



APPLE VALLEY

MASTER

LABOR AGREEMENT

BETWEEN

THE CITY OF APPLE VALLEY

AND

LAW ENFORCEMENT LABOR SERVICES, INC.

LOCAL NO. 243

JANUARY 1, 2022 - DECEMBER 31, 2023

POLICE

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(Numerical Order)

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**MASTER
LABOR AGREEMENT
BETWEEN
THE CITY OF APPLE VALLEY
AND
LAW ENFORCEMENT LABOR SERVICES, INC.
LOCAL NO. 243
2022 - 2023**

ARTICLE I: PURPOSE OF AGREEMENT

- 1.1** This Agreement is entered into as of January 1, 2022, between the City of Apple Valley, hereinafter called the Employer, and Law Enforcement Labor Services, Inc., hereinafter called the Union, on behalf of the Employees of Local No. 243.
- 1.2** It is the intent and purpose of this Agreement to:
- A.** Achieve orderly and peaceful relations, thereby establishing a system of uninterrupted operations with the highest level of performance possible;
 - B.** Establish procedures for the orderly resolution of disputes concerning this Agreement's interpretation and application; and,
 - C.** Place in written form the parties' agreement upon terms and conditions of employment for the duration of this Agreement.

ARTICLE II: RECOGNITION

- 2.1 The Employer recognizes the Union as the exclusive representative, under Minnesota Statutes, for all essential Employees subject to licensure under sections 626.84 to 626.855 with the rank of Sergeant, employed by the City of Apple Valley, Minnesota, who are public Employees within the meaning of Minnesota Statute 179A.03, subdivision 14, excluding confidential Employees.
- 2.2 In the event, the Employer and the Union are unable to agree as to the inclusion or exclusion of a new or modified job class, the issue shall be submitted to the Bureau of Mediation Services for determination.

ARTICLE III: DEFINITIONS

- 3.1 **Authorized Leave:** All leave approved by the Employer, including annual leave, holiday leave, emergency leave, jury leave, military leave, and compensatory time.
- 3.2 **Break in Service:** An interruption within a job classification resulting from the acceptance of a position, not covered by this Agreement, with the Apple Valley Police Department or the City of Apple Valley; the separation from employment with the City of Apple Valley; or the utilization or implementation of more than six (6) months continuous uncompensated leave.
- 3.3 **Chief:** The Police Chief of the Apple Valley Police Department.
- 3.4 **Commissioner:** The Commissioner of Minnesota's Department of Health.
- 3.5 **Confirmatory Test and Confirmatory Re-test:** A drug or alcohol test that uses a method of analysis approved by the Commissioner as being reliable for providing specific data as to the drugs, alcohol, or their metabolites detected in an initial screening test.
- 3.6 **Department:** The Apple Valley Police Department.
- 3.7 **Drug:** A controlled substance as defined in Minnesota Statute §152.01, subdivision 4.
- 3.8 **Drug and Alcohol Testing:** The analysis of a body component sample approved by the Commissioner, including blood, breath, and urine, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
- 3.9 **Drug Paraphernalia:** Drug paraphernalia has the meaning set forth in Minnesota Statutes.
- 3.10 **Eligibility for Benefits:** Eligibility for benefits shall be determined by Employer-selected insurance contracts. Full-time Employees working the contractual averaged week in a calendar year shall receive benefits as listed in this Agreement.
- 3.11 **Employee:** A member of the exclusively recognized bargaining unit, Local No. 243.
- 3.12 **Employee's Base Pay Rate:** Regular earning rate per hour determined by multiplying the current monthly salary by twelve (12) months and dividing the result by two thousand eighty (2080) hours.
- 3.13 **Employer:** The City of Apple Valley.

- 3.14 Grievance:** A dispute or disagreement as to the interpretation or application of the specific terms and conditions of this Agreement.
- 3.15 Immediate Family:** An Employee's spouse, parent (including step-parent or legal guardian), child (including step-child or foster child), sibling (including step-sibling), grandparent, grandchild, aunt or uncle, parent-in-law, grandparent-in-law, brother or sister-in-law, and son or daughter-in-law.
- 3.16 Initial Screening Test:** A drug or alcohol test which uses a method of analysis approved by the Commissioner as being capable of providing data as to the general classes of drugs, alcohol, or their metabolites.
- 3.17 Negotiation Committee:** Two Employees designated by the exclusively recognized bargaining unit, Local 243, and identified to the Employer in writing, to represent Union collective bargaining interests.
- 3.18 Overtime:** Work performed at the express authorization of the Employer in excess of the Employee's scheduled shift(s).
- 3.19 Positive Test Result:** A finding by a laboratory licensed by the State of Minnesota under Minnesota Statutes of the presence of alcohol, drugs or their metabolites in a sample tested in levels at or above the threshold detection levels set by the Commissioner.
- 3.20 Probationary Period:** An Employee shall serve a six (6) month probationary period, commencing on the date of promotion to the rank of Sergeant, or a twelve (12) month probationary period if the Employee has not previously completed an initial twelve (12) month probationary period with the Employer.
- 3.21 Promotion:** Any change in job classification, which results in an increase in pay.
- 3.22 Reasonable Suspicion:** A basis for forming a belief based on articulable facts and rational inferences drawn from those facts.
- 3.23 Reduction in Work Force:** Any non-promotional removal, for any reason, of an Employee from the Classification of Sergeant, excluding discharge or disciplinary demotion.
- 3.24 Safety Sensitive Position:** A job in which impairment caused by drug or alcohol usage would threaten the health or safety of any person. All members of Local No. 243 occupy safety-sensitive positions.
- 3.25 Scheduled Shift:** A continuous work period, including a meal period and rest breaks.
- 3.26 Split Shift:** A non-continuous work period, excluding calls to duty during the Employee's scheduled off-duty time.
- 3.27 Under the Influence:** Having the presence of a drug or alcohol at or above the level of a positive test result.
- 3.28 Union:** Law Enforcement Labor Services, Inc., Local No. 243.
- 3.29 Union Member:** A member of Law Enforcement Labor Services, Inc., Local No. 243.

3.30 Union Representative: An Officer selected by Law Enforcement Labor Services, Inc., Local No. 243.

3.31 Valid Medical Reason:

- A. A written prescription or an oral prescription reduced to writing, which satisfies the requisites of Minnesota Statute §152.11, and names the Employee as the person for whose use it is intended;
- B. The drug was prescribed, administered and dispensed in the course of professional practice by or under the direction and supervision of a licensed doctor, as described in Minnesota Statute §152.12;
- C. The drug was used in accordance with terms of the prescription; or,
- D. Over-the-counter medication was used in accordance with terms of the product's directions.

ARTICLE IV: EMPLOYER AUTHORITY

- 4.1 The Employer retains the full and unrestricted right to operate and manage all human resources, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct and determine the number of personnel; to establish work schedules; and to perform any inherent managerial function not specifically limited by this Agreement.
- 4.2 Any term and condition of employment not specifically established or modified by this Agreement shall remain solely within the discretion of the Employer to establish, modify, or eliminate.

ARTICLE V: EMPLOYER SECURITY

- 5.1 The Union agrees that during the life of this Agreement, the Union will not cause, encourage, participate in or support any strike, slow-down or other interruption of or interference with the normal function of the Employer.

ARTICLE VI: UNION SECURITY

- 6.1 The Employer shall deduct from the wages of Employees, who authorize such a deduction in writing, an amount necessary to cover monthly Union dues. Such monies shall be remitted as directed by the Union.
- 6.2 The Union may designate two (2) Employees from the bargaining unit to act as Union representatives and shall notify the Employer in writing of the names of such representatives and of their successors.
- 6.3 The Employer shall permit use of available electronic information systems for posting Union notices and announcements and to make space available, at a City-owned facility for Employee Union meetings when such meetings do not conflict with the operation of the Employer.

