MEMORANDUM OF UNDERSTANDING

BETWEEN AND FOR THE

CITY OF FRESNO

AND

FRESNO CITY FIREFIGHTERS ASSOCIATION
LOCAL No. 753
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS
A.F.L.-C.I.O.
(Non-Management Fire - Unit 5)

EFFECTIVE AUGUST 20, 2018 THROUGH AUGUST 16, 2020

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* * *	= deleted old language
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bold type	= new language

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ARTICLE I

PREAMBLE

A. PURPOSE

This Memorandum of Understanding, hereinafter MOU, entered into between the City of Fresno, hereinafter referred to as the City, and Fresno City Firefighters Association Local 753, International Association of Firefighters, AFL-CIO, (Non-Management Fire – Unit 5) hereinafter referred to as the Association, has as its purpose: to establish wages, hours, and other terms and conditions of employment for the members of this Unit.

B. 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 Sections 3-101, 3-202, 3-301, **3-401,** 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 which is derivative from it, or which it is a derivative, as the case may be.

C. GOVERNING LAWS

The legal 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), * * * Chapter 4 of Part 7 of Division 2 of the California Labor Code (Sections 1960, 1961, 1962, and 1963), the Fire Fighters Procedural Bill of Rights Act (FBOR) **(California Government Code Sections 32580 et seq.)**, 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.

ARTICLE II

EMPLOYEE RIGHTS

A. GENERAL

The rights of employees, except as expressly modified herein, are as set forth in FMC Section 3-604. Execution of this MOU by the Association shall not be deemed a waiver of any Association or employee right unless the right is clearly or explicitly modified or restricted herein.

B. EMPLOYEE RESPONSIBILITIES

All employees in the Non-Management Fire 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.

C. NONDISCRIMINATION

The provisions of this MOU shall apply equally to, and be exercised by, all employees consistent with state and federal nondiscrimination statutes. City practices and policies will be consistent with the requirements mandated by applicable federal and state nondiscrimination statutes.

ARTICLE III

CITY RIGHTS

A. GENERAL

1. The rights of the City include those rights enumerated in FMC Section 3-605, as the same may be amended from time to time.

2. All other rights formerly or presently enjoyed by or vested in the City on the effective date of this MOU and not mentioned in paragraph 1, are retained by and reserved to the City unless explicitly waived by the City by resolution of the Council, or by Council approved MOU.

3. 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.

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

5. This MOU shall be construed as requiring the City to follow its provisions in the exercise of the authority conferred upon the City by law, except that this clause shall not be deemed to be a grant of authority to sue any person, including the Association, not otherwise existing.

ARTICLE IV

RECOGNITION

A. ASSOCIATION RECOGNITION

The City acknowledges the Association as the recognized employee organization representing the Unit, and therefore, shall **comply with all provisions of the Meyers-Milias-Brown Act (Government Code §3500 et seq.) including, but not limited to,** * * * **meeting** and * * * **conferring** in good faith promptly upon request by * * * **either party,** and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement; provided, that this subsection A does not impose on either party a contractual duty to meet and confer beyond what is required by the Meyers-Milias-Brown Act. **Nothing in this provision is intended to supersede provisions of Article X, Section C.**

B. RECOGNITION OF UNIT DESCRIPTION

The Non-Management Fire Unit consists of all employees holding a permanent position, as defined in FMC Section 3-202(p)(4), in one of the following classes, listed in Exhibit 5 of the current salary resolution, as such Unit may be modified from time to time pursuant to the provisions of the FMC:

Firefighter Trainee
Firefighter
Firefighter Specialist
Fire Captain
Fire Investigation Unit Supervisor

C. FIREFIGHTER TRAINEE PROGRAM

1. Classification

   a. The City has created a job classification titled Firefighter Trainee. The Fire Department may hire a maximum of ten (10) additional Firefighter Trainees above the number of vacancies that exist in the Firefighter Class. Employees assigned to a Firefighter Trainee position cannot attain permanent status.

   b. A Firefighter Trainee shall be trained in and shall perform the various duties typical of a Firefighter, with the exception that the Firefighter Trainee shall not perform fire suppression or medical aid duties prior to appointment as a Firefighter. A Firefighter Trainee

may assist in fire inspections, apparatus maintenance and repairs or other duties as assigned.

2. Recruitment and Retention

a. Employees occupying the Firefighter Trainee allocated positions shall be required to attend and participate in the City of Fresno Fire Department Academy prior to promotion to the rank of Firefighter.

b. Upon successful completion of the City of Fresno Fire Department Academy, a Firefighter Trainee shall be promoted to a Firefighter position if a vacancy exists. Firefighter Trainees offered a position in the absence of a vacancy will be made aware of their hiring order. Promotions will be made and be based upon the order in which the Firefighter Trainee was hired.

c. If, upon successful completion of the City of Fresno Fire Department Academy, there are no Firefighter vacancies, the remaining Firefighter Trainees shall remain in such class until a position becomes vacant.

d. While serving in a Firefighter Trainee position, the Trainee can be terminated for the good of the service **as an at-will probationary employee**.

3. Compensation and Benefits

a. Employees assigned to the Firefighter Trainee position shall be compensated at the rate of ninety percent (90%) of an A Step Firefighter while attending the City of Fresno Fire Department Academy and shall continue to be compensated at that rate until appointed to rank of Firefighter.

b. Employees assigned to the Firefighter Trainee position shall be assigned to a forty (40) hour workweek beginning on Monday at 12:01 a.m. and ending on Sunday at midnight. Employee's daily work schedules may be adjusted to accommodate training provided by the Fire Department.

c. Employees assigned to the Firefighter Trainee position shall be compensated at the overtime rate of time and one-half (1.5) their regular rate of pay for any work over forty (40) hours in a work week. Compensatory time (CTO) for Firefighter Trainees shall be limited to forty (40) hours per employee. Upon completion of the City of Fresno Fire Department Academy and when assigned to a

56 hour position, Compensatory Time Off (CTO) balances for Firefighter Trainees will be converted to a 56 hour accrual rate.

d. Employees assigned to the Firefighter Trainee position shall be entitled to all benefits afforded to the Firefighters unless otherwise provided in this sub-section (Subsection 3).

e. Employee retirement contributions plus interest associated with the contributions would be refunded if the Firefighter Trainee leaves the Fire Department at the completion of the period noted in 2.d., above.

D. 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 * * *.

E. RECOGNITION OF MUTUAL OBLIGATION

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

F. INFORMATION TO ASSOCIATION

1. The City shall provide to the Association:

a. Changes to the Salary Resolution.

b. Changes to Job Specifications for classes in this Unit.

c. Changes to the Administrative Order Manual that affect employees in this Unit.

2. The Fire Department shall provide:

a. Copies of written departmental policies, rules and regulations prior to implementation, on matters which directly affect employees in this Unit, except in an urgent situation, in which case the City shall discuss the issue with the Association as soon as possible thereafter.

b. An opportunity to discuss matters of interest to employees in this Unit, directly with the Association or through committees or advisory bodies created for that purpose.

G. LEAVE FOR ASSOCIATION BUSINESS BY UNION OFFICERS

1. The Association President, Vice-President, and/or Secretary-Treasurer may use CTO, vacation or holiday, for Association business.

a. The **above** specified Association officers shall have the option of drawing the final two annual vacation periods of the fiscal year, or of drawing vacation periods according to the guidelines for all employees.

b. All vacation and/or holiday leave that is taken for Association business will be deducted from the Association officers scheduled leave period(s). The assigned period from which the time will be deducted will be at the discretion of the Association officer, subject to subsection (c) below.

c. In the event the time previously taken is not specified one month prior to the Association officers' next scheduled vacation period, the time previously taken will be deducted from that vacation period.

d. * * * **There will be a monthly cap of three hundred twelve (312) hours of accumulated Holiday Leave each for the President, Vice President, and Secretary/Treasurer for IAFF, Local 753. The three hundred twelve (312) hour accrual balance cap for these elected Association officers shall remain for a period of one year after the conclusion of their respective term of office, after which any excess over one hundred fifty-six (156) hours shall be cashed out and paid to the respective Association officer automatically.**

H. LOCKOUT AND STRIKE

1. No lockout of employees shall be instituted by the City during the term of this MOU.

2. Nothing contained in this section is intended to waive or infringe upon any rights guaranteed to any party or entity under the Meyers-Milias-Brown Act (MMBA), Government Code §§ 3500, et seq., or any other applicable State or Federal law.

