

**Side Letter of Agreement
Between
City of Fresno
and
International Union of Operating Engineers, Stationary Engineers, Local 39

Overtime**

This Side Letter of Agreement ("Agreement") is entered into by and between the City of Fresno ("City") and the International Union of Operating Engineers, Stationary Engineers, Local 39, ("Union"), and sets forth the full and entire understanding of the parties regarding Overtime in the current Memorandum of Understanding ("MOU") between the City and the Union specifically amending Article VIII, Section D, Overtime, as follows:

ARTICLE VII

COMPENSATION AND BENEFITS

D. OVERTIME

1. All authorized actual time worked over eight (8) hours (or over ten (10) hours in the case of an employee working a 4/10 schedule), or over forty (40) hours in any workweek or any authorized actual time worked on a regularly scheduled day off, will be compensated at the applicable overtime rate. If an employee is required to work during the employee's meal period with the approval of the employee's supervisor, and if no alternate meal period is taken, said time shall be compensated at the applicable overtime hourly rate of pay if the time worked exceeds that of the employee's normal schedule/shift.

2. Call Back - Employees called back into work without prior notice and after they have left the assigned work area for the day, shall receive pay for a minimum of two (2) hours at ~~the applicable overtime rate~~ **time and one-half (1 ½) the employee's base rate of pay** commencing from the time the employee receives the call and ending when the employee returns home, except that the employee shall be paid for a maximum of one-half (1/2) hour of actual travel time each way, unless such call-in precedes an employee's scheduled shift. **An employee called in to work on the employee's second day off will be paid a minimum of two (2) hours at two (2) times the employee's base rate of pay commencing from the time the employee receives the call and ending when the employee returns home, except that the employee shall be paid for a maximum of one-half (1/2) hour of actual travel time each way, unless such call-in precedes an employee's scheduled shift. Employees on a 4/10 schedule will get time and one-half (1 ½) the employee's base rate of pay on the employee's first and second day off, and will receive two**

(2) times the employee's base salary on the third day off. If a call continues past midnight and rolls into the following work day, the entire call will be paid at the rate effective at the start of the call.

3. Telephone Calls – Employees who are called at home to assist with City work that must be accomplished, but are not called to a worksite, shall receive a minimum of twelve (12) minutes of pay for each such call. Calls such as attempts to locate the employee or provide information on changes in work schedules are not compensable for the purpose of this provision. **Telephone calls received after leaving the assigned work area for the day, or on the employee's first day off, shall be paid at time and one-half (1 ½) the employee's base rate of pay. Telephone calls received on the employee's second day off will be paid at two (2) times the employee's base rate of pay. Employees on a 4/10 schedule will get time and one-half (1 ½) the employee's base rate of pay on the employee's first and second day off, and will receive two (2) times the employee's base salary on the third day off.**
4. There shall be no pyramiding or duplication of overtime or premium rates.
5. In clarification of the above, it is the policy of the City that overtime work is to be discouraged. However, in case of emergency or whenever the public interest requires, the Chief Administrative Officer, or any department head or designee with respect to any employee in the department head's or designee's department, may require an employee to perform overtime work. No employee shall be entitled to compensation or compensating time off for overtime work unless such overtime work is approved as provided in this Agreement.
6. Excluding holidays, all employees shall be compensated for approved overtime work by additional pay as follows (refer to Article VII, Section H Subsection 1. for holiday overtime compensation):
 - a. Work performed in excess of eight hours on a regular workday and work performed on the employee's first regular day off but not a holiday shall be compensated at one and one-half times the applicable hourly rate.
 - b. Work performed on the employee's second regular day off shall be compensated at twice the applicable hourly rate.
 - c. **If overtime continues past midnight and rolls into the following work day, the overtime will be paid at the rate effective at the start of the shift.**

- de. The provisions of Subsections 6.a. through 6.b. above shall not apply to any employee who works a regularly scheduled workday of ten hours during a regularly scheduled workweek of four days.
- ed. Overtime shall be credited in units of one-tenth of an hour.
- fe. All employees who work a regularly scheduled workday of ten hours during a regularly scheduled workweek of four days shall be compensated for approved overtime work by additional pay as follows:
 - (1) Work performed in excess of ten hours in one day or on either or both of the first two scheduled days off in a workweek shall be compensated at one and one-half times the applicable hourly rate.
 - (2) Work performed on the third scheduled day off in a workweek, shall be compensated at two times the applicable hourly rate.
 - (3) **If overtime continues past midnight and rolls into the following work day, the overtime will be paid at the rate effective at the start of the shift.**
- gf. The procedures in this sub-section (sub-section f.) shall not apply to the Water Distribution mandatory overtime list for stand-by/emergency operations.

Managers of work units must post and maintain a sign up list for voluntary overtime in an area accessible to all employees in the work unit. Employees who wish to work voluntary overtime shall add their name to the list. Employees may remove their name or add their name to the list at any time.

Departments shall endeavor to distribute overtime work as equally as practical within a work unit, with the understanding that many qualifying factors, such as expertise, job location, employee availability, etc. can and will influence overtime assignments. Overtime which is the result of a need to finish work, or an assignment which started during the regular work day will, absent extenuating circumstances, be completed by the employee(s) who are doing the work or assignment. When an employee has been assigned standby duty, unplanned overtime will be performed by the employee(s) assigned standby. Planned overtime will be assigned by seniority from the voluntary overtime list.

Employees will be called from the work unit voluntary overtime list in seniority order by classification. After the most senior employee(s) accepts the overtime assignment, declines the overtime assignment, or does not respond to the City's attempt to contact the employee, the City will contact the next most senior employee until the overtime assignment is staffed. If an employee works, declines, or does not respond to the call, the employee will be moved to the bottom of the list and will rotate through the list. If the overtime work is planned at least two days in advance, employees will have one hour to respond to the offer of overtime before moving to the next name on the seniority list.

The City reserves the right to determine whether or not an employee possesses the qualifications necessary to perform the scheduled overtime work.

Employees who are on unscheduled leave during their regularly assigned work shift prior to scheduled overtime will go to the bottom of the list and will not be eligible to work overtime until the list goes through an entire rotation.

Employees who are assigned scheduled overtime in accordance with this provision who do not report for the scheduled overtime will be removed from the scheduled overtime list for a period of three (3) months and may be subject to disciplinary action.

In the event it is not possible to staff the scheduled overtime assignment, consistent with the provisions above, qualified employees will be required to work in reverse seniority order in rotation, unless the Manager is able to staff the assignment with volunteers from other work units.

The Personnel Services Department shall maintain a list of work units. Any changes to the list will be provided to the Union in advance of the change.

- hg. The City shall not adjust a regular workweek schedule during said workweek to avoid the payment of overtime.
- ih. Overtime shall not be credited for units of overtime less than one-tenth of an hour, and fractional units of overtime less than one-tenth of an hour shall not accumulate.

This Agreement will be effective on the date below and will expire on January 1, 2023, unless the City and Local 39 mutually agree to extend this Agreement in writing and upon Council approval.

FOR THE INTERNATIONAL UNION OF
OPERATING ENGINEERS, STATIONARY
ENGINEERS, LOCAL 39:

FOR THE CITY OF FRESNO:

BART FLORENCE
Business Manager/Secretary

RICHARD E. BOYD
Labor Relations Manager


STAHLY ROBERT ALDRICH
President

STEVE CROUCH
Director of Public Employees

RUBEN ZARATE
Business Representative

DATE: _____

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: 
Assistant City Attorney