- 6.4 The Employer shall notify all Employees by electronic mail and post to the Local No. 243 electronic mail address all promotional or job transfer opportunities within the Department for at least fourteen (14) calendar days, including the day of posting.
- 6.5 The Union agrees to indemnify and hold harmless the Employer against any and all claims, suits, orders, or judgments brought or issued against the Employer as a result of any action taken or not taken by the Employer under the provisions of Section 6.1.

ARTICLE VII: SENIORITY

- 7.1 Departmental Seniority shall be determined by an Employee's total accumulation of service as a licensed peace officer with the Apple Valley Police Department. Employees shall accumulate one (1) day of Departmental Seniority for each calendar day of employment up to a maximum of three hundred sixty-five (365) per year.
- 7.2 Classification Seniority shall be determined by an Employee's total accumulation of service with the Department within the rank of Sergeant. Employees shall accumulate one (1) day of Classification Seniority for each calendar day within the rank of Sergeant up to a maximum of three hundred sixty-five (365) per year.
- 7.3 The Employer shall prepare Classification Seniority and Departmental Seniority lists depicting Employee dates of promotion and hire respectively. The Employer shall post the current lists on the Union's electronic mail address.
- 7.4 Accumulation of Classification Seniority shall be suspended upon a break in service within the rank of Sergeant, except pursuant to Article X.
- 7.5 Accumulation of Classification Seniority upon a break in service of six months or less within the rank of Sergeant shall be retroactive to the initial date of the break in service.
- 7.6 Employees accepting a position, not covered by this Agreement, shall retain but not accumulate Classification Seniority within the rank of Sergeant.
- 7.7 During the probationary period, a newly hired or re-hired City Employee may be discharged at the sole discretion of the Employer. During the probationary period, a promoted or re-assigned Employee may be returned to the Employee's previous position at the sole discretion of the Employer.
- 7.8 Employees shall be given shift assignment preference in order of Classification Seniority within the rank of Sergeant upon completion of the field training process.

ARTICLE VIII: REDUCTION OF WORK FORCE

- 8.1 A reduction in the Sergeants' work force shall be by inverse order of Classification Seniority.
- 8.2 Recall from a reduction in the Sergeant's work force shall be by Classification Seniority within the Classification of Sergeant in inverse order of the reduction.

- 8.3 The Employer shall not promote an Employee without Classification Seniority within the rank of Sergeant prior to reinstatement of Employees reduced in rank due to a reduction in the Sergeant's work force.
- 8.4 An Employee reduced in rank shall be assigned to the Classification of Police Officer; subject to the terms of the Labor Agreement between the City of Apple Valley and Law Enforcement Labor Services, Inc. Local 71 applying to the Classification of Police Officer.

ARTICLE IX: WORK HOURS

- 9.1 Employees shall be scheduled based on a twenty-eight (28) calendar day period in accordance with the 7(k) exemption under the Fair Labor Standards Act (F.L.S.A.).
- 9.2 The normal work year shall be based on an averaged forty (40) hour work week and shall be accounted for by each Employee through:
 - A. Scheduled shifts;
 - B. Scheduled training; and
 - C. Authorized leave.
- 9.3 Split shifts shall not be scheduled except by mutual agreement of the Employer and the affected Employee.
- 9.4 Voluntary shift switching may be arranged between Employees, with Employer approval, provided such switching is not used as the basis for a claim for overtime.
- 9.5 Employees shall be scheduled with no less than eight (8) hours scheduled off-time between any two (2) adjacent work periods. Employees will be compensated at one and one-half (1½) times the Employee's base pay rate for hours worked with less than eight (8) hours scheduled off-time. Off-time between two adjacent work periods shall be calculated from the scheduled off-duty time of any work period to the scheduled on-duty time of the Employee's next consecutive work period.

Employees may be scheduled with less than eight (8) hours scheduled off-time between any two (2) adjacent work periods during emergency operations. Employees shall not be eligible for compensation at one and one-half (1½) the Employee's base pay for hours worked with less than eight (8) hours scheduled off-time during emergency operations. The Chief of Police or designee shall notify the Union of the commencement and the termination of emergency operations scheduling, as soon as practical.

ARTICLE X: WORKING OUT OF CLASSIFICATION

- 10.1 Employees assigned by the Employer to assume the full responsibilities and authority of a higher job classification shall be subject to the position's F.L.S.A. exemption status and receive the salary of the higher classification for the duration of the assignment.

ARTICLE XI: OVERTIME

- 11.1 An Employee will be compensated at one and one-half (1½) times the Employee's base pay rate for hours worked in excess of the Employee's scheduled shift. Changes of shifts do not qualify an Employee for overtime under this Article unless fewer than seven (7) days advance notice is provided to an Employee of the change of the Employee's schedule.
- 11.2 Overtime will be distributed as equally as practicable.
- 11.3 For the purpose of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.
- 11.4 Overtime will be calculated to the nearest twelve (12) minutes.
- 11.5 Employees have the obligation to report to work if requested by the Employer unless unusual circumstances prevent the Employee from so working.
- 11.6 An Employee ordered to court during the Employee's scheduled off-duty time shall receive a minimum of three (3) hours pay at one and one-half (1½) times the Employee's base pay rate unless the Employee is canceled 24 hours or more prior to the Employee's ordered arrival time at court. An extension or early report to a regularly scheduled shift does not qualify the Employee for the three (3) hour minimum.
- 11.7 An Employee called to duty during the Employee's scheduled off-duty time shall receive a minimum of three (3) hours pay at one and one-half (1½) times the Employee's base pay rate. An extension or early report to a scheduled shift does not qualify the Employee for the three (3) hour minimum.
- 11.8 An Employee called to duty for the purposes of training during the Employee's scheduled off-duty time shall receive a minimum of three (3) hours pay at one and one-half (1½) times the Employee's base pay rate if fewer than seven (7) days advance notice is given to an Employee of the change of the Employee's schedule.
- 11.9 An Employee may request that each hour of time eligible for overtime under this Agreement, in lieu of payment, be accumulated as compensatory time at the rate of one and one-half (1½) hours for each eligible hour, provided that the maximum compensatory time account for each Employee shall not exceed the threshold set forth in Article 34.5(A). An Employee may carry compensatory time from year to year. Employees may, at their discretion, cash-out all, or part of the Employee's compensatory time account at any time throughout the year at the Employee's current base pay rate.
- 11.10 Non-Employer funded overtime shall be exempt from compensatory time accumulation. The Employer shall exclusively compensate Employees at one and one-half (1½) times the Employee's base pay rate for each hour of Non-Employer funded overtime. The Employer and the Union, by agreement, may waive the compensatory time exemption. Employee participation in such overtime shall be voluntary.

ARTICLE XII: MEAL PERIODS AND REST BREAKS

- 12.1** While on duty, an Employee is permitted one (1) meal period and two (2) rest breaks. The meal period shall not exceed thirty (30) minutes and each rest break shall not exceed fifteen (15) minutes.
- 12.2** An Employee shall remain on continuous duty and be available for immediate call during meal periods and rest breaks.

ARTICLE XIII: P.O.S.T. TRAINING

- 13.1** The Employer will provide licensed Employees, as defined by Minnesota Statute, with a minimum of forty-eight (48) hours of Peace Officer Standards and Training (P.O.S.T.) Board approved continuing education, including continuing education mandated by applicable regulatory bodies, during each three-year licensing renewal period.
- 13.2** The Employer shall pay each Employee's regular salary while attending such Employer-approved continuing education courses.
- 13.3** The Employer shall pay the Employee's license fees required by the P.O.S.T. Board up to one hundred fifty (150) dollars.

