MEMORANDUM OF UNDERSTANDING

BETWEEN AND FOR

THE CITY OF FRESNO

AND

INTERNATIONAL UNION OF OPERATING ENGINEERS,
STATIONARY ENGINEERS, LOCAL 39

(Non-Supervisory Blue Collar - Unit 1)

January 6, 2020 – January 1, 2023

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* * *	=	deleted old language
[§ deleted]	=	section/subsection deleted
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bold type	=	new language

ARTICLE I

PREAMBLE

A. PURPOSE

This Memorandum of Understanding and/or Collective Bargaining Agreement, hereinafter referred to as **("**Agreement**") or ("MOU"),** entered into by and between the City of Fresno, hereinafter referred to as **("**the City**")**, and the International Union of Operating Engineers, Stationary Engineers Local 39, hereinafter referred to as **("**the Union**")**, has as its purpose: the establishment of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay, hours of work, and other terms and conditions of employment, and the rendering of more efficient, progressive service to the public. Any provisions in this MOU which are new or modified from the terms of the previous MOU are effective * * * **January 6, 2020** unless otherwise stated in this MOU.

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 Agreement, the definitions and provisions contained in of Chapter 3, Sections 3-101, 3-201, 3-202, 3-501, and 3-601 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 from 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 Union is governed by Government Code Section 3500 et seq. (commonly known as the Meyers-Milias-Brown Act), * * * and Article 6 of Chapter 3 of the FMC**, as may be amended from time to time**. In the event of any conflict between said laws and this Agreement, said laws shall govern.

ARTICLE II

EMPLOYEE RIGHTS

A. NONDISCRIMINATION

The provisions of this Agreement shall apply equally to and be exercised by all employees consistent with state and federal nondiscrimination statutes and in City policies.

B. REPRESENTATION RIGHTS

The Union and the City agree that all employees in the Non-Supervisory Blue Collar Unit are guaranteed their rights as described in the Meyers-Milias-Brown Act.

ARTICLE III

CITY RIGHTS

A. GENERAL

1. It is understood and agreed that the City of Fresno reserves and retains all its inherent managerial rights, powers, functions and authorities. The exclusive rights of the City include, but are not limited to, the right to**:**

    a. determine the mission of its constituent departments, divisions, commissions, and boards;
    b. set standards of service and municipal fees and charges;
    c. determine the procedures and standards of selection for employment, assignment, transfer, and promotion;
    d. direct its employees;
    e. take disciplinary action;
    f. relieve its employees from duty because of lack of work or for other legitimate reasons;
    g. maintain the efficiency of governmental operations;
    h. determine the methods, means, and personnel by which government operations are to be conducted;
    I. determine the content of job classifications;
    j. take all necessary actions to carry out its mission in emergencies;
    k. exercise complete control and discretion over its organization and the technology of performing its work.

2. Nothing in this Agreement 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. All City rights formerly or presently claimed by or vested in the City on the effective date of this Agreement, even though not specifically set forth in Section A above, are retained by the City unless clearly and explicitly modified or restricted in this Agreement; provided, that notwithstanding any provisions of this Agreement, no City right shall be deemed waived, modified, or restricted unless such waiver, modification or restriction is explicitly and specifically approved by the Council.

ARTICLE IV

RECOGNITION

A. UNIT RECOGNITION

1. The City acknowledges the Union as the recognized employee organization representing the Unit, and therefore, agrees to meet and confer in good faith promptly upon request by the Union and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to make every reasonable effort to reach agreement on a successor Agreement at least one week prior to the last regular Council meeting at which the City budget must be adopted for the ensuing fiscal year. In order that the meet and confer process may include adequate time for full consideration of the proposals of both parties and for resolution of any impasse, the City shall accept proposals from the Union as early as * * * **August** 1 of the year prior to expiration of the MOU.

2. There shall be no more than one revocation of representation election during the term of this Agreement.

B. RECOGNITION OF UNIT DESCRIPTION

The Non-Supervisory Blue Collar Unit consists of all employees holding a permanent full-time position, as defined in FMC Section 3-202 (p) (4), in one of the classes listed in Exhibit 1 of any current salary resolution, or in such other class as may be added to the Unit in the manner designated in the FMC.

C. AUTHORIZED AGENTS

For purposes of administering the terms and provisions of this Agreement:

1. The City's principal authorized agent shall be the City Manager or duly authorized representative as provided for under FMC Section 3-615 (address: 2600 Fresno Street, Fresno, California 93721).

2. The Unit's principal authorized agent shall be the Business Manager of Local 39 or duly authorized representative (address: 337 Valencia Street, San Francisco, California 94103; telephone: (415) 861-1135). Local 39 recognizes FMC Section 3-615 and pursuant to such, agrees to meet and confer in good faith promptly upon reasonable request by the City and to continue every reasonable effort to reach agreement on matters within the scope of representation * * *.

D. RECOGNITION OF MUTUAL OBLIGATION

The Union and the City recognize and acknowledge their mutual obligation and responsibility to effectuate the purposes set forth herein, and to adhere in good faith to the terms and conditions set forth in this Agreement.

E. LOCKOUT AND STRIKE

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

2. No unlawful strikes or work stoppages by City employees, as defined in Section 3-624 of the FMC, **or applicable State bargaining laws,** shall be caused, instigated, encouraged, condoned, participated in, or honored by the Union or its members during the term of this Agreement.

F. EXCHANGE OF INFORMATION

Union Stewards - A written list of the Officers of Union and the Union Stewards with the specific areas they represent shall be furnished to the City immediately after their designation and the Union shall notify the City promptly in writing of any changes of such Union Officers or Stewards.

City Information - On a regular basis, the City shall provide to the Union a copy of amendments to the Administrative Order manual, new and amended salary resolutions, new and amended position authorization resolutions, job bulletins for classes in this Unit, and copies of new and revised class specifications prior to promulgation, of which such class specification copies shall serve as notice to the Union relative to effects bargaining.

G. UNION BULLETIN BOARDS

The Union may use bulletin boards designated by the City to post materials related to Union business (political advertisements shall not be considered Union material). Any materials posted must be dated, initialed by the Union representative responsible for the posting, and a copy of all materials posted must be distributed to the department head or designee at the time of posting. The Union agrees that nothing libelous, obscene, defamatory, or of a partisan political nature shall be posted.

H. NOTICE FOR REQUEST OF LEAVE TO ATTEND MEET AND CONFER SESSIONS

The Union shall provide the City not less than two days prior notice when requesting leave with or without pay to attend meet and confer sessions. When two days' notice cannot be provided, notice shall be provided as soon as possible.

This Section shall not be interpreted to require the City to grant any such leave, but instead is intended to provide prior notice of requests for leave, so that the City may attempt to allow such leave with a minimum of interruption of schedules and operations.

I. ACCESS TO CITY FACILITIES

Access to City facilities shall be governed by the provisions of FMC 3-622, as the same may be amended from time to time.

J. NEW EMPLOYEE ORIENTATION

The Personnel Services Department (PSD) provides a new employee orientation program to all new City employees (i.e., NEO). PSD will notify the Union at least 10 calendar days' in advance of a scheduled NEO, and at the end of the work week immediately preceding the NEO if the NEO will include any individuals who will be represented by the Union, unless the City is unable to reasonably do so because of an unforeseeable urgent need critical to City operations.

A representative selected by the Union will be invited to the NEO meeting room immediately prior to a session to be conducted by the bargaining unit and will be introduced by a City staff member. The Union will be provided an opportunity to meet with new bargaining unit members at the last session of the NEO. The session will be scheduled for thirty (30) minutes. This session will not be held if there are no new bargaining unit members attending the NEO or if the Union representative is not available.

K. BY-LAWS

The Union will provide a copy of its By-Laws to the Labor Relations Division. An updated copy of the By-Laws will be provided to Labor Relations whenever the By-Laws are revised.

ARTICLE V

SCOPE OF REPRESENTATION AND GRIEVANCES

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, are excluded from the scope of representation.

2. The Union is the exclusive representative of all employees holding a permanent position within those classes in the Unit.

3. The Union shall accord fair representation in all matters to all employees in the Unit without regard to whether the particular employee is a member of the Unit. The duty of fair representation shall include but not be limited to all matters related to collective bargaining, discipline, contract administration, and grievance processing. Employees covered by this Agreement shall have all rights specified in Government Code Section 3502.5(b).

4. Upon request by the Union, and due to extraordinary circumstances specified in such request, a department director, or such other persons whom the department director shall designate, shall allow reasonable access by Union officers or their officially designated representatives for a limited time to job sites for the purposes of processing grievances or conducting business within the scope of representation, except as access is requested for purposes which are precluded by the last sentence of FMC Section 3-622. Except as the granting of such requests shall unreasonably interfere with departmental operations or established safety or security requirements, such requests shall be granted.

