AMENDED

MEMORANDUM OF UNDERSTANDING

BETWEEN AND FOR THE

CITY OF FRESNO

AND

FRESNO POLICE OFFICERS ASSOCIATION
(Non-Supervisory Police-Unit 4)

June 26, 2017 – June 23, 2019

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LEGEND

Officer(s**)** = member(s) where applicable

* * * = old language deleted
[§ deleted] = section/subsection deleted

[§§ deleted] = two or more sections/subsections deleted

bold type = new language

CHAPTER 1

PREAMBLE

1.1 PURPOSE

This **Amended** Memorandum of Understanding, hereinafter MOU, entered into between the City of Fresno, hereinafter referred to as the City, and the Fresno Police Officers Association, hereinafter referred to as the Association, has as its purpose: to establish wages, hours and other terms and conditions of employment for members of this Unit. Upon approval by the **C**~~c~~ity, other than the modifications set forth herein, the parties agree that until this MOU terminates on June **23, 2019, a**~~. A~~ll economic benefits currently afforded to affected members shall remain intact without modification unless otherwise agreed to in writing by the parties.

1.2 DEFINITIONS

Unless the particular provision or the context otherwise requires, and, except to the extent that a particular word or phrase is otherwise specifically defined in this MOU, the definitions and provisions contained in Article 3 of Chapter 1, Sections 3-101, 3-201, 3-301, and 3-603 of the Fresno Municipal Code, (hereinafter FMC), shall govern the construction, meaning, and application of words and phrases used herein. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase or from which it is a derivative.

1.3 GOVERNING LAWS

The employer-employee relationship between the City and its employees and the City and the Association is governed by Chapter 10 of Division 4 of Title I of the Government Code (Section 3500 et seq., commonly known as the Meyers-Milias-Brown Act), applicable provisions of the Public Employment Relations Board (PERB), the Public Safety Officers Procedural Bill of Rights Act (POBOR), as may be amended from time to time, and Article 6 of Chapter 3 of the FMC. In the event of any conflict between said laws and this MOU, or in the event of conflicts in interpretation, said laws shall govern.

CHAPTER 2

EMPLOYEE RIGHTS

2.1 GENERAL - EMPLOYEE RIGHTS

Except as otherwise provided in this MOU, the rights of employees include those set forth in FMC Section 3-604, and said section presently reads as follows:

> "Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment. Employees shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employees shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by an employee or an employee organization because of his exercise of any of these rights. No management employee or confidential employee shall act as a representative of any employee organization which represents employees other than management employees or confidential employees."

2.2 EMPLOYEE RESPONSIBILITIES

All employees in the Non-Supervisory Police Unit, hereinafter Unit, acknowledge that the City shall consider the positions and proposals of the Association as the meet and confer positions and proposals of all employees, individually and collectively, in said Unit.

2.3 NONDISCRIMINATION

The provisions of this MOU shall apply equally to and be exercised by all members of the Unit consistent with state and federal nondiscrimination statutes.

2.3.01 A member seeking to utilize the grievance procedure, claiming a violation of Section 2.3, shall make an election of remedies between arbitration, and any other remedy available at law, through local, state, or federal law. The election of remedy shall take place at the step in the grievance procedure leading to final and binding arbitration.

2.3.02 When a member seeks to go to arbitration claiming a violation of Section 2.3, the member, the City, and the Association shall enter into an agreement which provides that in exchange for the member's commitment to voluntarily determine the matter through arbitration, the member agrees to waive the member's right to pursue any other remedy otherwise available through local, state, or federal law. Said agreement shall comply with all statutory and judicial requirements, and contain a provision that the member has been advised of the member's right to consult an attorney and/or local, state, or federal anti-discrimination agency regarding the member's discrimination claim and that the member's consent to the agreement is voluntary and knowing.

CHAPTER 3

CITY RIGHTS

3.1 GENERAL

Except as otherwise provided in this MOU, the rights of the City include those rights enumerated in FMC Section 3-605, as the same may be amended from time to time.

3.2 SPECIFIC

3.2.01 The exclusive rights of the City include, but are not limited to, the right to:

(1) determine the missions of its constituent departments, divisions, commissions, and boards;

(2) set standards of service and municipal fees and charges;

(3) determine the procedures and standards of selection for employment, assignment, transfer, and promotion;

(4) direct its employees;

(5) take disciplinary action;

(6) relieve its employees from duty because of lack of work or for other legitimate reasons;

(7) maintain the efficiency of governmental operations;

(8) determine the methods, means, and personnel by which government operations are to be conducted;

(9) determine the content of job classifications;

(10) take all necessary actions to carry out its mission;

(11) exercise complete control and discretion over its organization and technology of performing its work."

3.2.02 The rights of the City include the determination of staffing levels, including but not limited to, staffing by shift and class. Minimum staffing

levels, by shift, area, and day of the week, shall be established by appropriate departmental order.

3.2.03 All other rights formerly or presently enjoyed by or vested in the City on the effective date of this MOU and not mentioned in Section 3.2.01 are retained by and reserved to the City.

3.2.04 Nothing in this MOU shall be construed as delegating to others the authority conferred by law on the City, or in any way abridging or reducing such authority.

3.2.05 This MOU is not intended to restrict consultation in good faith with the Association regarding matters within the right of the City to determine.

CHAPTER 4

RECOGNITION

4.1 ASSOCIATION RECOGNITION

The City acknowledges the Association as the recognized employee organization representing the Unit, and shall meet and confer in good faith promptly upon request by the Association and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on a successor MOU at least one (1) week prior to the last regular City Council meeting at which the City budget must be adopted for the ensuing fiscal year in order to meet the June 30 deadline specified in the City Charter. In order that the meet and confer process includes adequate time for full consideration of the proposals of both parties and for the resolution of impasse, the City shall accept meet and confer process proposals from the Association as early as February 1, **2019** and will be prepared to commence the actual meet and confer process no later than March 1, **2019.**

4.2 RECOGNITION OF UNIT DESCRIPTION

The Non-Supervisory Police Unit consists of all employees holding a permanent position, as defined in FMC Section 3-202 (p)(4), in one of the following classes (hereinafter collectively referred to as member unless otherwise specified), as such Unit may be modified from time to time pursuant to the provisions of the FMC:

Police Officer Recruit
Police Officer
Police Specialist
Police Sergeant

4.3 CITY RECOGNITION

The Association recognizes the City Manager of the City, or such other person as may be designated in writing, as the designated representative of the City pursuant to FMC Section 3-615, and shall meet and confer in good faith promptly upon request by the City and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on a successor MOU at least one (1) week prior to the last regular City Council meeting at which the City budget must be adopted for the ensuing fiscal year in order to meet the June 30 deadline specified in the City Charter.

4.4 RECOGNITION OF MUTUAL OBLIGATION

The Association and the City recognize and acknowledge their mutual obligation and responsibility to effectuate the purposes set forth in, and to adhere to the conditions and clauses set forth in, this MOU.

4.5 STRIKES

No unlawful strikes of any kind shall be caused or sanctioned by the Association during the term of this MOU.

4.6 UNILATERAL ACTION

In the event the meet and confer process for a successor MOU results in an impasse, as defined in the FMC, the City shall not take unilateral action regarding wages, hours, and other terms and conditions of employment prior to the completion of the impasse procedures**,** including, but not limited to, mediation and fact finding as outlined in the FMC.

CHAPTER 5

SCOPE OF REPRESENTATION

5.1 GENERAL

"Scope of representation" means all matters relating to employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. Employee rights, as set forth in FMC Section 3-604, and City rights as set forth in FMC Section 3-605, are excluded from the scope of representation.

The Association is the exclusive representative of all employees holding a permanent position (includes probationary employees) within those classes in the Unit, as defined in FMC 3-202 (p) (4).

5.2 REPRESENTATION

The City will not interfere with, or discriminate in any way against, any employee by reason of his or her membership in the Association.

The Association agrees to represent Unit members in a manner consistent with the requirements of the Meyers-Milias-Brown Act, POBOR, and applicable state and federal regulations.

CHAPTER 6

DUES DEDUCTION

6.1 DUES CHECKOFF

Rules governing dues check-off are set forth in the FMC Section 3-620.

6.1.01 The Association member's earnings must be sufficient after other legal and required deductions are made to cover the amount of the dues deduction authorized. When a member is in a non-pay status for an entire pay period, no dues deduction shall be made from the future earnings to cover that pay period, nor will the member be required to deposit the amount which would have been deducted if the member had been in a pay status during the pay period. In the case of a member who is in a non-pay status during only a part of the pay period and whose salary is insufficient to cover other legal and required deductions, no dues deduction or deposit shall be made.

6.1.02 The City shall deduct the dues or benefit premiums, or both, upon proper authorization by Association members in the Unit.

6.1.03 If a member in the Unit desires the City to deduct dues or benefit premiums from the member's paycheck, a deduction authorization shall be made upon a Dues Deduction Authorization ~~card~~.

6.1.04 A Dues Deduction Authorization may be revoked by a member in the Unit, and the dues or benefit deduction canceled, only during the months of November and December of any year.

6.1.05 If a member in the Unit desires to revoke prior dues deduction authorization, a dues deduction revocation shall be made upon a Dues Deduction Revocation request.

6.1.06 Upon written authorization by a retired member of the Association, the City shall deduct credit union payments and Association dues monthly from the retirement check of such retired member and forward same to the credit union or Association as designated in such authorization.

6.1.07 Dues Deduction Authorization and Revocation cards are available at the Finance Department, Payroll Section, and Operations Division of the Personnel Services Department.

6.2 DUES DEDUCTION ***

6.2.01 **Dues deductions** * * * covering all such deductions shall be transmitted to the Fresno Police Officers Association.

6.2.02 **Dues deductions** * * * shall be made in favor of the Fresno Police Officers Association.

6.2.03 **Dues deductions** * * * will be transmitted at least monthly **to an account specified by the Fresno Police Officers Association**.

6.3 ASSOCIATION BUSINESS

6.3.01 Association members shall have their monthly vacation leave accrual levels (denoted in Section 7.12.05(1), vacation leave), reduced by .583333 hours per month, which shall be placed in a time bank and administered by the department for Association business use. Members designated by the Association may, with the approval of the department, attend to direct Association business, including such activities as attendance at Association membership and Board meetings, PORAC and other similar conferences, and direct involvement in charitable Association activities. Time banked under this provision may also be designated by the Association to cover members who AWS for designated Association members who are attending to Association business. The department is not required to grant time off for Association business if it will require filling the position on an overtime basis.

6.3.02 The Association President and First Vice President may use the time banked under this provision for Association business to a maximum of 40 hours per week each. In the event the President or First Vice President of the Association is required by the FPOA Board to commit additional time beyond 40 hours per week to perform his/her duties as President, he/she shall be permitted to draw additional hours up to an amount not to exceed 40 hours per calendar month each. Any Association leave hours utilized by the President or First Vice President in excess of 40 hours per week shall be transferred to the President's or First Vice President's compensatory or holiday time bank. In the event of an emergency requiring significant extraordinary deployment of department personnel, the Association President and/or First Vice President may be required to return to regular duty for a period not to exceed thirty (30) consecutive days. An Association President and/or First Vice President who leaves office shall be returned to the previously held assignment, or other assignment as mutually agreed to by the Chief of Police and the returning member.

6.3.03 Any time spent by the Association President, First Vice President and by members designated by the Association to be on such business, shall be deducted from the Association's time banked balance. It is further agreed by the parties that once accrued vacation leave is donated to the Association, the City no longer has any obligation to compensate, either in cash or in equivalent time off, such members.

CHAPTER 7

COMPENSATION AND BENEFITS

7.1 GENERAL

All economic benefits, provided by Council ordinance or formal Council resolution and not otherwise clearly and explicitly modified or restricted in this MOU, shall be continued without alteration during the term of this MOU.

7.2 SALARIES AND PENSION CONTRIBUTION

7.2.01 Salaries

(1) Effective **the first pay period of Fiscal Year 2018 which begins June 26, 2017**, **a "G" Step will be added for the classes of Police Officers, Police Specialists and Police Sergeants** * * *I–**Salaries** shall be ~~those~~ **as** reflected on Exhibit I, Table I**, attached hereto and incorporated by this reference**. **The "G" Step represents a five percent (5%) increase above the "F" Step. A member is required to be in the "F" Step range for one (1) year prior to advancement to the "G" Step. Those employees who are currently at "F" Step and have been so for at least one year on or prior to July 1, 2018, will automatically move to the "G" Step. All other members will advance to the "G" Step after one year of service at the "F" Step.**

COLA Adjustments for Career-Rank Average Method DROP Members and Retirees

Effective July 1, 2017, any future cost of living adjustments ("COLA adjustments") for Career-Rank Average Method Deferred Retirement Option Program ("DROP") members and retirees who entered DROP or retired (not having entered DROP) from positions in this unit under FMC Section 3-301(a)(9) prior to July 1, 2017, and whose COLA adjustments are calculated using the "F" Step of their respective rank, shall have their COLA adjustments calculated under FMC Section 3-301 (a)(9) using the "G" Step salary in lieu of their "F" Step salary to determine "average compensation".

COLA Adjustments for Final Three Year Average Method DROP Members and Retirees

Effective July 1, 2017, any future COLA adjustments for Final Three Year Average Method DROP members and retirees shall be calculated pursuant to FMC Section 3-302(g).

(2) Effective **the first pay period of Fiscal Year 2019 which starts June 25, 2018**, salaries for the classes of Police Officers, Specialists, Sergeants and Police Officer Recruits shall be increased by **three percent (3%) as** * * * reflected on Exhibit I, Table II **attached hereto and incorporated by this reference**.

§ deleted

7.2.02 Pension * *** ***

(1) Effective September 22, 2014, the one percent (1%) contribution paid by the City of the employee's required retirement contribution shall be discontinued. On the same date, the existing one percent (1%) supplemental payment for an employee in DROP shall be discontinued.

(2) Employees in Tier 2 hired on or after September 11, 2014, shall pay an additional contribution equal to three percent (3%) of their pensionable compensation to the Fire and Police Retirement System, reducing the City retirement contribution by a corresponding amount. In accordance with Internal Revenue Code Section 414(h)(2) and related guidance, the City shall pick-up and pay the contribution by salary reduction in accordance with this provision to the City of Fresno Fire and Police Retirement System. The employee shall have no option to receive the three percent (3%) contribution in cash. The three percent (3%) contribution paid by the employee will not be credited to an employee's accumulated contribution account nor will it be deposited into a member's ~~Deferred Retirement Option Program (~~"DROP"~~)~~ account. This provision will terminate on implementation of Section 7.2.02 (4) below.

(3) Effective September 22, 2014, employees in Tier 1, and employees in Tier 2 who were hired before September 11, 2014, including those employees in DROP, shall make an additional contribution equal to one percent (1%) of their pensionable compensation to the Fire and Police Retirement System, reducing the City retirement contribution by a corresponding amount. In accordance with Internal Revenue Code Section 414(h)(2) and related guidance, the City shall pick-up and pay the contribution

by salary reduction in accordance with this provision to the City of Fresno Fire and Police Retirement System. The employee shall have no option to receive the one percent (1%) contribution in cash. The one percent (1%) contribution paid by the employee will not be credited to an employee's accumulated contribution account nor will it be deposited into a member's Deferred Retirement Option Program ("DROP") account. This provision will terminate on implementation of Section 7.2.02 (4) below.

(4) With the support of the Association, the City will make efforts to amend the Municipal Code to allow the additional contribution amounts above in Section 7.2.02 (2) and 7.2.02 (3) to become part of the Member Normal Contribution Rate. When the Municipal Code is so amended, the City and the Association agree that, on the first pay period following the date the new FMC provision goes into effect, all of the following will apply:

(a) The Member Normal Contribution Rate for members of Tier 2 in the Fire and Police Retirement System hired on or after September 11, 2014, shall be twelve percent (12%).

(b) Active members in Tier 2 who were hired before September 11, 2014, shall have their Normal Contribution Rate increased from nine percent (9%) to ten percent (10%).

(c) Members of Tier 1 in the Fire and Police Retirement System shall have their Member Normal Contribution Rate increased by an additional one percent (1%) which will be added to their existing Entry Age Normal Contribution Rate effective with the change in the FMC in accordance with this Section.

(d) Members who entered DROP prior to March 7, 2011 are not required to make Member Normal Contributions in accordance with the provisions in the Fresno Municipal Code.

(e) Members who enter DROP on or after March 7, 2011 are required to make Member Normal Contributions as per Section 7.2.02 (4) (a) through (c), and their Member Normal Contributions shall continue to be deposited into the member's DROP account.

(5) Employees who separate City employment regardless of reason and withdraw their employee contributions from the Fire and Police Retirement System between September 22, 2014, and the effective date of a Fresno Municipal Code amendment pursuant to the provisions in Section 7.2.02 (4) will have an amount refunded by the City equal to the additional amount contributed in accordance with Sections 7.2.02 (2) or Section 7.2.02 (3) above.

(6) <u>Actuarial Studies</u>

(a) An actuarial study will be conducted on amending FMC Sections 3-302 (g) and 3-301 (a) (9) for Tier 1 members. Upon completion of the actuarial study, there will be a limited reopener of the MOU to negotiate solely on amending those provisions with respect to retirement calculations.

(b) An actuarial study will be conducted on amending provisions of the Fresno Municipal Code (FMC) regarding "Dissolution or Legal Separation" and the prospect of allowing City of Fresno Fire and Police Retirement System (Tiers 1 and 2) members to "buy back" a portion of a member's retirement benefit that was awarded to a non-member ex-spouse in a Domestic Relations Order (DRO) and a cash distribution was taken by the non-member ex-spouse. Any change to the FMC in this regard would proceed only if there is no adverse impact to either the City of Fresno Fire and Police Retirement System (Tiers 1 and 2) or the City of Fresno's employer contribution rates (e.g., it will be cost-neutral to Tiers 1 and 2 and the City of Fresno, and will not jeopardize in any way the Systems' tax-qualified status under the Internal Revenue Code).