ARTICLE XIV: SCHEDULED TRAINING

- 14.1** Training hours may be scheduled in lieu of the Employee's scheduled shift. Should the hours of scheduled training and approved travel time be less than the hours of a normal shift, the difference may be rescheduled by the Employer or, at the Employee's option, deducted from the Employee's compensatory time, annual leave, or holiday time.
- 14.2** An Employee scheduled for training, with more than seven (7) days advance notice, during the Employee's scheduled off-duty time shall receive a minimum of three and one half (3½) hours pay at the Employee's base pay rate.
- 14.3** An Employee may schedule a day off in exchange for a training day worked during the applicable bid period. No changes in the agreement shall result in overtime in accordance with the 7(k) exemption under the Fair Labor Standards Act (F.L.S.A.).

ARTICLE XV: ANNUAL LEAVE

- 15.1** All Employees shall be covered under the annual leave provision of this Agreement.
- 15.2** Employees shall earn annual leave in accordance with the following schedule. An Employee's initial date of employment shall be used to determine the appropriate hours of annual leave to be accrued.
- | | | | |
|-----------|---------------|--------------------------------|----------------------|
| A. | 0 - 5 years | 4.62 hours per 2 weeks of work | (3 weeks annually) |
| B. | 6 - 10 years | 6.16 hours per 2 weeks of work | (4 weeks annually) |
| C. | 11 - 15 years | 7.69 hours per 2 weeks of work | (5 weeks annually) |
| D. | 16 - 20 years | 8.31 hours per 2 weeks of work | (5.4 weeks annually) |
| E. | 21+ years | 9.23 hours per 2 weeks of work | (6 weeks annually) |

- 15.3** Annual leave shall be taken either as planned leave, which will be scheduled in advance, pursuant to Article XVII herein, requiring Employer approval, or unplanned leave which will require notification of the Employer in a timely manner prior to the Employee's scheduled shift. An Employee shall not be eligible to use more than double the amount of planned annual leave earned in a calendar year without prior approval of the City Council.
- 15.4** An Employee shall not earn annual leave for any period during which the Employee is not being paid. An Employee shall not be eligible to be compensated for annual leave, or earn additional annual leave during the time an Employee is receiving disability insurance payments.
- 15.5** Annual leave may not accrue in excess of the threshold set forth in Article 33.5(A). Any hours in excess of the threshold shall be forfeited.
- 15.6** If use of unplanned annual leave clearly suggests abuse, the Employer shall notify the Employee of this concern. The Employer may request at any time, based upon reasonable suspicion of continued suggested abuse, that an Employee provide a medical doctor's statement indicating verification of illness and/or ability to return to work.
- 15.7** An Employee, who has an accrued and unused balance of 136 or more hours of annual leave, may make an irrevocable election annually by December 31, to receive cash compensation in lieu of up to 16 hours of annual leave earned in the subsequent year.

Such election shall be made in writing in a format determined by the city and received in Human Resources by December 31.

Upon making such election, annual leave earned beginning the start of the first pay period in January of the subsequent year, up to the amount elected by the Employee, shall not be credited to the Employee's annual leave bank, but instead shall be paid to the employee at the employee's base pay rate on the earliest of:

- 1) When requested by the Employee on one regular pay check in the calendar year subsequent to the Employee's election, provided the elected number of hours have been earned; or
 - 2) The first pay check in December of the year subsequent to the Employee's election; or
 - 3) Upon the Employee's separation from employment.
- 15.8** An Employee who leaves the employment of the Employer in good standing shall be compensated for all accrued and unused annual leave at the time of separation of employment.
- 15.9** An Employee shall not be permitted to waive annual leave for the purpose of receiving double pay.

ARTICLE XVI: HOLIDAY LEAVE

- 16.1** The Employer determines Employee work schedules without regard for days generally observed by the Employer as holidays. On January 1 of every year each Employee shall be credited with ninety-six (96) hours of holiday leave time in a holiday leave account in lieu of holidays.

- 16.2 Holiday leave time shall not accumulate from year to year. Up to eighty-eight (88) hours of holiday leave time remaining in the Employee's holiday leave account on December 31 shall be cashed-out at the Employee's current base pay rate. Any hours greater than eighty-eight (88) remaining in the Employee's holiday leave bank on December 31 shall be forfeited.
- 16.3 Holiday leave for a new Employee, or an Employee leaving employment, shall be appropriately pro-rated to reflect the actual holidays observed by the Employer as of the date of the event affecting employment status. If an Employee leaving employment has taken more holiday leave than the appropriate pro-rated amount, the difference shall be deducted from the Employee's final paycheck.
- 16.4 An Employee scheduled to work during any hours of the following eleven (11) dates shall be paid for each hour actually worked at one and one-half (1½) times the Employee's base pay rate. References to holidays in this Agreement shall refer to the dates of observance listed below.

| Holiday | Date Observed | |
|------------------------|---------------|-------------|
| | 2022 | 2023 |
| New Year's Day | January 1 | January 1 |
| Martin Luther King Day | January 17 | January 16 |
| Presidents' Day | February 21 | February 20 |
| Memorial Day | May 30 | May 29 |
| Independence Day | July 4 | July 4 |
| Labor Day | September 5 | September 4 |
| Veterans Day | November 11 | November 11 |
| Thanksgiving | November 24 | November 23 |
| Day after Thanksgiving | November 25 | November 24 |
| Christmas Eve | December 24 | December 24 |
| Christmas Day | December 25 | December 25 |

- 16.5 An Employee called in to work on a holiday, when according to the normally posted schedule the employee was not scheduled for the holiday, or who has their shift extended on a holiday, shall be paid for each hour actually worked at two (2) times the Employee's base pay rate.

An Employee called in to work on a double-time holiday, when according to the normally posted schedule the employee was not scheduled for the holiday, or who has their shift extended on a double-time holiday, shall be paid for each hour actually worked at two and one-half (2.5) times the Employee's base pay rate.

- 16.6 An Employee scheduled to work on Independence Day, Thanksgiving, Christmas Eve, or Christmas Day, shall be compensated at two (2) times the Employee's base pay rate for each hour actually worked. Double time payment under this paragraph shall apply to all hours actually worked during the scheduled shift, if four (4) or more hours of the shift occur on the holiday.

- 16.7** An Employee scheduled for training during any hours of the above holidays shall be paid for each hour of actual training at one and one-half (1½) times the Employee's base pay rate.
- 16.8** If relevant Minnesota statute, currently Minn. Stat. § 645.44, Subd. 5, is amended during the duration of this agreement to include Juneteenth, June 19; holiday leave hours as referenced in paragraphs 16.1 and 16.2 of this agreement shall be increased by 8 hours to reflect such holiday if applicable in the calendar year, and paragraph 16.4 of this agreement shall be amended to include Juneteenth if applicable in the calendar year.

ARTICLE XVII: PLANNED ANNUAL AND HOLIDAY LEAVE SELECTION

- 17.1** All planned leave requests shall be submitted in writing. Planned annual leave may be denied or approval withdrawn when the granting of such planned leave would result in insufficient personnel to carry out necessary functions as deemed appropriate by the Employer.
- 17.2** Planned leave periods of forty (40) hours or more shall be requested at least thirty (30) calendar days in advance.
- 17.3** Any planned leave request made at least thirty (30) calendar days in advance, if approved, shall be granted on the basis of seniority. To comply with this Section, the Employer shall withdraw approvals previously granted, if necessary, because of a later request from a more senior Employee.
- 17.4** Planned leave requests made less than thirty (30) calendar days in advance, if approved, will be approved on a first come, first served basis.
- 17.5** Planned leave requests of forty (40) hours or more, made at least thirty (30) calendar days in advance shall supersede requests of less than forty (40) hours. To comply with this Section, the Employer shall withdraw approvals previously granted, if necessary. A senior Employee shall be notified and have one (1) scheduled shift to expand a superseded request to forty (40) hours or more to preserve the original request.
- 17.6** Before March 15 of each calendar year Employees shall have the opportunity to reserve, by seniority, one continuous period of planned leave for the current year.
- A.** Reservations shall take precedence over all other requests and may only be withdrawn if no other Employee's reservation was superseded.
- B.** Employees may postpone reserving a continuous period of planned leave. A postponed reservation may be exercised at any time. A postponed reservation shall take precedence over any subsequent planned leave requests.
- 17.7** Planned leave requests granted by the Employer under Section 17.4 shall not supersede those granted under Sections 17.2 and 17.3.
- 17.8** Employees' normally scheduled days off shall not be changed to accommodate planned leave requests made less than seven (7) calendar days in advance except by mutual agreement of the affected Employee(s). If no agreement is reached, the request for leave shall be denied.
- 17.9** Employees may post planned leave requests on the Union's electronic mail address at the Department.