3. Participation by an employee in an unlawful strike or work stoppage shall subject the employee to disciplinary action, up to and including removal from City service. Participation by an employee in a lawful strike or work stoppage is protected activity and will not subject the employee to disciplinary action.

I. BULLETIN BOARDS

The Association may use designated portions of City Bulletin Boards in City Facilities in which members of this Unit are on duty.

J. NEW EMPLOYEE ORIENTATION

The Fire Department will continue to provide an opportunity for IAFF to address new hires during department training/orientation. IAFF will be provided a minimum of a two (2) hour block of time in the program. The Fire Department will notify IAFF at least ten (10) days in advance of a scheduled orientation.

K. EMPLOYEE INFORMATION

The City will provide the employee information it has on file in compliance with AB 119 for all new hires in the bargaining unit within 30 days of hire, as well as all employees represented by IAFF at lease once per quarter.

Pursuant to Government Code §3358 (in AB 119), employees may opt out of releasing the following information to the union: home address, home and personal cellular telephone numbers, and personal email addresses. Such information will not be provided for peace officers in the Fire Investigation Unit.

ARTICLE V

SCOPE OF REPRESENTATION

A. GENERAL

1. "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 (a), are excluded from the scope of representation.

2. The Association is the exclusive representative of all employees within the Unit.

B. GRIEVANCE PROCEDURE

1. A grievance is a dispute concerning the interpretation or application of any existing policy, practice, written City rule or regulation governing personnel practices or working conditions, including this MOU. A grievance involves the claimed misapplication or misinterpretation of a rule or regulation relating to an existing right or duty; it does not relate 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, Retirement Board, or unfair employer-employee relations charge, fact-finding procedure, or as outlined below.

2. A written grievance must set forth the rule, regulation, policy or specific section of the MOU claimed to have been violated, must describe the specific incident or circumstances of the alleged violation, and specify the remedy sought or it will be returned to the grievant for appropriate completion before being processed. Any dispute between the parties as to the grievability of an issue or as to whether the requirements of this procedure have been met shall be presented to the Grievance Advisory Committee. The Committee shall rule on the dispute before proceeding with the hearing. The Committee will be bound by the agreement of the parties regarding timeliness.

3. The Association may represent employees covered by this MOU on a grievance under the grievance procedure.

4. An Association Officer designated by the Association in writing shall be excused from regular duties without loss of compensation for such time as

is necessary to attend and represent the grievant at a grievance hearing, beginning at the first level of supervision.

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

Step One

a. The grievant and/or Association representative shall discuss the grievance with the grievant's immediate supervisor or designee before a written grievance may be filed.

(1) If the grievance is not settled through this discussion, it either may be discussed with the next higher supervisor or a written grievance may be filed with the grievant's immediate supervisor. A written grievance must be filed, with a copy being sent to the Labor Relations Division, within twenty-one (21) calendar days from the time the employee becomes aware or should have become aware of the issue or incident giving rise to the problem.

(2) Upon receipt of a written grievance, the immediate supervisor shall give the grievant a written reply**, with a copy sent to Labor Relations,** within nine (9) calendar days.

Step Two

a. Should the grievant not be satisfied with the answer received from the immediate supervisor, the grievant may, within nine (9) calendar days, file an appeal to the department head or designee. The department head or designee shall have twenty-one (21) calendar days after receipt of the appeal to review the matter, investigate and provide a written answer to the appeal, explaining clearly the decision or proposed action and reasons thereof. The grievant and/or representative shall have the opportunity, if desired, to present to the Fire Chief the position regarding the grievance. **Copies of any correspondence should be sent to Labor Relations.**

b. The City, the grievant, and/or the Association may mutually agree to waive steps one (1) and two (2) and proceed directly to hearing by the Grievance Advisory Committee when the issue is one over which the grievant's supervisor or department head has no jurisdiction.

Step Three

a. If the grievant is not satisfied with the decision of the department head or designee, the grievant may within nine (9) calendar days after receipt of the written reply, file a request for a review of the department head's or designee's decision to the Grievance Advisory Committee. The review/appeal to the Grievance Advisory Committee shall be referred to the Association for review and recommendations before it is delivered to the Labor Relations Division.

b. The City * * * and * * * the Association may agree to seek resolution of the grievance through mediation using the services of the State Mediation and Conciliation Service, prior to hearing by the Grievance Advisory Committee. Time limits for processing of the grievance are automatically extended as long as mediation is in process. The fees and expenses of the mediator shall be paid half by the City * * * and* * * half by the Association.

Step Four

a. The Grievance Advisory Committee shall be composed of (3) three members: one selected by the Association, one selected by the City and the Chairperson. The Chairperson may be chosen either by mutual agreement of the Association and the City, or by the "strike" method from a list of neutrals provided by the State Mediation and Conciliation Service. If the Chairperson is selected by the strike method from the list of neutrals provided by the State Mediation and Conciliation Service, then the Grievance Advisory Committee shall be comprised of the selected neutral.

b. From the date a grievance, otherwise meeting all criteria for the filing and processing of a grievance, reaches the Labor Relations Division, the Grievance Advisory Committee will attempt to convene within thirty (30) calendar days in order to hear the grievance. **Any fees and expenses for the GAC shall be paid half by the City and half by the Association.**

c. The neutral and Grievance Advisory Committee shall be bound by the language of this MOU, City Administrative Orders, ordinances, rules and regulations, and department rules and regulations consistent therewith in considering any issue properly before them. The neutral and Grievance Advisory Committee shall be expressly confined to the precise issues submitted and shall have no authority to consider any other issue not so submitted. The neutral

and Grievance Advisory Committee may not recommend changes in established wages or benefits, nor recommend the payment of back wages or benefits to a date prior to the date of the incident which gave rise to the grievance.

d. The Grievance Advisory Committee shall conduct a hearing, and make a recommendation to the City Manager within thirty (30) calendar days of their last meeting.

Step Five

The City Manager or designee shall review the decision of the Fire Chief and recommendations of the Grievance Advisory Committee and shall render a **final** written decision to the grievant within twenty-one (21) calendar days after receipt from the Grievance Advisory Committee.

6. Failure of the grievant to file the grievance or an appeal within the specified time limit for any step of the procedure shall constitute an abandonment of the grievance.

7. Failure of the responsible supervisor or official of the City to render a decision within the specified time limit established by this procedure shall automatically move the grievance to the next higher level for action, without action required of the grievant. All time limits herein may be extended by mutual agreement of the parties.

C. USE OF HEARING OFFICER IN DISCIPLINARY ACTION INITIATED BY CITY

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

D. IN LIEU OF SUSPENSION

By mutual agreement between the Chief or designee and the affected employee, an employee 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.

ARTICLE VI

DUES DEDUCTION

§§ deleted

A. DUES CHECK-OFF

* * *

1. The City shall deduct the dues or benefit premiums, or both, * * * **following receipt of notice from the Association that authorization has been provided to the** Association **by** members in the Unit. **The City shall stop dues or benefit premiums, or both, upon receipt of notice from the Association that authorization has been provided to the Association by members in the Unit. Should there be a dispute regarding the deduction of dues, the Association shall provide the City with a copy of the authorization(s) signed by the employee.**

§§ deleted

2. A Dues Deduction Authorization * * * may be revoked by a member in the Unit, and the dues or benefit deduction canceled **by representation to the Association** * * *.

