

**SIDE LETTER AGREEMENT No.1  
BETWEEN CITY OF SAN PABLO AND  
OPERATING ENGINEERS LOCAL 3**

**Re: Revisions to MOU Article 19 Sick Leave and Article 21 Bereavement Leave**



**WHEREAS**, the City of San Pablo (hereinafter called “City”) and Operating Engineers Local 3 (hereinafter called “Union”) (collectively called “the parties”) agreed to a Memorandum of Understanding (MOU) from July 1, 2022, until June 30, 2027;

**WHEREAS**, effective January 1, 2023, AB 1041 amended the California Family Rights Act and the Healthy Workplaces, Healthy Families Act (Labor Code section 245 et al.) to add a “designated person” (meaning a person identified by the employee at the time the employee requests paid sick days) to the definition of family member;

**WHEREAS**, effective January 1, 2023, AB 1949 entitles eligible employees to five days of bereavement leave;

**WHEREAS**, for the ease of administration, the City desires to apply a uniform definition of “family member” for all accrued sick leave, not limited to sick leave required under the Labor Code;

**WHEREAS**, the parties desire to update the bereavement leave section of the MOU to comply with AB 1949;

**NOW THEREFORE**, the City and the Union have met and conferred in good faith and mutually agreed to the following amendments:

1. **MOU Amendments:** The MOU will be amended as follows:

**ARTICLE 19. SICK LEAVE**

**19.1 Accrual:**

Sick Leave with pay shall be accrued at the rate of seven and one-half (7.5) hours per calendar month of service. Sick Leave shall not be considered as a privilege which an employee may use at their discretion, but shall be allowed only for the purposes listed below.

Unused Sick Leave shall be accumulated at the rate of up to ninety (90) hours a year, without a cap on accrual.

**19.2 Usage:**

Each regular, full time employee shall be allowed to use accrued sick leave with pay for the following reasons:

- A. Absence from duty due to exposure to a contagious disease where a doctor

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- requires quarantine;
- B. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; sibling; or Designated Person. For the purpose of this section, "Designated Person" means a person identified by the employee at the time the employee requests paid sick days. An employer may limit an employee to one designated person per 12-month period for paid sick days; and
- C. For an employee who is a victim of domestic violence, sexual assault, or stalking to: a) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or b) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

The right to benefits under the sick leave plan shall continue only during the period that the employee is employed by the City. This plan will not give any employee the right to be retained in the service of the City or any right of claim to sickness disability benefits after separation from the services of the City, and shall have no cash value at separation.

When an employee receives compensation under the Workers' Compensation Act of California, such compensation received shall be considered part of the salary to be paid to an employee under the provisions of this Article. The amount paid by the City shall be the difference between the amount received from the Workers' Compensation Carrier and the employee's regular rate of pay.

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. If the employee is required to be absent on sick leave for more than one (1) day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave.

Sick leave is provided as a form of insurance to protect the employee during times of illness or injury. It is not intended as a form of leave with pay to be used for personal or recreational purposes.

Employees must provide a physician's certification for any sick leave absence that occurs after the employee has used twenty-four (24) hours, or three (3) work days' worth of sick

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leave, whichever is greater, that involves the illness of the employee or family member. Employees who use paid leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

The City may require that an employee undergo a medical examination by a physician chosen by the City after an absence of twenty-four (24) hours, or three (3) work days, whichever is greater, to determine an employee's fitness for work after an absence from work due to a non-job-related injury or illness. In the case of absence due to a contagious disease, the employee will be required to present a medical release before s/he may return to work.

Upon depletion of accumulated sick leave an employee may request leave of absence without any pay for a period not to exceed ninety (90) calendar days, subject to the approval of the City Manager. If the employee is unable to return to work at the end of this period, s/he may request further unpaid leave, which will be subject to the approval of the City Manager. If further leave is granted, the employee must notify the City of their intent to return to work no later than every thirty (30) days.

If further leave is not requested, nor granted after a request, the employee's continued absence from service with the City may be subject to discipline up to and including dismissal.

Time off for employee illness shall be charged to sick leave and not to vacation or compensatory time off, unless and until all available sick leave has been exhausted.

**ARTICLE 21. BEREAVEMENT LEAVE**

Upon death of an immediate family member (spouse or registered domestic partner and children/stepchildren (including foster children, legal wards, or children to whom the employee stands in loco parentis, regardless of age or dependency status), including parents/stepparents (including a foster parent or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), siblings, grandparents, parent in-law, and grandchildren), bereavement leave with pay for a period not to exceed one full workweek (as per employees regular work schedule) shall be granted. The employee shall inform the City of the name and relationship of the person who died. The City reserves the right to require employees to provide documentation of the death of a family member within thirty (30) calendar days of the first day of the leave.

For employees on the 8/75 or 9/75 work schedule, where one full workweek for an employee is less than five (5) work days, such employee may take one additional day of bereavement leave

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for the death of an immediate family member a total of five (5) days). The additional day of bereavement leave shall be unpaid, but employees may use paid vacation, sick leave or compensatory time off concurrently with the additional day. Bereavement leave must be completed within three (3) months of the date of death of the family member, and the bereavement leave need not be taken consecutively.

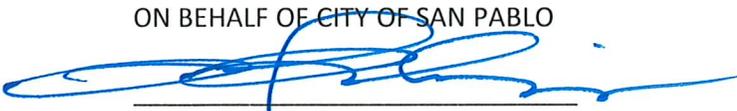
An employee may use up to three (3) Sick Leave days per fiscal year as bereavement leave for a **non-immediate** family member.

2. **Tentative Agreement:** This Tentative Agreement is subject to ratification by the bargaining unit and approval by the City Council.
3. **Incorporate into Successor MOU:** This side letter will be incorporated into the successor agreement to the 2022-2027 MOU, unless otherwise agreed to by the parties, and at such time this side letter will be eliminated.

IN WITNESS WHEREOF, the parties hereby agree to this tentative agreement:

ON BEHALF OF CITY OF SAN PABLO

ON BEHALF OF UNION

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature

6/20/23  
\_\_\_\_\_  
Date

4/18/23  
\_\_\_\_\_  
Date