(c) An actuarial study will be conducted on amending provisions of the FMC regarding a new retirement formula of 3% at 57 for the City of Fresno Fire and Police Retirement System (Tiers 1 and 2). Any change to the FMC in this regard would proceed only if there is no adverse impact to either the City of Fresno Fire and Police Retirement System (Tiers 1 and 2) or the City of Fresno's employer contribution rates (e.g., it will be cost-neutral to Tiers 1 and 2 and the City of Fresno, and will not jeopardize in any way the Systems' tax-qualified status under the Internal Revenue Code).

(d) Any change to the FMC requires mutual agreement of all of the affected units in the City of Fresno Fire and Police Retirement System and the City.

(e) The cost of the actuarial studies will be shared equally by the City and the Association.

7.2.03 DROP Participants and Retirees

(1) Retirement/DROP - It is the intent of this Section 7.2.03 to hold members harmless from any negative impact from the following deferred salary increases. Therefore, the deferred salary increases listed in this subsection (1) below shall be included, if appropriate, in any retirement benefit or DROP calculations pursuant to the applicable FMC sections for members who separate from City service by service retirement or by disability retirement, or enter DROP.

Effective January 1, 2011, One percent (1%)
Effective July 1, 2011 Two percent (2%)
Effective January 1, 2012, One percent (1%)

(2) With respect to Section 7.2.03 (1), members who retire or enter DROP and are credited with the January 1, 2011, July 1, 2011 and January 1, 2012 deferred salary increases in their retirement benefit or DROP calculation shall not be entitled to also add the July 1, 2014 and July 1, 2015, salary increases set forth in Section 7.2.01 to their retirement benefit or DROP calculation.

(3) DROP Participants and Retirees (Tier 1) – Adjustments effective January 1, 2011, July 1, 2011 and January 1, 2012 to the monthly amount deposited for DROP participants and monthly retirement benefit allowances for retirees shall include all deferred salary increases from Section 7.2.03 (1) and be calculated pursuant to FMC Sections 3-301 and 3-302.

(4) DROP Participants and Retirees (Tier 1) who are credited with the January 1, 2011, July 1, 2011 and January 1, 2012, deferred salary increases as adjustments to their monthly deposited allowances for DROP and monthly retirement allowances, shall not be entitled to also add the July 1, 2014 and July 1, 2015, salary increases set forth in Section 7.2.01 as adjustments to their monthly DROP and retirement allowances.

(5) In accordance with FMC Sections 3-411 and 3-424, should the CPI percentage for the more recent full calendar year decrease below the CPI percentage for the full calendar year immediately prior, that percentage decrease shall not be used to reduce retirement allowances or deposits to the members' DROP account. It shall instead be used to reduce any previously banked cost of living increases. Any decreases in excess of the members'/retirees' cost of living banks shall be accumulated in the bank and offset by future cost of living increases as occurring in succeeding years.

§ deleted

~~(6) Tier 1 DROP participants and Tier 1 retirees were previously granted a total of four percent (4%) in cost of living increases based on the salary deferral language in the previous MOU only; deferrals included a one percent deferred pay increase in January 1, 2011, a two percent in July 1, 2011, and a one percent in January 1, 2012.~~

~~On July 1, 2014, active employees received a two percent (2%) salary increase which offset two percent (2%) of the four percent (4%) deferred salary increases that were credited previously as cost of living increases. The remaining two percent (2%) deferred cost of living increase for Tier 1 DROP participants and retirees will be offset by the July 1, 2015 salary increase in Section 7.2.01(1) of this MOU.~~

~~The cost of living calculation for Fiscal Year 2017 (7/1/15 – 6/30/16) for Tier 1 DROP participants and Tier 1 retirees will include the December 31, 2016 salary increase in Section 7.2.01(3) in the calculation in accordance with the normal calculations of cost of living calculations.~~

7.2.04 Retirement Calculation

Effective July 1, 2011, a Tier 1 member who is demoted for economic or reorganization purposes and who separates from City Service by service retirement or disability retirement without entering into DROP shall have their retirement benefit calculated using the member's highest average monthly compensation earnable by the member during any thirty-six (36) consecutive month period of service instead of the average monthly compensation earnable by the member during the last three (3) years of employment with the City of Fresno Police Department.

7.2.05 Employees hired into classes which have step increases will move from Step "A" to Step "B" on the anniversary date which is twelve (12) calendar months from the date the employee was permanently appointed to the current class.

7.2.06 Upon successful completion of one (1) year of service as a Police Officer Recruit, Recruits shall be appointed as a Police Officer using the rules applicable to flexible staffing, and shall be on probation for six (6) months as a Police Officer. All other Police Officer hires shall serve a one (1) year probationary period.

7.2.07 A Police Officer and/or Police Specialist assigned to be an Acting Sergeant under the provisions of FMC Section 3-260 or appointed to a provisional Sergeant position under the provisions of FMC Section 3-258, shall be paid for such assignment at whatever step is closest to, but not less than, the Officer's regular base salary plus the Training Officer premium pay. In no case shall an Officer be paid at a rate higher than the highest Step for Sergeant. Acting or provisional Sergeants will not receive Training Officer (TO) premium pay.

7.2.08 **Effective the first pay period of Fiscal Year 2018 which starts June 26, 2017, when** a Police Officer or Police Specialist is promoted to Police Sergeant, the promoted Officer shall be placed in * * * **the step** of the new salary range * * * which provides at least **five percent (5%)** * * * above **the** base pay **of the prior position** * * *. **Any Sergeant at Step D on June 26, 2017, shall be moved to Step E on June 26, 2017 but shall maintain their existing step anniversary progression date for future step increases.**

7.3 OVERTIME AND COMPENSATORY TIME OFF (CTO)

7.3.01 The work day for members shall be eight (8)**,** ~~or~~ ten (10)**, or twelve (12)** consecutive hours * * *. Pursuant to Section 7(k) of the FLSA, the City has established a twenty-eight (28) day work period for law enforcement personnel. However, except as may be otherwise provided in this MOU, any time worked in excess of the **designated weekly work schedule** * * * including mandatory training whether as a student/instructor**,** shall be compensated as overtime.

7.3.02 When a member is in transit outside the City to attend training, the travel time will be compensated at the member's base/straight time rate of pay.

7.3.03 Overtime, whether in cash or CTO, shall be at one and one-half (1 ½) times the base rate of pay.

7.3.04 Members on vacation leave may be permitted to work **contract law enforcement** * * *.

7.3.05 Call back shall be paid at a minimum of three (3) hours at the rate of * * * **one and** and one-half (1 ½) **times the base rate of pay**. Any time worked prior to the beginning of a shift or immediately following a shift shall not be considered as call back and shall be compensated at the applicable hourly rate.

7.3.06 Contact with a member by telephone, at any time other than during the member's regular shift, for the purpose of obtaining additional information or clarifying work performed, shall be compensated at the applicable hourly rate, to the nearest 1/10th of an hour, but in no event shall the member be paid for such phone contact of less than six (6) minutes.

7.3.07 A member who has worked more than eight (8) hours or ten (10) hours on any one work day shall not be involuntarily required to adjust a subsequent shift or work day in that same work week to avoid the payment of overtime. The department is under no obligation to grant CTO or vacation on the subsequent day.

7.3.08 Members may elect to accrue CTO in lieu of cash payment for overtime hours worked. CTO is accumulated at the applicable straight/base time, time and one-half, or double time rate for the time worked. CTO is to be used for time off, and is subject to approval in the same manner as vacation. * * *

(1) Members may accrue a CTO balance not to exceed 120 hours, except as otherwise provided herein. Members who have reached the maximum accrual (120 hours) shall be given cash payment for additional overtime hours worked until such balance has been reduced below the maximum allowable amount (120 hours).

(2) Members may request payment for any CTO leave balance.

(3) The parties will continue to meet and confer concerning the manner in which CTO can be used. However, there shall be no change to this subsection without mutual agreement of the parties.

7.4 PREMIUM PAY

Premium pays provided in Sections 7.4.02, 7.4.03 and 7.4.06, shall not be stacked. Monthly rates of premium pay will be paid on a biweekly basis.

7.4.01 Police Specialist - Any Officer assigned as a Police Specialist prior to May 31, 1988 shall remain a Police Specialist thereafter during that Officer's career, until the Officer retires, resigns, voluntarily demotes, is promoted, or is involuntarily removed.

7.4.02 Specialized Assignments - Employees occupying the Police Officer class, the terminal class of Police Specialist, and Police Sergeant in assignments which require specialized tactical equipment and/or specialized tactical training, and flexing of work hours without notice, as determined solely by the Chief of Police or designee, shall receive premium pay of $275 per month above the member's base rate of pay.

The Chief of Police or designee shall provide in writing to the Association a list of units that receive premium pay. Units created that receive premium pay will continue to receive premium pay until the unit is eliminated through reorganization or agreement in a successor MOU. The list will be attached to the MOU and be updated as units are created or eliminated.

(1) Employees occupying the Police Officer class or Police Sergeant class assigned to Skywatch **as a pilot** who receive and maintain a Commercial Pilot License issued by the Federal Aviation Administration shall receive premium pay of $500 per month above the employee's base rate of.

(2) Employees occupying the Police Officer class or Police Sergeant class assigned to Skywatch who receive and maintain certification as a Flight Instructor issued by the Federal Aviation Administration shall receive premium pay of $750 per month above the employee's base rate of pay.

(3) Employees occupying the Police Officer class and who are assigned the duties of a Chief Police Pilot in Skywatch Unit shall receive a premium pay of twenty and one half percent (20.5%) above the Officer's base rate of pay. While assigned the duties of a Chief Police Pilot, a Police Officer will not be entitled to receive the $500 and $750 premiums under subsections (1) and (2), above. This premium is compensable for retirement purposes.

(4) Any Officer assigned to the Unit to perform the duties of a Chief Police Pilot shall retain permanent status as a Police Officer. The above premium pay received by an Officer assigned to the Skywatch Unit will be terminated upon transfer out of the Unit.

(5) Any Officer who subsequently wishes to be removed from the Skywatch Unit while performing the duties of a Chief Police Pilot shall not be allowed to laterally transfer to another supervisory position or to a different special unit until meeting all standard procedures set forth in Section 7.15 of this MOU.

(6) Any Officer assigned to the Skywatch Unit to perform the duties of a Chief Police Pilot remains subject to all the terms and conditions of this MOU, except as stated above.

7.4.03 **<u>Police Corporal/Training Officers * * *</u> - Members occupying the assignment of Police Corporal will be assigned as Training Officers within the Patrol Division, and sign up on the patrol matrix. Corporals will wear the department approved uniform insignia on their uniform sleeve and the department approved Field Training Officer (FTO) pin above their right pocket.**

§§ deleted

1. **Corporals will attend a POST certified training officer class and be assigned full time to the Patrol Matrix. They will primarily be responsible for training newly hired Police Officers and Cadets. Corporals will also be responsible for training Police Officers returning to patrol assignments from special units. Corporals will review Police Officer and Police Cadet reports, and perform all the duties of a Police Officer. Corporals are expected to mentor Police Officers and Police Cadets. To ensure the needs of the department are met, Corporals can be ordered back to meet patrol staffing and can AWS with officers.**

2. **The department may utilize or allow Corporals assigned full time to the Patrol Matrix to be an acting Sergeant in compliance with MOU Section 7.14.01(1), (2), and (3) without having to pay acting Sergeant pay if the assignment is for five hours or less.**

3. **Members occupying the assignment of Police Corporal will receive $500 assignment pay per month in addition to their base rate of pay. This assignment pay is compensable for**

retirement purposes and cannot be combined with Senior Officer or Senior Sergeant incentive pay.

4. **The department should strive to maintain no less than two Corporals in each policing district on Watch I, six Corporals in each policing district on Watch II, and two Corporals in each policing district on Watch III. Corporals will sign up in the patrol matrix by department seniority.**

5. **Interested Police Officers and Specialists wishing to participate in the Corporal assignment must complete a written and oral test and must have completed four years of service as a patrol officer with the Fresno Police Department by the written test date. Corporal candidates may substitute one year of service if they possess a four year degree from an accredited college. Corporal candidates may substitute two years of service if they have completed two or more years of sworn patrol officer service with another CA city police department or CA county sheriff's department. The City of Fresno Police Personnel Bureau/Section shall oversee a written Corporal exam requiring a minimum score of 80% to pass the exam. Corporal candidates successfully passing the written exam will participate in an oral panel interview process overseen by the Fresno Police Department Personnel Bureau/Section. The interview panel will consist of a minimum of three panelists selected by the Chief or the Chief's designee. Corporal candidates must achieve a score of 80% to pass the oral panel. Corporal candidates successfully completing the written and oral exams will be eligible to be assigned as a Corporal.**

6. **The Corporal assignment list is good for two years. The department may conduct more than one Corporal testing process within any two year period, but shall conduct a minimum of one Corporal test every two years.**

7. **Corporals must take and pass a written skills test every three years, demonstrating retention of knowledge. Corporals must pass the written skills test with a score of 80%. Corporals, who fail the written skills test will be given one additional opportunity to pass the written skills test within thirty (30) calendar days of failing the first written skills test. Corporals who fail the second written skills test will be deemed unqualified, and must participate in the full Corporal**

assignment testing process to become eligible for consideration.

8. **Corporals on the assignment list will undergo a peer evaluation process approved by the Department and FPOA. The peer evaluation will be comprised of questions to which those participating in the survey will provide a score using a scale of 1-5, with one being the lowest score and five being the highest score. The questions will ask to rate the eligible Corporals on: 1. Leadership ability; 2. Communication skills; 3. Knowledge of laws; 4. Knowledge of policy/procedure; 5. Uses good judgment; 6. Professionalism and courteousness; 7. Demonstrates ethical conduct; and 8. Professional appearance. Only sworn members who worked in the same unit outside of the patrol matrix, and/or within the same policing district, or immediately supervised/managed the qualified corporal candidate within the twenty-four (24) months prior to the date of the corporal candidate taking his written exam are eligible to participate in the peer evaluation. The peer evaluations will only be provided to the Chief of Police and to the individual Corporal evaluated. In the interest of promoting good leaders and not just good test takers, the Chief of Police should consider the peer evaluation when selecting Corporals from the Corporal assignment list.**

9. **The Chief of Police or the Chief's designee may seek input from supervisors and staff officers, but is responsible for selecting the Corporals from the Corporal assignment list.**

10. **Corporal assignments are not special unit assignments, and should generally be for a minimum of two years. The Chief of Police has right of assignment and may remove Corporals from their assignment with ~~sixty (60)~~ thirty (30) days' notice to meet the needs of the department.**

11. **Members on the Corporal assignment list assigned to the patrol matrix will be Training Officers and can wear the department approved FTO pin above their right uniform pocket. The primary function of Training Officers will be to train Police Cadets and Police Officers returning to the patrol matrix from a non- patrol matrix assignment. Training Officers can review and approve their trainee's reports. Training Officers who have received the POST certified training officer class can be utilized to train new recruit**

Police Officers and lateral Police Officers. Training Officers will be compensated with their officer pay and will be paid Corporal assignment pay prorated to when they are assigned a trainee. Training Officers will sign up in the patrol matrix by seniority and will not be restricted to designated details.

12. **Training Officers wishing to remain a Training Officer, but not be considered for a Corporal assignment must take and pass a written skills test every three years demonstrating retention of knowledge. Training Officers must pass the written skills test with a score of 80%. Training Officers who fail the written skills test will be given one additional opportunity to pass the written skills test within thirty (30) days of failing the first written skills test. Training Officers who fail the second written skills test will be deemed unqualified, and must participate in the full Corporal assignment testing process to become eligible for consideration as a Training Officer.**

13. **Police Officers and Police Sergeants assigned as Corporal and Training Officer Coordinators as designated by the Chief of Police shall receive $500 per month in addition to their base rate of pay. This premium pay is compensable for retirement purposes, however, a Police Officer or a Sergeant cannot receive Senior Officer incentive pay and Corporal Coordinator pay simultaneously.**

14. **The top 25 members ranked on a current Fresno Police Sergeant eligibility list, are deemed qualified for a Corporal assignment. When the Sergeant list expires, the automatic qualification for a Corporal assignment associated with this subsection expires; however, Corporals in those assignments when the current Sergeant list expires will continue to be deemed qualified for the Corporal assignment.**

15. **Police Officers cannot receive Corporal assignment pay and Senior Officer pay at the same time. Senior Officers must relinquish Senior incentive pay upon receiving Corporal assignment pay.**

7.4.04 Bomb Squad - Members who are members of the Bomb Squad shall receive double their regular straight time rate for that time spent (from call to completion) in dealing with explosives. Said double time shall be the total compensation for such time spent, whether on regular duty time or when called from off duty.

7.4.05 Life Insurance - The City will provide $250,000 in life insurance/death benefit coverage to members assigned to bomb squad, helicopter pilot, airplane pilot, or helicopter observer duties.

7.4.06 Special Duty Pay (Training Unit) - Members occupying the classes of Sergeant, Police Officer, and Police Specialist assigned full-time to the Police Training Unit will receive special duty pay of $275 per month in addition to their base rate of pay. Special duty pay is compensable for retirement purposes. Sergeants and Police Officers assigned to the Training Unit receiving special pay may be assigned flexible hours of work to meet the needs of the department with forty-eight (48) hours notice**, except shorter notice will be permitted in the event of an emergency, which is defined as circumstances beyond the control of the City and not having been known forty-eight (48) hours in advance of the circumstances creating the emergency**. Adjustments pursuant to this section may last no longer than seven (7) consecutive calendar days, nor occur more than once during any thirty (30) day period. The intent of special duty pay is to maintain parity at the same rate as specialized assignment pay as indicated in 7.4.02.