ARTICLE XVIII: BEREAVEMENT LEAVE

- 18.1** An Employee shall be allowed up to three (3) days of bereavement leave in the event of a death in the Employee's immediate family.
- 18.2** The Employer or Employer's designee is responsible for approving or denying requests for bereavement leave. Bereavement leave shall not be charged against an Employee's leave balance.

ARTICLE XIX: JURY DUTY LEAVE

- 19.1** Employees shall be granted jury duty leave as provided by Minnesota Statutes.
- 19.2** Employees shall be granted an amount of compensation, which will equal the difference between the Employee's regular base pay and per diem compensation received from jury duty. This shall not include reimbursement for expenses incurred as the result of jury duty.

ARTICLE XX: MILITARY LEAVE

- 20.1** Employees shall be granted military leave as provided by Minnesota Statutes and Federal Law.

ARTICLE XXI: INJURED ON DUTY

- 21.1** An Employee, who in the ordinary course of employment, while acting in a reasonable and prudent manner and in compliance with established rules and procedures of the Employer, is injured during the performance of the Employee's duties and thereby unable to work, shall be paid the difference between the Employee's regular pay and the workers' compensation insurance payments for a period not to exceed seven hundred twenty (720) scheduled working hours per injury, not charged to the Employee's annual leave, holiday leave, compensatory time balance, or other accumulated paid benefits. Any injury that does not result in compensation under the workers' compensation law shall not be compensable under this Article.

ARTICLE XXII: INSURANCE

- 22.1** The Employer will contribute up to a maximum of nine hundred sixty (\$960) per month per Employee in 2022 toward the cost of Employer selected group health, life, and dental insurance for full-time Employees enrolled in a Copay Health Plan.

The Employer will contribute up to a maximum of one thousand four hundred fifteen (\$1,415) per month per Employee in 2022 toward the cost of Employer selected group health, life, and dental insurance for full-time Employees enrolled in a High Deductible Health Plan.

Employees enrolled in a High Deductible Health Plan in 2022 will receive an additional \$80 per month contribution to the Employee's HRA or HSA. This incentive is above and in addition to the regular Employer Contribution amount.

An Employee may request either thirty (30) or sixty (60) dollars per month of the excess contribution be paid directly to the Employee monthly.

For 2023, this section shall be subject to a contract re-opener.

- 22.2** The Employer at the Employer's cost, shall place into effect customary Police Professional Liability insurance, which includes coverage for punitive damages and Employer-approved extra-duty employment as a police officer within the City of Apple Valley. Such insurance shall have limits at least in the amounts of two hundred thousand (200,000) dollars each person, five hundred thousand (500,000) dollars each occurrence, and seven hundred fifty thousand (750,000) dollars annual aggregate. The Employer shall provide a copy of the insurance policy to the Union.
- 22.3** The Employer will place into effect a short-term disability insurance policy to be effective following one hundred twenty (120) hours of continuous absence due to illness or injury. An Employee shall be eligible to collect the short term disability benefit until the Employee becomes eligible for long term disability or six (6) months following the date of the qualifying injury or illness, whichever occurs first. The Employer may request at any time an Employee provide a medical doctor's statement including verification of illness and/or ability to return to work.
- 22.4** An Employee shall be eligible to continue to receive the Employer's insurance contribution, in accordance with Article XXII, toward the purchase of group insurance during the period of time the Employee is receiving short term disability insurance benefits, not to exceed six (6) months from the qualifying date of illness or injury.
- 22.5** The Employer will, upon request, pay the Employer contribution amount due to Public Employees Retirement Association (PERA) for an Employee's purchase of service credit and salary from an authorized short term disability leave of absence if all of the following conditions are met:
- 1) The request is received by the Employer no later than 120 days after the end of the Employee's authorized short term disability leave of absence; and
 - 2) The Employee has returned to full, unrestricted duty actively working a regular full-time schedule with the Employer; and
 - 3) The Employee provides the Employer with evidence of payment of the Employee contribution amount due to PERA.
- 22.6** Employees shall, subject to applicable provisions of the IRS code, pay the tax on their portion of the premium for the long-term disability plan the City offers.

This section shall not apply to Employees who are members of the bargaining unit prior to January 1, 2010 and do not currently pay the tax on their portion of the long-term disability premium.

ARTICLE XXIII: UNIFORMS

- 23.1** The Employer shall furnish to each new Employee the Employer-required uniform and related parts. The Employer shall furnish each Employee with soft body armor and replace such armor at the beginning of the sixth year of wear, at the end of the manufacturer's warranty period, as needed due to wear and tear of the soft body armor, or whichever comes first. The selection of soft body armor will be a cooperative effort between the Employer and the affected Employees. Final selection of soft body armor will be the discretion of the Employer.

- 23.2** The Employer shall pay a uniform allowance to each Employee in the annual amount of one thousand (\$1,000) dollars. An Employee must have successfully completed a twelve (12) month probationary period with the Employer prior to receiving the uniform allowance benefit and then shall be eligible for the appropriate pro-rated amount for the remainder of that calendar year.
- 23.3** The Employee shall be responsible for the continued upkeep and maintenance of the initially issued Employer-required uniform and related parts from the proceeds of the uniform allowance. Any amount not used for this purpose shall be used for any other clothing or equipment used in the course of employment.
- 23.4** The Employer shall pay a cash allowance to each Employee in the annual amount of one hundred (\$100) dollars for the replacement of personal items damaged, destroyed or lost during the performance of the Employee's duties. An Employee must have successfully completed a twelve (12) month probationary period with the Employer prior to receiving the uniform allowance benefit and then shall be eligible for the appropriate pro-rated amount for the remainder of that calendar year.
- 23.5** Employees shall return the Employer-issued badges, access card, handgun and magazines, portable radio, keys, and soft body armor upon separation of employment with the City of Apple Valley. The Employer requests the return of any other serviceable items.
- 23.6** Employees shall return Employer-owned, non-uniform equipment upon separation of employment with the City of Apple Valley.

ARTICLE XXIV: EXPENSE REIMBURSEMENT

- 24.1** An Employee required to perform duties outside the city limits of the City of Apple Valley shall be reimbursed for travel expenses and meals at the same rates applicable to other Employees of the Employer.

ARTICLE XXV: CIVIL COURT

- 25.1** Employees shall be compensated in accordance with Article XII of this Agreement for civil court proceedings and trials, provided all of the following conditions are met:
- A.** Officer must be subpoenaed to appear in civil court for a trial.
 - B.** Employer determines that the subpoena is directly related to a case in which the officer was involved.
 - C.** All compensation received by the Employee is turned over to the Employer.

ARTICLE XXVI: INTERNAL AFFAIRS

- 26.1 Employee Representation:** Employees shall not be questioned concerning an investigation that could ultimately result in disciplinary action, unless the Employee has been given a reasonable opportunity to have an attorney or Union representative present.

26.2 Forms of Discipline: The Employer shall discipline Employees for just cause only. Discipline will be in one or more of the following forms:

- A. Oral Reprimand
- B. Written Reprimand
- C. Suspension
- D. Reassignment
- E. Demotion
- F. Discharge

26.3 Coaching: The Employer may choose to coach an Employee in lieu of discipline.

26.4 Internal Affairs Investigation Timeline: The Employer shall complete Internal Affairs Investigations within fifty-six (56) calendar days from the date a written complaint is filed with or by the Employer.