B. GRIEVANCES

1. 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 Agreement. 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 abolishment 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, unfair employer-employee relations charge, fact-finding procedure, or as outlined below.

Grievances regarding probationary demotions/terminations and disciplinary actions excluded from the Civil Service Board process, shall not proceed past Step 2 of the Grievance Procedure.

2. A written grievance must set forth the rule, regulation, policy, or practice claimed to have been violated, 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. 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 (GAC), or to an arbitrator if arbitration has been elected under Step 3 below. The Committee or arbitrator shall rule on the dispute before proceeding with the hearing. The Committee or arbitrator will be bound by the agreement of the parties regarding timeliness unless the parties have mutually agreed to waive time lines.

3. Union Officers and Stewards designated under Article IV, Section F of this Agreement shall be excused without loss of compensation from their regular duties for such time as is necessary to attend and represent the grievant at grievance hearings, beginning at the first level of the procedure.

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

   Step One - Filing the Grievance

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

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

   b. Upon receipt of a written grievance, the immediate supervisor or designee shall give the grievant a written reply within fourteen (14) calendar days.

Step Two - Department Head Review

Should the grievant not be satisfied with the answer received from grievant's immediate supervisor or designee, the grievant may within fourteen (14) 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 department head or designee may confer with the grievant and appropriate supervisors in an attempt to bring about a mutually acceptable solution.

Step Three - Mediation/GAC/Binding Arbitration

a. Only the Union can move a grievance to Step Three.

b. If the grievant is not satisfied with the decision of the department head or designee, the Union may, within fourteen (14) 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 or through binding arbitration as outlined in Subsection e. below.

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

d. The City and the Union 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 or binding arbitration. Time limits for processing of the grievance are automatically extended for as long as mediation is in process.

e. The Union shall be limited to two (2) requests for binding 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 binding arbitration dealing with MOU interpretation or application. Any request for binding arbitration that does not meet the requirements of this Subsection shall not be processed, and such grievance concludes at Step One above.

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 issues, or issues, and render a written decision and reasons for the opinion within thirty (30) calendar days following the closing of the arbitration hearing, unless the period has been mutually extended in writing by all parties. The decision shall be sent to the Labor Relations Division and to the Union. The arbitrator's decision shall be final and binding.

f. The Grievance Advisory Committee (GAC) shall be comprised of three (3) members: one selected by the Grievant, one selected by the City and the chairperson. The GAC chairperson or arbitrator may be chosen either by mutual agreement of the Union and the City, or by the "strike" method from a list of neutrals provided by the State Mediation and Conciliation Service. If the GAC chairperson is selected by the strike method from the list of neutrals provided by the State Mediation and Conciliation Service, then the GAC shall be comprised exclusively of the selected neutral. The City and the Union shall select a chairperson or arbitrator within fourteen (14) calendar days of the receipt of a grievance requesting review by a Grievance Advisory Committee by the Labor Relations Division or upon receipt of the list of neutrals from State Mediation and Conciliation Service.

Fees and expenses of the chairperson or arbitrator shall be paid half by the City and half by the Union, provided, however, that the GAC or arbitrator may recommend that the City or the Union, pay the total of such fees and expenses should it find that, but for the unreasonableness of that party's posture, the convening of the Committee or arbitration would not have been necessary.

g. 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.

h. All time limits herein may be extended by mutual agreement of the parties. The parties agree that if a time limit for filing a grievance, grievance appeal, or response ends on a Saturday, Sunday, or holiday as listed in this Agreement, the time limits shall be extended to the next regular business day.

i. The Grievance Advisory Committee shall talk to the employees and the supervisor involved to set forth in writing the facts of the particular situation as objectively as possible and recommend a solution to the City Manager or designee within thirty (30) calendar days of its last meeting.

j. If the grievance has been submitted to a GAC, the City Manager or designee shall review the decision of the department head or designee and recommendations of the Grievance Advisory Committee and shall render a written decision to the grievant within twenty-one (21) calendar days after receipt from the Grievance Advisory Committee.

k. 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 process. 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 any further action required of the grievant.

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

Use of a hearing officer in disciplinary actions shall be in accordance with FMC Section 3-283.

ARTICLE VI

DUES DEDUCTION

A. GENERAL

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

2. **The Union, 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.**

[§§ deleted]

B. EXCEPTIONS TO DUES DEDUCTION AUTHORIZATION CARD

The 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 may the member be required to deposit, nor may the member deposit with the City Controller, the amount which would have been deducted if the member had been in a pay status during that 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 * * *

1. **Dues deductions** covering all such deductions shall be transmitted **by electronic funds transfer** to **an account specified by Stationary Engineers, Local 39. * * ***

[§ deleted]

2. * * * **Dues deductions** will be transmitted at least monthly.

3. The City agrees to provide the Union with an electronic file that shows the total amount authorized for deduction from each member's check.

[§§ 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 Agreement, shall be continued without alteration during the term of this Agreement.

B. SALARIES/PENSION

1. Salaries

Effective **January 6, 2020**, the base rate of pay of all employees in this unit will be increased by **three percent (3%)** as reflected on Exhibit I, attached hereto and incorporated by reference.

Effective **January 4, 2021**, the base rate of pay of all employees in this unit will be increased by an additional **three percent (3%)** as reflected on Exhibit II, attached hereto and incorporated by reference.

Effective **January 3, 2022**, the base rate of pay of all employees in this unit will be increased by an additional **two percent (2%)** as reflected on Exhibit III, attached hereto and incorporated by reference.

2. Pension Contribution

a. Contributions for Employees Hired On or After May 29, 2017:

Employees hired by the City on or after May 29, 2017, shall make an additional contribution equal to one and one half percent (1.5%) of their pensionable compensation to the City of Fresno Employees Retirement System, reducing the City contribution by a corresponding amount. Employees hired by the City prior to May 29, 2017, who enter Unit 1 on or after May 29, 2017, and were paying an additional one and one half percent (1.5%) of their pensionable compensation immediately prior to entering Unit 1, shall continue to pay the additional one and one half percent (1.5%) of their pensionable compensation to the City of Fresno Employees 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 Employees Retirement System. The

employee shall have no option to receive the one and one half percent (1.5%) contribution in cash. The one and one half percent (1.5%) 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.

Employees who separate City employment regardless of reason and withdraw their employee contributions from the Retirement System between the date this agreement is approved by the City, and the effective date of a Fresno Municipal Code amendment pursuant to the provisions in this Section will have an amount equivalent to the additional one and one half percent (1.5%) the employee contributed pursuant to these provisions refunded by the City of Fresno.

b. Contributions for Employees Under Proposed Fresno Municipal Code Amendment:

After this MOU becomes effective, the City will provide notice to all affected bargaining units of its intent to recommend consideration of an amendment to the Fresno Municipal Code to allow the additional one and one half percent (1.5%) contribution to reduce the City's contribution amount to stop and to become part of the Member Normal Contribution Rate set forth in the Employees Retirement System ("Retirement System"). If the Municipal Code is so amended, the City and the Union agree that, on the first pay period following the date the new FMC provision goes into effect, the following will apply if approved by the City Council:

Members of the Retirement System who are paying an additional 1.5% into the Retirement System shall have their Member Normal Contribution Rate increased by an additional one and one half percent (1.5%) which will be added to their existing Entry Age Normal Contribution Rate effective the date the Fresno Municipal Code amendment becomes effective.

If the process of amending the Municipal Code as outlined above is not completed within 12 months of approval of this MOU, the parties agree to a limited reopener on the additional pension contribution of one and one half percent (1.5%). Any modification of this provision will require mutual agreement.

C. BONUS PAY

The parties agree to meet and confer during the term of this MOU to discuss bonus pay for performance plans for employees of this Unit. Any implementation of a bonus plan(s) shall be by mutual agreement of the parties.

D. OVERTIME

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

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

3. Telephone Calls – Employees who are called at home to assist with City work that must be accomplished, but are not called to a worksite, shall receive a minimum of twelve (12) minutes of pay for each such call. Calls such as attempts to locate the employee or provide information on changes in work schedules are not compensable for the purpose of this provision.

4. There shall be no pyramiding or duplication of overtime or premium rates.

5. In clarification of the above, it is the policy of the City that overtime work is to be discouraged. However, in case of emergency or whenever the public interest requires, the Chief Administrative Officer, or any department head or designee with respect to any employee in the department head's or designee's department, may require an employee to perform overtime work. No employee shall be entitled to compensation or compensating time off for overtime work unless such overtime work is approved as provided in this Agreement.