7.4.07 Night Shift - Officers not on probation and any Sergeants who are regularly assigned/scheduled to work a “night shift” between the hours of 5:00 p.m. and 8:00 a.m., shall receive night shift premium pay in addition to their base rate of pay. If one-half (½) or more of an Officer not on probation and Sergeants regularly scheduled shift hours fall between the hours of 5:00 p.m. and midnight, the night shift premium pay will be $160 per month. If one-half (½) or more of an Officer not on probation and Sergeants regularly scheduled shift hours fall between the hours of midnight and 8:00 a.m., the night shift premium pay will be $240 per month. This premium pay shall not apply to members receiving premium pay pursuant to Sections 7.4.02, 7.4.02(1), 7.4.02(2), and 7.4.02(3) above. This premium is compensable for retirement purposes.

7.4.08 Motorcycle Duty Hazard Pay:

Members assigned to the Traffic Bureau whose primary duties involve the riding of a police motorcycle during the course of their employment shall receive a monthly motorcycle duty hazard pay added to their base salary in the amount of $275 per month. This shall be over and above any other premium pay received and shall be compensable for retirement purposes.

7.4.09 Bilingual Certification Program - The bilingual certification program consists of a City administered examination process whereby members

may apply for a bilingual examination, and if certified by the examiner, receive bilingual premium pay for interpreting and translating. Bilingual premium pay is not pensionable under the first or second tier City Fire and Police Retirement System.

(1) A Bilingual certification examination will be conducted **on an as needed basis. * * * Examination** applications will be available at the Personnel Services Department, Operations Division and City department personnel units.

* * *

(2) Employees must be recertified every five (5) years. For current bilingual employees, the number of initial recertifications may be staggered. No change will be made to the employee's ability to receive the bilingual premium unless the employee fails recertification testing. The City will work to schedule recertification exams at times that are convenient to the employees; however, two refusals to attend recertification will be considered a failure to recertify.

(3) Bilingual certification examinations are conducted for Cambodian, Hmong, Laotian, Sign, Spanish**,** Armenian and Vietnamese languages **as well as any languages in the Salary Resolution**.

(4) The bilingual premium pay rate for certified permanent members is one-hundred dollars ($100) per month, regardless of how many languages for which a member is certified.

Certified members may interpret/translate for departments/ divisions they are not assigned to, provided the requesting department/division has a demonstrated customer service related need, and has obtained approval from the certified member's supervisor.

Certified members shall not refuse to interpret/translate while on paid status. Refusal shall result in appropriate disciplinary action. Certified members may be assigned to any incident or investigation requiring their bilingual skills and may be required to prepare written reports related to the incident or investigation. The objective of this policy will be to utilize department resources in the most efficient way possible.

Except in the event of an emergency, bilingual members who are not certified shall not be required to interpret/translate.

7.4.10 Education Incentive Plan (EIP) - EIP will continue to apply solely to those members listed on MOU Exhibit II, which may be amended from time to time as a result of promotion, retirement, resignation or termination, provided the member meets the existing eligibility requirements enumerated below.

(1) EIP Premium Pay for Degrees Awarded:

Bachelors - each member who has been awarded a Bachelors degree, in a field approved by the Chief of Police or designee and the Chief Administrative Officer, from an accredited institution of higher learning shall be paid three percent (3%) above the member's base rate of pay.

Masters or Doctorate - each member who has been awarded a Masters or Doctorate degree, in a field approved by the Chief of Police or designee and the Chief Administrative Officer, from an accredited institution of higher learning shall be paid five percent (5%) above the member's base rate of pay.

(2) EIP Premium Pay for Degrees Already Held:

To receive pay for degrees already held, a member listed on MOU Exhibit II must enroll in an accredited college or university, and satisfactorily complete an additional 12 semester units in accordance with the requirements detailed below. After completion of these requirements, the amount of EIP premium pay for the applicable degree already held shall be permanent (i.e., hard-coded), and be added to the member's regular paycheck in accordance with subsection 7.4.10 (1) above.

Eligible members who satisfactorily complete three (3) semester units of graduate or undergraduate level courses per semester from an accredited college or university, in a field approved by the Chief of Police or designee, shall be paid an additional two percent (2%) above the member's base rate of pay. Courses to which the City sends a member on City time, and/or at City expense, shall not qualify nor shall classes taken on "pass-fail", life experience, or non-alphabetic grading system qualify, unless expressly approved prior to commencement of the course. Compensation shall be in a lump sum at completion of the semester's course work.

A member shall be considered to have satisfactorily completed a course upon receipt of a "C" grade for each unit completed prior to receipt of a Bachelors degree, and at least a "B" grade for each unit completed after receipt of a Bachelors degree.

Upon verification of satisfactory completion of courses taken, a member shall be eligible to receive the amount indicated in this Subsection 7.4.10 (2) for a period equivalent to one (1) semester. A semester shall be considered to be four (4) calendar months or eight consecutive biweekly pay periods.

(3) Any member who is receiving an education bonus pursuant to the previously existing MOU effective July 1, 1984, shall not have that bonus reduced as a result of participation in the EIP provided by this MOU. Any premium pay for further attendance at school, as provided herein, shall be in addition to any bonus pay already received. Any EIP premium pay applied for degrees held pursuant to Subsections 7.04.09(1) and 7.04.09 (2) above shall be in lieu of any education bonus pay previously received.

7.4.11 P.O.S.T. Certificate Pay - All compensation earned by a member pursuant to this Section, 7.4.11, shall be in addition to any other incentive and/or premium pays received and shall be compensable for retirement purposes.

(1) Members who have satisfactorily attained the intermediate P.O.S.T. Certificate shall be compensated at a rate of four percent (4%) above the member's base rate of pay.

(2) Members who have satisfactorily attained the advanced P.O.S.T. Certificate shall be compensated at a rate of eight percent (8%) above the member's base rate of pay.

7.4.12 Senior Patrol Officer, Senior Patrol Corporal, and Senior Patrol Sergeant Incentive Pay

Only Officers, Corporals, and Sergeant's assigned fulltime to the patrol matrix detail qualify to be a Senior Patrol Officer, Senior Patrol Corporal, or Senior Patrol Sergeant. Senior Patrol Officers, Senior Patrol Corporals, and Senior Patrol Sergeants signify tenure and experience with the Fresno Police Department. However, Senior Patrol Officers, Senior Patrol Corporals, and Senior Patrol Sergeants are not superior nor do they hold rank over Officers, Corporals, and Sergeants in their respective classifications. The below qualifications must be met to be accepted as a Senior Patrol

Officer, Senior Patrol Corporal, or Senior Patrol Sergeant:

(1) Only Officers, Corporals, and Sergeant's assigned fulltime to the patrol matrix detail qualify to receive Senior Incentive pay.

(2) Qualifying officers must have completed a minimum of fifteen (15) years of service in the classification of Officer at the Fresno Police Department. Corporals and Sergeants must have completed a minimum of ten (10) years of service in their respective Corporal assignment or in the classification of Sergeant with the Fresno Police Department. Officers previously assigned as full-time Training Officers shall receive equivalent credit for the years served in that assignment toward the ten (10) year requirement.

Senior Patrol Officers, Senior Patrol Corporals, and Senior Patrol Sergeants are deemed qualified based on the above qualifications and will not be subjected to any written or interview testing process.

Senior Patrol Officers, Senior Patrol Corporals, or Senior Patrol Sergeants assigned to the Patrol Matrix on Watch II will receive a $250 stipend each month. Qualified Senior Patrol Officers, Senior Patrol Corporals, or Senior Patrol Sergeants assigned to the Patrol Matrix on Watch III will receive a $300 stipend each month. All compensation earned by a member pursuant to this Section, 7.4.12, shall be in addition to any other incentive and/or premium pay received and shall be compensable for retirement purposes.

Qualified Senior Patrol Officers, Senior Patrol Corporals, or Senior Patrol Sergeants may maintain the uniform arm insignia on their uniforms if they leave their patrol matrix assignment. However they shall cease receiving the stipend pay until they return to a fulltime patrol matrix assignment on Watch II or Watch III. The Fresno Police Department business office shall receive updated employee assignment details to assist them with determining qualified Senior Patrol Officers, Senior Patrol Corporals and Senior Patrol Sergeants.

7.5 FRESNO CITY EMPLOYEES' HEALTH AND WELFARE TRUST

The City and the Association agree that the Fresno City Employees Health and Welfare Trust has the sole authority to determine the benefits that will be provided during the term of this MOU. The sole responsibility of the City under

this clause is to provide a set dollar amount to be contributed to the Trust on behalf of the members represented by the Association.

Effective October 1, 2014, the City's contribution will be seventy-five percent (75%) of the employee's health and welfare premium. Subsequently, the cost of any increase in the health and welfare premium will be shared equally between the City and the employee, with fifty percent (50%) to be paid by the City and fifty percent (50%) to be paid by the employee, except that employees will be required to pay no more than thirty percent (30%) of the premium established by the Fresno City Employees Health & Welfare Trust Board. At such time as the employee share is set at thirty percent (30%), the City shall pay seventy percent (70%).

Members may opt to contribute the amount necessary to make up the difference through payroll deductions, or accept a reduced coverage option.

Should any other represented bargaining unit in the City negotiate a successor MOU, or extend the period of an MOU with terms imposed resulting in a greater contribution by the City, upon the Association's written request, the City will match that benefit.

The parties also agree to work collectively in conjunction with their Board representatives to research and recommend potential cost-saving measures for the Health & Welfare Trust, which may include a choice of health program options based on individual need or preference, including a reduced option equivalent to the City's premium contribution, a separate rate for single employees with no dependents, or other flex plan programs; mandatory generic mail order drug maintenance for employees who require prescription drug therapy for any period of 90 days or more; or other measures that may be identified as this work progresses.

7.6 SERVICE UNIFORM ALLOWANCE

7.6.01 Members shall receive a total of $1,200 as a service uniform purchase and maintenance allowance, prorated and paid in semiannual installments on the last pay date in December and June. The service uniform allowance provided pursuant to this section shall be considered as compensation for purposes of calculating pension benefits for a member.

7.6.02 Members assigned to Motorcycle duty shall be provided, at City expense, the safety equipment described in Government Code Section 50081.1 (i.e., boots, riding breeches, leather jacket, leather gloves, safety helmet, and protective glasses).

7.7 WORKERS' COMPENSATION

7.7.01 Notwithstanding the provisions of FMC Section 3-118, a member of this Unit who suffers an injury or illness in the course and scope of City employment on or after January 1, 2010 shall become entitled, regardless of his or her period of service with the City, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments as provided by California Labor Code Section 4850. The remaining provisions of FMC Section 3-118 shall apply. Employees on “light duty” as a result of an injury or illness suffered in the course and scope of employment shall receive their regular salary during the period of light duty.

7.7.02 If a member is placed on sick leave, vacation, CTO or holiday pending determination as to whether the injury or illness is industrial, and the injury is determined to be industrial, sick leave, vacation, CTO or holiday will be restored within thirty (30) calendar days of such determination, and the member placed on injury leave as provided herein.

7.7.03 Retirement benefits shall not be reduced as a result of a member receiving Workers’ Compensation benefits.

7.7.04 Taxes shall not be withheld on compensation due to injury in the line of duty.

7.7.05 If a member is on leave pursuant to an accepted industrial injury, that member shall continue to accrue sick leave, vacation leave, holiday leave, and be afforded all health and welfare benefits that would have been received had the member not been injured. **However, sick and vacation leave shall not exceed established accrual caps.**

7.8 COURT APPEARANCES

Notwithstanding the provisions of FMC Section 3-117, the following rules shall apply to court appearances. Members qualifying under Subsection 7.8.01 below are not eligible for qualifying under Subsection 7.8.02 below, and members qualifying under Subsection 7.8.02 below are not eligible for qualifying under Subsection 7.8.01.

7.8.01 If a member receives a departmental notice or subpoena requiring a court appearance on the member’s regularly scheduled day off, or on a vacation, or on a day off on CTO, or on a day off on holiday, which has been approved prior to notice and/or the member’s receipt of a departmental notice or subpoena, and the member has not been released by the Court Liaison Office (CLO) by 0900 hours on the day of

the court appearance from such departmental notice or subpoena vis-a-vis an electronic notification system, the member shall be considered to be on court appearance standby duty, and has the option of compensation under either Subsection 7.8.01(1) or 7.8.01(2) below. Compensation for members on "automatic go" appearance shall occur solely under Subsection 7.8.01(3) below.

(1) ~~Premium pay~~ **Pay** for court appearance standby duty, as described above, shall be * * * **one hour at one and one-half (1 ½) times the member's base rate of pay**. **A member may elect to take this as CTO in accordance with the provisions of Section 7.3.03 and Section 7.3.08.** Time spent on court appearance standby duty (i.e., at home) shall not be considered hours worked. * * *

In the event a member, who is on court appearance standby duty at home, appears in court, the member shall also be compensated for a minimum of two (2) hours at one and one-half times (1 ½) the member's base rate of pay, or at one and one-half times (1 ½) the member's base rate of pay for the actual time of the appearance, whichever is greater. This compensable time starts from the time the member reports to court at the directed appearance time through completion of the appearance.

(2) Report to and standby at the CLO, and be compensated for a minimum of two (2) hours at one and one-half times (1 ½) times the member's base rate of pay. If the member is not required to appear in court, the department may require the member to perform assigned duties during this two (2) hour minimum period. Members shall be released from CLO standby duty when the subpoena or notice is cancelled, or they are released by the court.

If a member's CLO standby duty extends beyond the two (2) hour minimum, or the member appears in court beyond the two (2) hour minimum, the member shall be compensated at one and one-half times (1 ½) the member's base rate of pay for the actual time beyond the two (2) hour minimum.

(3) Members on "automatic go" court appearance shall be compensated for a minimum of three (3) hours at one and one-half times (1 ½) the member's base rate of pay, or at one and one-half times (1 ½) the member's base rate of pay for the actual time of the mandatory appearance, whichever is greater. This compensable time starts from the time the member reports to

court at the directed “automatic go” appearance time through completion of the appearance.

7.8.02 If a member receives a departmental notice or subpoena requiring a court appearance on a regular day of work which falls outside of assigned work hours, the member shall have the option of:

(1) standing by at home, when legally permitted; or,

(2) appearing at the CLO, with a minimum of two (2) hours pay, at one and one-half (1 ½) times the rate of pay. During this two (2) hour period, if the member is not required to appear in court, the member may, at the option of the department, be required to perform duties as assigned.

(3) If the court appearance starts within one-half (½) hour immediately following a shift, the member shall receive a one (1) hour minimum. If the court appearance falls during the shift and continues beyond the end of the shift, the member shall be paid at the applicable hourly rate for the actual time spent in court.

7.8.03 Where a member’s appearance extends beyond the two (2) hour minimum, the member shall be paid one and one-half times (1 ½) the member’s base rate of pay for the actual time of the appearance.

7.8.04 The provisions of Subsections 7.8.01 and 7.8.02 supra, shall also apply to members required to appear in any judicial or administrative proceeding as a witness pursuant to subpoena, court order, or request of the District Attorney. This provision shall apply to all judicial proceedings (civil, criminal, or administrative) and Civil Service proceedings in which a member’s presence is ordered, directed, or requested because of his or her employment as a Police Officer.

7.8.05 The department and Association will continue to meet as needed to resolve concerns involving CLO program processes and applications.

7.8.06 In the event a member is off on a regular day of work as a result of AWS, and is required to make a court appearance, the member shall be compensated for court time in accordance with Section 7.8 for a member required to make a court appearance on a regular day of work. Conversely, in the event a member is substituting as a result of AWS on a regularly scheduled day off/vacation/holiday/CTO, the substituting member shall be compensated in accordance with compensation afforded under Section 7.8 for a member required to make a court appearance on his or her scheduled day off.

7.9 TAKE-HOME VEHICLES

7.9.01 Except as is otherwise specifically determined in this MOU, the Chief of Police, shall have the authority to determine which members shall be assigned take-home vehicles. For security purposes, all paperwork in connection with said vehicle assignments shall **be maintained by** * * * the Chief of Police, or designee within the department, except basic identifying information * * *.

7.9.02 Members who are assigned vehicles for "take-home" purposes may drive their assigned vehicles to their residences within fifteen (15) miles of any point in the city limits for the City of Fresno. The Chief of Police may allow members who reside more than fifteen (15) miles to have take-home vehicles, at his sole discretion. Otherwise, members who reside more than fifteen (15) miles from the city limits must leave their assigned vehicles at an approved City facility.

7.9.03 Unless inconsistent with this MOU, Administrative Order 8-8 shall apply with reference to the purpose and benefit of City "take-home" vehicles.

~~**7.10** WELLNESS PROGRAM DEVELOPMENT COMMITTEE~~

~~Effective October 1, 2014, the Wellness Program will be discontinued; however, members that earned a wellness incentive during FY 14 will receive the incentive in FY 15.~~

~~Effective July 1, 2009, the benefits provided pursuant to this section shall be considered as compensation for purposes of calculating pension benefits for a member.~~

7.10 TIME CHANGE

This is to clarify and confirm City processes when a time change occurs. Any member regularly scheduled to work, and who does work, an eight-hour or ten-hour shift during which a change from Pacific Standard Time to Pacific Day-light time, or vice versa, occurs, will be paid as follows:

When such shift occurs in the spring, the member shall receive the full eight or ten hours pay. Any time worked in excess of the regular shift as scheduled shall be at the applicable overtime rate.

When such shift occurs in the fall, the member shall receive the regular eight or ten hours pay. Overtime at the applicable rate shall only be paid for work which is performed immediately before the scheduled starting time and for work which is

performed after the scheduled end of the shift. No overtime, at any rate, shall be paid when the actual number of hours worked during such scheduled shift is nine or eleven hours because of the change from daylight savings to standard time.