- A. The Employer shall have fourteen (14) calendar days from the date the Employer became aware of an incident to file a written complaint.
- B. The Employer may re-open a concluded Internal Affairs Investigation upon discovery of significant new evidence. A re-opened Internal Affairs Investigation shall be completed within forty-five (45) calendar days from the date the Employer became aware of the significant new evidence.
- C. The Employer may request in writing an extension of an Internal Affairs Investigation or a re-opened Internal Affairs Investigation. The Employer's request for extension shall state the specific reasons an extension is necessary and an anticipated completion date. The length of the requested extension shall be directly related to the circumstances involved.
- D. The Union shall not withhold an extension based upon reasonable circumstances. The Union shall respond to an extension request in writing and state the specific reasons for an extension denial. The Employer may request additional extensions.
- E. The Employer may appeal an extension request denied by the Union.
 - 1. The Employer shall present the written request for extension to the City Administrator or designee stating the specific reasons an extension is necessary and an anticipated completion date. The City Administrator or designee shall grant the Union a reasonable opportunity to oppose the granting of an extension.
 - 2. The City Administrator or designee shall grant, deny, or modify the Employer's request for extension.
 - 3. An extension, denied by the Union and subsequently granted by the City Administrator or designee, shall be subject to Arbitrator review only in a grievance arbitration of Notices of Oral Reprimand, Written Reprimand, Suspension, Reassignment, Demotion, and Discharge.
- F. In the case of a criminal investigation, there shall be no timeline. The Employer shall have fourteen (14) calendar days from the conclusion of the criminal process to file a written complaint.

- G. The Employer shall review the Internal Affairs investigative report and notify the Employee of any action to be taken within seven (7) calendar days of receiving the completed investigative report. The Chief of Police shall document, in the report, the date the completed Internal Affairs investigative report was received for review.
- 26.5 Disciplinary Action Documentation:** Notices of Oral Reprimand, Written Reprimand, Suspension, Reassignment, Demotion, and Discharge will be documented in written form and will state the reason(s) for the action taken. The Employee shall be provided with a copy of each such Notice.
- 26.6 Disciplinary Action Acknowledgement:** Notices of Oral Reprimand, Written Reprimand, Suspension, Reassignment, Demotion, and Discharge that are to become part of an Employee's personnel file shall be read and acknowledged by signature of the Employee.
- 26.7 Disciplinary Action Removal:** Notices of Reprimand, Suspension, Reassignment, and Demotion shall be removed from an Employee's personnel file:
- A. Notices of Oral Reprimand shall be removed from an Employee's personnel file within two (2) years from the date of issue.
 - B. Notices of Written Reprimand shall be removed from an Employee's personnel file within two (2) years from the date of issue.
 - C. Notices of Suspension of less than forty (40) hours shall be removed from an Employee's personnel file within three (3) years from the date of issue.
 - D. Notices of Suspension of forty (40) hours or more, Reassignment, and Demotion shall be removed from an Employee's personnel file within five (5) years from the date of issue.
 - E. Notices of Reprimand, Suspension, Reassignment, and Demotion considered in future disciplinary actions shall be referenced in the future disciplinary action's documentation.
 - F. Notices of Reprimand, Suspension, Reassignment, and Demotion considered in future disciplinary actions shall not be removed from the Employee's personnel file prior to removal of the referencing Notices of Reprimand, Suspension, Reassignment, and Demotion.
- 26.8 Transfer to Chief of Police:** Notices of Reprimand, Suspension, Reassignment, and Demotion removed from an Employee's personnel file shall be transferred to and retained by the Chief of Police.
- 26.9 Future Disciplinary Action Consideration:** Notices of Reprimand, Suspension, Reassignment, and Demotion retained by the Chief of Police, may be considered in future disciplinary actions.
- 26.10 Disciplinary Grievances:** Grievances relating to this Article may be initiated by the Union in Step 2 of the Grievance Procedure. An Employee claiming a violation concerning the interpretation or application of this Agreement relating to this Article shall, within twenty-one (21) calendar days after such alleged violation has occurred, present such grievance in writing to the Chief of Police or designee.

26.11 Personnel File Examination: Employees may examine their individual personnel files at reasonable times under the direct supervision of the Employer.

ARTICLE XXVII: EMPLOYEE RIGHTS - GRIEVANCE PROCEDURE

27.1 Union Representatives: The Employer will recognize representatives designated by the Union as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article.

27.2 Processing of a Grievance: It is recognized and accepted by the Union and the Employer that the processing of grievances as hereinafter provided is limited by the job duties and responsibilities of the Employees and shall therefore be accomplished during normal working hours only when consistent with such Employee duties and responsibilities. The aggrieved Employee and a Union representative shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the Employer during normal working hours provided the Employee and the Union representative have notified and received the approval of the designated supervisor who has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer.

27.3 Filing of Grievance: The Union Representative shall file grievances on behalf of Local No. 243.

27.4 Waivers and Extensions: By mutual written agreement, the City and the Union may waive any step or extend any time limit in the grievance procedure. Such waiver or extension shall not be unreasonably withheld.

27.5 Grievance Procedure: Grievances shall be resolved in conformance with the following procedure:

Step 1: An Employee alleging a violation concerning the interpretation or application of this Agreement shall, within twenty-one (21) calendar days after such alleged violation has occurred, present such grievance in writing to the Employee's supervisor. The Employee's supervisor will discuss and give an answer in writing to such Step 1 grievance within ten (10) calendar days after receipt.

A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision(s) of the Agreement allegedly violated, and the remedy requested and shall be appealed to Step 2 within ten (10) calendar days after the Employee's supervisor's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered settled on the basis of the Employer's last answer.

Step 2: If appealed, the written grievance shall be presented by the Union and discussed with the Chief of Police or designee. The Chief of Police or designee shall give the Union the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance.

A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Chief of Police's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered settled on the basis of the Employer's last answer.

Step 3: If appealed, the written grievance shall be presented by the Union and discussed with the City Administrator or designee. The City Administrator or designee shall give the Union the Employer's Step 3 answer in writing within ten (10) calendar days after receipt of such Step 3 grievance.

A grievance not resolved in Step 3 may be appealed to Step 4 within ten (10) calendar days following the City Administrator's final answer in Step 3. Any grievance not appealed in writing to Step 4 by the Union within ten (10) calendar days shall be considered settled on the basis of the Employer's last answer.

Step 3A: If a grievance still remains unsettled, the parties may, by mutual agreement, choose to seek mediation services through the Bureau of Mediation Services or through an independent, mutually acceptable, mediation service prior to submitting the grievance to arbitration.

Step 4: A grievance unresolved in Step 3 and appealed to Step 4 shall be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act of 1971, as amended. The selection of an arbitrator shall be made in accordance with the "Rules Governing the Arbitration of Grievances" as established by the Bureau of Mediation Services.

27.6 Arbitrator's Authority:

- A.** The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this Agreement. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.
- B.** The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules, or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) calendar days following the close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties agree to an extension. The decision shall be binding on both the Employer and the Union and shall be based solely on the arbitrator's interpretation or application of the express terms of this Agreement and to the facts of the grievance presented.
- C.** The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the Employer and the Union provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings, the cost shall be shared equally.

27.7 Grievance Waiver or Settlement:

A grievance not presented within twenty-one (21) calendar days or any agreed extension thereof, shall be considered waived. A grievance not appealed to the next step within ten (10) calendar days or any agreed extension thereof, shall be considered settled on the basis of the Employer's last answer.

27.8 Treatment of Employer Response:

A grievance or grievance appeal not answered by the Employer within ten (10) calendar days or any agreed extension thereof, may be appealed to the next step or shall be considered settled on the basis of the Employer's last answer.