6. Excluding holidays, all employees shall be compensated for approved overtime work by additional pay as follows (refer to Article VII, Section H Subsection 1. for holiday overtime compensation):

a. Work performed in excess of eight hours on a regular workday and work performed on the employee's first regular day off but not a holiday shall be compensated at one and one-half times the applicable hourly rate.

b. Work performed on the employee's second regular day off shall be compensated at twice the applicable hourly rate.

c. The provisions of Subsections 6.a. through 6.b. above shall not apply to any employee who works a regularly scheduled workday of ten hours during a regularly scheduled workweek of four days.

d. Overtime shall be credited in units of one-tenth of an hour.

e. All employees who work a regularly scheduled workday of ten hours during a regularly scheduled workweek of four days shall be compensated for approved overtime work by additional pay as follows:

(1) Work performed in excess of ten hours in one day or on either or both of the first two scheduled days off in a workweek shall be compensated at one and one-half times the applicable hourly rate.

(2) Work performed on the third scheduled day off in a workweek, shall be compensated at two times the applicable hourly rate.

f. The procedures in this sub-section (sub-section f.) shall not apply to the Water Distribution mandatory overtime list for stand-by/emergency operations.

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

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

assigned standby duty, unplanned overtime will be performed by the employee(s) assigned standby. Planned overtime will be assigned by seniority from the voluntary overtime list.

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

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

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

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

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

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

g. The City shall not adjust a regular workweek schedule during said workweek to avoid the payment of overtime.

h. Overtime shall not be credited for units of overtime less than one-tenth of an hour, and fractional units of overtime less than one-tenth of an hour shall not accumulate.

E. COMPENSATORY TIME OFF (CTO)

1. Effective with City Council approval of this MOU, an employee has the option to accrue CTO in lieu of cash payment for overtime hours worked for the first twenty (20) hours of overtime worked in a fiscal year. At management's discretion, an employee may accrue additional CTO in lieu of cash for overtime hours worked subject to the limitations noted below. CTO may only be used for time off and may not be cashed out except upon separation from employment. However, in the last pay period of each fiscal year, any unused CTO which is not carried over to the next fiscal year pursuant to Subsection 2. below, will be cashed out by the City at the employee's base rate of pay.

2. The employee may accrue a CTO balance not to exceed eighty (80) hours. Employees may carry over a maximum of forty (40) hours of their CTO balance to the next fiscal year. A request for carry over of hours, including the number of hours to be carried over, must be submitted in writing to the department/division no later than May 30 of each year.

3. Employees who have reached the maximum accrual (80 hours) shall be given cash payment for additional overtime hours worked until such balance has been reduced below the maximum allowable amount of eighty (80) hours.

4. CTO shall be accumulated at the applicable straight time, time and one-half, or double time rate for the time worked.

5. The use of accumulated CTO shall be requested, and subject to approval, the same manner as is vacation.

F. PREMIUM PAY

1. <u>P.M. Hours Premium Pay</u>

   If one-half (½) or more of an employee's regularly scheduled shift hours fall between the hours of 5:00 p.m. and midnight, the night shift premium pay will be $1.25 per hour for all actual hours worked that shift. If one-half (½) or more of an employee's regularly scheduled shift hours fall between the hours of midnight and 8:00 a.m., the night shift premium pay will be $1.75 per hour for all actual hours worked that shift.

2. <u>Height Work</u>

   Employees on specific assignment from management, working on poles, towers other than a tower erection, or trees at a height of 50 feet or more

shall receive double their base rate of pay for all actual hours worked at such heights.

3. Standby Pay

a. * * * Standby duty **may be assigned** * * * at the discretion of management. **Standby duty shall be assigned on a rotating basis in accordance with sub-section c. below.** An employee assigned standby duty will be required to carry a pager or City cell phone and shall refrain from consuming alcohol or taking any substance which may impair the employee's ability to perform all required duties. Employees on standby duty are required to respond, and shall report to the work site within one hour of being paged or called. Standby pay shall be **$1.65** per hour.

b. Time spent on standby duty shall not be considered hours worked. In the event an employee on standby duty is required, and does report to the work site after leaving the assigned work area for the day, the employee will be compensated as provided in Article VII, Section D., Subsection 2. of this Agreement. In the event an employee on standby duty responds to a telephone call regarding City work, but does not report to the work site, the employee shall be compensated as provided in Article VII, Section D., Subsection 3. of this Agreement.

c. For standby assignments that are assigned, either on an annual or seasonal basis, employees will be rotated through standby assignments in seniority order by classification within the work unit. The most senior employee will receive the first assignment. The next most senior employee will receive the next assignment, and so on until all employees have been assigned. The assignment will then again go to the most senior employee. If an employee is not available for the standby assignment because of unscheduled leave, the employee will be moved to the bottom of the rotation.

The City reserves the right to determine whether or not an employee possesses the qualifications necessary to perform the standby assignment.

4. * * * **Permit-Required** Confined Space Pay

Employees specifically assigned to work in a hazardous **Permit-Required** Confined space as defined by CAL-OSHA **under Title 8 of the California Code of Regulations, Section 5157,** shall receive a pay differential of

$1.90 per hour for each hour or portion thereof while working in the space as assigned.

5. **Solid Waste/Homeless Task Force**

Employees in this Unit in the Solid Waste Division of the Department of Public Utilities who are specifically assigned to the Homeless Taskforce on an ongoing basis shall receive a monthly premium pay of seventy-five dollars ($75) per month.

6. Surface Water Treatment Facility

Employees in the class of **Senior Water Treatment Plant Operator** * * * specifically assigned to work at the Surface Water Treatment Facility * * * shall receive a monthly premium pay of three hundred seventy-five dollars ($375) per month.

7. Certificates

a. Body and Fender – Employees in the class of Body and Fender Repairer/Leadworker, who possess a valid Master Collision Repair/Refinishing Technician Certificate, issued by the National Institute for Automotive Excellence, shall receive two hundred dollars ($200) per month.

b. Mechanic – Employees in the class of Bus Mechanic I/II/Leadworker and Heavy Equipment Mechanic I/II/Leadworker, who possess a valid Master Medium-Heavy Duty Truck Technician Certificate or Master Bus Technician Certificate, and Fire Equipment Mechanic I/II/Leadworker who possess a Medium Heavy Duty Truck Certificate, and Light Equipment Mechanic I/II/Leadworker, who possess a valid Master Automobile Technician Certificate, issued by the National Institute for Automotive Service Excellence (NIASE), shall receive two hundred dollars ($200) per month.

In order to continue to receive certification pay, incumbent Bus Mechanic Equipment I/II/Leadworkers shall recertify by passing Transit Bus Technician series tests prior to expiration of the certification.

In order to continue to receive certification pay, incumbent Heavy Equipment Mechanic I/II/Leadworkers shall recertify by passing Medium-Heavy Truck Technician series tests prior to expiration of the certification.

(1) Blue Seal of Excellence Recognition – Employees assigned to FAX, Fire or Fleet equipment repair facilities in the class of Equipment Service Worker II, those classes noted in 6. b., above, or any other class whose certification contributes to the receipt of the facility's ASE Blue Seal of Excellence Recognition, shall become eligible to receive **six hundred dollars ($600)** per year premium pay pursuant to the following requirements:

(a) A FAX, Fire or Fleet facility must receive ASE Blue Seal of Excellence Recognition pursuant to the Program criteria established by the NIASE;

(b) the employee must possess at a minimum two (2) applicable ASE certificates pursuant to the Program criteria established by the NIASE; and,

(c) the employees', with the exception of Equipment Service Worker II's, ASE certification(s) must be necessary for the facility's receipt of the ASE Blue Seal of Excellence Recognition Program.

c. Air Conditioning Mechanic – Employees in the class of Bus Air Conditioning Mechanic/Leadworker who possess a Technician Certification in the H6 Electrical/Electronic Systems and the H7 Heating, Ventilation and A/C in the transit bus series issued by the National Institute for the Automotive Service Excellence shall receive monthly certificate pay of seventy-five dollars ($75).

d. Aviation Mechanic – Employees in the classes of Aviation Mechanic **I/II and** Aviation Mechanic Leadworker shall receive one hundred fifty dollars ($150) per month for certification and equipment maintenance and support. The City will also provide $250,000 in life insurance/death benefit coverage, solely for "off premises" flying to employees occupying the class of Aviation Mechanic **I/II and** Aviation Mechanic Leadworker.

e. Automotive Parts Specialist/Leadworker – Employees in the class of Automotive Parts Specialist or Automotive Parts Leadworker, who possess a P1 Medium Heavy Truck Parts Specialist certificate and a P2 Medium Heavy Trucks Specialist certificate issued by the National Institute for Automotive Service Excellence (NIASE) shall receive a monthly certificate pay of fifty dollars ($50).

