SIDE LETTER AGREEMENT

BETWEEN

THE CITY OF SANTA CLARA

AND

MISCELLANEOUS UNCLASSIFIED MANAGEMENT EMPLOYEES
(UNIT 9)

AMENDMENT TO DECEMBER 15, 2019 – DECEMBER 31, 2024
MEMORANDUM OF UNDERSTANDING (MOU)

The City and the Miscellaneous Unclassified Management Employees (hereafter, "Unit 9") agree to amend the current Memorandum of Understanding (hereafter, "MOU"), with a term of December 15, 2019 – December 31, 2024, as follows:

(A) VACATION

6. VACATION ACCRUAL AND USAGE

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

A. Vacation may not be taken during the first 6 months of regular employment.

B. Vacation will be earned on a bi-weekly basis (1/26 of the yearly accrual) provided that the employee is in a paid status for at least 2/3 of the hours (53.4 hours) of that pay period.

C. Accrued vacation time will be paid off regardless of term of employment.

D. Annual and maximum vacation accrual rates, calculated to four decimal points for accuracy, are as follows:

COMPLETED YEARS OF SERVICE	ANNUAL ACCRUAL	MAXIMUM VACATION ACCRUAL LIMIT
1 through 4	80 hours	480 hours
5 through 9	120 hours	480 hours
10 through 15	168 hours	480 hours
16 through 20	176 hours	480 hours
21 years +	192 hours	480 hours

E. Maximum Vacation Accrual Limit – Employees are limited to the maximum accrual of vacation as defined. The current vacation balance, the annual accrual and the current pay period usage are all shown on the employees' pay–check stub and are the responsibility of the employee to track for compliance with this provision.

1) Effective December 27, 2020 (the first pay period of calendar year 2021), the Maximum Vacation Accrual Limit as described in Section 6.D above shall be temporarily suspended for two (2) years until the end of the last pay period of calendar year 2022. Employees may continue to accrue vacation above the Maximum Vacation Accrual Limit until December 24, 2022 (the end of the last pay period of calendar year 2022).

2) Effective December 25, 2022 (the first pay period of calendar year 2023), employees shall not be allowed to accrue vacation above the Maximum Vacation Accrual Limit.

3) Temporary Supplemental Vacation Accrual – Effective December 25, 2022 (the first pay period of calendar year 2023), employees holding positions in classifications assigned to Unit 9 shall be eligible for the Temporary Supplemental Vacation Accrual. The Temporary Supplemental Vacation Accrual is a separate vacation balance subject to the following:

(a) Effective December 25, 2022, all unused accrued vacation hours above ~~400~~ 350 hours as of December 24, 2022 (the last pay period of calendar year 2022) shall be placed in the Temporary Supplemental Vacation Accrual balance.

(i) The following is only an example of the Temporary Supplemental Vacation Accrual described above, and any figures are for illustration purposes only and assumes the employee does not use vacation.

Issue	Hours
Vacation Balance as of December 24, 2022 (the last pay period of calendar year 2022)	500
Hours to be placed in Temporary Supplemental Vacation Accrual	~~100~~150
Vacation Balance as of December 25, 2022 (the first pay period of calendar year 2023)	~~400~~350
Hours that can be accrued in calendar year 2023	~~80~~130
Hours that can be accrued above the Maximum Vacation Accrual Limit of 480 hours	0

(b) The Temporary Supplemental Vacation Accrual balance may not be increased.

(c) Subject to supervisory approval, any accrued vacation hours and Temporary Supplemental Vacation Accrual hours shall be available for use

to the employee until the accrued vacation balance and Temporary Supplemental Vacation Accrual balance has been exhausted.

(d) If an employee leaves or retires from City service, any unused Temporary Supplemental Vacation Accrual hours shall not be subject to the terms of Section 6.I below. Any accrued but unused Temporary Supplemental Vacation Accrual hours will be cashed out upon the employee's retirement or other separation from City service. If permitted by the City's deferred compensation plan and applicable law, the separating employee may elect to contribute all or a portion of their accrued but unused Temporary Supplemental Vacation Accrual hours to their deferred compensation account by submitting a written request no later than 30 days prior to their separation from City service.

