_\_\_\_\_  
Keith Garcia                              Date  
President, BPOA

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