f. **<u>Fire Equipment Mechanics</u> – Employees in the class of Fire Equipment Mechanic I/II who possess a valid Fire Mechanic I certificate or Emergency Vehicle Technician I Certificate from the California Office of the State Fire Marshal (OSFM) shall receive one hundred dollars ($100) per month. Employees in the class of Fire Equipment Mechanic II or Fire Equipment Mechanic Leadworker who possess a valid Fire Mechanic II certificate or Emergency Vehicle Technician II Certificate from the California Office of the State Fire Marshal (OSFM) shall receive one hundred fifty dollars ($150) per month.**

g. **<u>Equipment Service Worker IIs</u> – Fire Maintenance – Employees in the class of Equipment Service Worker II (ESW II) assigned to the Fire maintenance section of the Public Safety Division who possess a valid Fire Mechanic I certificate or Emergency Vehicle Technician I Certificate from the California Office of the State Fire Marshal (OSFM) shall receive seventy-five dollars ($75) per month.**

h. **<u>Underground Storage Tank (UST) Operator Certificate</u> – Employees who are required to obtain and who maintain a valid California Underground Storage Tank (UST) Operator Certificate issued by the International Code Council shall receive seventy-five dollars ($75) per month.**

i. <u>Instrumentation Specialist</u> – Employees in the class of Instrumentation Specialist, who possess a valid Electrical/Instrumentation Certificate issued by the California Water Environment Association, shall receive monthly certificate pay as follows:

Grade I (Plant Maintenance Technologist)	$50
Grade II	$75
Grade III	$100
Grade IV	$150

j. <u>Collection System Maintenance Operator II/III</u> – Employees in the class of Collection System Maintenance Operator II, who possess a valid Grade II Maintenance of Wastewater Collection Systems Technical Certificate issued by the California Water Environment Association, shall receive fifty dollars ($50) per month. Employees in the class of Collection System Maintenance Operator II or III, who possess a valid Grade III Maintenance of Wastewater Collection Systems Technical Certificate shall receive seventy-five dollars ($75) per month. Employees in the class of Collection System

Maintenance Operator II or III who possess a valid Grade IV Maintenance of Wastewater Collection Systems Technical Certificate shall receive one hundred dollars ($100) per month. Employees in the class of Collection System Maintenance Operator III specifically assigned as a lead worker as of September 5, 2016, shall be compensated an additional two hundred dollars ($200) per month. The two hundred dollars per month shall be discontinued when a Lead Classification is created in the Collection System Maintenance series and employees are placed in the Lead Classification.

k. Traffic Maintenance – Employees in the class of Traffic Maintenance Worker II/Traffic Maintenance Leadworker who possess a valid Level I or higher Work Zone Traffic Safety Specialist Certificate and a valid Level III or higher Signs and Markings Specialist Certificate issued by the International Municipal Signal Association shall receive sixty dollars ($60) per month.

l. Wastewater Mechanical Series – Employees in the class of Wastewater Mechanical Technician and Wastewater Mechanical Specialist/Senior, who possess a valid Mechanical Technologist Certificate issued by the California Water Environment Association, shall receive monthly certificate pay as follows:

Grade I (Plant Maintenance Technologist)	$50
Grade II	$75
Grade III	$100
Grade IV	$150

In addition to the above, employees in the class of Wastewater Mechanical Technician and Wastewater Mechanical Specialist/Senior, who possess a valid Water Treatment Operator or Water Distribution Operator Certificate issued by the State of California Department of Health Services, shall receive one hundred dollars ($100) per month.

m. Wastewater Treatment Plant Operator I/II/Senior – Employees in the class of Wastewater Treatment Plant Technician who possess a valid Wastewater Treatment Plant Operator Certificate issued by the Department of Water Resources, State Water Resources Control Board, shall receive monthly certificate pay as follows:

Grade II	$75
Grade III	$100
Grade IV	$150
Grade V	$200

Employees in the class of Wastewater Treatment Plant Specialist who possess a valid Wastewater Treatment Plant Operator Certificate issued by the Department of Water Resources, State Water Resources Control Board, shall receive monthly certificate pay as follows:

Grade III	$100
Grade IV	$150
Grade V	$200

Employees in the class of Senior Wastewater Treatment Plant Operator who possess a valid Wastewater Treatment Plant Operator Certificate issued by the Department of Water Resources, State Water Resources Control Board, shall receive monthly certificate pay as follows:

Grade IV	$150
Grade V	$200

In addition to the above, employees in the class of Wastewater Treatment Plant Operator I/II/Senior Wastewater Treatment Plant Operator, who possess a valid Water Treatment Operator or Water Distribution Operator Certificate issued by the State of California Department of Health Services, shall receive one hundred dollars ($100) per month.

n. Water Treatment Operator & Water Distribution Operator Certificates

It is expressly understood that positions and assignments eligible for this certificate pay will be determined solely at the discretion of management in the applicable division noted below. Employees in the Water Division occupying the classes below who possess a valid Water Treatment Operator Certificate or Water Distribution Operator Certificate issued by the State of California, Department of Health Services shall receive monthly certificate pay as follows:

Classifications Eligible:

Instrumentation Specialist
Water Distribution**/Production** Technician/Specialist
Water Maintenance Mechanic Technician/Specialist
* * *
Water Quality Technician/Specialist
Senior Water Distribution**/Production** Operator
* * *

Senior Water Treatment **Plant** Operator

DI	$50
DII	$100
DIII	$150
DIV	$200
TI	$100
TII	$200
TIII	$250
TIV	$300
TV	$300

In addition to the above, employees in Water Division who possess both a valid Water Treatment Operator Certificate and Water Distribution Operator Certificate issued by the State of California, Department of Health Services shall receive one hundred dollars ($100) per month. A certificate which is required as a minimum qualification for the position shall not be used in qualifying for dual certification. Employees with dual certification will be paid at the highest rate due for one of the two certifications in addition to the $100 for dual certification. For example, an eligible employee in a class requiring a DII will require a DIII or higher and a Treatment Operator certificate to be eligible for the dual certification pay.

o. Crane Operator – Employees who are required to maintain a Crane Operator License shall receive one hundred dollars ($100) per month. This premium pay is not stackable with premium pay for maintaining a Commercial Driver's License (CDL) * * * in sub-section **p.** below.

p. **Commercial Driver's License** – * * * **Any** classifications * * * whose job specifications indicate that a **Commercial Driver's License (**"CDL"**)** may be required * * * and are assigned to duties that require a CDL; shall receive one hundred dollars ($100) per month. This premium pay is not stackable with premium pay for maintaining a Crane Operator License CDL in sub-section **o**. above.

q. Hazardous Materials Endorsement – Employees who are assigned to duties which require a Hazardous Materials endorsement on their CDL shall receive one hundred dollars per month.

r. Backflow Prevention Assembly Tester Certificate – It is expressly understood that positions and assignments eligible for this certificate pay will be determined solely at the discretion of management. Employees who possess a valid Backflow Prevention Assembly

Tester Certificate issued by either the American Backflow Prevention Association or the American Water Works Association shall receive monthly certificate pay of one hundred and fifty dollars ($150).

8. Camp Fresno Meals

In the event an employee is assigned to work at Camp Fresno, or receives some other similar assignment, and during such assignment the City provides meals for the employee, the employee, at the employee's option, may elect to receive a cash payment of $15.00 per day in lieu of receiving the meals. This Subsection shall not apply to employees assigned for periods in excess of one (1) week or to any employee assigned a cabin with cooking facilities.

9. Temporary Assignment To Perform Duties Of Absent Employees (Acting Pay)

a. When an employee holding a permanent position is absent from duty for any cause (e.g., vacation, sick, holiday, CTO, injury leave, military leave, leave of absence without pay and training), the appointing authority shall, if possible, temporarily assign to one or more employees in the same or higher class work of the absent employee that cannot be deferred until the absent employee's return. When such assignment is not practical, the appointing authority may temporarily assign another employee in the same department or office holding a permanent position in a lower class to perform the duties of the absent employee. The employee so assigned shall be entitled to receive compensation attached to the higher position at the step closest to but not less than 3½% above the employee's current step placement, if the employee's class specifications do not require that the employee perform said duties in the absence of the regularly assigned employee and if the employee meets the conditions provided in this Section.

b. After any such employee has completed forty (40) hours of service in a higher class, the employee shall be paid the rate of pay attached to the higher class when assigned Acting. An employee who has held permanent status in the higher class prior to an Acting assignment shall not be required to complete the qualifying period of service set forth above, and shall be paid for the entire duration of the employee's assignment to the higher class at the rate of pay assigned to the higher class.

c. Acting List – Employees who meet the minimum qualifications for a higher level position may volunteer for Acting. Annually, by May 1 of each year, management will invite employees to volunteer for Acting

assignments. The posted notice inviting employees to volunteer for Acting assignments will identify the title and minimum qualifications of the classification in addition to any special requirements in a particular work unit or section. Departments may consider work habits, attendance and other considerations when placing employees on the qualifying list. Employees who no longer meet the criteria established by the department may be removed from the list at any time. Departments may also add the names of volunteers throughout the year.