* * *

3. The Association, in consideration for and as a condition of the City withholding and transmitting payroll and benefit deductions authorized by this Section and in compliance with SB 866, shall hold harmless the City of Fresno, its officers, and employees from any liability that may result from making, canceling, or changing requested deductions.

4. Upon written authorization by a retired member of the Association, the City shall deduct Association deductions, credit union deductions and benefit fund deductions from the retirement check of such retired member and forward such deductions as designated in such authorization.

B. EXCEPTIONS TO DUES DEDUCTION AUTHORIZATION * * *

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 future earnings to cover that pay period, nor will the member deposit with the City 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.

C. DUES DEDUCTION

* * * **Dues deductions** covering all such deductions shall be transmitted **by electronic funds transfer** to * * * **an account specified by** Fresno City Firefighters Association Local #753 * * *.

§ deleted

ARTICLE VII

COMPENSATION AND BENEFITS

A. 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.

B. SALARIES

1. Effective * * * **December 24, 2018**, salaries will be increased by three percent (3%) as reflected in Exhibit I**I**, attached hereto and incorporated by **this** reference.

2. Effective * * * **December 23, 2019**, salaries **shall be** * * * as reflected in Exhibit II**I** * * *, attached hereto and incorporated by **this** reference **to include a "G" Step**. **The "G" Step represents a five percent (5%) increase above the "F" Step. A member is required to be in the "F" Step 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 (1) year on or prior to December 23, 2019 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.**

§ deleted

3. **COLA Adjustment for Career Rank Average Method DROP Members and Retirees**

   Effective December 23, 2019, 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 3301(a)(9) prior to December 23, 2019, 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.

4. <u>COLA Adjustments for Final Three Year Average Method DROP Members and Retirees</u>

Effective December 23, 2019, any future COLA adjustments for Final Three Year Average Method DROP members and retirees shall be calculated pursuant to FMC Section 3-302(g).

C. PENSION CONTRIBUTION

The following applies to an employee's pension contribution:

1. <u>Pension Contribution</u>:

a. Effective September 5, 2016, the City * * * discontinue**d** payment of one percent (1%) of the employee's pension contribution for employees hired before July 14, 2014.

b. Effective July 1, 2017, all employees hired before July 1, 2014 shall make an additional contribution equal to one percent (1%) of their pensionable compensation to the City of Fresno Fire and Police Retirement System, reducing the City 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.

c. All employees hired on or after July 1, 2014 shall make an additional contribution equal to three percent (3%) of their pensionable compensation to the City of Fresno Fire and Police Retirement System, reducing the City 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.]

d. Applicability to DROP Members: Effective September 5, 2016, the City * * * discontinue**d** the supplemental one percent (1%) payment as salary to an employee who has entered DROP.

e. There will be a limited reopener of the MOU to negotiation solely on amending FMC Sections on Pension regarding "Dissolution or Legal Separation." 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).

f. There will be a limited reopener of the MOU to negotiation solely on amending the FMC to allow the additional 1% and 3% pension contributions to reduce the City's contribution amount to stop and to become part of the Member Normal Contribution Rate set forth in the Fresno Fire and Police Retirement System (Tiers 1 and 2).

D. HEALTH AND WELFARE

The Fresno City Employees Health and Welfare Trust has the sole authority to determine the benefits that will be provided. 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 employees represented by the Association.

Effective August 1, 2014 the City's contribution will be seventy-five percent (75%) of the premium established by the Fresno City Employees Health and Welfare Trust Board. Employees may opt to contribute the amount necessary to make up the difference through payroll deductions, or accept a reduced coverage option.

The cost of any future increases in the health and welfare premium will be shared on a fifty percent (50%) basis by the City and employees, except that employees will be required to pay no more than thirty percent (30%) of the premium established by the Fresno City Employees Health and Welfare Trust Board. At such time as the employee share is set at 30%, the City shall pay 70%.

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

E. UNIFORM ALLOWANCE

Employees shall receive one thousand * * * **two** hundred dollars ($* * ***1,200**) per year as a uniform purchase and maintenance allowance, **prorated** and paid in semi-annual installments on the last pay period in December and June. **The uniform allowance provided above shall be pensionable compensation for the purposes of calculating pension benefits. In addition, employees shall be reimbursed up to two hundred ($200) per fiscal year for the purchase and/or repair of boots and/or wildland pants.** Employees shall be responsible for purchase of safety shoes and turn out boots in accordance with the Department's policies.

F. OVERTIME/SHIFT REPLACEMENT, COMPENSATORY TIME OFF, AND PREMIUM PAY

1. Overtime/Shift Replacement

a. Overtime/Shift Replacement hiring is governed by Fresno Fire Department Administrative Manual 101.002 Constant Staffing Policy, and may be modified by mutual agreement of the parties. Voluntary/non-voluntary overtime/shift replacement shall be processed on a rank-for-rank basis. If insufficient personnel are available, the overtime/shift replacement will be made available to the next lower rank.

b. Payment of overtime/shift replacement worked shall be at the rate of time and one-half. Employees who are on CTO at the time they are also working overtime/shift replacement will be paid in cash.

c. Employees will be compensated for training and travel time pursuant to the provisions of the Fair Labor Standards Act and City Administrative Orders.

d. Employees on vacation or holiday time may be permitted to work available overtime/shift replacement in accordance with the Fresno Fire Department Administrative Manual 101.002 Constant Staffing Policy.

e. Upon return to the fire station by a crew which has been held over past its normal relief time (i.e., 0800 hours), crew members shall perform those duties necessary to be performed prior to being relieved from duty, as determined by the company commander. The time required for performance of such duties shall be compensated at the applicable overtime/shift replacement rate. The

department may promulgate such rules and regulations as may be necessary to provide guidelines for activities required to be performed prior to relief.

f. Off-duty employees reporting to work to fill a roster position outside of their regularly scheduled work shift shall be paid a minimum of two hours at the overtime/shift replacement rate of pay.

On-duty employees who have previously agreed to work overtime, which commences at 0800 hours on the shift immediately following the shift that they are working, shall not be eligible for the two-hour minimum. In the event that the overtime/shift replacement period is cancelled or curtailed, the employees shall be paid only for the actual time worked.

g. Overtime/Shift Replacement Hours-Conversion Rate Factor – An employee regularly assigned to a fifty-six (56) hour workweek schedule who works overtime/shift replacement on a voluntary basis for the purpose of filling an absence created by an employee regularly assigned to a forty (40) hour workweek schedule shall be compensated at the overtime/shift replacement rate of time and one-half (1.5) times a 1.4 conversion rate factor for each overtime/shift replacement hour worked in the forty (40) hour position. Employees who are on CTO at the time they are also working overtime/shift replacement will be paid in cash. In all other instances of overtime worked, an employee regularly assigned to a fifty-six (56) hour workweek schedule shall not be eligible for overtime/shift replacement compensation at the 1.4 conversion rate factor.

(1) In addition to the paragraph above, an employee regularly assigned to a fifty-six (56) hour workweek schedule shall not be eligible for overtime/shift replacement compensation based on conversion to a forty (40) hour workweek pay rate for assigned work which is a regular part of suppression line job functions that are not otherwise regularly assigned to forty (40) hour workweek schedule employees (e.g., including but not limited to, promotional interview boards, suppression line training, emergency medical technician training, light duty, and special projects or committees).

(2) An employee regularly assigned to a forty (40) hour workweek schedule who works overtime on a voluntary basis for the purpose of filling an absence created by an employee regularly assigned to a fifty-six (56) hour

workweek schedule, or assigned to a Strike or OES Team, shall be compensated at the overtime/shift replacement rate of time and one-half (1.5) divided by a 1.4 conversion rate factor for each overtime/shift replacement hour worked in the fifty-six (56) hour position. Employees who are on CTO at the time they are also working overtime/shift replacement will be paid in cash. In all other instances of overtime/shift replacement worked, an employee regularly assigned to a forty (40) hour workweek schedule shall not be eligible for overtime/shift replacement compensation at the 1.4 conversion rate factor.