7.11 LEAVES

7.11.01 Sick Leave:

Members shall accrue sick leave at the rate of * * * **eight (8)** hours, effective **July 1, 2017** for each completed calendar month of employment, with unlimited accumulation. * * *

Members shall be allowed up to forty-five (45) hours of accrued sick leave per fiscal year for Protected Sick Leave. Protected Sick Leave may be used only for those purposes defined in California Labor Code section 233. The first three days or twenty-four hours, whichever is greater, shall also be considered leave taken under California Labor Code section 246.5 (i.e., AB 1522, Healthy Workplace Healthy Family Act of 2014). Use of Protected Sick Leave shall be authorized and recorded by a department head or designee. Members who separate City employment and return within one (1) year of such separation will be entitled to reinstatement of unused Sick Leave balances at the time of separation from City employment, up to a total of forty-eight (48) hours.

7.11.02 Retirement Attendance Incentive at the Time of Election to Retire or Enter the Deferred Retirement Option Program (DROP) - A Tier 1 or Tier 2 employee who meets the criteria as outlined below, will receive only one of the following benefits based on whether or not the employee enters the DROP program before retiring from City employment.

(1) Election into DROP Program - For a Tier 1 or Tier 2 employee who has reached the minimum retirement age and has elected to enter the DROP Program, the calculation of the member's monthly DROP amount shall include an amount equal to forty percent (40%) of the member's unused sick leave as if it were a one-time-payment at the hourly base rate of pay in effect for the member as of the DROP entry date. The member's pension contribution on this amount will be calculated as of the date of DROP entry by multiplying the lump sum described above in this subparagraph by the member's pension contribution rate, and that amount will be deducted from the member's DROP account. The City will also be required to make a corresponding pension contribution to the retirement system based on the additional

pensionable compensation created by the Retirement Attendance Incentive.

(a) Tier 2 Members Participating in DROP - For those members who entered the DROP program prior to July 1, 2006, the DROP account balance and monthly deposit amounts shall be recalculated to include an amount equal to forty percent (40%) of the member's unused sick leave balance as of the member's DROP date times his/her base rate of pay in effect at the date of entry into DROP.

(2) Election Not to Enter DROP - For a Tier 1 or Tier 2 member who has reached the minimum retirement age and who retires from the City for service or for disability without entering DROP, an amount equal to forty percent (40%) of the member's unused sick leave balance shall be included in the computation of the member's retirement allowance as if it were a one-time-payment at the hourly base rate of pay for the employee in effect at the date of retirement. The member and the City will make a corresponding pension contribution to the retirement system based on the additional pensionable compensation created by the Retirement Attendance Incentive. The member's retirement contribution will be calculated as of the date of retirement by multiplying the lump sum described above in this subparagraph by the employee's pension contribution rate and the employee agrees to have this amount withheld from the employee's first retirement benefit payment from the Retirement System as the employee's retirement contribution for this additional amount of pensionable compensation.

This provision shall not apply to members who retire prior to age 50 due to a disability or to former members that have separated from City service prior to reaching the minimum retirement age and have elected a Deferred Vested status in the City of Fresno Fire & Police Retirement System.

(3) Retirement Attendance/Health Incentive - At service retirement or at a disability retirement of a Tier 1 or Tier 2 member who is otherwise eligible for service retirement, ~~and~~ will be credited for unused sick leave in accordance with the provisions of Section 7.11.03 below.

(4) Hourly base rate shall be the equivalent of the monthly salary for the employee as provided in Exhibit I, multiplied by twelve (12) months then divided by 2,080 hours.

7.11.03 Health Reimbursement Arrangement (HRA)

The City currently maintains a Health Reimbursement Arrangement (HRA) that qualifies as a "health reimbursement arrangement" as described in Internal Revenue Service (IRS) Notice 2002-45 and other guidance published by the IRS regarding HRAs. The City agrees to maintain the HRA such that it will continue to qualify as a “health reimbursement arrangement” for the term of the MOU.

At separation from permanent employment with the City of Fresno by service retirement or at disability retirement if the member is otherwise eligible for service retirement, the value of the member's accumulated sick leave shall be credited to an account for the employee under the HRA such "value" shall be determined as follows:

- The number of accumulated sick leave hours at the time of retirement multiplied by 50% of the member's then current hourly base rate of pay.

- For employees hired before September 11, 2014, and any employee who does not enter DROP, all accumulated sick leave hours multiplied by 50% of the employee’s then current hourly base rate of pay at the time of retirement, except that an employee who retires within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of an application for disability retirement if otherwise eligible for a service retirement by, or on behalf of the employee, or an application for service retirement (not having submitted an application for disability retirement) shall have all accumulated sick leave hours upon retirement multiplied by eighty (80%) of the employee’s then hourly rate of pay.

- For employees in DROP hired on or after September 11, 2014, accumulated sick leave hours multiplied by 50% of the employee’s then current hourly base rate of pay at the time of retirement, except that the accumulated sick leave hours shall not exceed the number of sick leave hours which the employee had at the time of entry into DROP.

- Employees in DROP hired on or after September 11, 2014, who retire within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of an application for disability retirement if otherwise eligible for a service retirement by, or on behalf of the employee, or an application for service

retirement (not having submitted an application for disability retirement), shall have all accumulated sick leave hours upon retirement multiplied by eighty (80%) of the employee's then hourly rate of pay, except that the accumulated sick leave hours shall not exceed the number of sick leave hours which the employee had at the time of entry into DROP.

- The total number of all accumulated holiday leave hours at the time of separation for retirement purposes shall be paid at the member's then current hourly base rate of pay.

- The hourly base rate of pay shall be the equivalent of the monthly salary for a member as reflected in Exhibit I, multiplied by twelve (12) months then divided by 2,080 hours.

At the City's option, HRA accounts may be book accounts only. A book account means that no actual trust account shall be established for any member. Each HRA book account shall be credited on a monthly basis with a rate of earnings equal to the yield on the City's Investment Portfolio (provided that such yield is positive).

The HRA accounts shall be used solely to pay premiums for medical insurance (including COBRA premiums) covering the participant, the participant's spouse (or surviving spouse in the event of the death of the participant), and the participant's dependents. Once a participant's account under the HRA has been reduced to $0, no further benefits shall be payable by the HRA. If the participant, the participant's spouse, and the participant's dependents die before the participant's account under the HRA has been reduced to $0, no death benefit shall be payable to any person by the HRA.

While this provision is in effect members shall not be allowed to cash out any accumulated or accrued sick leave at retirement.

Upon each anniversary date of the MOU, the Association may amend the HRA provisions of this MOU to include a provision requiring all members of the Association to convert an agreed upon amount of accrued vacation leave to the HRA.

7.11.04 Family Sick Leave:

Effective October 1, 2014, members shall be allowed up to * * * **forty-eight (48)** hours of accrued sick leave per fiscal year for Family Sick Leave. Family Sick Leave shall be used only for those purposes defined

in the California Labor Code Section 233. Use of Family Sick Leave shall be authorized and recorded by a department head or designee.

7.11.05 Vacation Leave:

(1) Effective **July 1, 2017**, members shall accrue vacation leave hours for each completed calendar month of employment as reflected in the table below. (Pursuant to Section 6.3.01, each Officer's applicable accrual rate will be reduced monthly by .583333 hours for Association time bank purposes.) Members with less than 15 years of continuous employment are allowed to accrue * * * **300** hours of vacation leave, and members with 15 years or more of continuous employment are allowed to accrue * * * **400** hours of vacation leave.

Years of Continuous Employment	7/1/17
Less than 5	**9**
More than 5 but less than 10	**9.667**
More than 10 but less than 15	**11**
More than 15 but less than 20	**12.334**
More than 20 but less than 25	**14.334**
More than 25 but less than 30	**15.667**
More than 30	**17.667**

(2) No member's vacation accumulation shall cease due to refusal by the City to grant vacation leave prior to the member reaching the vacation accrual cap applicable to the member's position and length of service. In the event a member requests in writing vacation leave one month prior to the month in which the cap would be reached, and such request is refused, the Chief of Police or designee shall extend the member's accrual cap for ninety (90) days, during which time the member shall be scheduled for vacation leave sufficient to reduce the member's balance below the accrual cap. Request for extensions under this section may be denied if the member failed to sign up for and take his/her maximum accrued annual vacation leave during dates which were available for that purpose.

§ deleted

7.11.06 Holiday Leave:

(1) Members shall accrue eight and two-thirds hours per month as holiday leave in lieu of the Holidays recognized in FMC Section 3-116.

January 1.

The third Monday in January.

The third Monday in February.

The last Monday in May.

July 4**.**

The first Monday in September.

November 11.

Thanksgiving Day in November.

The Friday after Thanksgiving Day in November.

December 25.

Employee's Birthday.

Two Personal Business Days.

Any day or part of a day declared by the Council, ordinance or resolution, to be a holiday.

(2) At separation, accumulated holiday leave shall be paid at the member's base rate of pay in accordance with Section 7.12.03, or cashed at separation if not eligible for participation in the Health Reimbursement Arrangement (HRA).

(3) Holiday leave banks are capped at 96 hours. Members who are at the 96 hour cap will receive an automatic pay down of any hours exceeding the cap.

(4) On July 1, 2011, all holiday leave balances in excess of 96 hours were placed as a one-time deposit in a "Special Holiday Leave Bank", which hours may be used as follows:

Special Holiday Leave Bank

(a) Approved leave;

(b) Absent With Substitute (AWS) agreements transferred only to the substituting employee's regular holiday bank;

(c) Voluntary cash-out of forty-three (43) hours each FY beginning in FY14; and,

(d) Voluntary cash-out of one-hundred (100) hours immediately prior to separation and prior to the employee filing retirement paperwork.

Employees may not place any additional hours in the Special Holiday Leave Bank.

At separation from City service, all remaining hours in the Special Holiday Leave Bank shall be credited to an HRA account for the employee if eligible for service retirement as set forth in Section 7.12.03, or cashed out at separation if not eligible to participate in the HRA.

Cash-outs of Special Holiday Leave Bank hours are pensionable for Tier 2 members.

~~(5) Effective July 1, 2012 through June 30, 2015, members may voluntarily request the department to pay down the member's Holiday Time up to a maximum of ninety-six (96) hours per fiscal year.~~

(5) Effective July 1, 2015, members may voluntarily request the department to pay down the member's Holiday Time up to a maximum of ninety-six (96) hours per month.

(6) A Tier 2 member who has reached the minimum retirement age and elects to enter DROP or retire (not having entered DROP), shall have amounts equal to the member's unused holiday leave balance and Special Holiday Leave balance (at the DROP effective date or retirement date, not having entered DROP) multiplied by the member's current hourly base rate of pay included in the computation of the member's final average salary

as if it were a one-time payment. Based on the additional pensionable compensation, the member and the City will make corresponding pension contributions to the retirement system. The employee agrees to have this pension contribution amount withheld from the employee's DROP account, if entering DROP, or from the employee's final paycheck (not having entered DROP.)

7.11.07 Family Events:

In the event a member requests paid time off (vacation, CTO, or holiday time) not less than two weeks in advance to attend a major family or social event (wedding, birthday, etc.) and permission is granted to attend such event, the permission for time off shall not be cancelled, except in event of emergency. An emergency is defined as circumstances beyond the control of the City and not having been known 48 hours in advance of the circumstance creating the emergency.

7.11.08 Guaranteed Leave:

(1) Two times during each matrix semester period, personnel assigned to the patrol matrix may submit a request for guaranteed leave, which request will be honored, subject to the following conditions and procedures:

No more than eight (8) guaranteed leave requests will be honored for any single date. This limit applies city-wide, and for all shifts combined.

Guaranteed leave requests may not be submitted for Christmas Eve, Christmas Day, New Year's Eve, New Year's Day, Thanksgiving Day**,** ~~and~~ the day after Thanksgiving**,** and July 4th.

Requests must be submitted no less than fifteen (15) calendar days before the date requested to be off, but no more than sixty (60) calendar days before the date requested to be off.

Requests are to be submitted to the Duty Office, to be date and time stamped by Duty Office personnel when received. Requests will be honored on a first-come, first-served basis, to the above stated maximum of five.

Guaranteed leaves may be taken using vacation time only.

Guaranteed leaves may only be for one (1) work shift per request.

Once submitted, guaranteed leave slots may not be transferred from one member to another.

(2) The Duty Office will be responsible for tracking members' usage of guaranteed leave requests. Once a member submits a guaranteed leave request, the member may cancel the time off, but the request will still count as one of their allowable requests during the semester period**,** unless the member cancels thirty (30) calendar days prior to the requested date(s).

(3) The department will establish a $100,000 fund for each remaining fiscal year of this MOU, for payment of overtime costs associated with the granting of guaranteed leave. The $100,000 shall be split into two equal portions for July 1st through December 31st, and for January 1st through June 30th, for each fiscal year. Should overtime costs to backfill guaranteed leave not consume the $50,000 in any semester of a fiscal year, the excess will be carried over and added to the fund for the following semester, and consideration will be given to increasing the number of allowable requests during following semesters. Any such increases must be with mutual agreement of the department and Association.

(4) Should overtime costs to backfill guaranteed leave consume the $50,000 during a semester, or the $50,000 and any carry-overs during any subsequent semester, guaranteed leave requests will not be accepted for the remainder of the affected semester.

* * *

7.11.09 <u>Vacation Leave Bidding</u>:

Simultaneously with the bidding for shift assignments in the Patrol Division, during the month of December for each fiscal year during the term of this MOU and at least fifteen (15) days prior to January 1 of each year, all covered members may bid to schedule vacation, according to date of hire as a Police Officer, or in the case of Sergeant, the date of promotion. A member may bid to schedule vacation in an amount equal to the maximum vacation leave time accrued by that member for the fiscal year. At the time of the bidding process, a member has the option to bid for a one time use of the maximum vacation leave time accrued or may choose to schedule two (2) separate vacation periods. If a member chooses to schedule two (2) separate vacation periods, he/she may participate in a second bidding process to occur following the completion

of the initial bidding. **If, after a member participates in the second bidding process, they retain additional accrued vacation leave balances, they may participate in a third bidding process immediately after the second.** This second **and third** bidding process shall also be governed by seniority as stated above and be limited to the remaining vacation leave time accrued for that fiscal year. Said vacations shall be scheduled to be taken between February 1 immediately following the bidding process and the next January 31st and may be scheduled to coincide with the member's regular days off.

Should the member later decide to schedule vacation in an amount in excess of that accrued during that fiscal year, the decision to allow such additional vacation time shall be at the discretion of the department.

7.11.10 Requests for Leave of Absences:

Requests for leave of absence should be submitted at least 24 hours in advance to increase the likelihood of being approved.

7.12 HOURS AND WORK SCHEDULES, MATRIX ASSIGNMENTS, DUTY OFFICE, NON-MINIMUM STAFFING, * * * **STAFFING SOFTWARE**, ABSENT WITH SUBSTITUTE AND PROXIMITY DETAIL

7.12.01 Hours and Work Schedules:

(1) All members will be assigned to an eight (8), ten (10), or twelve (12) hour day as directed * * * by the **Chief of Police**. All shifts will include a paid thirty (30) minute meal break. * * * Members **are encouraged to notify their supervisor** * * * if they are unable to take a meal break. **Supervisors should make an effort to ensure members have a meal break.** * * * Meal breaks may not be taken within the first and last hour of a shift without supervisor approval.

§§ deleted

(**2**) Based on the needs of or significant benefit to the department, the Chief of Police may apply a "5/8"**, "4/10", or "3/12"** schedule to specified units outside of patrol matrix duties, either:

With the concurrence of the affected personnel, or

With thirty (30) days notice to affected personnel, on the condition that said affected personnel who wish to remain on a 4/10 schedule will be allowed to return to a patrol shift consistent with

their seniority. In addition, affected members may be considered, at management's discretion, for transfer to another special unit with a 4/10 schedule.

(**3**) Members who are assigned to **attend** training may be assigned on a 5/8 basis, to accommodate the training schedule. The department will make every effort not to schedule any member to training which will conclude immediately prior to the member's four or five-day work period.

§ deleted

7.12.02 Patrol Work Schedule/Matrix:

(1) A 4/10 work week will be in effect for personnel assigned to day and swing shifts on patrol matrix duties. The base work schedule for members assigned to the midnight shift on patrol matrix duties will consist of a work week of five (5) ten-hour days followed by a week of three (3) ten hour days or vice-versa, with a total of six (6) days off during the two work weeks. This schedule may be cancelled by the City following sixty (60) days written notice to the Association, at which time members would revert to the 4/10 work week. The decision to discontinue this work schedule and revert back to the 4/10 work week is not appealable or grievable.

(2) Subject to meet and confer, the implementation of the base work schedule for members assigned to day and swing shifts on patrol matrix duties may be changed to the same work schedule of the midnight shift as set forth in Subsection (1) above. Once implemented, the schedule may be cancelled by the City as also set forth in Subsection (1), above.

(3) Scheduling will consist of both fixed days on and off as well as rotation of days on and off. No member shall be scheduled to work for more than forty (40) hours in any work week.

(4) A minimum of 20% of the available positions will be assigned to fixed days on and off, and all other positions will have rotating days on and off. Members with rotating days off will be scheduled for four days on and four days off for three weeks, followed by five days on and three days off, for four weeks, etc.

(5) Patrol Matrix sign-ups are in the month of December. Every 12 months, all work assignment positions in the patrol matrix shall be declared open for the purpose of bidding by Sergeants,

Specialists, and Officers according to date of hire as a Police Officer, or in the case of Sergeant, the date of promotion, for the district preference, shift assignment, and days off and on. For the purpose of bidding, Sergeants will precede Officers/Specialists.

(6) Personnel assigned to patrol who are on injury**, long-term absence,** or other absence status seven days prior to bidding will not be **counted as part of the personnel assigned to the patrol matrix and will not be** allowed to participate **in matrix sign ups**.