(1) Temporary assignments described herein shall first be offered to the most senior and qualified employee from the Acting List noted in paragraph c. above and each successive most senior and qualified employee working on the same shift, schedule, crew, and/or section within a division until such temporary assignment is filled. Each such additional temporary assignment opportunity shall be offered on a rotating basis by implementing the Acting List from paragraph c. above.

(2) The duration of the temporary assignments described herein and assigned according to this provision (MOU Article VII, Section F., Subsection 8.) shall be for the duration of the absence of the employee for which the temporary assignment is being made.

d. In the computation of qualifying service rendered, or the amount of the higher pay to which an employee may be entitled, on an Acting assignment, only full days or shifts of actual duty shall be included, and part days or shifts shall not be combined to make full days or shifts. Time on leave occurring during any assignment shall not be included in any such computation.

e. When an Acting assignment is deemed appropriate and necessary, it shall first be offered to the most senior and qualified employee from the Acting List noted in paragraph c. above and each successive most senior and qualified employee working on the same shift, schedule, crew, and/or section within a division until such temporary assignment is filled. Each such additional temporary assignment opportunity shall be offered on a rotating basis by implementing the Acting List from paragraph c. above.

f. If an employee on an Acting assignment goes on leave and the department wishes to continue an Acting assignment, the next most senior employee shall be assigned.

g. When an Acting assignment is expected to last for one month or more, management may rotate the Acting assignment among employees on the Acting list in order to allow more employees to attain Acting experience. Any rotation will be done in accordance with sub-section e. and sub-section f. above, and, to the extent it is practical to do so, shall be done in equal time periods for each employee in the rotation.

10. Temporary Assignment Pay

Depending on the assignment, the temporary assignment pay prescribed herein may be prorated for the time so assigned and worked. Temporary assignment pay shall not be applied when an employee is on a leave of absence for any reason (e.g., vacation, sick, holiday, CTO, injury leave, military leave, and leave of absence without pay).

a. Each Maintenance and Construction Worker in the Street Maintenance Division assigned to operate a street sweeper as part of a street maintenance project, and who possesses the appropriate valid California Driver's License, shall be paid for that time at the lowest step in the Street Sweeper Operator II salary range which is at least five percent (5%) above the employee's base rate of pay as a Maintenance and Construction Worker.

   Each Maintenance and Construction Worker assigned to the Street Maintenance Division, Concrete Crew milling machine and paving machine as an assistant to the operator of said machinery shall be paid five percent (5%) above the employee's base rate of pay while so assigned.

b. Employees who perform pesticide/herbicide spray function for right-of-way, landscape maintenance, or aquatic areas shall receive an additional five percent (5%) of their base hourly rate of pay for the actual time spent applying pesticide/herbicide if they possess a valid Qualified Applicator Certificate * * * issued by the * * * Department of **Pesticide Regulation** * * *. The City shall pay certificate renewal and maintenance fees.

c. Each Parks Maintenance Worker I/II regularly assigned on a full-time, year-round basis to irrigation work shall receive an additional five (5) percent of their base hourly rate of pay for each full pay period while so assigned.

d. Each Utility Leadworker assigned to the Patrol Division, Graffiti Enforcement, shall be paid two (2) percent above their base rate of pay while so assigned.

11. Bilingual Certification Program

a. 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.

b. Bilingual certification examinations will be conducted on an as needed basis. Examination applications will be available at the Personnel Services Department and City department personnel units. Effective upon approval of this MOU, in order to remain eligible to receive bilingual premium pay, employees must take and pass the certification examination once every five (5) years. **Employees who fail to recertify will no longer receive bilingual premium pay.**
* * *

c. This bilingual certification program is not subject to the grievance or appeal process.

d. Department directors or their designees, shall annually designate those positions or assignments for which bilingual skills are desired. This may result in the loss of bilingual designation and pay for those positions or assignments not selected.

e. Bilingual certification examinations are conducted languages as outlined in the Salary Resolution.

f. The bilingual premium pay rate for certified permanent employees is fifty dollars ($50) per month, regardless of how many languages for which an employee is certified. * * *

g. Certified employees 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 employee's supervisor.

h. Certified employees shall not refuse to interpret/translate while on paid status. Refusal shall result in appropriate disciplinary action. 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.

i. Except in the event of an emergency as determined by management, bilingual employees who are not certified shall not be required to interpret/translate.

G. HEALTH AND WELFARE

1. Health Insurance - City Health Plan - Employee Options

a. The City's sole obligation for an employee's health insurance shall be to pay the agreed upon dollar amount per month per employee on behalf of employees represented by the Union. Effective July 1, 2014, the City shall contribute seventy-five percent (75%) of the employee's health and welfare premium. After July 1, 2014, 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 is set at 30%, the City shall pay 70%.

b. 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, upon the Union's request, the City will match that benefit.

c. The City will meet with Local 39 and other City bargaining units to discuss an alternative health care plan and/or to modify the Health and Welfare Trust agreement, provided that no changes will be made unless all represented bargaining units agree. The parties further agree that the Side Letter on the Trust dated February 24, 2009 has expired.

2. Other Insurance Contribution (Opt Out Benefit)

a. With proof of other insurance, the City shall contribute up to **three hundred dollars ($300)** per month for each employee not enrolled in the City's Health and Welfare plan if enrolled in a health plan outside of the City, such as a spousal plan. The City contribution shall not exceed the health premium the employee is paying.

b. Eligible employees (i.e., with proof of other insurance) may enroll in this benefit upon:

(1) employment with the City;

(2) within thirty (30) days of a qualifying event; or,

(3) during the open enrollment period for the Health Plan.

c. An employee receiving the opt out benefit of up to **three hundred dollars ($300)** will be required to submit proof of other insurance to the City on an annual basis and must notify the City if that insurance is discontinued for any reason. Proof of insurance will be shown by a group health insurance employee benefits card.

H. LEAVES

1. Holidays

a. Except as may be modified in this Section, Holidays shall be governed by 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 (2)** Personal Business Day**s** (8 hrs. credited to holiday balance on **the first month after Council approval of this MOU** * * * and thereafter **8 hours** on July 1 **and 8 hours on January 1 of each year.**)
- Any day or part of a day declared by the Council, by ordinance or resolution, to be a holiday.

b. If January 1st, July 4th, November 11th, or December 25th falls upon a Sunday, the Monday following will be observed as the holiday, in lieu of Sunday.

c. All employees will receive eight hours compensation for the above holidays with the following exceptions:

(1) For work performed on a holiday which is a scheduled work day, an employee shall receive the employee's regular salary (i.e., base pay rate) for the hours worked on that day, and will be credited with * * * hours **equivalent to the amount of hours worked (up to eight hours)** of holiday **leave**. **If the**

employee worked less than eight hours, the balance of the holiday hours will be paid.

* * * **E**mployees on a 4/10 work schedule, **who work** ten (10) hours * * * on a holiday, which is a scheduled workday, shall receive the employee's regular salary (i.e., base pay rate) for the hours worked on that day, and will be credited with eight hours of holiday leave. **If the employee worked less than ten hours, the employee will be credited with hours equivalent to the amount of hours worked (up to eight hours) of holiday leave. The balance of the holiday hours will be paid up to eight hours. The employee may elect to take an additional two hours from a leave bank other than sick leave, or may elect to receive 2 hours of leave without pay (LWOP).**

(2) When a holiday falls on a regularly scheduled day off, employees will be credited with eight hours of holiday.

(3) In addition to the holiday credit in Subsection (2), above, employees who are called in or scheduled to work a holiday, which is their regularly scheduled day off, will be compensated at time and one-half for a minimum of two hours, or for actual hours worked, whichever is higher.

(4) Employees who are absent from duty on leave without pay or suspension without pay **at the end of the employee's shift before the recognized holiday** * * * will not receive compensation for the holiday, unless they actually work the holiday. This Subsection shall not apply to employees who are on leave without pay as a result of the unavailability of work.

[§ deleted]

d. Effective May 19, 2014 employees' holiday leave balances shall be placed in a non-accruing "special holiday leave bank."

e. Employees may cash out up to forty-eight (48) hours of leave from the special holiday leave bank each fiscal year.

f. The maximum holiday leave accrual is forty eight (48) hours. Any regular holiday leave accrued may be cashed out at any time. Any holiday leave accrued above forty eight (48) hours will be automatically cashed out.

g. Any balances of holiday leave or in the special holiday leave bank shall be paid to the employee upon separation from City service.

h. Holiday leave from either holiday bank may be taken in increments of less than 8 hours.

i. Employees of the Solid Waste Management Division will not be required to work on Thanksgiving, Christmas, or New Year's Day.

