**CONSTITUTION**

**FOR**

**AFSCME LOCAL 101**

**ARTICLE I**

**NAME**

**Section 1.** This organization shall be known as Local 101, San José, California of the American Federation of State, County and Municipal Employees.

**Section 2.** This organization's principal place of business shall be within the geographical boundaries of the counties of Santa Clara, Santa Cruz, San Benito, and Monterey California.

**ARTICLE II**

**OBJECTIVE**

**Section 1.** The objective of this organization shall be to improve the wages, hours and working conditions of its members and to promote their intellectual, social, and economic welfare and to represent its membership in all disputes between its members and their employers.

**ARTICLE III**

**JURISDICTION**

**Section 1.** The jurisdiction of this organization shall be all public employees and other employees who are eligible for membership in accordance with the AFSCME International Constitution and who are employed in Santa Clara, Santa Cruz, San Benito, and Monterey counties, but excluding employees of the State of California and employees within the jurisdiction of AFSCME Locals 170, 1101, and 1587.

**Section 2.** Any person employed within the above-described jurisdiction of this organization shall be eligible for membership in accordance with this constitution and the AFSCME International Constitution.

**ARTICLE IV**

**MEMBERSHIP**

**Section 1.** There shall be no discrimination against any member or applicant for membership for reason of race, color, sex, creed, national origin, age, sexual orientation, disability, or political belief.

**Section 2.** This organization shall be composed of regular and retired members. Regular members shall be those employees who shall have applied for membership and shall pay dues as prescribed by this constitution. Only regular members who are within a unit of representation shall be eligible to vote on matters of contract ratification, strikes, the adoption of bargaining demands and matters which solely affect the bargaining unit in which the member is located. Retired membership in this organization shall be conferred upon all regular members who are retired. Such membership shall not entitle a retired member to hold office or vote on any matter; however, the privilege of advising, recommending, and taking part in any of the deliberations at any meeting shall be conferred. Regular members who wish to continue their membership as retired members must notify AFSCME Local 101 and fill out an application for retired membership status and pay dues as prescribed by this constitution and bylaws.

**Section 3.** A member in good standing is any member who has paid his, her or their current dues obligation.

**Section 4.** Every regular member, by virtue of membership in this organization, authorizes this organization to act as the exclusive bargaining representative with full and exclusive power to execute agreements with the member's employer. Further, every regular member authorizes this organization to act for members and have final authority in presenting, processing, and adjusting any grievance, difficulty or dispute arising under any collective bargaining agreement or out of the member's employment with such employer, in such manner as this organization determines.

**Section 5.** Each member shall adhere to the terms and conditions of applicable collective bargaining agreements and shall refrain from any conduct that would interfere with the performance by this organization of its legal or contractual obligations.

**Section 6.** No member shall be a party to any activity to secure the disestablishment of this organization as the collective bargaining agent for any employee.

**ARTICLE V**

**STRUCTURE**

**Section 1.** The structure of this organization shall consist of a general membership, an executive board, and the functioning chapters.

**Section 2.** The general membership is the final authority of this organization and is authorized to take lawful action, consistent with this constitution, and to take action on behalf of the organization.

**Section 3.** The general membership shall elect the following officers of this organization: president, vice-president, recording secretary and treasurer.

**Section 4.** The affairs of this organization shall be conducted through the authority vested in the executive board. The executive board shall ensure that the policies and directives of the general membership are being followed.

**Section 5.** The executive board shall report on all matters which, in its judgement, require consideration by this organization or which have been committed to the board by the membership. In addition, the actions of the board shall be printed and distributed at the next general membership meeting. In the absence of a quorum at a regular membership meeting, the board shall be authorized to act in the name of this organization.

**Section 6.** Jurisdiction and composition of this organization shall be divided by chapters. Such chapters shall be determined by the executive board.

**Section 7.** Chapters shall have authority to ratify or reject their negotiated contracts or agreement, to strike, to elect chapter officers, all in accordance with the appropriate procedures set down in this constitution.

**ARTICLE VI**

**EXECUTIVE BOARD**

**Section 1.** The executive board shall consist of the president, vice-president, recording secretary, treasurer, and chapter delegates. Each chapter shall be entitled to delegates based on membership as follows: 150 members or fewer, one delegate; more than 150 but not exceeding 300 members, two delegates; more than 300 members, one additional delegate for every 150 members or portion thereof, plus one alternate delegate.

**Section 2.** The executive board shall meet at least once in each month at a regularly scheduled time and place known to the membership. Special meetings of the executive board may be called by the president, or upon written request of five (5) members of the executive board. Reasonable notice of all executive board meetings shall be given except in the case of emergency. Minutes of regular and special executive board meetings shall be kept.