(7) At the time of bidding, the number of shifts available for Officer/Corporal**/**Specialist/Sergeant bid shall be equal to the number of member positions allocated to the patrol matrix. Personnel assigned to patrol who are on injury**, long-term absence,** or other absence status shall not sign up for a patrol shift**, and for purposes of staffing, shall not be considered as currently assigned to the patrol matrix**. Upon return of a member to patrol duty status, the member * * * **may** make a selection from the original matrix commensurate with the member's **seniority for** shift/district * * * **subject to the needs of the department**. * * *

(8) Nothing in the preceding sub-sections precludes moving probationary employees.

(9) Assignments as a result of the bidding process will begin on the first day of the first pay period following January 1st of each year. During the 12-month assignment cycle, if a hardship exists, a special request for a change in district and/or shift can be submitted. A member may submit one request during a twelve month assignment cycle. The request will be considered based on the needs of the department. A response will be issued to the member within thirty (30) calendar days. Barring a training need, approved requests may be honored once a vacant position that addresses the hardship becomes available.

(10) Probationary Police Officers, Sergeants or Recruits may not be permitted to bid for positions but may instead be assigned to a district, shift and detail. With a * * * **14 calendar day** notice, these Officers may also be subject to district and shift reassignment.

(11) Police management reserves the right to designate specific detail numbers for probationary Officers and Recruits**.** * * * **Police** management may also designate certain detail numbers as "not available for sign-up" based upon the anticipated deployment of

any Officers or Recruits in the Training Program at the time of the matrix bidding.

(12) Police management reserves the right to designate specific detail numbers for probationary Officers and Recruits to prevent the concentration of probationary personnel on any given shift in a given district. Any such allocation will apply only to swing, lap, and/or midnight shifts, and will be accomplished in such a manner as to ensure balance of probationary employees between policing districts and shifts. Subject to the aforementioned considerations, police management may also designate certain detail numbers as "not available for sign-up" based upon the anticipated deployment of any Officers or Recruits in the Patrol Training Program at the time of the matrix bidding.

§ deleted

7.12.03 Patrol Schedule * * * - * * * **The department and FPOA will meet no later than September 1st to discuss staffing and shifts for the patrol matrix.**

7.12.04 Duty Office:

(1) Officers assigned to the Duty Office may be scheduled to work a modified "3/12" schedule consisting of three (3) twelve (12) hour work shifts one week, followed by three (3) twelve (12) hour work shifts and one (1) eight (8) hour work shift the next, or vice versa.

(2) Officers working in the Duty Office not scheduled on a "3/12" basis will be scheduled on a "4/10" basis.

(3) Work schedules will contain specific hours and day off patterns established and/or modified by agreement of Police Department Management, acting on behalf of the City, and the Association, acting on behalf of the affected members.

(4) Hours worked in excess of the scheduled eight (8), ten (10) or twelve (12) hour work shift, or in excess of the scheduled thirty-six (36), forty (40) or forty-four (44) work week, will be compensated as overtime.

(5) Either the City or the Association may discontinue this section with thirty (30) days written notice to the other party. The decision to discontinue this agreement is not grievable or appealable.

Discontinuation of this section will result in the reinstatement of all schedule and overtime provisions existing in the current MOU.

7.12.05 Non-Minimum Staffing - Flexing of Hours:

To accommodate the personal needs of members and to create the best working environment, given the context of a police department whose primary goal is service to the community, members assigned to non-minimum staffing units may request and be assigned flexible hours of work. The member's Supervisor may adjust hours of work under the following conditions:

(1) The operational needs of non-minimum staff unit shall be the primary concern for a Supervisor when determining a request for flexing of hours.

(2) A Supervisor may grant a member's request to flex hours up to one (1) hour before or after the standard shift hours beginning at 0700 and ending at 1730.

(3) The occasional granting of a flex schedule pursuant to this subsection will be only for specific qualified purposes as determined by a Supervisor. Examples of a specific qualified request by a member may include attending his or her child's baseball game, a doctor's appointment, meeting someone who is arriving at the airport, or some other qualified event.

(4) Granting a long-term flex schedule shall require concurrence of the Bureau Commander. Examples of the need for a long-term flex schedule may include home nurse care for a spouse and the need to relieve the care giver, circumstances involving a "special needs" child, continuing education, or some other qualified event.

(5) A Supervisor may require the members to decide amongst themselves who is to be granted a flex schedule. The decision by the members shall be by mutual agreement. If the members are unable or unwilling to make such decision, the Supervisor shall have the discretion to make whatever decision he or she deems appropriate.

(6) With the concurrence of the Bureau Commander and in lieu of granting a flex schedule, a Supervisor may offer to a member the option of a fixed 5/8 schedule with the hours of 0730 to 1600, for a minimum of thirty (30) days.

(7) In order to meet departmental operational and service needs, a Supervisor may terminate, at any time, a member's flexed schedule upon thirty (30) days written notice to the affected member. The decision to discontinue a flex hour schedule is not appealable or grievable.

7.12**.06** **Staffing Software * * ***:

The department and FPOA agree to create preferred staffing in lieu of minimum staffing. Preferred staffing is defined as a staffing level for patrol matrix shifts and policing districts determined by the Chief of Police or his/her designee that meets the needs of the department, the safety needs of the community, and follows the terms and conditions set below. Preferred staffing will be reviewed annually, with the department and FPOA meeting no less than thirty (30) days prior to the annual patrol matrix signups. Both the department and the FPOA must agree to continue preferred staffing or the MOU will revert back to the prior minimum staffing language.

The department may utilize * * * **staffing softwar**e in the deployment of patrol personnel (policing districts). Deployment is inclusive of the number and scheduling of shifts, the number and configuration of policing districts, members assigned to each shift, and the day off configuration and/or rotation of days off. Data used to develop * * * **staffing** recommendations at the beginning of each matrix period, and the resulting district and shift preferred staffing levels will be based on the number of personnel assigned to the patrol matrix who are not expected to be on injury or other absence status longer than thirty (30) days into the matrix period.

Staffing * * * recommendations can be implemented up to a maximum of two (2) times in a fiscal year provided that all affected members receive the change that will occur at sign-ups. No shift shall start before 0600. Although * * * **staffing software** may recommend Summer/Winter base shift hours, management reserves the right at any time to adjust those hours with five (5) calendar days advance notice based on operational/service needs.

The department reserves the right to determine initial preferred staffing levels in patrol, by shift and district, at the beginning of the matrix period.

During the course of the matrix period, the department may review and adjust preferred staffing levels.

The Association will designate a representative who will participate in the process of determining annual * * * **staffing** recommendations.

7.12.07 Absent with Substitute (AWS)**:**

(1) AWS with Trade - In accordance with Section 7 (p)(3) of the Fair Labor Standards Act (FLSA) as discussed in 29 CFR 553.31, the City agrees that members may substitute for one another when staffing levels do not permit a member to take time off. The substitution must be during scheduled work hours, and in the performance of work in the same capacity. The hours worked are excluded by the City in the calculation of the hours for which the substitute member would otherwise be entitled to overtime compensation under the FLSA and under Section 7.3. When one member substitutes for another, the member being substituted for will be credited as if he or she had worked his or her normal schedule for that shift.

(2) Probationary Officers - Officers on probation may utilize 40 hours of AWS to take time off during any calendar quarter with no restriction on how many hours of AWS they can work during any calendar quarter. Probationary Officers needing to utilize more than 40 hours of AWS to take time off during a calendar quarter may do so with district commander approval.

(3) Non-Probationary Officers - Non-probationary Officers may utilize 120 hours of AWS to take time off during any calendar quarter with no restriction on how many hours of AWS they can work during any calendar quarter. Non-probationary Officers needing to utilize more than 120 hours of AWS to take time off during a calendar quarter may do so with district commander approval.

(3) AWS with Compensation - When one member substitutes for another, the member being substituted for will be credited as if he or she had worked his or her normal schedule for that shift. If the substituting member wishes to be compensated for the substitute shift worked at the base/straight time rate of pay, then the member being substituted for shall transfer the applicable number of holiday leave, vacation or CTO hours to the substituting member's "like" account. (Note: The member being substituted for may only select one account from which to take hours for transfer, and those hours shall only be transferred to the volunteer substitute's "like" account. If the substituting member's selected account is at the maximum allowable balance, the substituting member shall be compensated at the base/straight time rate of

pay from the transferred hours. An internal processing form has been established to accomplish this transfer.)

(4) AWS Notification to Department - Members wishing to provide a substitute must notify the department at least 24-hours in advance of the substitution on a form provided for that purpose. The substitute must be satisfactory to the department. If the substitute is determined to not be a satisfactory substitute, the commanding Officer shall provide the reason(s) in writing within a reasonable amount of time.

~~7.13.08 Proximity Detail:~~

~~(1) The Proximity Detail may be created by the Chief at his discretion. Officers assigned to Proximity Detail may be scheduled to work a modified "3/12" schedule consisting of three (3) twelve (12) hour work shifts each week, followed by three (3) twelve (12) hour work shifts and one (1) eight (8) hour shift the next, or vice versa.~~

~~(2) Work schedules will be modeled according to the below matrix, with specific hours and day off patterns established and/or modified by agreement of Police Department Management, acting on behalf of the City, and the FPOA, acting on behalf of the affected Officers.~~

~~Model Schedule – Proximity Detail (Week 1)~~

	~~MON~~	~~TUE~~	~~WED~~	~~THU~~	~~FRI~~	~~SAT~~	~~SUN~~
~~Officer #1~~	~~0600-1800~~	~~0600-1800~~	~~0600-1800~~	~~DO~~	~~DO~~	~~0600-1600~~	~~DO~~
~~Officer #2~~	~~DO~~	~~DO~~	~~0600-1800~~	~~0600-1800~~	~~0600-1800~~	~~DO~~	~~DO~~

~~Model Schedule – Proximity Detail (Week 2)~~

	~~MON~~	~~TUE~~	~~WED~~	~~THU~~	~~FRI~~	~~SAT~~	~~SUN~~
~~Officer #1~~	~~0600-1800~~	~~0600-1800~~	~~0600-1800~~	~~DO~~	~~DO~~	~~DO~~	~~DO~~
~~Officer #2~~	~~DO~~	~~DO~~	~~0600-1800~~	~~0600-1800~~	~~0600-1800~~	~~0600-1600~~	~~DO~~

~~(3) Hours worked in excess of the scheduled eight (8), ten (10), twelve (12) hour work shift or in excess of the scheduled thirty-six (36), forty (40) or forty-four (44) hour work week shall be compensated as overtime.~~

~~(4) Either the City or the FPOA may discontinue this agreement with thirty (30) days written notice to the other party and to the Labor Relations Division. The decision to discontinue this agreement is not grievable or appealable. Discontinuation of this agreement will result in the reinstatement of all schedule and overtime provisions existing in the current MOU.~~

~~(5) The parties agree that the adoption of the above scheduling provisions for Proximity Officers does not imply acceptance by either party of similar schedule changes for any other unit or personnel within the Department, and agree that this Agreement will not be considered precedent setting in any regard.~~

~~(6) Any Officer assigned to Proximity Detail shall be selected in accordance with Chapter 7, Section 15.~~

7.13 ASSIGNMENTS, COVERAGE & HOURS - EXCEPTIONAL PROVISIONS

7.13.01 Patrol Matrix (Supervision)**:**

(1) In the event a Sergeant assigned on the matrix is absent from duty, a position is vacant, or there is no Sergeant assigned to duty, and any commander assigned to the affected district, or the Duty Office determines that a replacement or additional personnel are required, **a Corporal may be assigned if the vacancy is for five hours or less ~~than a full shift~~, otherwise,** a Sergeant shall be hired back on overtime to fill the vacancy, or, if no Sergeant is available, a **Corporal,** Police Specialist, **or** Police Officer, * * * may be assigned to an acting position to perform the Sergeant's duties. Any Specialist or Officer so assigned for the majority of a shift shall be compensated at the lowest step in the salary range of the Police Sergeant class which is at least three and one-half percent higher than the rate received in the employee's current class. If such compensation requires a payment greater than highest Step, then highest Step shall be paid. **Corporals** assigned to be Acting Sergeants shall receive pay as provided in Section 7.04.03. This subsection shall be in lieu of the "acting pay" provisions of FMC Section 3-260.

(2) No additional compensation shall be paid to Police Specialists,

Police Officers or * * * **Corporals** who are assisting in the day to day administration performed by Sergeants nor for acting as a patrol supervisor (Senior Officer available) when the Sergeant is on-duty but unavailable.

(3) Signups for available overtime as a Sergeant shall be limited to Sergeants.

(4) A Corporal shall not be assigned to a shift if such assignment would cause the number of Corporals to be greater than the number of Sergeants on that shift.

(5) No Corporal shall be allowed to Act to an individual Sergeant's position for more than six months.

(**6**) This provision does not preclude the City/Department from designating provisional Sergeants in accordance with FMC Section 3-258.

7.13.02 Special Units - Flexing of Hours:

Sergeants, Specialists or Officers in non-patrol matrix assignments may be assigned flexible hours of work to meet the needs of the department. The Police Chief or designee may adjust hours of work under the following conditions, without payment at the overtime rate:

(1) with the concurrence of the Sergeant, Specialist or Officer; or,

(2) in the event of emergency, which is defined as circumstances beyond the control of the City and not having been known forty-eight (48) hours in advance of the circumstance creating the emergency; or,

(3) with forty-eight (48) hours notice to the Sergeant, Specialist or Officer. Adjustments pursuant to this subsection may last no longer than seven (7) consecutive calendar days, nor occur more than once during any thirty (30) day period; or,

(4) where the adjustment has been made to cover a special event and the special event is canceled with less than forty-eight (48) hours notice to the department, and the department then promptly cancels the adjustment and returns the Specialist or Officer to the regular schedule.

Overtime worked past the scheduled end of a shift shall not be considered as a shift adjustment. An adjustment of hours prior to the shift shall be considered as an adjustment.

Officers assigned to special units receiving “Flexible Hours” premium pay are excluded from the forty-eight (48) hour notice requirement. However, when practical, they will be given as much advance notice as possible when hours are to be flexed. Flexing of these Officers is also not limited to seven (7) days in duration, nor as to frequency. However, when such adjustments exceed thirty (30) days, the Association shall be provided with a plan for a return to regular schedules.

The current practice of temporary weekend duty will cease. This does not prohibit the department from flexing Officers under other provisions of the MOU.

7.13.03 Traffic Bureau:

(1) Traffic Enforcement Unit (TEU):

Hours of Work: * * * **Base work hours of the TEU shall be 0730 to 1730 and 1600 to 0200. TEU Officers may be assigned flexible hours of work subject to the needs of the department pursuant to the provisions of Section 7.13.02.**

Meal Period: * * * **The** * * * meal period **will be** between the second and eighth hour of the work day. It will be the Officer’s responsibility to notify the supervisor if the Officer cannot schedule * * * **a** meal period during the specified time set aside for this purpose. * * * **A** meal period taken outside the specified hours requires the approval of a supervisor. * * * No more than one-half of the Officers working a given district may take their meal period at the same time, unless specifically approved by a supervisor.

* * *

Vacations: TEU vacation sign-ups shall be done by department seniority during assignment sign-ups. No more than fifteen percent (15%) of the entire unit may be allowed annual vacation at once, without prior approval of the division commander.

§ deleted

(2) Uniforms/Safety Equipment:
Traffic Bureau Officers assigned to motorcycle duty shall be

provided, at the City's expense, the safety equipment described in Government Code Section 50081.1. This shall include, but not be limited to, one (1) pair of motorcycle riding boots, three (3) pairs of riding pants, one (1) motorcycle jacket, one (1) pair each of summer and winter gloves, one (1) motorcycle safety helmet and one (1) pair of protective glasses. The safety equipment shall be repaired at the City's expense. If an Officer assigned to motorcycle duty leaves the Traffic Bureau for one (1) year or more and then returns, the Officer will be equipped with new safety equipment, with the exception of a new jacket. Jackets will be issued to returning Officers as needed at the discretion of the bureau commander.

(3) Take-home Vehicles:
Traffic Bureau Officers assigned to motorcycle duty, and Officers assigned to the Collision Reconstruction Unit (CRU), will be allowed to drive their assigned vehicles to their residences, subject to the provisions of Section 7.9 (Take-home Vehicles.)

§ deleted

7.13.04 Canine Unit - The following applies to Officers assigned to the Canine Unit (includes Narcotics Canine):

(1) The City will install kennels at the home of the Officers assigned canines, pay for veterinary care, food, and miscellaneous supplies. Officers assigned canines will be allowed to drive their assigned City vehicle to their place of residence. Except as provided in Section 7.9, Canine Officers who reside farther than fifteen (15) miles from the City limits must leave their assigned vehicles at an approved City facility, and provide approved secure transportation for the canine from that point to their residences. Unless inconsistent with this section, Administrative Order 8-8 shall apply with reference to the purpose and benefit of City take-home vehicles.

Canine Officers will not be permitted to voluntarily transfer to other assignments during the service life of the Officer's canine. Canine Officers are not precluded from competing for promotional positions.

(2) The canine and the kennel installed by the City at the Officers' home are the property of the City. In the event an Officer is no longer assigned to the canine unit, the City reserves the right to maintain ownership of the canine or return the canine to the

original vendor or other designated party, as determined by the Chief of Police or designee.

(3) Canine Officers are subject to flexible hours of work as described in Section 7.13.02. The base work schedule for Officers assigned to the Canine Unit will consist of a work week of five (5) ten-hour days followed by a work week of three (3) ten hour days, with a total of six (6) days off during the two work weeks, to include at least one weekend. This schedule may be cancelled by the City following thirty (30) days notice to the FPOA, at which time Canine Officers would revert to the 4/10 weekly work schedule set forth in Section 7.12.01(1)**.**

(4) Police Management reserves the right to determine the allocation of K-9 positions by shift, district and days off to ensure the optimal coverage of such units in the field. Bidding for allocated positions will be **in accordance with Section 7.15.04** ~~done within the Canine Unit, by department seniority, date of hire as a Police Officer~~. Canine Unit schedules will be established annually to coincide with the patrol matrix, but will not be included in the patrol matrix. Canine units will not be counted to satisfy Watch III minimum staffing * * * **in the patrol matrix**.