27.9 Choice of Remedy:

- A.** If, as a result of the written Employer response in Step 3, the grievance remains discharge of an Employee, who has completed the required probationary unresolved, and if the grievance involves the suspension, demotion, or period, the grievance may be appealed either to Step 4 of Article XXVII or a procedure such as: Civil Service, Veteran's Preference, or Fair Employment. If appealed to any procedure other than Step 4 of Article XXVII, the grievance is not subject to the arbitration procedure as provided in Step 4 of Article XXVII. The aggrieved Employee shall indicate in writing which procedure is to be utilized, Step 4 of Article XXVII or another appeal procedure, and shall sign a statement to the effect that the choice of any other hearing precludes the aggrieved Employee from making a subsequent appeal through Step 4 of Article XXVII.
- B.** Except with respect to statutes under the jurisdiction of the United States Equal Employment Opportunity Commission, an Employee pursuing a statutory remedy is precluded from also pursuing an appeal under this grievance procedure. Should a court of competent jurisdiction rule contrary to Board of Governors, "EEOC v. Board of Governors of State Colleges and Universities, 957 F.2d 424 (7th Cir.), cert. Denied, 506 U.S. 906, 113 S. Ct. 299 (1992), or if the Board of Governors is judicially or legislatively overruled, Section 28.10 (b) shall be deleted from this Agreement.

ARTICLE XXVIII: DRUG AND ALCOHOL TESTING

28.1 Purpose: The purpose of this article is to provide written guidelines in compliance with applicable Minnesota Statutes for requesting or requiring Employees to undergo drug and/or alcohol testing. The Employer prohibits the possession, consumption, sale, transfer or being under the influence of alcohol or illegal drugs during work hours except when approved by the Employer as a proper law enforcement activity.

28.2 Work Rules:

- A.** No Employee shall be under the influence of any drug or alcohol while the Employee is working or while the Employee is on the Employer's premises or operating the Employer's vehicles, machinery, or equipment, except pursuant to a valid medical reason, or, when approved by the Employer as a proper law enforcement activity.

- B. No Employee shall use, possess, manufacture, distribute, dispense, sell or transfer drugs, alcohol or drug paraphernalia while the Employee is working or while the Employee is on the Employer's premises or operating the Employer's vehicles, machinery or equipment, except pursuant to a valid medical reason, or, when approved by the Employer as a proper law enforcement activity.
- C. No Employee, while on duty, shall engage or attempt to engage or conspire to engage in conduct, which would violate any law or ordinance concerning drugs or alcohol, regardless of whether a criminal conviction results from the conduct.
- D. An Employee shall notify the Employer in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than seven (7) calendar days after such conviction. The Employer shall notify the appropriate federal agency of such conviction within fourteen (14) calendar days of receiving notice from the Employee.

28.3 Persons Subject To Testing: All Employees are subject to testing under applicable sections of this article. The Employer will request or require an Employee to undergo drug or alcohol testing only under the circumstances described in this article.

28.4 Circumstances for Drug or Alcohol Testing:

- A. **Reasonable Suspicion Testing:** The Employer may request or require an Employee to undergo drug and alcohol testing if the Employer has a reasonable suspicion related to the Employee's job performance that the Employee:
 - 1. Is under the influence of drugs or alcohol while the Employee is working, or is on the Employer's premises, or operating the Employer's vehicles, machinery, or equipment.
 - 2. Has violated the Employer's Work Rules as per Section 28.2 regarding use, possession, sale or transfer of drugs, alcohol or drug paraphernalia while the Employee is working, or is on the Employer's premises, or operating the Employer's vehicles, machinery or equipment.
 - 3. Has discharged a firearm other than in the following instances:
 - a. On an established target range;
 - b. While conducting authorized ballistic tests;
 - c. While engaged in lawful recreational hunting or shooting activities;
 - d. While shooting an injured animal as part of official duties.
 - 4. Has been involved in a police vehicle pursuit as defined by Department rules and regulations during which a disregard for work rules, personal safety, safety of others, or a lack of appropriate judgment has been exhibited.
 - 5. Has sustained a personal injury as defined in Minnesota Statute §176.011, subdivision 16, or has caused another person to die or sustain a personal injury.

6. Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident resulting in total property damage exceeding one thousand (1,000) dollars as estimated by a Department supervisor at the scene of the accident or at the time the accident is reported.
7. Has, as determined only by the Police Chief, or designee, or the City Administrator, engaged in an act or omission related to the performance of the job, committed on duty, or off duty involving illegal drugs that logically requires or justifies such testing, revealed as a clear and compelling necessity by the nature of the incident

B. Treatment Program Testing: The Employer may request or require an Employee to undergo drug and/or alcohol testing if the Employee has been referred by the Employer for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an Employee benefit plan, in which case the Employee may be requested or required to undergo drug and/or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

C. Random Testing: Random testing is prohibited.

28.5 Refusal to Undergo Testing:

- A.** An Employee has the right to refuse to undergo drug and alcohol testing. If an employee refuses to undergo drug or alcohol testing requested or required by the Employer, no such test shall be given.
- B. Consequences of Refusal:** If an Employee refuses to undergo drug or alcohol testing requested or required by the Employer, the Employee shall be discharged from employment on grounds of insubordination.
- C. Refusal on Religious Grounds:** An Employee who refuses to undergo drug or alcohol testing of a blood sample based on religious grounds shall not be deemed to have refused if the Employee submits to a urine sample. However, if the Employee also refuses to undergo drug or alcohol testing of a urine sample, the Employee shall be deemed to have refused to submit to drug or alcohol testing and shall be subject to the provisions of Section 28.5 (b).

28.6 Procedure for Testing:

- A. Notification Form:** At the time the Employer requests an Employee to undergo drug or alcohol testing, the Employer shall provide the individual with a form on which to:
 1. Acknowledge the individual has seen a copy of the Employer's drug and alcohol testing article; and,
 2. Indicate consent to undergo the drug and alcohol testing.

- B. Test Sample:** The test sample shall be obtained in a private setting and the procedures for taking the sample shall ensure privacy to Employees to the extent practicable, consistent with preventing tampering with the sample. All test samples shall be obtained by or under the direct supervision of a health care professional at a medical facility or by a licensed collection service of the Employer's selection.
- C. Identification of Samples:** Each blood or urine sample shall be sealed in a suitable container free of any contamination that could affect test results, and be properly identified with the individual that provided the sample pursuant to the identification procedures of the testing facility.
- D. Chain of Custody:** The testing facility shall maintain a written record of the chain of custody of the sample to ensure proper handling.
- E. Laboratory:** All drug and alcohol testing shall use the services of a testing laboratory qualifying under Minnesota Statute, however, no test shall be conducted by a testing laboratory owned and operated by the City of Apple Valley.
- F. Methods of Analysis:** The testing laboratory shall use methods of analysis and procedures to assure reliable drug and alcohol testing results, including standards for initial screening tests and confirmatory tests.
- G. Retention and Storage:** All samples that produced a positive test result, except breath samples from an initial screening test, shall be retained and properly stored by the testing facility for at least six (6) months.
- H. Test Result:** The testing laboratory is required to prepare a written report indicating the drugs, alcohol, or their metabolites tested for, the types of tests conducted and whether the test produced negative or positive test results. The testing laboratory shall disclose that report to the Employer within three (3) calendar days after obtaining a negative result on the initial screening test or, if the initial test was positive, within three (3) calendar days after a confirmatory test.
- I. Notice of Test Results:** Within three (3) working days after receiving the test result from the testing laboratory, the Employer shall inform, in writing, an Employee who has undergone drug or alcohol testing of:

 - 1. A negative test result on an initial screening test or of a negative or positive test result on a confirmatory test.
 - 2. The right to request and receive from the Employer a copy of the test result report.
 - 3. The right to submit information to the Employer after notice of a positive test result to explain that result. The Employer may request the Employee indicate any prescription or non-prescription medications the Employee is currently taking, has recently taken, or any other information relevant to the reliability of or explanation for a positive test result.