2. Sick Leave

a. Sick leave may be taken for absences from duty * * * by:

(1) Illness or physical incapacity of the employee, the employee's child, parent, spouse or registered domestic partner caused by factors over which the employee has no reasonable immediate control;

(2) Injury not incurred in line of duty, except where traceable to employment by an employer other than the City of Fresno;

(3) Medical, dental or eye examination or treatment for the employee, or the employee's child, parent, spouse or registered domestic partner which appointment cannot be made outside of working hours

b. Sick Leave Accrual - Employees shall accrue sick leave at the rate of eight (8) hours for each completed calendar month of employment * * *.

c. Administrative Orders 2-19.1, Attendance Policy and 2-20, Sick Leave Policy, shall not apply to members of this Unit. Instead, Attendance Policy, Addendum I incorporated into this MOU shall apply, as well as the FMC, City administrative orders, policies, procedures, rules and regulations concerning leave usage and administration. In the event of any conflict, the provisions of Addendum I, Attendance Policy, shall apply.

d. Sick Leave Pay Out - At service retirement, or at a disability retirement, or upon resignation if the employee is otherwise eligible for service retirement, employees will be credited with the number of accumulated sick leave balances in excess of two hundred forty (240) hours at the time of retirement multiplied by forty percent (40%) of the employee's then current hourly rate of pay to be used solely to pay premiums for medical insurance (including COBRA), pursuant to

the City's Health Reimbursement Arrangement as set forth in Section I., below.

e. Sick Leave Under Labor Code Section 233 - Employees will be allowed to use up to 48 hours of accumulated sick leave per fiscal year **for Protected Sick Leave** in accordance with California Labor Code Section 233 and shall be used only for those purposes defined in California Labor Code Section 233. **The first three days or twenty-four hours, whichever is greater, of Protected Sick Leave used by an employee on or after July 1 of each year shall be considered leave taken under California Labor Code Section 246.5 (i.e., AB 1522, Healthy Workplace Healthy Family Act of 2014).** Employees are encouraged to schedule routine medical and/or dental appointments outside of regular work hours when possible. Use of **Protected Sick** Leave * * * **used for the purposes set forth in California** Labor Code 233 shall be authorized and recorded by a department head or designee.

f. Employees who terminate City employment and return within one year of such termination will be entitled to reinstatement of their sick leave balances at the time of termination from City employment, up to a total of 48 hours.

3. Vacation Leave

Employees accrue vacation leave hours for each completed calendar month of employment as reflected in the table below. Employees with less than 20 years of continuous employment are allowed to accrue 340 hours of vacation leave, and employees with 20 years or more of continuous employment are allowed to accrue 420 hours of vacation leave.

Years of Continuous Employment	Accrual Rate (hrs./mo.)
Less than 5	8
More than 5 but less than 8	10
More than 8 but less than 20	11.33
More than 20	14.66

Employees are encouraged to utilize earned leave for vacation purposes on a scheduled basis.

If on October 31 of each year, an employee has a balance of two hundred –forty (240) or more hours of vacation, the employee may in November of that year request a cash payment of up to forty (40) hours of any vacation accrual that employee has acquired prior to the December payroll period.

An employee who, in accordance with the Attendance Policy attached to this Memorandum of Understanding as Addendum I, has incurred anything greater than the 4th incident at the point in time in which the cash out is available is ineligible to receive a cash out.

4. Fatigue

Fatigue Time is allowed to afford an employee the opportunity to rest because:

1. The employee has been required to work in excess of four hours of overtime.

   AND

2. The overtime was completed with less than eight hours before the start of the employee's next regularly scheduled shift.

Fatigue Time allows an employee at least eight hours in which to rest before being required to report to the regularly scheduled shift. On those occasions where a situation does not lend itself to the above policy, Fatigue Time will be considered by the Department Director or designee upon recommendation from the employee's supervisor.

In recognition of the above, if an employee who is authorized Fatigue Time, time such time shall be deducted from the employee's Compensatory Time Off, Vacation bank or Sick Leave, whichever the employee chooses, with no penalty to the employee. If the employee does not have enough hours in their Compensatory Time Off, Vacation bank or Sick Leave to pay for sleep time, the employee may take the time as unpaid, with no penalty to the employee.

5. Employee Incentive Time Off

The Employee Incentive Time Off program will be discontinued effective December 23, 2019.

* * *

Employees **with accrued Employee Incentive Time Off** * * * may use the time * * * upon approval of the employee's immediate supervisor. * * *

Employees may voluntarily cash out the entire balance or any portion of their Employee Incentive Time Off at any time. **Any balances remaining as of November 23, 2020 will be cashed out.**

* * *

I. STATE DISABILITY INSURANCE

1. Employees who are members of this Unit have been enrolled in the State Disability Insurance (SDI) coverage plan pursuant to an Agreement dated by the parties on May 7, 2007

2. Employees shall file claims in the same manner as required under the SDI Plan.

3. The City shall maintain SDI through employee payroll deductions to be funded by employee contributions.

4. **All employees with an approved SDI/Paid Family Leave (PFL) claim must notify the City within fourteen (14) calendar days of the claim date and fill out a form made available by the City indicating whether or not the employee desires to integrate leave with the claim. Extensions beyond fourteen (14) calendar days due to exigent circumstances, such as the employee being incapacitated, may be considered on a case-by-case basis by the Director of Personnel Services or designee.**

   Eligible Employees who **are absent from duty and are receiving** * * * SDI**/PFL** benefits **who are eligible to use Sick Leave, Vacation Leave, Holiday Leave, Compensatory Time Off or other available leave banks the employee is authorized to use, shall be eligible to integrate** * * * a portion of their individual leave balances with SDI**/PFL** benefits as noted below.

   Integrating Sick Leave * * * leave balances is defined as the SDI**/PFL** benefit and the monetary value of the employee's leave balances added together to provide a bi-weekly net income **which shall be no more than 100 percent of the employee's normal biweekly gross wages (excluding overtime pay) immediately prior to the start of the disability period**.

   Integrating * * * leave balances with SDI**/PFL** benefits will continue only if leave balances are available and the employee remains eligible to receive SDI**/PFL** benefits.

[§ deleted]

5. * * * An employee who has elected to * * * **integrate leave balances** will be considered to be * * * **in paid** status for the purpose of accumulation of leave and other benefits. Once an employee's Sick Leave bank is depleted, the employee has the option of requesting **to** use * * * other accumulated leave banks. Request of and approval of other accumulated leave banks will be per City policy requiring management's approval * * *. If the employee chooses not * * * **integrate** leave **or has no available balances**, then the employee will be in a Leave Without Pay (LWOP) status.

6. An employee who is receiving SDI**/PFL** who has exhausted all other leave balances and has received donated time in accordance with City policies, may use donated time in conjunction with SDI**/PFL** benefits. Use of donated time * * * **shall be in accordance with the provisions of this section**.

7. Employees who elect to integrate must provide Payroll with a copy of the Notice of Computation from the State of California Employment Development Department (EDD) within fourteen (14) calendar days of the issue date, and are required to authorize EDD to share benefit computations with the City when filing the initial claim form(s). Extension beyond fourteen (14) calendar days due to exigent circumstances, such as the employee being incapacitated, may be considered on a case-by-case basis by the Director of Personnel Services or designee.

An employee who has made a timely election to integrate leave with SDI/PFL benefits shall be paid a biweekly amount, using appropriate accumulated leave, which, when added to SDI/PFL benefits shall approximately equal the employee's net pay after taxes (excluding overtime).

If an employee does not provide information on SDI/PFL benefits within fourteen (14) calendar days of the issue date of the Notice of Computation, no integration will occur. Integration will not be provided for any period before the City receives notification of SDI/PFL benefits, including retroactively, and the employee provides signed notification that the employee wants to integrate, unless exigent circumstances apply.

8. Initiating * * * **integration** of * * * accrued leave * * * with SDI**/PFL** benefits shall be subject to the following conditions:

[§§ deleted]

a. Any period of absence during which an employee is receiving SDI benefits but is not receiving leave payments shall be deemed a leave of absence without pay.

b. Service credits toward seniority, step increase eligibility, and probation periods shall be in accordance with the MOU and City policies/procedures.

c. If an employee exhausts all available leave balances but continues receiving SDI benefits, the City's compensation shall cease.

d. The City shall continue contributions toward the employee's health and welfare benefits and retirement contributions in accordance with established laws and practices during the pay periods that include leave payments by the City. The employee shall be responsible for payment of premiums required to maintain health and welfare benefits when City contributions cease in accordance with established laws, policies and practices.

e. Eligible permanent part-time and permanent intermittent employees shall be included in this program on a pro-rata basis.