2. Compensatory Time-Off (CTO)

a. Employees on a fifty-six (56) hour work week may, when working * * * overtime/shift replacement, elect to accrue **CTO at the time and one-half rate in lieu of cash payment up to one hundred forty-four (144) hours** * * * of CTO. * * * In the last pay period of each fiscal year, any unused CTO **up to one hundred twenty (120) hours** may be carried over to the next fiscal year. **Any hours above one hundred twenty (120) will be cashed out.** This CTO carry over will then be applied towards the * * * **one hundred forty-four (144)** hour maximum accrual.

b. Approval of requests for **use of** CTO should be secured not less than ten (10) hours in advance of the requested absence. However, in the event of an emergency the ten (10) hour notice may be waived with the approval of the Fire Chief or designee. Employees may not replace themselves when using CTO.

c. Employees assigned to a forty (40) hour work week may elect to accrue CTO at the time and one-half rate in lieu of cash payment for overtime worked, to a maximum balance of one hundred * * * **forty-four (144)** hours. Use of available CTO by forty (40) hour employees shall be requested and approved by the employee's supervisor. In the last pay period of each fiscal year, any unused CTO **up to one hundred twenty (120) hours** may be **carried over to the next fiscal year. Any hours above one hundred twenty (120) hours will be cashed out. This CTO carryover will then be applied towards the one hundred forty-four (144) hour maximum accrual** * * *.

d. Firefighters may conduct outside employment when on CTO status **with a valid outside work permit pursuant to FMC Section 3-102**.

e. Upon receipt of a written request, employees shall obtain cash payment of CTO accrued within the fiscal year it was earned at the base/straight time rate in effect at the time of request. Payment will be included with the firefighter's regular paycheck for the pay period following that in which the written request was received by the department. All CTO cash payment requests must be received prior to the last pay period of any given fiscal year. Accrued CTO carried over from one fiscal year to the next shall not be cashed out, but must be taken as CTO.

3. Specialty Team Premium Pay

There shall not be any stacking of Specialty Team premium pay or staff position assignment premium pays except for Team Coordinator pay as outlined below. Employees who qualify to receive more than one of these types shall receive only the largest of these premium pay amounts.

The selection of assignment to a Specialty Team shall be accomplished by solicitation of interested personnel. The rank/ranks of personnel shall be determined by the staffing needs of the Specialty Team. Personnel that express an interest shall be evaluated during a selection process and appointed to the Specialty Team based on the results of that process.

When applicable, personnel selected for a Specialty Team shall attend applicable specialized training recognized and approved by the Fire Chief or designee at a site designated by the City. The cost of this training shall be at the City's expense. Employees will be required to complete required training in order to be eligible for premium pay.

a. Hazardous Material Response Team (HMRT) Premium Pay

(1) Personnel must be certified as a Hazardous Materials Technician or Specialist and must choose to be assigned to the designated Hazardous Materials station(s) for a minimum period of two years from the date of such appointment. In order to continue to remain eligible for HMRT premium pay, team members must attend * * * **forty-two (42)** hours of approved continuing education classes or HMRT meetings in a calendar year and the successful completion of a Hazardous Materials physical provided by the City. The City agrees to provide a minimum 56 hours of training or HMRT meetings during that calendar year. Notification regarding trainings related to this premium pay will be administered consistent with Department Police

104.002. Failure to successfully complete the training will be cause for removal **from the team and discontinuance** of the premium pay.

(2) Fire Department Administration reserves the right to deny and/or terminate existing HMRT status to any fire personnel. The reason(s) for such denial and/or termination shall be provided in writing to the affected person.

(3) The Fire Department Administration will endeavor to maintain a minimum HMRT staffing level of 9 Fire Captains, 12 Firefighter Specialists and 6 Firefighters. Fire Administration shall attempt to maintain a minimum daily HMRT staffing level of five (5) persons that are certified to the level of Hazardous Materials Technician or Specialist which will be assigned to the designated Hazardous Materials station(s).

(4) All personnel assigned to a specifically designated Station on a permanent and/or day-by-day basis for HMRT who are performing the duties required of the assigned team and, who have completed required training, possess a valid certification, and are members of the HMRT, shall receive three percent (3%) of * * * **top** step **of the** salary scale for the class of Fire Captain on a monthly basis prorated and paid during the acting period (full shift only). This premium pay is pensionable.

b. <u>Staff Position Assignments</u>

Employees who accept administrative staff assignments, as defined by the Chief or designee, shall receive ten percent (10%) of * * * **top** step **of the** salary scale for the class of Fire Captain on a monthly basis prorated and paid to those employees who are assigned to an administrative staff assignment. This premium pay is pensionable.

c. <u>Urban Search and Rescue Team (US&R) Premium Pay</u>

(1) Personnel must be qualified as an Urban Search and Rescue (US&R) Technician and must choose to be assigned to the designated US&R station(s) for a minimum period of two (2) years from the date of such appointment. In order to continue to remain eligible for US&R premium pay, team members must * * * **attend seventy-two (72) hours of**

approved continuing education in a calendar year. The City agrees to provide a minimum of * * * **ninety-six (96)** hours of on duty time for US&R training during that calendar year. Notification regarding trainings related to this premium pay will be administered consistent with Department Police 104.002. Failure to successfully complete the training will be cause for removal **from the team and discontinuance** of the premium pay.

(2) Fire Department administration reserves the right to deny and/or terminate existing US&R status to any fire personnel. The reason(s) for such denial and/or termination shall be provided in writing to the affected person.

(3) The Fire Department administration shall attempt to maintain a minimum daily US&R staffing level of five (5) persons that are qualified US&R technicians assigned to the designated US&R station(s) and a total of six (6) qualified US&R technicians on duty.

(4) All personnel assigned to a specifically designated Station on a permanent and/or day-by-day basis for USAR assignment who are performing the duties required of the assigned team and who have completed required training, possess a valid certification, and are members of the US&R, shall receive a three percent (3%) of * * * **top** step **of the** salary scale for the class of Fire Captain on a monthly basis prorated and paid during the acting period (full shift only). This premium pay is pensionable.

d. <u>Aircraft Rescue and Firefighting (ARFF) Team Premium Pay</u>

All personnel assigned to a specifically designated station on a permanent and/or day-to-day basis for ARFF assignment**, who have completed all training, including sign-offs to operate the equipment at the ARFF station,** and who are performing the duties of the assigned team shall receive three percent (3%) of * * * **top** step **of the** salary scale for the class of Fire Captain on a monthly basis prorated and paid during the acting period (full shift only). This premium pay is pensionable. **In order to continue to remain eligible for ARFF premium pay, team members must complete a minimum of twenty-four (24) hours of training in the calendar year consistent with FAA requirements. Failure to successfully complete the training will be cause for removal from the team and discontinuance of the premium pay.**

e. Fire Investigation Team Premium Pay

All personnel, except for the Fire Investigation Unit Supervisor, assigned to the Fire Investigation Team on a permanent and/or day-to-day basis and who are performing the duties of the assigned team shall receive three percent (3%) of * * * **top** step **of the** salary scale for the class of Fire Captain on a monthly basis prorated and paid during the acting period (full shift only). This premium pay is pensionable. **In order to continue to remain eligible for the Fire Investigation Team, team members must complete a minimum of twelve (12) hours of training in the calendar year. Failure to successfully complete the training will be cause for removal from the team and discontinuance of the premium pay.**

f. Geographic Information Systems (GIS) **Team and** Communications Team Premium Pay