4. The right to submit a written notice to the Employer within five (5) working days after notice of a positive test result, that the Employee intends to obtain a confirmatory re-test of the original sample at the Employee's own expense at the original laboratory or another licensed testing laboratory. If a confirmatory re-test is conducted in accordance with Minnesota Statutes, and the confirmatory re-test does not result in a positive test result the City shall reimburse the Employee the actual cost of the confirmatory re-test and there shall be no adverse employment action based on the original confirmatory test.

J. Notice to Employees Receiving Positive Test Results on a Confirmatory Test: An Employee receiving a positive test result on a confirmatory test shall be notified by the Employer of the following rights of the Employee. This notice shall be provided to the Employee within three (3) working days after receipt of the test result.

1. First Positive Test Result:

- a. The Employer may discharge an Employee for whom a positive test result on a confirmatory test was the first such result for the Employee. However, the Employer may not discharge the Employee from employment unless the following conditions have occurred:
 - i. The Employer has first given the Employee an opportunity to participate in, at the Employee's own expense or pursuant to coverage under an Employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the Employer after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency, and
 - ii. If the Employee refuses to participate in the counseling or rehabilitation program, the Employer shall suspend the Employee from employment without pay for five (5) working days to provide the Employee an opportunity to reconsider the Employee's decision. If at the conclusion of the Employee's suspension without pay, the Employee has not begun to participate in the counseling or rehabilitation program, the Employee shall be discharged from employment, or
 - iii. If the Employee has failed to successfully complete the counseling or rehabilitation program, the Employee shall be discharged from Employment. Withdrawal from the program before its completion or a positive test result on a confirmatory test after completion of the program will be considered evidence the Employee failed to successfully complete the program.
- b. However, the Employer may discipline but not discharge an Employee for whom a positive test result on a confirmatory test was the first such result for the Employee, if the Employer determines that no counseling or rehabilitation program is appropriate.

2. Second Positive Test Result:

- a. Where an Employee tests positive on a confirmatory test for the second time for alcohol or drug abuse of a legal substance, which prevents the Employee from performing the functions of the job or constitutes a direct threat to property or safety of others, the Employer may discipline the employee up to and including discharge.
 - b. Where an Employee tests positive on a confirmatory test for the second time for drug use of a controlled substance, the Employer shall immediately discharge the Employee from employment.
3. An Employer may temporarily suspend the tested employee or transfer that Employee to another position at the same rate of pay pending the outcome of the confirmatory test and confirmatory re-test, if requested, provided the Employer believes it is reasonably necessary to protect the health or safety of the Employee, co-Employees, or the public. An Employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory re-test is negative.
4. An Employer may not discharge, discipline, discriminate against, or request or require rehabilitation of an Employee on the basis of medical history information revealed to the Employer pursuant to Section 28.6 (i)(3) unless the Employee was under an affirmative duty to provide the information before, upon, or after hire.
5. An Employee must be given access to information in the Employee's medical personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process, and conclusions drawn from and actions taken based on the reports or other acquired information.

28.7 Employer Actions:

- A. The Employer will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee solely on the basis of a positive test result from the initial screening test that has not been verified by a confirmatory test.
- B. The Employer shall observe Employee rights under applicable sections of this Article.
- C. Nothing in this article limits the right of the Employer to discipline or discharge an Employee on grounds other than those set forth in Section 28.6 (j).

28.8 Data Privacy:

- A. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the employee for employment. The employee may refuse to supply the requested data; however, refusal to supply the requested data may affect the person's employment status.
- B. The Employer will not disclose the test result reports and other information acquired in the drug or alcohol testing process to another Employer or to a third party individual, governmental agency, or private organization except in the following situations:

1. Written consent for the release of data by the tested Employee;
 2. Pursuant to court order;
 3. For use in an arbitration proceeding pursuant to a collective bargaining agreement;
 4. For use in an administrative hearing pursuant to Minnesota Statutes;
 5. For use in a judicial proceeding;
 6. Disclosure to a federal agency as required by federal law;
 7. Disclosure to a substance abuse facility.
- C. Test results may not be used as evidence in a criminal proceeding against the Employee.

28.9 Grievances: In the event of an alleged violation of this Article, the Employee may file a grievance in accordance with Article XXVII, Employee Rights – Grievance Procedure. This right shall be in accordance with Minn. Stat. § 181.956.

ARTICLE XXIX: CONTINUING EMPLOYMENT QUALIFICATIONS

29.1 An Employee whose Minnesota Board of Peace Officer Standards and Training license to act as a peace officer has been revoked shall, at a minimum, be suspended without pay during that period, and may, based on the reasons for revocation, be dismissed.

ARTICLE XXX: WAIVER

30.1 Any and all prior agreements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment, to the extent inconsistent with the provisions of this agreement, are hereby superseded.

30.2 The parties mutually acknowledge that during the negotiations, which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any term or condition of employment not removed by law from bargaining. All agreements and understandings arrived at by the parties are set forth in writing in this Agreement for the stipulated duration of this Agreement. The Employer and the Union each voluntarily and unqualifiedly waive the right to meet and negotiate regarding any and all terms and conditions of employment referred to or covered in this Agreement or with respect to any term or condition of employment not specifically referred to or covered by this Agreement, even though such terms or conditions may not have been within the knowledge or contemplation of either or both of the parties at the time this contract was negotiated or executed.

ARTICLE XXXI: SAVINGS CLAUSE

31.1 This Agreement is subject to law. In the event any provision of this Agreement shall be held to be contrary to law by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision shall be voided. All other provisions of this Agreement shall continue in full force and effect. The voided provision may be re-negotiated at the request of either party.

ARTICLE XXXII: MONTHLY SALARIES

32.1 Employees shall be paid monthly salaries as follows:

| | <u>2022</u> | <u>2023</u> |
|------------------------------------|---------------|---------------|
| | Eff. 12/18/21 | Eff. 12/17/22 |
| Starting Sergeant | \$ 9,305 | \$ 9,584 |
| After 12 months continuous service | \$ 9,770 | \$ 10,063 |
| After 24 months continuous service | \$ 10,120 | \$ 10,424 |

32.3 In addition to the base pay rate, an Employee assigned by the Employer to the detective unit will receive an additional 5% of the Employee's current hourly pay rate when assigned. This amount will be pro-rated for an assignment of less than a full month.

32.4 Salary changes are related to continuous months of service.

- A.** The effective date for an Employee's salary change shall be the anniversary date of promotion.
- B.** The Employer operates a bi-weekly payroll system and the effective date for salary changes occurring in the first week of the pay period shall be the first day of that pay period and that the effective date of salary changes occurring in the second week of the pay period shall be the first day of the next pay period.
- C.** General raises shall become effective at the beginning of the pay period closest to January 1.

32.5 The Employer shall have the sole authority to determine the appropriate step placement for a newly hired or promoted Employee.