(5) Compensation paid pursuant to Section 7.14.04 is overtime, and is therefore not considered as compensation under the first or second tier of the City's Fire and Police Retirement System.

(6) Time spent by the Officers for home care of the canine is considered hours worked pursuant to the Fair Labor Standards Act. The canine Officer will be compensated for one (1) hour each day in the care of the canine. Officers may spend more than one (1) hour a day with the canine, but any time over one (1) hour a day shall be considered as normal owner-related activities for the enjoyment of the individual and the canine. Officers that spend more than one (1) hour a day with the canine, and believe that this time is hours worked shall turn in a time sheet no later than the next working day, after the time spent with the canine, to the canine supervisor.

(7) Compensation under Section 7.13.04 is not for the performance of Police Officer duties and, therefore, compensation for the home care of the canine will be calculated at one-half the applicable overtime rate of pay for "A" step of the Recruit class.

7.14 FILLING SPECIAL ASSIGNMENTS

Definition: Special units (positions) are defined as all units (positions) outside of patrol matrix duties.

7.14.01 * * * Officers must be off probation to * * * **be eligible for assignment to a special unit**. * * *

§§ deleted

7.14.02 The conditions below apply to **non-probationary** Officers/Specialists/ Sergeants who meet the special unit qualifications and wish to be considered for a special unit assignment opening in conjunction with the patrol matrix signups:

(1) Prior to October 1st of each year, the department shall conduct a survey of members in a special unit assignment, and who are eligible for a special unit assignment. The purpose of the survey is to assist the department with determining member assignment preferences. **Members shall identify up to seven (7) specific special assignments where they may want to be assigned.** * * * The survey will close the fifteenth (15th) day following the survey's opening. Department Staff Officers will utilize the survey information and meet collectively, as needed, for the purpose of making special unit selections.

(2) Members being * * * **reassigned** out of a special unit assignment shall be notified no later than October 31st. **Members requesting to be returned to patrol shall notify the department through their respective chain of command by September 30th of each year.**

(3) Members subject to department reorganization will follow procedures outlined in 7.17.03 (2).

(4) * * * **When an opening occurs in a special unit, the department will notify members. All qualified members who expressed interest in the special unit will be considered. The department shall not be required to interview more than ten candidates, provided, however, that if ten or fewer qualified candidates apply, the department will interview all qualified candidates. If additional openings in the special unit are being filled, one additional member will be interviewed for each vacancy.** Each unit will be considered separately for the purposes of determining how many Officers/Specialists/ Sergeants need to be interviewed.

(5) **In the event no qualified candidates expressed interest in the special unit which has a vacancy, the department will notify all members via email and voicemail that the position is available and qualified members may apply.**

§§ deleted

(6) All special unit interviews and selections will be completed by October 31st of each year. The special unit survey is good for one (1) year or completion of a new survey, whichever comes first.

(7) For purposes of interviews, the department can designate a Bureau as a special unit.

(8) The department will provide the Association with any prerequisites for special units. If the Association so requests, the department and Association will meet to discuss the impact of any change in the prerequisites.

~~7.15.03 The conditions below apply to Officers/Specialists /Sergeants who meet the special unit qualifications, and wish to be considered for a special unit assignment opening outside of the patrol matrix signups:~~

~~(1) For purposes of this section, the definition of outside the patrol matrix signup will be, any special unit opening that occurs after the new patrol matrix begins in January, and prior to the opening of the annual special unit assignment survey. Exception: the department may utilize this process to fill special unit assignments that become open on or after November 1st when the department is unaware of the assignment opening prior to October 31st.~~

~~(2) The department will send a department email and voice mail announcing the special assignment opening.~~

~~(3) Eligible members wishing to be considered for the special unit assignment opening shall submit an email requesting consideration to the designated department representative no later than the tenth day following the email/voice mail announcement. The department may also utilize the special unit assignment survey when considering members to be interviewed.~~

~~(4) Department Staff Officers or their designee(s) will meet internally to select members to be interviewed for the special unit assignment.~~

~~(5) A rule of three (3) will be utilized for the interview process, with one additional interested candidate for each additional open position. Each unit will be considered separately for purposes of determining how many Officers/Sergeants need to be interviewed.~~

~~**7.15.04** The above qualifying and selection process will apply equally to all special unit assignments, including Training & Development (T&D) positions. This process will not, however, apply to P TO selections.~~

7.14.03 The department retains the right to assign any Officer to any special unit position, outside of the above process, when the assignment is made for a specific purpose based on specific need that the Officer assigned can best address. The department will, upon request, verbally identify the specific skill set and the needs to be addressed as well as the time sensitive needs of the department. However, such assignments may be made for no more than one (1) year after which the Officer must have met the above qualifications and process to remain in that or any other special unit position.

Chief's Exemption - The Chief may select up to * * * **3% (of filled positions for Unit 4) of** sworn Officers**/**Specialists/Sergeants to serve in a special unit assignment without time limitations. Officers assigned under 7.14.03 are eligible for assignment under this sub-section. The selected Officer must have successfully completed probation and shall sign an acknowledgment of Section 7.14.01 (1) through (2). The department and the association will maintain a copy of the acknowledgment. **The Department shall maintain a means of tracking assignments made under the Chief's Exemption. A copy will be provided to FPOA.** Once the selected Officer leaves this special unit assignment, the Officer must meet the above qualifications and process to be eligible for any other special unit position as outlined in Section 7.14.01 (1) through (2).

7.14.04 Should there be insufficient candidates qualified through the above process to fill the positions available, the department may assign any Officer off of probationary status or Sergeant for Sergeant assignment(s) to the open positions as necessary to fill special units. Such assignments may be for no more than one (1) year for any Officer/Specialist/Sergeant so assigned, unless the Officer/Specialist/ Sergeant has subsequently met the qualifications as described above. Officers/Specialist /Sergeants shall be selected using departmental seniority beginning with the least senior Officers/Sergeants.

* * *

7.15 DURATION OF ASSIGNMENT - SPECIAL UNITS ONLY

7.15.01 Special Units (positions) are defined as all units (positions) outside of the patrol matrix.

7.15.02 Officers and Sergeants assigned to special unit positions shall generally be assigned for a minimum of two (2) years. Movement subsequent to assignment to a special unit is at the discretion of the Chief of Police for the good of the department, and may be accomplished either:

With the concurrence of the affected Officer or Sergeant, or with thirty (30) days notice to the affected Officer or Sergeant, except that those Officers/Sergeants assigned to investigative units and responsible for investigating felony crimes shall be provided sixty (60) days notice. Effective July 1, 2009, the notification shall not occur between November 1st and February 28th.

7.15.03 Normal movement under this Section (i.e., 7.15) is not appealable.

7.15.04 Special Unit Seniority and Bidding: Where the selection of shifts and/or assignments have been determined by seniority, seniority will be determined by all continuous time in the special unit.

For purposes of vacation bidding, department seniority will be used.

§§ deleted

7.16 CAREER DEVELOPMENT PROGRAM

Upon mutual agreement between the City and FPOA, a Career Development Program Exploratory Committee will be convened. The purpose of this committee will be to research and develop a recommendation for a program designed to prepare and assist members seeking advancement within the department to recognize and utilize existing skills and abilities, and to provide pathways for attaining specialized career assignments within the department. Areas for exploration may include evaluation of educational opportunities, lateral and promotional movement, training plans, job steps and the need for a rank between Officer and Sergeant, and/or between Sergeant and Lieutenant.

7.17 SENIORITY

7.17.01 Definitions: Seniority within rank and class shall begin upon the date on which an Officer receives a permanent appointment to a position in the class. A permanent demotion from a promotional position shall result in

loss of accrued seniority in the higher rank. A temporary demotion from a higher rank shall not result in loss of accrued seniority in the higher rank, but seniority in the higher rank will not accrue during the term of the demotion. A temporary demotion is defined as a demotion wherein the employee may be reappointed to the higher rank without a competitive process. The seniority of Police Officer/Police Officer Recruit who is hired on the same date shall be as follows:

(1) Placement on a promulgated eligible list by score will be the order of seniority.

(2) In cases where Officers/Recruits are hired from Entry Level Lists promulgated on different dates, those hired from the list promulgated first shall have seniority.

(3) Seniority for Police Cadet shall begin on the date they are sworn-in as Police Officer Recruit.

(4) When hired on the same day from a Lateral Police Officer List and Entry Level Police Officer List, the Lateral Police Officer will have seniority.

(5) When two (2) or more Officers have the same date of hire and no Police Officer promulgated list exists to determine seniority, the most senior will be determined by the Officer's permanent full-time date of hire as a City employee, and if not applicable, seniority will be determined by lottery. The results of the lottery shall be used to determine present and future seniority.

7.17.02 Vacation Selection: Vacation selection by division, section, district or shift, as determined by the department, shall be based upon, and determined by, seniority within the class.

7.17.03 Shift/Detail Assignments: The primary consideration in making shift or detail assignments shall be the needs of the department subject to the seniority provisions below.

(1) Patrol Matrix Assignments: Except as otherwise provided below and in Section 7.12.02 (Matrix Schedules), patrol matrix assignments shall be filled by seniority. Seniority for all work assignments subject to bid in the patrol matrix by Police Officer/Police Specialists shall be by date of hire as a Police Officer or, in the case of a Sergeant, the date of promotion. Any subsequent changes in patrol matrix assignments shall be accomplished as vacancies occur and not by "bumping" or

changing of previously existing assignments**.**

Exception: An Officer or Sergeant reassigned to the patrol matrix by the department without the consent of the Officer or Sergeant shall be assigned to a shift according to his or her seniority in that class.

(2) Department Reorganization/Personnel Reductions-Special Units: In the event of a departmental reorganization**,** or a reduction of personnel due to budget restrictions, which reorganization or personnel reduction causes the movement of special units, the * * * "last in first out" rule shall apply within any affected unit. * * *

7.18 FEDERAL DRUG POLICY (Federal Omnibus Transportation Employee Testing Act - "ACT")

Policy:

7.18.01 The City maintains two separate policies to distinguish those procedures required by the Federal Transit Administration and the Federal Motor Carrier Safety Administration, entitled:

Fresno Area Express Controlled Substances and Alcohol Testing * * * **Policy** for **"Safety-Sensitive" Employees/ Individuals Subject to Federal Transit Administration (FTA) Regulations**, * * * which may be amended from time to time, after compliance with applicable collective bargaining laws.

City of Fresno Controlled Substances and Alcohol Testing * * * **Policy for "Safety-Sensitive" Employees/Applicants Subject to** Federal Motor Carrier Safety Administration **(FMCSA) Regulations**, which may be amended from time to time after compliance with applicable collective bargaining laws.

7.18.02 The parties agree that each policy sufficiently summarizes the current federal regulations required by the ACT. Both policies will be distributed to every affected member of the Fresno Police Officers Association Non-Supervisory Police Unit upon implementation or amendment of the policies, and at the time of training and orientation.

7.18.03 The parties acknowledge that there currently exists a list of positions subject to the provisions of the two policies: "(a) Controlled Substances and Alcohol Testing Regulations, Fresno Area Express, (b) Controlled Substances and Alcohol Testing Regulations, Federal Motor Carrier Safety Administration", and should these positions be changed or

modified, the parties agree to establish a new list of positions which are subject to these two policies pursuant to the ACT and the Department of Transportation. As personnel changes within these positions, the parties agree that the Department will give notice to the Association and the Risk Management Division of such changes.

7.18.04 The Risk/Safety Manager will be responsible for receiving all information related to the implementation of this policy and directing the applicable disciplinary action in coordination with the Labor Relations Manager.

7.18.05 The parties agree to abide by the federal regulations set forth in each policy. Employees who are members of the Association will also be subject to the provisions of any applicable Department Standing Order, policy or procedure.

7.18.06 Last Chance Agreements do not apply to members of the Association. As required by federal law, employees who have tested positive and who have returned to work, will still be subject to random selection for testing and will be subject to six additional tests for drugs and alcohol during the subsequent year.

7.19 GENERAL TESTING GUIDELINES FOR EMPLOYEES NOT COVERED BY THE FEDERAL OMNIBUS TRANSPORTATION EMPLOYEE TESTING

General Requirements

Drug and substance tests may also be required under Departmental Policy and Procedures, as the same may be modified following consultation with the Association pursuant to FMC 3-607.

7.19.01 Whenever a member is assigned to a special unit engaging in drug or vice enforcement, such member shall execute a written agreement and release stating full consent, and would be required to take a drug test.

7.19.02 In the event the City provides an annual scheduled physical, all members shall be required to submit to a drug test.

7.19.03 Sworn members while assigned to any special unit engaging in drug or vice enforcement shall be required to periodic unannounced drug tests. Subject to the following conditions:

A member shall execute a written agreement and release stating full consent to such periodic unannounced drug tests.

At the request of the Commander of the Management Support Bureau, the City of Fresno Risk/Safety Manager shall select and

schedule the date and time when each member will be tested. Such test may be administered no more than once a year.

Under this subsection, any random testing without notice will be in compliance with applicable court decisions.

7.19.04 All drug testing noted above will be performed in accordance with the Federal Omnibus Transportation Act, except in those instances where members are unable to provide a urine sample such members may elect to provide a blood sample. It is understood that if a member cannot provide a sufficient sample or, in the alternative, refuses to provide a blood sample, the test shall be considered to be positive.

In addition to any testing requirements contained in this MOU provision, all members are subject to the "Identification and Consent Procedures" outlined in Administrative Order 2-25, along with its corresponding testing procedures.

7.20 ADMINISTRATION OF PERSONNEL ACTIONS

During the term of this MOU, the Chief of Police or designee shall administer personnel actions, including but not limited to, the areas of grievances, administrative hearings, Skelly hearings and discipline.

7.21 DISCIPLINARY PROCEDURES

Department Policy and Procedure #340, as well as the FMC, City Administrative Orders, policies, procedures, operation manuals, rules and regulations, all as the foregoing exist during the term of this MOU, concerning disciplinary procedures will apply. However, any permanent member receiving a Final Order of Disciplinary Action resulting in a termination, demotion or suspension of one hundred-twenty (120) hours or more may, in lieu of submitting an appeal through established means per their respective procedures, within fifteen (15) calendar days of service of the Final Order of Disciplinary Action request binding arbitration. If a request for binding arbitration is submitted by a member or their representative, the member or their representative shall be required to provide a written waiver of their right to bring the matter through any other established means, including an appeal to the Civil Service Board. The arbitrator shall regulate the conduct of the hearing process. The arbitrator shall set the date, time and place of the hearing, which place shall be on City premises, and shall, by certified United States mail, postage prepaid, give not less than ten (10) days notice of such date, time and place to the appellant, or the appellant's designed representative and the appointing authority. The hearing shall be recorded by a court reporter or electronic process. Oral evidence may be heard only on oath or affirmation. The arbitrator's decision shall be final and binding, and may be

challenged only pursuant to the California Arbitration Act, Code of Civil Procedure Sections 1280 et seq.

The fees and expenses of the arbitrator shall be paid half by the City and half by the Association.

The parties shall endeavor to prepare a mutually agreed panel of seven (7) arbitrators to be utilized for the purposes of discipline arbitrations. In the event that the parties fail to identify a panel of agreed upon arbitrators, the arbitrator shall be selected from a list of seven (7) arbitrators provided by the California State Mediation and Conciliation Service. If the parties cannot agree on an arbitrator from the list of seven, the parties shall alternatively strike names until a single arbitrator's name remains.

7.22 IN LIEU OF SUSPENSION

By mutual agreement between the Chief or designee and the affected member, a member suspended from duty without pay may forfeit accumulated holiday, CTO, and/or vacation credits equal to the number of hours of suspension in lieu of the suspension. If the suspension is reduced or reversed at the conclusion of the appeal process, the City shall reinstate the appropriate amount of forfeited credits. This provision is not subject to the grievance procedure.

7.23 USE OF A HEARING OFFICER IN DISCIPLINARY ACTION INITIATED BY CITY

Members may elect the alternate appeal procedure before a Hearing Officer instead of a hearing before the Civil Service Board, as provided in FMC Section 3-283.

7.24 ADMINISTRATIVE HEARING PROCEDURE

It is the purpose and intent of the City and the Association to provide for an administrative appeal procedure for a member to appeal "punitive action" which is proposed to be taken against him/her for which an appeal is not otherwise provided under the Charter or the Civil Service Rules. For purposes of this section "punitive actions" are defined as written reprimands, reduction or loss of base salary, and transfer/reassignment, when it results in a loss of base salary or is used as punishment. This section is not subject to the grievance procedure.

7.24.01 Where the department proposes "punitive action" (as defined above), the affected member shall be advised, in writing, of the department's proposed action no less than ten (10) calendar days before the proposed effective date of the action.

7.24.02 Any dispute between the parties as to whether the action is "punitive" shall be presented to the Chief of Police or designee. If the Chief is directly involved in the action it shall be presented to the Administrative Hearing Committee as defined in 7.24.04, below. The Chief or designee or the Committee shall rule on the dispute before proceeding with a hearing. If the Chief or designee or the Committee find no punitive action then the member shall not be entitled to a hearing.

7.24.03 The member shall have ten (10) calendar days after receipt of the notice to respond, either orally or in writing, to the appropriate division commander. An appeal from a member shall suspend the proposed punitive action until the conclusion of this procedure.

7.24.04 The division commander has ten (10) calendar days to respond. If he or she upholds the proposal or modifies it in a manner unacceptable to the member or fails to respond within the specified time period the member shall have ten (10) calendar days to appeal, either orally or in writing, to the Chief of Police or designee.

The Chief or designee is disqualified from hearing the appeal if the Chief or designee has been directly involved in the disputed action. If the Chief or designee is disqualified, it will be heard by an administrative Hearing Committee. The Committee will be comprised of one representative from the Association and one from the City. A third member from the department will be selected and mutually agreed upon by both parties and will act as Chairperson.