* * * **A Geographic Information Systems (GIS) Team and Communications Team shall be** * * * specialty team**s** designated by the Chief assigned to a specifically designated Station (or assigned by the Chief) on a permanent and/or day-by-day basis, **and** * * * shall receive two percent (2%) of * * * **top** step **of the** salary scale for the class of Fire Captain on a monthly basis prorated and paid during the acting period (full shift only). This premium pay is pensionable. Employees on the GIS or Communications team must meet department standards for qualification. The City agrees to provide eight (8) hours of on duty time for training in a calendar year. Notification regarding trainings related to this premium pay will be administered consistent with Department Policy 104.002. Failure to successfully complete the training will be cause for removal **from the team and discontinuance** of the premium pay.

g. Team Coordinator Premium Pay

Employees assigned by the Chief as Team Coordinators on a permanent or day-by-day basis shall receive two percent (2%) of * * * **top** step **of the** salary scale for the class of Fire Captain on a monthly basis prorated and paid during the acting period (full shift only). This premium pay is pensionable, and is stackable with other premium pays.

h. <u>Water Rescue Team Premium Pay</u>

A Water Rescue Team will be established at the sole discretion of the Fire Chief and City Manager. When such Team is established, all of the following will apply:

(1) Personnel must be qualified as a Water Rescue Technician, and must choose to be assigned to the designated Water Rescue station(s) for a minimum period of two (2) years from the date of such appointment. In order to continue to remain eligible for Water Rescue premium pay, team members must meet department standards for qualification in a calendar year. The City agrees to provide a minimum of ninety-six (96) hours of time for Water Rescue Team training during that calendar year. Notification regarding trainings related to this premium pay will be administered consistent with Department Policy 104.002. Failure to successfully complete the training will be cause for removal from the team and discontinuance of the premium pay.

(2) Fire Department administration reserves the right to deny and/or terminate existing Water Rescue Team status to any fire personnel. The reason(s) for such denial and/or termination shall be provided in writing to the affected person.

(3) Fire Department administration shall attempt to maintain a minimum daily Water Rescue Team staffing level of four (4) persons that are qualified Water Team technicians assigned to the designated Water Team station.

(4) All personnel assigned to a specifically designated station on a permanent and/or day-by-day basis for a Water Rescue assignment who are performing the duties required of the assigned team and who have completed required training, possess a valid certification, and are members of the Water Rescue Team shall receive three percent (3%) of top step of the salary scale for the class of Fire Captain on a monthly basis prorated and paid during the acting period (full shift only). This premium pay is pensionable.

4. Education Incentive Pay (EIP)

a. Associate – Each employee who has been awarded an Associate Degree from an accredited institution of higher learning shall receive one hundred dollars ($100) per month.

b. Bachelors – Each employee who has been awarded a Bachelors Degree from an accredited institution of higher learning shall receive one hundred-fifty dollars ($150) per month.

c. Masters or Doctorate – Each employee who has been awarded a Masters or Doctorate Degree from an accredited institution of higher learning shall receive two hundred-fifty dollars ($250) per month.

d. These EIP premiums are pensionable. The EIP premiums cannot be stacked with each other, but can be stacked with other premium pays.

e. Honorary degrees or degrees which do not include a prescribed and completed course of study through an accredited institution of higher learning shall not be eligible for premium pay under these provisions. In order to be considered accredited, the accreditation must be received from the recognized list of accreditation associations of higher learning maintained by the U.S. Secretary of Education.

f. Employees will receive the corresponding (EIP), prospectively, upon receipt by the Fire Department's payroll clerk and approval of sealed transcripts from the applicable accredited institution.

5. Certificate Premium Pay

a. Operations Certificate Premium Pay - Employees holding a certificate that meets the requirements for Hazardous Materials First Responder Operational according to the Code of Federal Regulations, 29 CFR 1910.120.; Firefighter I/II Certificates, a Rescue Systems I Certificate, a Confined Space Operations Certificate, and Driver Operator IA/IB Certificates from the California State Fire Marshal's Office shall receive * * * **seventy-five** dollars ($* * * **75**) per month. **Effective the first day of the last pay period of the MOU, the premium pay shall be increased to one hundred dollars ($100) per month.** (All of the above certificates are required in order to receive the * * * premium pay.)

b. Certificate Premium Pay - Employees holding a Fire Officer Certificate from the Commission on Professional Credentialing or California State Fire Marshal's Office, and/or a Fire Instructor I Certificate, Training Instructor Certificate, and/or a Fire Investigator I Certificate from the California State Fire Marshal's Office shall receive one hundred **twenty-five** dollars ($* * * **125**) per month. **Effective the first day of the last pay period of the MOU, the premium pay shall be increased to one hundred fifty dollars ($150) per month.**

c. Special Certificate Premium Pay – Employees holding a Fire Instructor III Certificate, Training Officer Certificate, a Fire Investigator II Certificate and/or Fire-Arson Investigator Certificate from the California State Fire Marshal's Office shall receive * * * **two** hundred * * * dollars ($* * * **200**) per month. **Effective the first day of the last pay period of the MOU, the premium pay shall be increased to two hundred twenty-five dollars ($225) per month.**

d. Chief Officer/Executive Fire Officer Certificate - Employees who have satisfactorily attained **an Executive Fire Officer Certificate through the National Fire Academy, or** a Chief Officer Certificate through the Commission on Professional Credentialing**,** or **who have successfully completed all the education requirements for the Chief Officer Certificate through** the California State Fire Marshal's Office * * * shall receive two hundred * * * **fifty** dollars ($* * * **250**) per month. **Effective the first day of the last pay period of the MOU, the premium pay shall be increased to two hundred seventy-five dollars ($275) per month.**

Certificate premium pays in this section are pensionable. The Certificate premium pays are not stackable with each other **and shall be paid at the highest certification achieved**, but are stackable with other premium pays **as provided in this MOU**.

6. Bilingual Certification Program

The bilingual certification program consists of a City administered examination process whereby employees may apply for a * * * bilingual examination, and if certified by the examiner, receive bilingual premium pay for interpreting and translating. * * *

a. Bilingual certification examinations will be conducted **on an as-needed basis** * * *. During the examination noticing period,

examination applications will be available at the Personnel Services Department, * * * and City department personnel units.

§ deleted

* * * Employees must be recertified every five (5) years. For current bilingual employees, the number of initial recertifications may be staggered.

§ deleted

b. Bilingual certification examinations are conducted for * * * languages **as outlined in the Salary Resolution**.

c. The bilingual premium pay rate for certified permanent employees is one hundred dollars ($100) per month, regardless of how many languages for which an employee is certified.

(1) Certified employees shall 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 employee's supervisor.

(2) Certified employees shall not refuse to interpret/translate while on paid status. Refusal shall result in appropriate disciplinary action **as determined by the Appointing Authority**. Certified employees 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.

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

7. <u>Acting</u>

Due to the Fire Department's staffing requirements, the department shall compensate personnel for acting **assignments** * * * in vacant positions in Suppression and Emergency Response units beginning with the first shift. * * * It is understood that the department does not intend to maintain vacant positions within such units**, but** * * * vacant positions * * * occur in

the above-mentioned units for varying periods of time due to absences of promotional lists and administrative delays in making appointments.

The Fire Department shall also compensate personnel for acting * * * in non-vacant positions **in the higher classification/rank** beginning with the first shift. It is understood these positions are being filled for absences due to illness, injury, special assignment, vacation, holiday, CTO, etc.

* * * **Except where provided herein,** acting to perform the duties of an absent employee, provisionally filling a vacant permanent position, an interim appointment or an appointment to a limited position shall be in accordance with the * * * **FMC**.