**Section 3.** The executive board shall have all the authority granted to it by this constitution including, but not limited to, the following:

* Responsible for the handling of all funds.
* Authorization of annual audits; responsibility for the preparation of a budget.
* Determining when a group of members is considered a functioning chapter for the purpose of representation on the executive board.
* The initiation of policy subject to review of the membership at membership meetings.
* The executive board shall make decisions concerning the affairs of this or­ganization and shall be directed by the membership who shall direct by way of approved motions at membership meetings.

**Section 4.** A majority of the positions filled on the executive board shall comprise a quorum. The president shall cause an agenda to be prepared for each meeting of the executive board prior to that meeting.

**Section 5.** All elected officers and delegates shall make every effort to attend all executive board meetings. Any member of the executive board who cannot appear at a meeting, shall notify the executive board that they will be absent and state a bona fide reason for such absence. The executive board may excuse the member. In the event any member of the executive board fails to attend three (3) consecutive executive board meetings, without excuse, the president may declare the member's seat vacant subject to the approval of the executive board.

**Section 6.** All members shall have the right to attend all executive board meetings without voice or vote, however, the executive board shall allow any member to speak at an appropriate time, for a duration up to three (3) minutes.

**Section 7.** The executive board may authorize additional clerical and professional staff positions subject to budget limitations.

**ARTICLE VII**

**OFFICERS**

**Section 1.** Duties of the President: The president shall be the presiding officer of this organization and shall preside over all executive board meetings and all general membership meetings. S/he/they shall have general supervision of the affairs of this organization in accordance with this constitution; S/he/they shall have authority to act in all matters not otherwise expressly delegated. The president shall be one of the persons authorized to sign all checks and countersign all orders on funds, contracts, and agreements. S/he/they shall appoint chairs and co-chairs of all standing committees and may appoint the members of such committees after consultation with the chair or co-chair. S/he/they may create or disband special committees, define their task, and appoint members in the same fashion as for standing committees. S/he/they shall give a full report of his/her/their activities at each regular executive board and general membership meeting.

**Section 2.** Duties of the Vice-President: The vice-president shall temporarily assume the duties of the president when the president is unable, for any reason, to perform his/her/their duties. S/he/they shall assist the president in the operation of all the affairs of this organization. S/he/they shall succeed the president, until an election can be held, if the president is unable to complete his/her/their term of office. S/he/they shall be responsible for the shop stewards and their training. S/he/they may countersign checks.

**Section 3.** Duties of the Treasurer: The treasurer shall be responsible for all financial affairs of this organization. S/he/they shall countersign all checks whenever possible. S/he/they shall submit at least quarterly, appropriate financial statements of expenditures and income to the executive board and general membership. His/her/their reports shall be subject to verification by the auditors hired by this organization and supportive data must be supplied if requested.

**Section 4.** Duties of the Recording Secretary: The recording secretary shall keep a correct and accurate record of the proceedings of all executive board and general membership meetings of this organization.

**Section 5.** The Local shall engage the services of a Certified public accountant to audit the books and records of the Local at least annually.

**ARTICLE VIII**

**CHAPTERS**

**Section 1.** Chapters shall generally be composed of members who are employed by the same employer except that the executive board may form a chapter composed of members who are employed by more than one employer. To be a functioning unit, a chapter must elect officers, including a recording secretary, and must hold regular membership meetings in accordance with this constitution.

**Section 2.** Each recording secretary shall keep a record of the transactions of the chapter and shall send to the office a copy of the minutes of the chapter meeting. Records of the chapter must be open to the executive board.

**Section 3.** No chapter or bargaining unit herein shall call a strike without a majority vote by a secret ballot of the membership of that chapter or bargaining unit. In addition to the aforementioned, each chapter acquiring a positive strike vote must notify the president, of this local, of such affirmative vote to allow the staff ample opportunity to satisfactorily resolve the issues. If no acceptable resolution to the chapter or bargaining unit membership is at hand, the chapter or bargaining unit may then strike.

**ARTICLE IX**

**MEETINGS**

**Section 1.** Chapters shall hold monthly membership meetings except during the month of January when the local general membership meeting shall be held. Chapter membership meetings may not be held in January unless an emergency exists. A special local membership meeting may be called by the executive board or by petition of ten (10) percent of the regular members in good standing. The quorum for the general membership meeting shall be at large representation of fifty (50) percent or more of the chapters of Local 101.

**Section 2.** Regular meetings of the executive board and the general membership meetings shall be made known to all members prior to such meetings. The newsletter of this organization may be used for this purpose provided, the newsletter is sent to the member's last known mailing address via U.S. Mail and/or email address of record. Notices shall be mailed no later than ten (10) calendar days prior to the meeting date. If the newsletter publishes the meeting day, time, and place in the month prior to said meeting, this shall serve as notice for the following month's meeting.