~~(e) An employee must first use their Temporary Supplemental Vacation Accrual for any vacation leave taken until the Temporary Supplemental Vacation Accrual balance has been exhausted, subject to supervisory approval.~~

(~~f~~e) An employee must use their Temporary Supplemental Vacation Accrual for any leave of absence until the Temporary Supplemental Vacation Accrual balance has been exhausted subject to any requirement that sick leave be utilized first.

(~~g~~f) An employee may not be on unpaid status until the Temporary Supplemental Vacation Accrual balance has been exhausted and must use their Temporary Supplemental Vacation Accrual until the Temporary Supplemental Vacation Accrual balance has been exhausted, with the exception of any formal disciplinary action pursuant to the City's Civil Service Rules.

F. Vacation may be used in one-tenth (1/10th) hour increments.

G. Employees who begin work prior to July ~~1st~~ 1st or continue to be employed after the first calendar year of employment are required to use at least one-half of the vacation accrued during the prior calendar year during the current calendar year.

H. Subject to having a sufficient balance of accrued vacation available, an employee may, on a twice per year basis, request to be paid at his/her current hourly pay rate for a total combined maximum of 80 hours of accrued vacation.

I. In lieu of receiving a vacation-leave cash payout at retirement, the Miscellaneous Unclassified Management Employees may vote to roll accrued vacation leave hours (except for any hours in the Temporary Supplemental Vacation Accrual balance) into the employee's VEBA account, subject to Association compliance with Federal rules associated with employee contributions of vacation leave to their VEBA accounts.

(B) PERFORMANCE APPRAISALS

14. MERIT PAY/SALARY ADJUSTMENT SYSTEM

Merit pay adjustments, or merit increases, as provided for in the Personnel and Salary Resolution are, and will continue to be available during the term of this MOU when and if approved by the applicable Department Head and the City Manager, subject to Sections 14.A and 14.G below. The Merit Pay Adjustment system shall include the following elements:

A. Each Unit 9 employee shall receive an annual evaluation.

1) Effective January 1, 2023, the rating period for an annual evaluation for all employees in classifications assigned to Unit 9 shall be from January 1st to December 31st of each calendar year.

a. Effective January 1, 2023, employees holding positions in classifications assigned to Unit 9 shall be ineligible for a merit increase for the rating period ending on and between January 1, 2022 - December 31, 2022.

i. Effective the first full pay period in April 2023, employees shall receive a one-time discretionary cash payment of $2,500 for regular employees (pro-rated for part-time employees), for the January 1, 2022 – December 31, 2022 rating period. The Parties intend and understand that this lump sum payment is non-pensionable and will not be reported to CalPERS.

Employees hired on and between January 1, 2023 – April 30, 2023 or promoted into a Unit 9 position who were not previously represented by Unit 9 during January 1, 2023 – April 30, 2023, shall be ineligible for the one-time cash payment.

An employee who was promoted into a classification represented by Unit 9 in calendar year 2022, who was previously in a classification represented by a bargaining unit that received a one-time payment in 2022, and who received a one-time payment in 2022, shall be ineligible to receive the $2,500 one-time cash payment.

2) Effective January 1, 2024, any merit increase that an employee may be eligible for would be effective the first pay period after July 1st of the year subsequent to the rating period.

a. For any employee newly hired or appointed into a classification assigned to Unit 9 after January 1st of any given year, any merit increase shall be prorated for that rating period based on when they were hired during that year.

3) The employee must be in a classification assigned to Unit 9 during the pay period

when the merit increase is effective to receive the merit increase. If the employee leaves City service or is in a classification not assigned to Unit 9 when the merit increase becomes effective, the employee will not be eligible to receive it.

a. If the employee is subsequently in a classification not assigned to Unit 9, the employee's rating period for the annual evaluation shall be from the effective date of when they started in the classification not assigned to Unit 9.

B. Annual consideration of merit pay adjustments (or merit increases), subject to Section 14.G below, with an affirmative decision by the applicable Department Head shall be required each year following the annual evaluation.

C. Merit pay adjustments, or merit increases, shall range from 0 to 5%. However, in 2016 and 2017 only, employee is guaranteed at least 2% and, with Department Head approval, up to 5%, subject to Section 14.G below.