8. Canine Assignment

a. An employee who is assigned to handling and care of a canine trained to detect accelerants will be assigned to the Fire Investigations Unit and will not be permitted to transfer to another unit. The City's use of the accelerant detection canine shall be at the discretion of the Fire Chief.

b. The employee assigned to the handling and care of the canine will be responsible for all duties involved in the handling and care of the canine.

c. The assignment will not be a promotion. An employee may be removed from a canine assignment at the discretion of the Fire Chief or designee, and unless specifically stated as such, removal from such assignment will not be considered punitive in nature.

d. The employee will be assigned a forty (40) hour work week. Upon mutual agreement between the City and the Association, the employee may be assigned to a modified schedule, i.e. 4-10's, 9-80's, 12's.

e. Time spent by the employee for care and feeding of the canine will be hours worked pursuant to the **Fair Labor Standards Act (**FLSA**) (29 United States Code Sections 201 et seq.)**. The employee will be compensated for thirty (30) minutes each day for the care of the canine, which the parties agree is a reasonable amount of time. The employee may spend more than thirty (30) minutes a day with the canine, but any time over thirty (30) minutes a day shall be normal owner-related activities for the enjoyment of the individual and the canine.

f. The time for care and feeding of the canine referenced in paragraph e. above will be paid as overtime worked and will be paid at the rate of twenty dollars ($20.00) per hour.

g. The provisions set forth in paragraphs e. and f. above are in compliance with **29 Code of Federal Regulations** * * * §785.23 as a reasonable approximation of the time spent in the care and feeding of an assigned accelerant detection canine.

h. Compensation paid pursuant to this section shall be overtime, and therefore shall not be **"**compensation**" defined** under the City's Fire and Police Retirement System or the Second Tier of the City's Fire and Police Retirement System.

G. SICK LEAVE BENEFIT AT THE TIME OF ELECTION TO ENTER THE DEFERRED RETIREMENT OPTION PROGRAM (DROP) OR AT RETIREMENT

Effective September 25, 2007, a member of this Unit who enters Deferred Retirement Option Plan (DROP) shall have an amount equal to 50% of the number of the employee's remaining unused sick leave balance credited toward the computation of retirement benefits based on a fifty-six (56) hour workweek as if it were a one-time payment on the base rate of pay in effect at the time the option is exercised by the employee. Upon entering DROP, the employee will be required to make a corresponding pension contribution on this amount.

All employees of this unit who are participating in the DROP shall be credited the difference between the sick leave benefit credited upon entering the DROP and the sick leave benefit formula above applying the Alternative Definition of Average Compensation (Final Three Year Average Methodology) in FMC Section 3-302. These employees will also be required to make a corresponding pension contribution for the difference in the sick leave benefit increase.

H. LEAVES

1. Holiday Leave

a. Employees shall accrue, at the fifty-six (56) hour rate, thirteen (13) hours per month (this is equal to six and one-half (6.5) twenty-four (24) hour working shifts) as holiday leave in lieu of the Holidays recognized in FMC Section 3-116.

b. Employees on a 56-hour week wishing to use holiday leave may do so in * * * **1-hour** to 24-hour increments in accordance with Administrative Manual 101.002 Constant Staffing Policy and shall provide a replacement of like rank to work the duration of their

absence. The replacement shall be paid at the existing overtime rate and shall not be allowed to credit this time to CTO. It shall be the replacement's responsibility to work the agreed upon time period.

c. Employees assigned to a 56-hour work week may request payment for up to 2.5 shifts of holiday leave balance annually. The payment will be at the straight time rate.

d. If there are excess on-duty personnel, then holiday reliefs, at the department's option, may be relieved from their obligation to work. Relief of personnel under this subsection is governed by Fresno Fire Department Administrative Manual 101.002 Constant Staffing Policy, and may be modified by mutual agreement of the parties.

e. Employees working a shift replacement while off on unscheduled holiday, may not apply the shift replacement hours to CTO.

f. There shall be a monthly cap of one hundred fifty-six (156) hours of accumulated Holiday Leave. Any Holiday Leave due above this cap will be paid down to the employee automatically. **The designated Association officers shall have leave caps as set forth in Article IV, Section G.1.d.**

2. Vacation Leave

a. Annual vacation leave for employees in this Unit will be:

Years of Continuous Employment	Accrual Rate (shifts)	Accrual Rate (1 year)	Accrual Rate (2 year maximum)
Less than 10	6	144	288
More than 10 but less than 20	8	192	384
More than 20 but less than 30	10	240	480
More than 30	12	288	576

b. Employees shall be allowed to draw vacation and holiday periods separately, by rank, by departmental seniority, subject to the provisions of the Fresno Fire Department Administrative Manual

101.002 Constant Staffing Policy. This policy may be modified by mutual agreement of the parties.

c. Employees with less than twenty (20) years shall not exceed accrual of three hundred eighty four (384) hours of vacation. Employees who have been continuously employed for twenty (20) years but less than thirty (30) years shall not exceed accrual of four hundred eighty (480) hours of vacation. Employees who have been continuously employed for thirty (30) years shall not exceed five hundred seventy six (576) hours of vacation.

3. Sick Leave**/Protected Sick Leave/Bereavement Leave**

(a) Employees shall accrue sick leave at the rate of twelve (12) hours for each completed calendar month of employment, with unlimited accumulation. Unless otherwise modified, Administrative Manual 101.002 Constant Staffing Policy shall apply, as well as the FMC, City administrative orders, policies, procedures, rules and regulations concerning sick leave usage and administration. In the event of any conflict, Departmental policies and Administrative Manual 101.002 Constant Staffing Policy shall apply. The attendance/health incentive component detailed below also applies.

Retirement Attendance/Health Incentive

At service retirement employees working 40 hour work weeks who have used one hundred twelve (112) hours or less of sick leave and employees working 56 hour work weeks who have used one hundred sixty-eight (168) hours or less of sick leave (excluding hours used for Workers' Compensation benefits**, Bereavement Leave,** and/or protected leaves such as Family & Medical Leave and * * * **Protected** Sick Leave* * *) in the 24 months preceding their date of retirement will be credited for all unused sick leave at fifty percent (50%) of the employee's then current base rate of pay, to be used solely to pay premiums for medical insurance (including COBRA premiums), pursuant to the City's Health Reimbursement Arrangement as set forth below.

(b) * * ***Protected** Sick Leave

Employees * * * **shall** be allowed to use up to * * * **six (6) months 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 (3) days 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 the Fire Chief or designee.

Employees who separate City employment and return within one (1) year of such separation will be entitled to reinstatement of their Sick Leave balance at the time of termination from City employment, up to a total of forty-eight (48) hours.

(c) Bereavement Leave

Upon the death of a member of an employee's immediate family, the employee shall be allowed use of sick leave not to exceed forty-eight (48) hours. Use of sick leave to attend the funeral of a person other than a member of the immediate family may be granted to an employee by the Fire Chief or designee. The Fire Chief or designee shall notify the Personnel Director when any employee is granted such leave. Immediate family, as used in this subsection, shall include parent, spouse or registered domestic partner, natural or legally adopted child, brother, sister, mother-in-law and father-in-law.

§§ deleted

4. Compensation for Unused Leave

Employees eligible to receive payment for any unused leave balances (i.e., holiday, sick and vacation) shall be compensated for such accumulated leave balances based on accumulations calculated on a fifty-six (56) hour (24-hour shift) basis.

I. HEALTH REIMBURSEMENT ARRANGEMENT

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 an HRA. The City agrees to maintain the HRA such that it will continue to qualify as a health reimbursement arrangement.

At separation from permanent employment with the City of Fresno by service retirement or at disability retirement if the employee is otherwise eligible for service retirement, the value of the employee's accumulated sick leave shall be

credited to an account for the employee under the HRA. Such "value" shall be determined as follows:

- The total number of all accumulated sick leave hours at the time of retirement, multiplied by fifty percent (50%) of the employee's then current hourly base rate of pay pursuant to the eligibility criteria as set forth in the Retirement Attendance/Health Incentive provision in Section H. Subsection 3.

- For the purpose of this benefit, the hourly base rate of pay for 56 hour work week employees shall be the equivalent of the base monthly salary for an employee as provided in this MOU, multiplied by twelve (12) months then divided by 2,912 hours.

At the employer's option, the accounts may be book accounts only – no actual trust account shall be established for any employee. 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) but not to be below zero.