**ARTICLE X**

**CANDIDACY AND ELECTIONS**

**Section 1.** Any regular member in good standing for a period of not less than six (6) months shall be eligible to hold any office in this organization.

**Section 2.** The term for president, vice-president, recording secretary, and treasurer shall be for two (2) years. The president, vice-president, recording secretary and treasurer shall be elected to a term of office beginning in the odd-numbered years.

**Section 3.** It shall be the responsibility of the chapters to hold chapter elections and to notify AFSCME Local 101 of the results.

**Section 4.** No person shall simultaneously hold or be nominated for more than one of the following offices:

* President
* Vice-President
* Treasurer
* Recording Secretary
* Delegate to the Board

It is permissible that chapter and local officers hold offices at higher or lower levels of authority.

**Section 5.** Any officer can be removed from office in accordance with the constitution of the American Federation of State, County and Municipal Employees.

**Section 6.** Nominations for all chapter offices shall be made at the regular chapter meetings in October and November. The election of chapter officers shall be held at the November chapter meeting and the balloting shall be by secret ballot. The officers shall take office immediately. Prior to the election of chapter officers, an election committee of at least three (3) members shall be chosen by the chapter membership. Such committee shall rule on the qualifications of nominees and shall conduct the election and certify the election results.

**Section 7.** Nominations for president, vice-president, recording secretary and treasurer shall be taken at all chapter meetings in the month of November, or by petition signed by at least (5) members in good standing (see **§** 2 of this Article). All nominations, whether by petition or from the floor of the November chapter meeting, shall be received by AFSCME Local 101 no later than November 30. The election of the president, vice-president, recording secretary and treasurer shall be held at the general membership meeting in January (see **§** 2 of this Article) in accordance with the standards set forth by Appendix D of the International Union Constitution and the AFSCME Local Union Election Manual. The balloting shall be secret, and ballots shall be retained in a safe place for one year. The candidate receiving a majority of the votes cast for that office shall be declared elected. All elected officers shall take office immediately upon completion of the oath of office.

**Section 8.** An election committee of three (3) members, appointed by the executive board, shall be responsible for the tabulation of the results of the election, act as initial judge in all matters arising from the election procedures and certify the results of the election in accordance with the standards set forth by the Appendix D of the International Union Constitution and the AFSCME Local Union Election Manual.

**Section 9.** Adequate safeguards to ensure a fair election shall be provided including the right of any candidate to have an observer at the counting of ballots.

**Section 10.** This organization shall refrain from discrimination in favor of or against any candidate. No union funds, resources or mailing lists will be used to assist any member's candidacy. However, all candidates shall be allowed access to an issue of the newsletter for the purposes of campaign statements, provided, however, uniform, and reasonable standards as adopted by the executive board are applied to all candidates.

**Section 11.** Vacancies in office, other than the office of chapter delegate to the executive board, shall be filled for the remainder of the unexpired term by a majority vote of the executive board.

**Section 12.** The alternate for each chapter shall assume the duties of the delegate in their absence.

**Section 13.** The president and the treasurer of the local shall have the option to attend the AFSCME International Convention held every two years, subject to the executive board's approval. Each officer shall decide as to whether s/he/they will attend the convention prior to the opening of the regular nomination period for the election of the convention delegates.

**Section 14.** Electronic Voting: Delegates at the 2020 AFSCME International Convention passed an amendment to **§** 2 of Appendix D of the International Constitution, the Elections Code, to permit the use of remote electronic voting systems for local unions with at least 2,000 members and all councils. If Local 101 considers using an electronic voting system, Local 101 must hire an independent vendor to conduct the election. Local 101 should make sure that any vendor of interest complies with the U.S. Department of Labor (DOL) guidance, regarding the secrecy of the ballot and experience running local union officer elections. References listing electronic officer elections should be obtained from the potential vendors and checked before hiring any electronic election vendor. Local 101 should closely review the features of any potential vendor’s electronic voting systems. In an election conducted electronically, the Local 101 election Committee must make provisions for candidate observers to view:

* The list of members eligible to vote and be able to make challenges to their eligibility before voting begins;
* The preparation and distribution of voting credentials prepared by a third-party vendor to be used by members;
* Any later distribution of credentials to members who did not receive or who lost voting credentials; and
* Any steps necessary for the counting of the votes.