1) Effective January 1, 2024, merit increases shall be effective on the first pay period after July 1st of each calendar year following the rating period described above (i.e., if the employee's rating period is January 1, 2023 to December 31, 2023, any merit pay increase would be effective the first pay period after July 1, 2024).

2) Merit increases will be prorated based on the number of full complete months the employee was employed in a classification assigned to during the rating period (i.e., if an employee was hired into a classification assigned to Unit 9 on March 15th, the proration of the employee's merit increase will be calculated from April 1st to December 31st).

D. In 2016, employees are eligible for a merit pay adjustment based on an evaluation prepared by February 2, 2016, which date will be their merit pay anniversary each year going forward.

1) Notwithstanding D. above, for employees that have been employed a full year as of February 2, 2016, they will be eligible on their actual anniversary date, which shall also be their merit pay anniversary date thereafter.

2) Notwithstanding D. above, for employees that receive a merit increase between January 1, 2015 and February 2, 2016, the date of their last merit increase shall be their new merit pay anniversary date.

3) If a Department Head has not completed an evaluation in time for a merit adjustment by an employee's anniversary date (February 2, 2016 for most employees), the applicable merit pay adjustment once determined shall be made retroactive to the first full pay period following the anniversary date (and to February 2, 2016 in 2016 for those persons whose anniversary date is February 2, 2016).

E. ~~subject~~ Subject to Section 14.G below~~–~~, the City shall not suspend or freeze consideration of merit pay adjustments for Unit 9 employees unless step increases are

suspended or frozen for all bargaining units that utilize a step system.

F. The City and Unit 9 may, by mutual~~ly~~ agreement, meet to discuss potential changes to the merit pay system and/or movement toward a step pay system more like other bargaining units.

G. Effective January 1, 2021, employees holding positions in classifications assigned to Unit 9 shall be ineligible for a merit increase for the next two (2) consecutive rating periods. This means that an employee in Unit 9 shall not be eligible for a merit increase until the third rating period after January 1, 2021, and after the employee has skipped two (2) consecutive rating periods where they did not receive a merit increase. Employees with a rating period that ends before January 1, 2021, will be eligible for a merit increase for that rating period pursuant to the Personnel and Salary Resolution, even if such merit increase (if any) is not approved until after January 1, 2021.

1) Employees hired or rehired or promoted or reclassified on or after January 1, 2021, and until on or before December 31, 2022, into positions in classifications assigned to Unit 9 shall be ineligible for a merit increase for the first two (2) consecutive rating periods. This means that an employee hired or rehired or promoted between January 1, 2021, and December 31, 2022, will not be eligible for a merit increase until the employee's third rating period with the City after the employee was hired or rehired or promoted or reclassified into positions in classifications assigned to Unit 9.

(a) A current active City employee promoted or reclassified from another bargaining unit into a position in a classification assigned to Unit 9 between January 1, 2021, and December 31, 2022, shall be ineligible for a merit increase until the employee's third rating period from the effective date of the promotion or reclassification.

(b) A current active City employee holding a position in a classification assigned to Unit 9 as of the effective date of this agreement who is promoted or reclassified into or accepts another position in Unit 9 between January 1, 2021, and December 31, 2022, shall be ineligible for a merit increase unless the employee has skipped two (2) consecutive rating periods where they did not receive a merit increase since January 1, 2021.

(c) Nothing in this Section is intended to prohibit a pay increase that may result from a current active City employee being promoted or reclassified into a position in a classification assigned to Unit 9.

(C) This Side Letter Agreement shall not establish precedent for future agreements and shall not be construed or implied to obligate the City or Unit 9 to enter into any similar agreements in the future.

(D) This Side Letter Agreement that amends the current MOU shall become effective after it is adopted by the City and signed by all parties below.

FOR THE CITY:

Rajeev Batra 9.19.22
Rajeev Batra Date
City Manager

Aracely Azevedo 9/14/22
Aracely Azevedo Date
Director of Human Resources

FOR UNIT 9:

09/15/2022
Chris Jackson Date
President, Unit 9

Carolyn McDowell 9/15/22
Carolyn McDowell Date
Unit 9