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.

J. JURY DUTY AND COURT TIME

Jury Duty - With the permission of the Fire Chief or designee, an employee who is required to report for and does report for jury duty may not be required to report for regular duty prior to jury service if such reporting is impractical or would cause the employee to be late for jury duty. If the employee is required to report for jury duty on the day following a duty shift, the employee may be released up to one hour prior to the shift's end, if necessary, to assure timely attendance at jury duty. Employees shall not be required to refund to the City any mileage reimbursement received as a result of jury duty.

Court Time - The payment of Court time shall be in accordance with FMC Section 3-109.

K. RELIEF

Employees assigned to an apparatus shall be relieved from duty when;

1. The shift ends at 0800 hours**; however, employees may not go off duty until relieved by another employee assigned to perform similar duties, up to 30 minutes;** or

2. All employees of the oncoming shift assigned to that apparatus at shift change have signed on duty; or

3. An individual employee has been specifically relieved.

L. ABSENT WITH RELIEF (AWR)

1. In accordance with Section 7 (P)(3) of the Fair Labor Standards Act as discussed in 29 * * * **Code of Federal Regulations** 553.31, and with the approval of the Fire Chief or his designee, an employee may attend to Association or other personal matters by providing the City an off-duty employee of like rank to work for such absent employee. The City shall incur no additional liability due to such replacement nor shall the City assume any responsibility regarding "pay back" of such time. It shall be the duty of the employee to arrange for replacement and secure required approval not less than ten hours in advance of the requested absence. In cases of tardiness, the ten-hour notice requirement will be waived. In the event of an emergency, the ten hours' notice may be waived with approval of the Fire Chief or designee. Such approval shall not be unreasonably withheld. An employee requesting approval of an AWR shall submit a document by which the substitute employee assigns to the City an amount of his/her salary equal to the salary which will accrue to the requesting employee during his/her absence. Such assignment shall be executed by the City solely for that portion of the requesting employee's shift which the substitute employee fails to work for any reason. In such event, the failure by the replacement employee to report or remain for duty shall not result in any loss of compensation to the requesting employee. No loss of compensation shall occur if the replacement provides a substitute employee of like rank during his/her absence. Approved AWR's shall not be revoked by the City.

2. No employee shall take an AWR for the purpose of other employment, self-employment included.

3. Employees working AWR at a specialty station shall not be entitled to premium pay unless the Department requires the employee to work at that station for specialty staffing purposes.

4. AWR's are governed by Fresno Fire Department Administrative Manual 101.002 Constant Staffing Policy, and may be modified by mutual agreement of the parties.

M. WORKERS' COMPENSATION

1. Notwithstanding the provisions of FMC Section 3-118, an employee who suffers an injury/illness in the course and scope of City employment shall receive one hundred percent (100%) of the employee's full wages or salary in accordance with Labor Code section 4850. **The remaining provisions of FMC 3-118 shall apply.**

2. If the employee is placed on **Sick, Vacation, and/or Holiday Leave, or CTO, pending determination as to whether the injury or illness is industrial** * * * and the injury or illness is determined to be industrial, * * * **the leave category used above** shall be restored within thirty (30) calendar days of such determination, provided the employee has submitted all necessary documents relevant to the Workers' Compensation claim and the employee placed on work related injury/illness leave as provided herein.

5. If an employee is placed on Sick, Vacation, and/or Holiday Leave, or CTO pending determination as to whether the injury or illness is industrial, and the injury or illness is determined not to be industrial, * * * **the leave category used above** shall not be restored and the absence will be considered as outlined in Fresno Fire Department Administrative Manual 101.002 Constant Staffing Policy.

6. Retirement benefits shall not be reduced as a result of compensation paid at the one hundred percent (100%) rate level of compensation established herein. Changes in contribution by the City and employee shall be in accordance with the applicable **FMC** retirement code sections **in the City's Fire and Police Retirement System**.

7. Taxes shall not be withheld on compensation at the one hundred percent (100%) rate which is paid due to an injury or illness sustained in the course and scope of employment with the City. In the event Federal tax regulations are amended to include compensation received while absent due to injury or illness suffered in the course and scope of employment as taxable income, the provisions of subsection 1. Above regarding salary shall be of no force and effect**, except FMC 3-118 shall apply in all instances**.

§ deleted

N. STARTING STEPS WHEN PROMOTED

Firefighters and Firefighter Specialist promoted to the class of Fire Captain shall be appointed to the salary range step assuring a five percent (5%) pay increase. Firefighters promoted to the class of Firefighter Specialist shall be appointed to the salary range step assuring a five percent (5%) pay increase.

O. **ASSIGNMENT** TRANSFERS

The Fire Department administration shall maintain policies and procedures that regulate **the assignment** transfer processes **within the Fresno Fire Department**. **Assignment** Transfer policies and procedures are governed by Fresno Fire Department Administrative Manual 101.3 Transfer, and may be modified by mutual agreement between the Association and the Fire Chief **or designee**. When all other considerations are equal, seniority shall be the major factor in making **assignment** transfers; however, the needs of the service shall be paramount in determining the employee to be transferred from one shift to another or from one station to another, as determined by the Fire Chief or designee.

P. TEMPORARY REASSIGNMENTS

1. A temporary reassignment is defined as the reassignment of an employee, typically for a 24-hour period, in order for the department to meet daily staffing requirements. Although temporary reassignments may extend past the typical 24-hour period, in no case is a temporary reassignment intended to become a permanent **assignment** transfer. Whenever possible, seniority should be considered.

2. Compensation for use of a personal vehicle shall be in accordance with Fire Administrative Manual Section 108.2 – Mileage Reimbursement.

Q. THREE PERSONS FOR 2 HOURS

If staffing on an engine or truck company falls below three (3) for more than two (2) hours, the unit will be placed out of service and employees will be reassigned to other equipment or stations.

R. FIRE SUPPRESSION SERVICE DELIVERY

1. The City intends for the members of this Unit to be the providers of fire suppression to the City of Fresno. This does not preclude instant aid agreements, reciprocal or non-reciprocal aid agreements, or other interim measures to accomplish this intent, nor is it intended to restrict the ability of the City to determine the mission of its Fire Department.

Reduction in staffing levels shall be accomplished by attrition for those employees in Unit 5 and any employees in Unit 10 who may be placed in Unit 5 who are employed by the City as of June 30, 2011. Any employee hired on or after July 1, 2011 is subject to layoff provisions of the Fresno Municipal Code, including release from employment.

2. Nothing herein is intended to restrict consultation in good faith with the Association regarding matters within the right of the City to determine.

S. AMERICANS WITH DISABILITIES ACT (ADA), FAMILY MEDICAL LEAVE ACT (FMLA), CALIFORNIA FAMILY RIGHTS ACT (CFRA) AND WORKPLACE VIOLENCE

The requirements mandated by these statutes have been established in City policies (Administrative Order manual and Injury and Illness Prevention Program handbook) and the Family Medical Leave Act handbook.

T. HOURS OF WORK AND SCHEDULES

1. The workweek for the City for 5/8 and 4/10 schedules begins on Monday at 12:01 a.m. and ends the following Sunday at midnight. The comparison of hours between a 5/8 and or 4/10 with that of a twenty-four (24) hour schedule, or vice versa, utilizes a conversion factor of 1.4.

2. Each 9/80 work schedule will consist of eight 9-hour shifts, one 8-hour shift and one day off per 14-day period broken down into two 40-hour per week Fair Labor Standards Act (FLSA) work weeks. All employees working a 9/80 work schedule shall have an FLSA work week which begins four hours after the start time of the day of the week which constitutes the employee's alternating day off. This shall be an 8-hour shift. The work week shall end exactly 168 hours later. Scheduling of days off is determined by management, but must be on a Monday or Friday.

3. Workweek schedules are established by the department/divisions based upon the need to provide service to the public/other city departments.