**ARTICLE XI**

**COMMITTEES**

**Section 1.** The standing committees of this organization shall include, but not be limited to, the following:

* Budget and Finance Committee: Studies revenues and expenditures, draws up a preliminary budget and recommends on the financial condition of this organization.
* Local Constitution Committee: Shall review the local constitution of this organization and shall draw up and report proposed amendments thereto.
* Central Labor Council Committee: Shall be comprised of the delegates and alternate delegates from this union to the Central Labor Council.
* Human Rights, Health, and Welfare Committee: Shall assist the executive board in carrying out the Human Rights programs and policies of the International Union. Studies and recommends possible benefits for members and society.
* Legislative and Political Activities Committee: Defines, investigates, and recommends on legislation that is of interest to the members. This committee shall assist the executive board in carrying out a sound program of political education and action and encourages members to register and vote.
* Organizing Committee: Formulates and actively supports programs to recruit members to this union; draws up and assembles organizing materials.
* Stewards' Council(s): Shall, by motion, make recommendations to the executive board and general membership meetings. May review grievances, recommend changes in grievance procedures. Comprised of stewards and alternate stewards. Stewards' Council(s) should function at chapter levels and may function at the local level.

**ARTICLE XII**

**REVENUES AND PROPERTIES**

**Section 1.** Membership dues shall be 0.75% (three quarters of one percent) of base salary for earnings up to and including $25.00 per hour, or 1% (one percent) of base salary for earnings of $25.01 or more per hour. Minimum of $20.00 per month for all regular members. Dues will be capped at $60.00 per month for the period of 07/01/2020 through 06/30/2021; $70.00 per month for the period from 07/01/2021 through 06/30/2022; $80.00 per month for the period of 07/01/2022 through 06/30/2023; $90.00 per month starting 07/01/2024 and shall remain capped at $90.00 per month. Dues cap shall be adjusted as needed, in accordance with the AFSCME International Constitution.

**Section 2.** Membership dues are payable through payroll deduction or may be paid in cash on a quarterly basis. Cash dues shall be payable on the first day of the upcoming quarter.

**Section 3.** Members failing to pay quarterly cash dues within sixty (60) days of their due date shall be considered delinquent, and shall be suspended, thereby forfeiting all rights and privileges as of that date.

**Section 4.** Any member having been suspended shall be readmitted to membership upon receipt of all back and current dues and a $50.00 reinstatement fee.

**Section 5.** Retired members shall pay dues of $20.00 per month. Such members shall receive a "Retired Member's Card."

**Section 6.** Any regular member who is unemployed for more than twenty (20) days in any calendar month and does not receive unemployment compensation or sick leave pay or other remuneration, shall be entitled to credit for his/her/their dues for the period of unemployment but not to exceed six (6) months in any calendar year.

**Section 7.** The executive board may modify the requirements of **§** 1 of this Article for any new chapter for a reasonable period, thereafter such chapter's dues must comply with **§**1 of this Article.

**Section 8.** Dues may only be changed by a majority vote by secret ballot at any regular or special general membership meeting provided adequate notice of such meeting has been given. Adequate notice is deemed ten (10) calendar days from mailing of such notices.

**Section 9.** The local union shall pay per capita tax to the International Union. This local's full obligation to the International Union shall be paid in accordance with the International Union's Constitution.

**Section 10.** All records of financial transactions shall be kept for no less than six (6) years.

**Section 11.** All officers shall deliver to their respective successors, at the conclu­sion of their term of office, all property in their possession belonging to the local. All funds and property of the local shall be deemed held in trust for the benefit of the members to be used in accordance with this constitution subject to the supervision, and in accordance with the direction of the membership and the executive board.

**Section 12.** The title of all property, funds and other assets of the organization shall always be vested in the executive board for joint use of the membership of the local union but no member shall have any severable proprietary right, title, or interest therein; except that all affiliating chapters shall retain all properties, real or otherwise, as provided for in their affiliation agreements. Membership in this organization shall not vest any member with any right, title, or interest in or to the funds, property, or other assets of this local union, not owned, or possessed or that may hereafter be acquired, and each member hereby expressly waives any right, title or interest in or to the property of this local union, including the funds of this local union.

**Section 13.** All officers and employees handling any monies of this local union shall be bonded through the International Union for such amount as the executive board may deem sufficient to fully protect the local union in accordance with the requirements of applicable statutes. The cost of the bond is to be paid by the local union.

**ARTICLE XIII**

**AMENDMENTS AND CONTRAVENTION**

**Section 1.** The constitution of this organization may be amended by a majority of those voting at a regular or special membership meeting of this local union subject to the following procedure: Proposed amendments must be read at a regular or special meeting of the local union and read and voted on at a subsequent meeting of the local union. Adequate and proper notice of at least fifteen (15) days must be given to the membership prior to the date on which the vote is taken. A written copy of the proposed amendment shall be furnished to each eligible voter at the meeting at which the vote is taken. Proposed changes shall take effect only upon written approval of the International President.

**Section 2.** If any article or any part of this constitution is judged as null and void by act of law, conflict with the International Constitution or any other reason, then all remaining parts will continue to be valid and in effect.

**ARTICLE XIV**

**RULES OF ORDER**

**Section 1.** Robert's Rules of Order, Revised, except as amended by this constitution, shall govern all meetings of this organization.