ARTICLE XXXIII: HEALTH CARE SAVINGS PLAN

- 33.1 Establishment:** The Employer shall implement a tax-advantaged Health Care Savings Plan (HCSP), effective January 1, 2016, administered by Minnesota State Retirement System (MSRS). The Health Care Savings Plan is designed specifically to address future healthcare-related costs of Employees after separation from employment. The Health Care Savings Plan shall allow Employees, as a group, through the collective bargaining process to designate pre-tax compensation to pre-fund eligible post-employment expenses. Contributions, interest and gains, and withdrawals from the Health Care Savings Plan shall be tax-free to the fullest extent possible under state and federal statute.
- 33.2 Authorization and Administration:** The Health Care Savings Plan (HCSP) is administered by Minnesota State Retirement System (MSRS). The HCSP is an employer-sponsored program that allows employees to invest in a tax-free medical savings account while employed by a Minnesota public employer. Minnesota State Statute authorizes MSRS to offer this program to governmental employees in Minnesota including city, state, county, school districts, and governmental subdivisions.
- 33.3 Participation:** Participation in the HCSP shall be mandatory for all Employees.
- 33.4 Contribution Calculations:** Contributions to the HCSP, based upon Employee hours, shall be calculated using the Employee's appropriate pay rate at the time of conversion. Contributions are mandatory.
- 33.5 Contribution Methodology:** Funding of the HCSP shall be in accordance with established contribution methods:
- A. Compensatory Time and Annual Leave Contributions:** One hundred (100) percent of compensatory time hours over eighty (80) and one hundred (100) percent of annual leave hours over seven hundred ninety (790) shall be deposited into the Employee's HCSP account.
 - B. Salary Contributions:** Employee salary contributions -- a function of years of service and corresponding percentage -- shall be deposited into the Employee's HCSP account.
 - 1. Employees with less than ten (10) years of Departmental Seniority shall contribute one-quarter ($\frac{1}{4}$) percent of the Employee's gross earnings per pay period.
 - 2. Employees with more than ten (10) years and less than fifteen (15) years of Departmental Seniority shall contribute one-half ($\frac{1}{2}$) percent of the Employee's gross earnings per pay period.
 - 3. Employees with more than fifteen (15) years and less than twenty (20) years of Departmental Seniority shall contribute three-quarters ($\frac{3}{4}$) percent of the Employee's gross earnings per pay period.
 - 4. Employees with more than twenty (20) years and less than twenty-five (25) years of Departmental Seniority shall contribute one (1) percent of the Employee's gross earnings per pay period.

5. Employees with more than twenty-five (25) years of Departmental Seniority shall contribute one and one-quarter (1¼) percent of the Employee's gross earnings per pay period.

C. Annual Leave Contributions upon Separation from Employment: An Employee, who is eligible to be compensated for annual leave in accordance with Article 15.8 of this agreement, shall have the following amounts of annual leave contributed to the employee's HCSP account upon separation from employment:

1. Employee with fewer than three hundred fifty (350) hours of accrued, unused annual leave hours credited on the Employee's separation date: None of the Employee's accrued, unused annual leave hours shall be contributed to the Employee's HCSP account upon separation from employment.
2. Employee with three hundred fifty (350) or more hours of accrued, unused annual leave hours credited on the Employee's separation date: one hundred (100) percent of the Employee's accrued, unused annual leave shall be contributed to the Employee's HCSP account upon separation from employment.

D. Upon an Employee's death, contributions can no longer be made to the HCSP.

33.6 Contribution Methodology Changes: The intent of the HCSP is for Employees to determine the contribution methodology within reasonable parameters established by the Employer. Contribution methodology changes shall be a cooperative effort between Employees and Employer.

The Union may request, prior to the expiration of this Agreement, modification of the contribution methodology upon simple majority vote of the members. The Union shall notify the Employer in writing of any proposed modifications.

Requested modifications of the contribution methodology shall be subject to Employer and legal counsel review prior to approval. Requested modifications of the contribution methodology shall not result in additional re-occurring costs to the Employer and shall comply with all Employer policies in effect at the time of the request. In addition, requested modifications of the contribution methodology shall be in compliance with the state and federal statute for tax-advantaged medical savings accounts. Contribution methodology changes and frequency are subject to approval by MSRS.

33.7 Account Fees: HCSP account fees are established by MSRS and shall be paid from the Employee's HCSP account.

ARTICLE XXXIV: POST EMPLOYMENT HEALTH REIMBURSEMENT ARRANGEMENT

34.1 Establishment: The Employer has previously implemented a tax-advantaged healthcare reimbursement plan designed specifically to address future healthcare-related costs of Employees after separation from employment. The Post-Employment Health Reimbursement Arrangement (PEHRA) allows Employees, as a group, through the collective bargaining process to designate pre-tax compensation to pre-fund eligible post-employment expenses. Contributions, interest and gains, and withdrawals from the Post-Employment Health

Reimbursement Arrangement shall be tax-free to the fullest extent possible under the Internal Revenue Code.

- 34.2 Authorization and Administration: The PEHRA is a type of self-insured medical reimbursement plan authorized under the Internal Revenue Code and shall be administered by the Employer with the assistance of a third-party administrator of the Employer's choosing.
- 34.3 Contributions: The PEHRA shall not be funded with new contributions after December 31, 2015.
- 34.4 Account Fees: Prior to termination of employment, fixed account fees shall be paid by the Employer. Asset-based fees shall be paid from the Employee's PEHRA account. Upon termination of employment, all fees shall be paid from the Employee's PEHRA account, except those fees that are not attributable to, or based upon, the existence of an Employee's account and paid by the Employer (e.g., annual trustee fees, annual filing fees, etc.).

ARTICLE XXXV: DURATION

- 35.1 This agreement shall be effective as of January 1, 2020, and shall remain in full force and effect through December 31, 2021.

ARTICLE XXXVI: RESIGNATION

- 36.1 An Employee, to resign from employment in good standing, shall provide the Employer with written notice of resignation at least fourteen (14) calendar days in advance of the effective date of the resignation. An Employee is expected to work their regular schedule during the notice period preceding resignation, and leave may be denied during the notice period. An Employee shall be paid through the last day actually worked. Except where otherwise provided by law or Employer policy, an Employee shall not be permitted to use paid leave hours, holidays, or unpaid leave to extend employment beyond the last day actually worked. The last day actually worked will be recorded as the Employee's official date of separation from employment. These provisions may be waived at the discretion of the City Administrator or designee. Failure to comply may be cause for denying payment of unused annual leave and future employment by the Employer.
- 36.2 An Employee, who provides a minimum of six (6) months written notice in advance of resignation from employment in good standing, shall receive a one-time cash payment in the amount of one thousand dollars (\$1,000) on the Employee's final pay check. An Employee, who provides a minimum of three (3) months (but less than six months) written notice in advance of resignation from employment in good standing, shall receive a one-time cash payment in the amount of five hundred dollars (\$500) on the Employee's final pay check.
- 36.3 Good standing constitutes circumstances in which an Employee resigns with advance written notice as described in this section and works their regular schedule during the notice period. Discharge for cause shall not be a separation in good standing.

ARTICLE XXXVII: WELLNESS

- 37.1 Effective January 1, 2020, an Employee shall, by December 31 each calendar year, provide to the Employer certification that the Employee has completed an annual preventive physical exam and recommended preventive screenings, and an annual dental exam, within the previous twelve

(12) months. The certification shall be signed by a qualified healthcare provider appropriate to make such certification.

- 37.2 An Employee who does not provide the applicable certifications by December 31 shall be notified of the deficiency and shall be granted a grace period of sixty (60) days in which to provide the certifications.
- 37.3 A newly hired or rehired Employee shall provide the applicable certifications to the Employer within ninety (90) days after hire.
- 37.4 An Employee, who is unable to obtain a certification due to an approved leave of absence, shall provide the certification to the Employer within sixty (60) days after the Employee returns to work.

ARTICLE XXXVIII: RETENTION PAYMENT

- 38.1 The Employer shall pay a cash retention payment to each Employee in the annual amount of \$1,500.
- 38.2 The retention payment shall be paid in bi-weekly installments to an eligible Employee on the City's regular bi-weekly pay dates.
- 38.3 An Employee, upon separation from employment, shall not be eligible for the balance of the annual retention payment.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the sixteenth (16th) day of June, 2022.

FOR LAW ENFORCEMENT LABOR SERVICES, INC. LOCAL NO. 243

./s/ Peter Matos
Peter Matos
Representative, Local No. 243

./s/ Alan Spillers
Alan Spillers
Representative, Local No. 243

./s/ Adam Burnside
Adam Burnside
**Business Manager,
Law Enforcement Labor Services**

FOR THE CITY OF APPLE VALLEY

/s/ Clint Hooppaw
Clint Hooppaw
Mayor

/s/ Pamela Gackstetter
Pamela Gackstetter
City Clerk

/s/ M. Thomas Lawell
M. Thomas Lawell
City Administrator

/s/ Melissa Haas
Melissa Haas
Human Resources Manager

/s/ Greg Dahlstrom
Greg Dahlstrom
Representative, Police Administration