9. **If elected as described above, integration will end upon notification from the employee that SDI/PFL benefits have terminated; the employee exhausts all leave balances and/or donated time resulting in LWOP status; the employee's return to work; or, the employee's separation from City employment, whichever comes first in time.**

10. In the event the City determines that legislative, administrative, or judicial determinations cause changes which in any way restricts, reduces, or prohibits any provision of this Agreement, the parties shall immediately meet to discuss necessary amendments and/or modifications.

J. 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 HRA's. 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 service retirement, or at a disability retirement, or upon resignation if the employee is otherwise eligible for service retirement, employees who have used eighty (80) hours or less of sick leave and/or vacation leave used for sick time (excluding only hours used for **bereavement leave** * * * and/or **statutorily** protected leaves such as **workers' compensation leave, Protected Sick Leave,** Family & Medical Leave **Act**, and **California Family Rights Act Leave** * * *) in the 24 months preceding their date of retirement, will be credited with an account for the employee under the HRA to be used solely to pay premiums for medical

insurance (including COBRA premiums). The "value" of the account shall be determined as follows:

- The number of accumulated sick leave hours in excess of 240 hours at the time of retirement multiplied by 40% of the employee's then current hourly base rate of pay.

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

At the City's option, the HRA accounts shall 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).

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, employees shall not be allowed to cash out any accumulated or accrued sick leave at retirement.

K. UNIFORMS**, SAFETY SHOES**

1. The system for providing and maintaining uniforms for all employees in this Unit, where applicable, shall be maintained for the duration of this Agreement. The cost of the uniforms shall be shared by the City and employees as specified in Administrative Order 3-6.

2. Provision of safety shoes for employees in Unit 1 shall be governed by the City of Fresno Illness and Injury Prevention Program (IIPP) except that the City will provide a voucher for employees in this Unit who are authorized or required to wear safety shoes for two hundred dollars ($200) for the purchase of safety shoes, or the value of one pair of approved shoes, whichever is less. When management determines that duties assigned to an employee require shoes which exceed the requirements of the IIPP, management may authorize a voucher of up to two hundred fifty dollars ($250). In either event, the employee shall pay any cost in excess of the amount of the voucher.

L. PARKING RATES

Parking rates for employees in the downtown area will be $15.00 per month for general parking and $20.00 per month for an Official Vehicle Permit, as referenced in the Administrative Orders, which from time to time may be amended.

M. WORKERS' COMPENSATION

1. Notwithstanding the provisions of the FMC Section 3-118, an employee who suffers or has suffered an injury in the course and scope of City employment shall receive 66.67% of average weekly earnings in the fifty-two (52) weeks prior to the injury from the City, beginning on the fourth day of such absence, unless hospitalized on the first day for at least 24 hours, or unless the absence exceeds 14 days, in which case, the employee shall receive the pay provided in this Section from the first day. Except as modified herein, the provisions of FMC Section 3-118 shall apply. Should the State mandated workers' compensation rate of payment be adjusted, the City and the Union will have a limited reopener to adjust the rate accordingly.

2. In the event City pay is not provided during the first three days of absence due to such injury, the employee may, at the employee's option, take sick leave for that period.

N. HOURS OF WORK AND SCHEDULES

1. <u>General</u>

a. The workweek for the City begins on Monday at 12:01 a.m. and ends the following Sunday at midnight. The workday starts at 12:01 a.m., and ends 24-hours later at midnight. The standard/normal workweek work schedule is a 5/8 consisting of five-(5) days of eight-(8) hours each, excluding a meal period.

b. Work schedules (includes days off and meal periods) are established by individual departments/divisions, solely at management's discretion, based upon the need to provide service to the public, other City departments, and/or other operational efficiency requirements. If requested by either party, the City and the Union agree to meet and consult prior to implementation of new work schedules.

c. Employees shall receive a one (1) hour or a one-half (½) hour meal period, without pay, each day and a fifteen (15) minute paid rest period during the first half of the workday and a second fifteen (15) minute paid rest period during the second half of the workday. Meal periods and rest periods are scheduled by departments/divisions

according to the needs of the department/division. If an employee is required to work during the employee's meal period, with the approval of the employee's supervisor, and if no alternate meal period is taken, said time shall be compensated at the applicable hourly rate of pay if the time worked exceeds that of the employee's normal schedule/shift. The City retains the exclusive right to control the use of City-paid break periods, and exclusive control of the use of City vehicles at all times.

d. Employees whose duties require it shall be allowed a reasonable amount of time for a personal clean-up period prior to the end of each work shift.

e. With 72-hours notice to affected employees, departments/divisions may temporarily modify an employee's regular schedule to address special service needs, employee training and/or cross-training, and backlog and/or workload concerns. Said temporary modification shall not result in the loss of night shift premium pay.

2. Daylight Savings Hours

At the Union's request, the City agrees to meet and confer regarding changes in working hours during daylight savings time. Any employee regularly scheduled to work, and who does work a shift during which a change from Pacific Standard time to Pacific Daylight time, or vice versa, occurs, will be paid for actual hours worked at the applicable hourly rate.

3. Alternate Work Schedules

a. Department directors or designees shall be solely responsible for determining and designating divisions/units/sections/specific job classes within their respective departments that may implement variations to the standard/normal work schedule. A minimum of 30 **calendar**-days written notice shall be provided to affected employees, the Labor Relations Division and Local 39.

b. Alternative work schedules may be necessary in order to provide minimum staffing, and/or based upon the service needs of the public/other City departments, and/or other operational efficiency requirements. It is expressly understood that position assignments, by classification, staffing levels, work schedules, meal periods, and days off are determined solely by management, and are subject to change based on, and including but not limited to, varying workload, the additional of authorized staffing, and department operational and service needs.

(1) If established, employees shall select a 5/8 or 4/10 work schedule according to department/division selection processes. Absent sufficient selections, management will assign employees to a 5/8 or 4/10 work schedule, or combination thereof.

(2) Except for emergencies, employees working a 4/10 schedule, or who have days off other than Saturday and Sunday, shall schedule all medically-based appointments on off duty time.

c. The hours for employees working a 5/8 shall consist of five (5) eight hour days with two (2) consecutive days off, except for employees occupying the class of Waste Collector Leadworker which may have two (2) consecutive days off. The hours for employees working a 4/10 shall consist of four (4) ten hour days with three (3) days off, of which two (2) of the days off will be consecutive. Scheduling of days off shall be determined by management.

d. Departments/divisions may discontinue alternative work schedules at any time if it is determined by management that they detrimentally effect operations and services. Thirty (30) days advance notice shall be given in writing to affected employees, the Labor Relations Division and Local 39. The decision to discontinue alternative work schedules is not appealable or grievable. If departments/divisions discontinue alternative work schedules established under this Subsection, employees will revert to 5/8 standard/normal work schedules as determined by management.

e. Except as detailed in the paragraph below, applicable Unit Agreement provisions, Salary Resolution, FMC, and Administrative Orders concerning alternative work schedule (i.e., 4/10) limitations on overtime, holidays, leave accrual and usage, sick leave accrual and usage, and night shift premium pay shall govern.

An employee on a 4/10 work schedule who is off on a holiday, which is a regularly scheduled workday, shall receive eight (8) hours pay for the holiday, and may elect to take two (2) hours vacation, holiday, or CTO for a full ten (10) hours pay, or may elect to receive two (2) hours leave without pay (LWOP). Absent an employee request or election, division payroll will deduct the two (2) hours from available vacation, holiday, or CTO balances prior to any deductions for LWOP.

O. PERSONNEL MATTERS

1. Personnel Files

a. The Human Resources Division, under the direction of the Director of Personnel Services, shall maintain the official personnel file for each employee. Each employee may review, or authorize in writing its review by a designated representative, subject to reasonable rules and regulations, and receive a copy of all material placed in either the employee's official file or departmental file. If an employee disagrees with the content of a document placed in either file, it shall be the right of the employee to submit a response to the Director of Personnel Services to be attached to the document in question and included in the appropriate file. Personnel files are considered confidential and access is limited.

b. Documents, including performance evaluations, retained in the employee's departmental file shall be forwarded to the employee's new department if the employee transfers, promotes, or demotes. The file should be forwarded to Human Resources when the employee leaves City service.

c. Inquiries regarding employment references shall be administered in accordance with existing City policies.