7.24.05 The Chief or designee (or the Administrative Hearing Committee) shall hear the appeal within ten (10) calendar days of receipt of the notice of appeal. When the action is heard by the Committee, the Committee will make a recommendation to the Chief or designee within three (3) calendar days. The Chief or designee shall render a written decision to affirm, reject, or modify the Committee's decision within ten (10) calendar days after the hearing. The written decision shall set forth the basis for the decision, the action to be imposed and the effective date thereof. The decision of the Chief or designee shall be final.

7.24.06 The time limits above may be mutually waived by the parties.

7.25 GRIEVANCES

7.25.01 <u>Grievance Procedure</u>

A grievance is a dispute concerning the interpretation or application of any existing City policy, practice, written rule or regulation governing

personnel practices or working conditions, including this MOU. The grievance procedure relates only to existing rights or duties, not to the establishment or abolition of a right or duty. This procedure shall not apply to any dispute for which there is another established resolution procedure, including but not limited to, appeal to the Civil Service Board, or Retirement Board. A grievance can be initiated by any grieved employee or group of grieved employees, or by the Association on behalf of a grieved employee or group of grieved employees. Grievances should be settled as near as possible to their source and in as informal a setting as possible.

7.25.02 Informal Process

The grievant (this term includes the Association) must first attempt to resolve the grievance on an informal basis through discussions with the immediate supervisor without undue delay. The informal process must be completed within twenty (20) calendar days after the occurrence of the alleged incident giving rise to the grievance, or when the grievant knew or should have reasonably become aware of the facts giving rise to the grievance.

If the grievance is not resolved at the immediate supervisor level, the grievant may attempt to resolve the grievance on an informal basis through discussions with the next levels of supervision, following the chain of command up to the Deputy Chief of Police.

Every effort shall be made to find an acceptable solution to the grievance through this informal process. Once the informal process has been exhausted, the grievant may invoke the formal process.

7.25.03 Formal Process

A written grievance must set forth the specific rule, regulation, policy, practice, or MOU provision claimed to have been violated, describe the specific incident or circumstances of the alleged violation, and specify the remedy sought.

7.25.04 Formal Filing Procedure

The procedure and sequence in filing and processing a grievance shall be as follows:

(1) Step One - Filing the Grievance:

The grievant or representative may file the formal grievance within ten (10) calendar days from the last day of the informal process through the grievant's immediate supervisor to the Chief of Police or designee. The grievance shall summarize the results of the informal process. If the Association has not previously been involved, a copy of the grievance shall be submitted to the Association. The grievant or the Association may request to have a meeting regarding the grievance with the Chief of Police or designee in an attempt to resolve the concerns at this level. If no request for a meeting is made, and upon receipt of the written grievance, the Chief of Police or designee shall give the grievant a written reply within fourteen (14) calendar days.

(2) Step Two - Request for Arbitration:

If the grievant is not satisfied with the decision of the Police Chief or designee, only the Association may within ten (10) calendar days after receipt of the written reply, file a request for arbitration utilizing the written grievance and submitting it to the Labor Relations Manager. The Association shall be limited to two (2) such requests for arbitration per fiscal year on a grievance that involves a dispute concerning the interpretation or application of an existing City policy, practice, written rule or regulation. There shall be no limitation on requests for arbitration dealing with MOU interpretation or application. Any request for arbitration that does not meet the requirements of this subsection shall not be processed, and such grievance concludes at Step One above.

(3) Step Three -Arbitration and Immediate Arbitration:

Within five (5) calendar days from the receipt of the arbitration request, either party may request the State Mediation and Conciliation Service to submit a list of five (5) neutrals. These neutrals will be statewide experts in the field of labor relations.

Within five (5) calendar days upon receiving the list, the Labor Relations Manager and the Association shall alternatively strike a

name from the list, and the last name remaining shall be designated as the neutral arbitrator.

The arbitrator selected shall submit the earliest date(s) in which the arbitrator can hold the hearing, of which the Association and the Labor Relations Manager can mutually select a date.

The arbitrator shall hold a hearing on the issue or issues submitted, or as determined by the arbitrator if the parties have not mutually agreed upon the issue, or issues, and render a written decision and reasons for the opinion within thirty (30) calendar days following the closing of the hearing, unless the period has been mutually extended in writing by all parties. The decision shall be sent to the City Labor Relations Manager and to the Association.

The arbitrator's decision shall be final and binding, and may be challenged only pursuant to the California Arbitration Act, C.C.P. Sections 1280, et sequentes.

Immediate Arbitration - Either party (City or the Association) may waive the grievance procedure time limits specified in this subsection (i.e.,7.25.04) and proceed to immediate arbitration in any case where the party alleges that the other is threatening to take an action in violation of the MOU in so short a period of time as to disallow the party from proceeding within the time limits of this subsection (i.e., 7.25.04). To put it another way, immediate arbitration may be sought by either party where there is "no adequate remedy at law," or where normally a party would be entitled to seek injunctive relief. However, the method of proceeding to immediate arbitration must be done consistent with the following provisions.

The arbitration shall take place no earlier than the fifteenth (15th) day following the request by the grieving party for such "immediate arbitration," unless otherwise mutually agreed. During the two-week period (14 calendar days) immediately following the request for immediate arbitration, the responding party shall have the opportunity to attempt to resolve the dispute.

If the City is the responding party, the Chief of Police and Director of Personnel Services, or their designated representatives, jointly, shall have the opportunity to meet with or otherwise communicate with appropriate Association representatives, in an attempt to resolve the dispute.

Once the request for immediate arbitration is filed, the parties shall (even though dispute resolution discussions are going on during the two-week period) attempt to agree upon a neutral arbitrator and to obtain a date for arbitration hearing as soon as possible immediately following the two-week period.

The parties will attempt to have a standing list of available "immediate arbitrators," but if no agreement on same is reached, the parties will obtain five arbitrators, by telephone, if possible, from the State Mediation and Conciliation Service. The first arbitrator available to hear the matter following the two-week period shall be selected as arbitrator. The order of contacting the potential arbitrators shall be determined by lot unless mutually agreed to otherwise. The parties are free to mutually agree upon an immediate arbitrator through any other process or agreement.

In any case, the arbitrator selected to decide the grievance shall have the full and equitable power to frame a decision, including an order to the party initiating the grievance to abide by the time limits provided in the grievance procedure, or a restraining order against the party threatening the action, or any other form of arbitration order that would resolve the matter in an equitable and just manner. However, the arbitrator may not add to, subtract from, change or modify any provision of this MOU and shall be authorized only to apply existing provisions of this MOU to the specific facts involved and to interpret only applicable provisions of this MOU.

Unless the parties agree otherwise, closing argument shall be presented orally and there shall be a "bench" decision.

The parties shall attempt to have the arbitration proceedings completed as quickly as possible, including by meeting nights and weekends, if at all feasible.

(4) General Arbitration/Immediate Arbitration Provisions:

An arbitrator shall have, in the arbitrator's discretion, the ability to hear evidence on both arbitrability and on the merits at the same hearing, holding for a later ruling on the issue of arbitrability.

Time limits set forth in the formal process may be modified by mutual agreement of the grievant or representative and the department or City. Failure of the grievant to file an appeal within

the specified time limit for any but the first step of the procedure shall constitute an abandonment of the grievance.

The cost of making a stenographic record of the arbitration hearing shall be borne by the party requesting such records. There shall be no post-hearing briefs, except by mutual agreement.

The fees and expenses of the arbitrator shall be paid half by the City and half by the grievant; however, the arbitrator may order that the City or the grievant pay the total of such fees and expenses should the arbitrator find that, but for the unreasonableness of a party's posture, the convening for arbitration would not have been necessary.

Witnesses who are employees and on duty at the time of the scheduled appearance shall be released from duty without loss of compensation for the time required to testify. No overtime payments shall be made because of scheduled appearances.

Individual grievants shall be released from duty without loss of pay for the time of the arbitration hearing. A representative shall be permitted to be present without loss of compensation on behalf of the grievant.

Arrangements for release time for grievant's witnesses shall be made with the Labor Relations Manager, who shall issue all appearance notices no later than 24 hours in advance of the scheduled hearing.

No employee shall be discriminated against, harassed, coerced, or suffer any reprisal because of filing or processing of a grievance or participating in a grievance procedure.

CHAPTER 8

POLICING SPECIAL EVENTS AND CONTRACT LAW ENFORCEMENT SERVICES

This MOU chapter sets forth the full and entire understanding of the parties regarding policing special events and contract law enforcement services.

8.1 GENERAL

The Fresno Police Department, at the sole discretion of the Chief of Police, may allow private parties and public agencies to contract with the City for additional police service, at a special detail assignment level pursuant to 29 U.S.C. 207 (p)(1), (p)(2) and (p)(3), and 29 C.F.R. 553.227 et sequentes. The special detail assignment(s) performed by Police Officer/Police Specialist/Police Sergeant classes (hereinafter member[s]), shall consist of, but not be limited to, providing uniformed foot/vehicle patrol to a special events/contract law enforcement services event at the discretion of the Chief of Police.

8.2 PROCEDURES

8.2.01 Members assigned to special events/contract law enforcement services shall be volunteers selected from a special events and contract law enforcement services assignment list **("assignment list")**. The number and rank of the members assigned shall be determined by the Chief of Police, or designated representative. The Chief of Police may restrict a member from working extra duty for the good of the department.

(1) Members who desire to be placed on the assignment list must have completed their probation. **In the event that a member is on probation, that member may work special events and contract service assignments only when:**

(a) After all non-probationary employees have been offered the opportunity; and

(b) Under the supervision of a Sergeant assigned to the specific special event or contract law enforcement service assignment.

Members on sick leave, industrial injury leave, "temporary light duty," or leave of absence shall not be eligible **to be placed on the assignment list**.

(2) The assignment list shall be the basis for all member assignments. Members who desire to be placed on the assignment list shall notify the Chief's designated representative. All Members on the assignment list shall be notified by City e-mail and may include one optional personal e-mail account when policing special events and/or contract law enforcement services positions are available. The member shall have seventy-two (72) hours to respond to the Chief's designated representative, via City e-mail only, listing desired assignment(s) in order of preference.

(3) Positions shall be filled using the following process. The Chief's designated representative will sequentially number the e-mails, starting with the first member responding from the assignment list, and so on. The designated representative will then use computer spreadsheet software programmed to select a random number drawn from the sequential numbers assigned to the responding members. The random number selected will be the starting point for making assignments, and for filling the positions. If the positions are not filled after through the entire list of numbers, the designated representative will continue through the list again, and so on, until all positions are assigned or a subsequent notification is issued.

(4) Members who receive an assignment for special events/contract law enforcement services shall receive an e-mail notification containing: the date of the contract, the hours, the location, and the unit detail for the special events/contract law enforcement services event, any additional Officer(s) assigned to the same event, contact information for the event, and vehicle information. Any member who submits a request to work a contract assignment and is subsequently awarded a contract assignment shall not cancel their contract assignment to voluntarily work a department overtime assignment or AWS assignment that is awarded after the contract assignment.

8.2.02 Any member who fails to appear for assignment or fails to notify the designated representative of his/her inability to work the assignment, 24-hours prior to the beginning of the assignment schedule, shall be removed from the assignment list. Any member who is removed from the assignment list shall not be eligible for reinstatement to the assignment list for a period of * * * **ninety (90) days**. Removal from the assignment list shall not be deemed a disciplinary action pursuant to Civil Service Board rules or a punitive action pursuant to Government Code Section 3303 (h), and is not appealable or grievable.

Members performing special events/contract law enforcement services assignments shall be subject to all rules, orders, and procedures of the Police Department.

In no event shall a member performing special events/contract law enforcement services work be assigned to a job site where a labor union picket line has been established.

8.2.03 Once a Contract for Law Enforcement Services has been formally executed, Reserve Officers shall not be used to replace sworn members for policing special events and contract law enforcement services. In the event a Fresno Municipal Code ordinance concerning policing special events/contract law enforcement services is amended by Council, the parties agree to reopen meet and confer on this subsection (8.2.03) at the request of either the City or the Association. Requests for special events policing and/or contract law enforcement services will first be filled by volunteer members available through the assignment list. If no volunteer members are available, the vacancies may be filled by Reserve Officers.

8.2.04 Generally, calls for service within the special events and contract law enforcement services policing areas may be handled by regularly assigned FOD area patrol units. However, members performing special events and contract law enforcement services may be assigned to handle calls for service that are consistent with the duties requested by the contracting party.

8.2.05 Officer working conditions for the Big Fresno Fair shall be established by mutual agreement between the Big Fresno Fair, City of Fresno and the Association, and shall be reflected in a corresponding agreement between the parties.

8.3 COMPENSATION

8.3.01 The rate of pay for members occupying Police Officer/Police Specialist classes who are working special events and contract law enforcement services assignments shall be at the time and one-half rate for “C” Step Police Officer. **When the Master Fee Schedule is amended as part of the annual update, the fee for special events and contract law enforcement will be amended to reflect reimbursement at time and one half for “D” Step Police Officer.** The rate of pay for members occupying the Police Sergeant class who are working special events and contract law enforcement services assignments shall be at the time and one-half rate for “C” Step Police Sergeant**. When the Master Fee Schedule is amended as part of the annual update, the fee for**

special events and contract law enforcement will be amended to reflect reimbursement at time and one half for "D" Sergeant. Compensation for Officers/Sergeants for all special events detail assignments worked at the Big Fresno Fair shall be by separate check no later than the last pay period in November of the year the Big Fresno Fair special events detail assignment is worked.

8.3.02 The hours worked, and pay received for special events and contract law enforcement services assignments, shall not be credited toward years of service for retirement benefits or regular overtime. Educational incentives shall not apply to the special events and contract law enforcement services assignment rate of pay. When a vehicle has been requested, one half (1/2) hour of time shall be added to the beginning time of the contract to allow for vehicle check out/in.

8.3.03 The parties agree that for the purpose of FLSA regulations, compensation paid for working special events and contract law enforcement assignments is at the applicable overtime rate, and shall not be considered compensation for pension plan benefits calculations.

8.3.04 A member reporting to an assignment site shall receive a minimum of four (4) hours pay regardless of actual time worked. Employment of more than four (4) hours shall be paid to the nearest tenth of an hour for the actual time worked.

8.3.05 Any accident, illness or injury which arises out of or occurs in the course of employment in a policing special events and contract law enforcement services assignment shall be covered under the city's workers' compensation plan pursuant to Section 7.7.

CHAPTER 9

HEADINGS

MOU chapter, provision, and paragraph headings (includes exhibits, addendums, attachments and side letters) contained herein are solely for the purpose of convenience, and shall not affect the construction or interpretation of any of the language of this MOU.

CHAPTER 10

SAVING CLAUSE/FULL UNDERSTANDING

10.1 SAVING CLAUSE

In the event any chapter, section or portion of this MOU should be held invalid and unenforceable in any court of competent jurisdiction, such decision shall apply only to the specific chapter, section or portion thereof specified in the court's decision, and upon issuance of such a decision, the City and the Association agree to immediately meet and confer upon a substitute for the invalidated chapter, section, or portion thereof.

10.2 FULL UNDERSTANDING

It is intended that this MOU sets forth the full and entire understanding of the parties, and any previous understanding or agreement by the parties regarding all such matters are hereby superseded and terminated in their entirety.

With respect to side letter agreements, any not attached to this MOU are hereby terminated in their entirety. Those side letter agreements attached to this MOU shall continue in force subject to the terms and conditions set forth within each side letter. In the absence of any specified term in any such side letter, they shall terminate upon the expiration of this MOU. Any new side letter agreement entered into during the term of this MOU shall continue in force and effect subject to the terms and conditions described in the side letter. In the absence of any term in such new side letters, they, too, shall terminate upon the expiration of this MOU. This paragraph is not intended to prevent either party from relying on discussions which occurred during the meet and confer process for the purpose of clarifying the meaning of this MOU.

CHAPTER 11

TERMINATION

The provisions in this **Amended** Agreement/MOU shall be in full force and effect from **June 26, 2017** through June **23, 2019** upon approval by the City, subject to Section 11.1, below.

11.1 This **Amended** Agreement/MOU shall become effective only after ratification by the members of the Association followed by City approval and the expiration of the waiting period for the Mayor's action provided in Charter Sections 605 and 609, and shall remain in full force and effect through June **23, 2019**. **All other prior memoranda of understanding, including amendments and side letter agreements thereto, are null and void, unless specifically incorporated by reference in this Amended Agreement/MOU.**

(Incorporated from 9/30/10 Side Letter Agreement Re: Compensation and Benefits Re-Opener.) The City and the Association previously agree**d** that the Mayor shall appoint one (1) Police Officer, as defined in Fresno Municipal Code ("FMC") Section 3-301 (p) (3) from a City management position and one (1) firefighter as defined in FMC Section 3-301 (f) from a City management position as voting members to the Fresno Fire and Police Retirement Board under the authority as described in Section 3-305 (a) (1) of the FMC. In the event any individual(s) so appointed fails to qualify, resigns, retires, or no longer qualifies to serve on the Board, the Mayor subject to the approval of the City Council shall appoint a replacement under the terms and provisions of this agreement within twenty (20) business days. If a decision is approved by the Fire and Police Retirement Board to separate the commingled investments of the Fresno Fire and Police Retirement System and the Fresno Employees Retirement System, this agreement on Mayoral appointments to the Fire and Police Retirement Board shall immediately become null and void and the appointment provisions contained in FMC Section 3-305 shall apply.

11.2 During the life of this **Amended** Agreement/MOU should either party desire to modify its terms or to meet and confer with the other party as to matters within the scope of representation which are not addressed in this MOU, the party requesting any change shall request in writing to meet and confer on the item(s), which item(s) shall be specified in writing.