4. For 5/8, 9/80 and/or 4/10 schedules, position assignments by classification, staffing levels, workweek schedules, and days off are determined solely by management, and are subject to change based on varying workload, the addition of authorized staffing, and department operational and service needs.

   a. Employees temporarily/permanently assigned to perform administrative tours of duty are assigned by management to a 5/8

or 4/10 workweek schedule, or combination thereof, or a 9/80 workweek schedule. (Light duty is not considered temporary/permanent administrative tour of duty.) Based on the needs of the service, an employee's work schedule may be modified with at least five calendar days written notice to the affected employees. In the event of an emergency, such work schedule may be modified with less notice.

b. The hours for a 5/8 workweek consist of five, eight hour days with two consecutive days off. The hours for a 4/10 workweek consist of four, ten hour days with three days off, of which two of the days off will be consecutive. Scheduling of days off is determined by management.

c. For a 5/8 workweek schedule, hours worked in excess of eight hours for a regular work day, or for all hours worked on a first day off, are compensated at one and one-half times the base/straight time rate of pay, and at two times the base/straight time rate of pay for the second day off. For a 4/10 workweek schedule, hours worked in excess of ten hours for a regular work day, or for all hours worked on either both of the first two days off are compensated at one and one-half times the base/straight time rate of pay, and at two times the bases/straight time rate of pay for the third day off.

For a 9/80 work week schedule, hours worked in excess of 9 hours for a regular workday scheduled for 9 hours or in excess of 8 hours on a regular calendar workday scheduled for 8 hours will be compensated at one and one-half time the regular rate of pay. For scheduled days off, work on two consecutive regular days off will be paid in accordance with 5/8 workweek schedules above, while work on the three consecutive regular days off will be paid in accordance with 4/10 workweek schedules above.

d. An employee working on 5/8, 9/80 or 4/10 schedule who is required to and does work on a holiday which is a regularly scheduled workday, will receive the employee's base/straight time rate of pay.

e. Leave requests to take a holiday off are required for all hours requested that day. Leave requests for all time off are processed utilizing a conversion factor of 1.4.

Personnel assigned to a 40 hour schedule may take holiday leave in any increment of time.

f. Personnel assigned to a 40 hour schedule may work a holiday by requesting and receiving prior approval from their immediate supervisor.

5. The 2/4 schedule shall be the normal work schedule for employees on a 56 hour work week. The 2/4 schedule will consist of two 24-hour worked back to back, with four shifts off (e.g. AABBCCAABBCC). All transfers and movement of relief personnel in such manner as to avoid having employees work greater than 72 consecutive hours.

ARTICLE VIII

HEADINGS/REFERENCES/CITATIONS

A. HEADINGS

MOU Article, 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.

B. REFERENCES/CITATIONS

References/citations in this MOU (includes exhibits, addendums, attachments, and side letters) to any existing federal, state, or City ordinances, rules, regulations, policies, Administrative Order Manual, Personnel Manual sections and subsections thereof, Salary Resolution sections and subsection thereof, and side letters) in no way incorporates said references/citations into this MOU, unless so noted.

ARTICLE IX

SAVINGS CLAUSE/FULL UNDERSTANDING

A. SAVINGS CLAUSE

In the event any article, 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 article, 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 article, section, or portion thereof.

B. FULL UNDERSTANDING

It is intended that this MOU sets forth the full and entire understanding of the parties, and any previous understanding or agreements 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 side letter agreement entered into during the term of this MOU shall continue in force subject to the terms and conditions set forth in the side letter. 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.

C. Nothing in this Article shall be interpreted to mean that the parties waive any rights under the Meyers-Milias-Brown Act, Government Code Section 3500, et seq.

ARTICLE X

TERMINATION

This MOU shall be in full force and effect from * * * **August 20, 2018**, through * * * **August 16, 2020**, subject to the Sections A., B., and C. below.

A. This MOU shall be effective only after ratification by the members of the Association, followed by City Council 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 the * * * **16th** day of * * * **August, 2020**.

B. During the term of this MOU, should either party desire to modify its terms or to meet and confer as to matters within the scope of representation not addressed in this MOU, the party requesting such modification shall request in writing to meet and confer on the item(s), which item(s) shall be specified in writing.

C. During the term of this MOU, either party may refuse such 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 MOU. It is further agreed, however, that this Article shall not prohibit the parties from requesting to meet and confer on changes to federal or state statutes**, regulations, or binding case law changes regarding statues or regulations after exhaustion of the appeal process,** referred to or cited in this MOU, in which case the request to meet and confer shall not be refused.

D. Notwithstanding the foregoing, the parties agree to meet and confer over the following items during the term of this MOU:

1. Proposed changes to the Personnel**,** * * * Civil Service**, and Employer-Employee Relations** provisions of the FMC;

2. Developing processes for administrative appeals of punitive actions under the Firefighters Procedural Bill of Rights Act (Government Code Sections 3250 et seq.) within six (6) months of implementation of this MOU.

3. Under the term of this MOU, a committee will be formed with up to three (3) members from Local 753 and up to three (3) members from the City, unless otherwise mutually agreed, to review the current

HRA benefit. If, through the course of meeting, the committee identifies possible benefit change(s), it would identify the reason for the change(s) and how to measure the impacts of the change(s) to include cost.

4. Developing and implementing annual performance evaluations, which meet and confer process will begin within six months of * * * **the effective date** of this MOU by the City Council and the Mayor **as set forth in Article X, Section A above**; and

5. Any changes that are made to the California State Fire Certification requirements that take effect during the term of this MOU.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 2018.

FOR THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS:

_____
STEPHEN LEONESIO
Chief Negotiator

_____
KEN MARTIN
Labor Consultant

_____
DEAN SANDERS
President

_____
BART BURKHART
Fire Captain

_____
CHAD TUCKER
Fire Captain

FOR THE CITY OF FRESNO:

_____
JONATHAN HOLTZMAN, ESQ.
Chief Negotiator/Special Counsel

_____
KENNETH G. PHILLIPS
Labor Relations Manager

_____
KERRI L. DONIS
Fire Chief

_____
RICHARD CABRAL
Deputy Fire Chief

_____
YVONNE DEDMORE
Payroll Manager

_____
STEPHANIE MARTINEZ
Management Analyst

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: _____
Assistant City Attorney

EXHIBIT I – SALARIES

Unit 5 – Fire Non-Management Effective June 30, 2018						
STEP	A	B	C	D	E	F
Firefighter Trainee*	4788					
Firefighter	5320	5585	5866	6158	6486	6794
Firefighter Specialist	5958	6255	6570	6896	7242	7604
Fire Captain	6650	6983	7332	7700	8086	8491
Fire Investigation Unit Supervisor	6650	6983	7332	7700	8086	8491

* While attending the City of Fresno Fire Department Academy

EXHIBIT II – SALARIES

Unit 5 – Fire Non-Management Effective December 24, 2018						
STEP	A	B	C	D	E	F
Firefighter Trainee*	4932					
Firefighter	5480	5753	6042	6343	6681	6998
Firefighter Specialist	6137	6443	6768	7103	7460	7833
Fire Captain	6850	7193	7552	7931	8329	8746
Fire Investigation Unit Supervisor	6850	7193	7552	7931	8329	8746

* While attending the City of Fresno Fire Department Academy

EXHIBIT III – SALARIES

Unit 5 – Fire Non-Management Effective December 23, 2019							
STEP	A	B	C	D	E	F	G
Firefighter Trainee*	4932						
Firefighter	5480	5753	6042	6343	6681	6998	7348
Firefighter Specialist	6137	6443	6768	7103	7460	7833	8225
Fire Captain	6850	7193	7552	7931	8329	8746	9184
Fire Investigation Unit Supervisor	6850	7193	7552	7931	8329	8746	9184

* While attending the City of Fresno Fire Department Academy

EXHIBIT IV

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: _____
Deputy City Attorney