11.3 During the term of this **Amended** Agreement/MOU, either party may refuse any request by the other to meet and confer without explanation if (1) the item is directly considered and specifically addressed herein; or (2) is directly considered and specifically addressed in any FMC section, charter section or provision, or resolution section, which section specifically establishes wages, hours, or other terms and conditions of employment; or (3) the specific item was included in an initial written proposal from the party making the request during the meet and confer process which led to this agreement. No unilateral action on any such refused proposal may be taken by the requesting party after such a refusal by the other.

It is further agreed, however, that this section shall not prohibit the City from requesting to meet and confer on changes to federal or state statutes referred to or cited in this **Amended** Agreement/MOU, and which impacts the implementation of this **Amended** Agreement/MOU, in which case the request to meet and confer shall not be refused.

11.4 **Reopeners/Meet and Confer**

(1) The parties agree to a limited reopener in January 2019 on economic provisions in the MOU. Upon mutual agreement the parties may begin discussions earlier but in any case no earlier than September 2018.

(2) The parties agree to meet and confer over:

Revisions to the Personnel provisions of the Fresno Municipal Code (FMC), Chapter 3, Article 1;

Revisions to the Civil Service Regulations of the FMC, Chapter 3, Article 2; and,

Revisions to the Employer-Employee Relations provisions of the FMC, Chapter 3, Article 6.

(3) If either party desires to revise the Performance Evaluation Form, the parties agree to meet at a mutually convenient time for the express purpose of discussing the changes. Any changes to the performance evaluation form require mutual agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 2017.

FOR THE FRESNO POLICE OFFICERS ASSOCIATION:

ROCKNE LUCIA, ESQ.
Chief Negotiator, FPOA Legal Counsel

DAMON KURTZ
President

TODD FRAIZER
First Vice President
Services

GARY BEER
Second Vice President

ISRAEL REYES
Business Representative

STEVE LATHAM
Business Representative

BRIAN BOOTH
Business Representative

FOR THE CITY OF FRESNO

JONATHAN HOLTZMAN, ESQ.
Chief Negotiator, Special Council

KEN PHILLIPS
Labor Relations Manager

TJ MILLER
Assistant Director, Personnel

ROBERT NEVAREZ
Deputy Police Chief

LYDIA CARRASCO
Deputy Police Chief

STEPHANIE MARTINEZ
Management Analyst

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: _____
Assistant City Attorney

EXHIBIT I

TABLE I NON-SUPERVISORY POLICE – UNIT 4 SALARIES – EFFECTIVE JUNE 26, 2017							
CLASS TITLE	A	B	C	D	E	F	G
Police Officer Recruit	4569	4798	–	–	–	–	–
Police Officer	5279	5543	5821	6112	6418	6740	7077
Police Specialist	5279	5543	5821	6112	6418	6470	7077
Police Sergeant	6363	6681	7016	7367	7736	8124	8531

TABLE II NON-SUPERVISORY POLICE – UNIT 4 SALARIES – EFFECTIVE JUNE 25, 2018							
CLASS TITLE	A	B	C	D	E	F	G
Police Officer Recruit	4707	4942	–	–	–	–	–
Police Officer	5438	5710	5996	6296	6611	6943	7290
Police Specialist	5438	5710	5996	6296	6611	6943	7290
Police Sergeant	6554	6882	7227	7589	7969	8368	8787

EXHIBIT II – EIP MASTER LIST

Name		Hire Date	Eligibility Required	Eligibility Date	%
Attkisson,Craig A		020184	Hard-coded	NA	3.0 %
Boyer, Peter		092793	Enrolled	010197	
Brown, Paul R		121686	Enrolled	010197	
Cardenas, Eppie		101686	Tuition reimbursement	110995	
Chamalbide,Gerardo		052695	Hard-coded	010197	3.0 %
Chandler, Sheila		021690	Enrolled	070196	
Chastain, Curt		010187	Enrolled	010197	
Fleischmann Jr,Nicholas		060696	Hard-coded	010197	3.0 %
Flores,Sherree L		050179	Hard-coded	062894	3.0 %
Franks, Chris		022093	Tuition reimbursement	013197	
Galvan, John		041686	Enrolled	010193	
Goertzen,Douglas S		092793	Hard-coded	010197	3.0 %
Gomez,Michael A		010187	Hard-coded	NA	3.0 %
Grimm, Ronald		121693	Eligible	NA	
Hahn,Timothy P		121693	Hard-coded	122895	3.0 %
Heinzman,Pamela J		041690	Hard-coded	NA	3.0 %
Hudson, Mark		070189	Tuition reimbursement	012496	
Hustedde,Larry N		052893	Hard-coded	010197	3.0 %
Jacobs,Nina C		100184	Tuition reimbursement	NA	
Keeney, Mark		081489	Enrolled	010192	
Lincoln, Robert W		010590	Enrolled	010197	
Mercado, Andy		011882	Enrolled	010193	
O'Dell,Ritchie B		101794	Hard-coded	010197	3.0 %
Owen,Bruce C		011688	Hard-coded	062894	3.0 %
Pinedo,John M		091688	Hard-coded	NA	3.0 %
Pool,Kirk W		101684	Hard-coded	NA	3.0 %
Potts, Michael		101794	Tuition reimbursement	071196	
Ramsey,David L		121895	Enrolled	010197	3.0

					%
Reese,Douglas G		010187	Tuition reimbursement	021095	3.0 %
Reynolds, Robert		101794	Enrolled	010197	
Robinson,David F		020184	Hard-coded	NA	3.0 %
Rogers, Brian		070189	Enrolled	070191	
Smith, Clayton		102279	Enrolled	070192	
Stevens,Bradley W		012582	Hard-coded	010197	3.0 %
True,Gerald M		060186	Hard-coded	061591	3.0 %
Wilson Jr,George H		121394	Hard-coded	071196	3.0 %

NA=Not Available EIP Master List subject to modification based on changes to %, separation, promotion or retirement.

Exhibit III

Side Letter of Agreement
Between
City of Fresno
And
Fresno Police Officers Association

Lateral Hire Incentives

The City of Fresno and the Fresno Police Officers Association (FPOA), representing Unit 4, Non-Management Police, have met and conferred, and have agreed to renew and amend the following incentive plan for Fiscal Year 2018.

- To be eligible for the below hiring incentives, a qualified lateral police officer candidate ("Eligible Lateral Hire") must, at the time of filing the employment application: (1) be currently working for another California law enforcement agency, (2) have two years' experience as a full-time peace officer in California, and (3) possess a current California P.O.S.T certificate. Lateral officer hires with prior full-time Fresno Police Department experience are not eligible under the terms of this Agreement unless they have a minimum of two years separation from the Fresno Police Department as a full-time peace officer and have met the requirements of (1) and (3) described above for Eligible Lateral Hires, in which case they will be deemed an Eligible Lateral Hire for purposes of this hiring incentive plan.

- Upon hire, an Eligible Lateral Hire will be provided with forty (40) hours of vacation time into their vacation leave bank and forty (40) hours of sick leave time into their sick leave bank, to be used as outlined in the Basic Unit MOU and City policy.

- Effective July 1, 2017, any employee who served as a peace officer with another agency immediately prior to employment with the City of Fresno will be credited with years of sworn service in such previous employment solely for the purpose of determining vacation accruals on a prospective basis after certification of the prior years of sworn service.

- Upon hire and commencement of work as a Police Officer with the City of Fresno, an Eligible Lateral Hire from another law enforcement agency will receive a two thousand, five hundred dollars ($2,500) hiring incentive payment. This incentive is not compensable for retirement purposes.

- Upon successful completion of the field training program, as determined by Police Administration, the Eligible Lateral Hire will receive two thousand, five hundred dollars ($2,500) hiring incentive payment. This incentive is not compensable for retirement purposes.

Upon successful completion of the probationary period as a Police Officer, the Eligible Lateral Hire will receive a two thousand, five hundred dollars ($2,500) hiring incentive payment.

- This incentive is not compensable for retirement purposes.

- Upon successful completion of an additional twelve months of City service following the successful completion of the probation period, the Eligible Lateral Hire will receive

a two thousand, five hundred dollars ($2,500) hiring incentive payment. This incentive is not compensable for retirement purposes.

- Eligible Lateral Hires will be hired at no less than “C” Step of the Police Officer salary range.

- The City retains the right and exclusive authority to offer step placement above C Step of the Police Office salary range based on the Eligible Lateral Hire’s qualifications and other factors such as current salary. The salary range placement shall be included in the conditional employment offer letter provided to the lateral officer.

- Current Fresno Police Officers who refer an Eligible Lateral Hire will receive an incentive of up to a total of one thousand dollars ($1,000) for hired and retained in increments of two hundred fifty ($250) at the time the Eligible Lateral Hire receives the particular hiring incentive(s) outlined above. The referral incentive for current Fresno Police Officers is not compensable for retirement purposes.

- Only one current Fresno Police Officer can be identified as the referring officer for each Eligible Lateral Hire for purposes of the referral incentive outlined above. The current Fresno Police Officer referring the Eligible Lateral Hire must be identified in writing by the Eligible Lateral Hire at the time the application for employment is submitted to obtain the referral incentive. Referring Fresno Police Officers may not receive more than five (5) referral incentives per fiscal year.

This Agreement will be effective July 1, 2017, and will expire June 30, 2018, unless the FPOA and City mutually agree to extend this Agreement in writing.

FOR THE FRESNO POLICE OFFICERS ASSOCIATION:

_____
DAMON KURTZ
FPOA President

FOR THE CITY OF FRESNO:

_____
KENNETH G. PHILLIPS
Labor Relations Manager

_____
JERRY DYER
Police Chief

Date: _____

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: _____
Assistant City Attorney

EXHIBIT IV

City of FRESNO

POLICE DEPARTMENT

June 13, 2017

TO: JEFF CARDELL, Director
Personnel Services

FROM: JERRY P. DYER, Chief of Police
Police Department

SUBECT: CHIEF DESIGNATION OF UNITS THAT RECEIVE PREMIUM PAY

The following units are currently authorized to receive premium pay (per MOU 7.4):

- Career Criminal Auto Theft (CCAT)
- MAGEC
- Street Violence Bureau Tactical Team (SVB-TT)
- Vice/Intelligence
- Gun Crime Unit
- Traffic Unit
- Hit & Run Unit
- Special Events Unit Sergeant
- Collision Reconstruction Unit (CRU)
- Skywatch
- Special Response Team (SRT)
- Student Neighborhood Resource Officers (SNRO)
- Mounted Unit/Sergeant
- Adult Compliance Team (ACT)
- Alcoholic Beverage Control (ABC)
- Customer Service Unit (CSU)
- Downtown Policing Unit
- Employee Services (Officer Al Hernandez)
- Recruitment Unit

JPD/ran

Memo shall be updated and added to the MOU as list of units receiving premium is revised.

FRESNO POLICE DEPARTMENT

EXHIBIT V
REPORT OF PERFORMANCE FOR SWORN EMPLOYEES

____ Month Probationary Evaluation
_____ Annual Evaluation
_____ Exit Evaluation

Prepared by: _____

DATE: **EVALUATION PERIOD** **FROM TO**	**EMPLOYEE:** **RANK:** **ASSIGNMENT:**

Ratings**:** (1) Unacceptable, (2) Needs Improvement, (3) Meets Standards, (4) Exceeds Standards, (5) Outstanding

Key Objectives:

Criteria	1	2	3	4	5
Customer Satisfaction: Works well with the public and with relationship with other agencies and organizations.					
Employee Satisfaction: Cooperates with co-workers, supervisors.					
Financial Management: Uses available resources, technology and equipment effectively.					

Values (ACT IT)

Accountability: By this we mean that we take personal responsibility for our actions.
Compassion: We care about and respect people.
Trust: We mean we believe in each other.
Innovation: Seek new and creative ways to improve our business.
Teamwork: We work together to achieve our Vision.

Job Knowledge, Skills & Proficiency: Consider the employee's knowledge of department procedures and regulations, understanding of the scope of assigned duties and the ability to perform those duties as directed.					
Quality and Accuracy of Work: Consider the accuracy, neatness and thoroughness of work produced, and the oral and written expression of assigned duties.					
Decision Making/Problem Solving: Consider the employee's ability to identify problems, develop and implement solutions to impact the problems, and the achievement of desired results.					
Acceptance of Responsibility: Consider the employee's motivation to seek and complete assignments without undue supervision.					
Appearance: Consider the employee's professional appearance and image, proper grooming, and cleanliness of duty attire.					
Attendance: Consider the employee's attendance and punctuality.					
Compliance with Regulations: Consider the employee's compliance with department procedures and policies and willingness to follow instructions.					

FRESNO POLICE DEPARTMENT

REPORT OF PERFORMANCE FOR SWORN EMPLOYEES

____ Month Probationary Evaluation
_____ Annual Evaluation
_____ Exit Evaluation

Prepared by: _____

DATE: **EVALUATION PERIOD** **FROM TO**	**EMPLOYEE:** **RANK:** **ASSIGNMENT:**

Performance of Duties: Accepts assignments and follows through in a timely, effective, efficient and appropriate manner to meet deadlines with minimum supervision. Demonstrates productive use of time, promptness in completing assignments, and daily planning to achieve results.					
Initiative: Consider the employee's performance in new situations, performance in emergencies, and officer safety.					
Supervisory Performance (when applicable): Consider the supervisor's leadership skills, ability to complete assignments, assisting in employee development, maintaining proper discipline, making sound decisions, communication skills, and commitment to organizational goals.					
OVERALL VALUES RATING: This employee's overall (Key Objectives and Values) rating is:					

OVERALL REVIEW OF PERFORMANCE:

RECOMMENDATIONS:

ATTACHMENTS:

FRESNO POLICE DEPARTMENT

REPORT OF PERFORMANCE FOR SWORN EMPLOYEES

____ **Month Probationary Evaluation**
_____ **Annual Evaluation**
_____ **Exit Evaluation**

Prepared by: _____

DATE: **EVALUATION PERIOD** **FROM TO**	**EMPLOYEE:** **RANK:** **ASSIGNMENT:**

FRESNO POLICE DEPARTMENT

REPORT OF PERFORMANCE FOR SWORN EMPLOYEES

____ Month Probationary Evaluation
_____ Annual Evaluation
_____ Exit Evaluation

Prepared by: _____

DATE: **EVALUATION PERIOD** **FROM TO**	**EMPLOYEE:** **RANK:** **ASSIGNMENT:**

EMPLOYEE'S COMMENT:

_____

_____

_____

_____

_____

Driver's License No: _____ Expires On: _____

Pursuant to Government code 3306, a public safety officer shall have 30 calendar days within which to file a written response to any comment entered in his/her personnel file. Such written response shall be attached to, and shall accompany, this evaluation.

_____ _____
Employee's Signature Date

_____ _____
Supervisor's Signature Date

_____ _____
Operations Commander's Signature Date

_____ _____
District Commander's Signature Date

EXHIBIT VI

Agreement between City of Fresno

and

Employee Organizations Representing City of Fresno Employees

This agreement was reached in an effort to lower the current cost of the monthly health contribution rates between March 1, 2009 and June 30, 2010 as set by the Fresno City Employees Health and Welfare Trust (Trust) thereby assisting to ameliorate fiscal developments faced by the City of Fresno (City). The agreement also provides short term guarantees by the City for the unencumbered reserve of the Trust while setting a long term minimum of four (4) months for the Trust unencumbered reserve. This agreement sets forth the full and entire understanding of the City and Bargaining Units whose representatives have signed this agreement regarding these matters. This Agreement is effective March 1, 2009 and will remain in force so long as the Trust agrees to maintain a health contribution rate that is calculated to maintain a minimum of a four (4) month unencumbered reserve as calculated by the actuary selected by the Trust (actuary).

1. This agreement will be effective only if the provisions below affecting the Trust are approved by a majority of affected represented bargaining units and the City Council and if the Trust sets a monthly health contribution rate of seven hundred twenty-nine dollars ($729) effective March 1, 2009 through June 30, 2010.

2. The parties agree that, for the period March 1, 2009 through June 30, 2010, if the Trust unencumbered reserve falls below a four (4) month unencumbered reserve as calculated by the actuary selected by the Trust for two (2) consecutive months, the City will pay to the Trust an amount sufficient to restore the level of the Trust unencumbered reserve to four (4) months.

3. The restoration to a four (4) month unencumbered reserve must occur within 30 days notice to the City by the Trust's third party administrator. This payment by the City shall not be utilized in the calculation of the amounts due by the City and employees for established Trust health contribution rates.

4. Effective June 30, 2010 if the Trust unencumbered reserve is calculated by the actuary selected by the Trust to be less than a four (4) month unencumbered reserve, the City will pay an amount to the Trust sufficient to restore the level of the unencumbered reserve to four (4) months. This payment by the City shall not be utilized in the calculation of the amounts due by the City and employees for established Trust health contribution rates.

5. The parties agree that, for the monthly health contribution rate effective July 1, 2010 and for all subsequent monthly health contribution rates, the Trust will set a monthly health contribution rate not less than the rate calculated by the actuary

selected by the Trust necessary to maintain a minimum unencumbered reserve of four (4) months.

6. The parties will support amendments to the Trust necessary to implement this agreement.

FOR THE FRESNO CITY EMPLOYEES ASSOCIATION:

FOR THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753, BASIC UNIT:

FOR THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100:

FOR THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753, MANAGEMENT UNIT:

FOR THE CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION:

FOR THE AMALGAMATED TRANSIT UNION, LOCAL 1027

FOR THE FRESNO POLICE OFFICERS ASSOCIATION, BASIC UNIT:

FOR THE FRESNO POLICE OFFICERS ASSOCIATION, MANAGEMENT UNIT:

FOR THE CITY OF FRESNO PROFESSIONAL EMPLOYEES ASSOCIATION:

FOR THE FRESNO AIRPORT PUBLIC SAFETY SUPERVISORS:

OE3

FOR THE CITY OF FRESNO:

Date: February 24, 2009

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: Lonnie R. Laghateman
Deputy City Attorney