2. Employee Performance Evaluations

a. Each City department shall have the right to conduct employee performance appraisals on a department-wide basis for all employees at the discretion of the appointing authority.

b. Employees on probation shall receive performance evaluations every three (3) months during the probationary period.

c. Permanent employees shall receive performance evaluations at least once each year, normally near the employee's anniversary date.

d. Prior to modifying the Employee Performance Evaluation **form** (Local 39, Unit 1), departments and Labor Relations will discuss the proposed evaluation form with the Union. The parties agree to meet during the first year of this agreement to modify the Employee Performance Evaluation **form**.

e. An employee who disagrees with a performance evaluation may within fourteen (14) calendar days from the date of the performance evaluation:

(1) Write a rebuttal statement for attachment to the performance evaluation form; and/or

(2) Request further review with the supervisor of the reviewer, but in no case higher than the department head or designee.

f. Requests for review of employee performance evaluations are not subject to the grievance procedure.

g. It is understood that evaluations for non-probationary employees are not to take the place of disciplinary/corrective actions as outlined in Administrative Order 2-14.

3. Transfer Requests

Transfers shall be governed by appropriate provisions of the FMC, including, but not limited to, Sections 3-261, 3-262, and 3-274.

4. Flexible Staffing

a. For all flexibly staffed blue collar positions, certification from an employee's department that the employee is satisfactorily performing the full range of duties will allow the employee to flex to the higher position.

b. The parties have discussed and agreed that Administrative Orders 2-10 and/or 2-12 may be reissued and/or a FMC change may be enacted to reflect this Agreement.

c. Flexible staffing will be in accordance with the Administrative Orders noted above. Any contemplated addition or deletion of a flexibly staffed classification shall be discussed with the Union, in a timely manner and prior to such action by the Director of the Personnel Services Department.

5. Suspension of Competition

In the event of the creation of a new position, or in the case of a vacancy in any position meeting the criteria specified below, competitive examination may be suspended by the Director of Personnel Services. No such suspension shall be general in its application.

The Director of Personnel Services may only suspend competition when requested to do so by the appropriate appointing authority when the suspension of competition would permit promotion between classes in the same class series, or between other classes, in the same department. A

promotion may be made at the discretion of the department head when a permanent full-time employee attains the minimum qualifications for the higher level, and in the opinion of the department head the employee is capable of meeting the performance requirements, and is able to carry out the responsibilities required by the job specification. The employee selected for promotion would be determined by the department head after posting the vacancy, and interviewing and considering the performance and qualifications of all lower level employees who have indicated an interest in promoting, and who possess the required minimum qualifications. Along with the request for suspension of competition, the department head must submit a written statement supporting the request.

6. Layoffs

The department director, with the approval of the City Manager's Office, may reduce the number of employees in the department to address budget concerns or a decrease in the workload, by laying off employees in any job classification in which the department director determines a reduction is necessary. This Section does not apply to temporary layoffs because of inclement weather or lack of work.

a. Layoffs will occur in the following order:

(1) Temporary Employees
(2) Provisional Employees
(3) Probationary Employees
(4) Permanent Intermittent Employees
(5) Permanent Part-Time Employees
(6) Permanent Full-Time Employees

b. Seniority - When the layoff must be of one or more employees in the same job classification, the layoff shall be done by reverse seniority (i.e., last hired, first laid off, within that job classification).

For the purposes of layoff, seniority in job classification is defined as continuous time in service in the job classification. An employee accrues seniority from the time the employee is appointed to a position in the job class. In the event of a tie, rank on the City-wide employment list for the classification will be used to break the tie. In the event there is still a tie, total continuous time as a permanent City employee will be used to break the tie. In the event there is still a tie, a mutually agreed random method will be used to break the tie. If a random method is used, affected employees will be offered an opportunity to observe. If the employee cannot attend the scheduled time or refuses to attend, the tie breaker will proceed as scheduled.

c. Transfer and\or Demotion (Bumping)

(1) An employee subject to layoff shall be transferred to a vacant position in the same job classification in another department if such a vacancy exists. In the event no vacancies in that job classification exist, an employee subject to layoff in one department who has greater seniority than one or more employees in the same job classification in another department shall be transferred to the position held by the least senior employee in such classification, and the least senior employee shall be subject to layoff ("bumped"). This provision shall be subject to a limited reopener in the event that FMC Section 3-291 is modified in regard to department and/or City-wide layoffs.

(2) In the event an employee subject to layoff does not qualify for a transfer pursuant to Subsection c.(1) above, and the employee has previous service as a permanent employee in a lower job classification, and the employee's employment by the City has been continuous, the department director shall demote the employee subject to layoff to a position in that lower class. Layoffs that may become necessary due to demotions or transfers pursuant to this Subsection c. shall be governed by the same regulations herein. This provision shall be subject to a limited reopener in the event that FMC Section 391 is modified in regard to department and/or City-wide layoffs.

(3) In the event an employee is demoted to a lower classification pursuant to Subsection c.(2) above, that employee shall have all time in classification the employee is being demoted from and all time in the classification the employee is returning to counted towards seniority in the lower classification.

(4) A permanent non-probationary employee transferred or demoted pursuant to the provisions of Subsection c. (except Subsection c.(5) below) shall not be required to serve a probationary period in the employee's new job classification. A probationary employee transferred or demoted pursuant to FMC Section 3-291 shall serve the probationary period, subject to the same conditions of probation, as a new employee appointed to the job classification from an eligible list.

(5) Any employee subject to layoff who does not qualify for a transfer pursuant to Subsections c.(1) or (2) above may

submit a written request to the Director of Personnel Services to be considered for a transfer to any vacant position in a job classification for which the employee meets the minimum qualifications (as determined by the Director of Personnel Services), provided that such job classification has an equivalent or lower salary range (i.e., the E step of the pay range is not more than two percent (2%) higher than the E step of the employee's current pay range). The employee may be transferred to the vacant position with the approval of the director of the department where the vacancy exists. Employees transferred under this Subsection will be required to serve the probationary period for the new job classification. FMC Section 3-249 provides that an employee may file a written request for the review of the decision by the Director of Personnel Services that the employee does not meet the minimum qualifications of the position to which the employee has requested a transfer.

(6) Employees assigned to another department or division will be subject to the seniority rules of the department/division for purposes of shift, vacation and days on and off.

d. Reinstatement List - Any employee holding an appointment in a permanent position who, for reasons of economy, lack of work, budget cuts, or departmental reorganization, has been laid off, transferred or demoted from that position, shall be entitled to be placed on a reinstatement list for the job classification from which * * * **they were** laid off, transferred or demoted. In the event two or more employees are laid off, transferred or demoted from the same job classification, their placement on the reinstatement list shall be determined by their comparative seniority within that job classification.

(1) As provided in FMC 3-250 and 3-252 (a)(1), an individual on the reinstatement list shall have priority over candidates on an eligible list for vacancies in the job classification from which the employee was laid off, transferred or demoted. An individual's name will remain on the reinstatement list for a period of two (2) years following the effective date of the layoff, transfer or demotion or two (2) refusals of a vacant position in the classification.

(2) An individual, whose name has remained on a reinstatement list continuously for more than two (2) years without reinstatement, shall no longer have priority over candidates on an eligible list, and shall no longer have any right to

reinstatement in any position in the job classification for which the reinstatement list was established.

e. Reinstatement - Upon reinstatement from a reinstatement list, as provided in Subsections d. and (1) above, an employee shall receive full credit for all of the employee's service with the City as it relates to salary and vacation accrual, and shall be credited with all unused sick leave hours the employee had at the time of separation from City service.

(1) Any employee, who did not complete the probationary period, and achieve permanent status prior to placement on the reinstatement list, shall serve a full probationary period commencing from the date of the employee's permanent appointment from the reinstatement list.

(2) Upon reinstatement from a reinstatement list an employee will resume membership in the Fresno Employees' Retirement System, and receive service credit for all City service, provided that the employee was vested in the Retirement System and did not withdraw contributions to the System at the time of the layoff, or repays previous contributions pursuant to FMC Section 3-534. An employee who elects to not repay previous contributions, or who was not vested in the System at the time of the layoff, shall receive service credit for only that service subsequent to reinstatement for the purposes of retirement benefit calculations.

7. Seniority

This seniority Subsection shall apply to work shift selection and vacation scheduling for permanent employees in the absence of clearly established departmental policies, practices, or procedures. This Subsection shall not preclude any department from establishing policies, practices, or procedures on seniority as applied to work shift and vacation scheduling. In the absence of a department policy, practice, or procedure, the following shall be used to determine seniority.

a. Seniority shall be defined as seniority in a class based on an employee's length of continuous service as a permanent employee in their present class. Seniority shall not be applied to temporary, provisional or acting status employees. Permanent employees in temporary, provisional, or acting positions will continue to accrue seniority as if they were in their regular permanent position.

b. Continuous service shall include all time in the employee's present class. Continuous service shall not include any time spent under suspension from duty, demotion to another class, or on any leave of absence without pay as defined in FMC Section 3-104. A military leave of absence shall not be considered a break in service.

8. In Lieu Suspension for Disciplinary Action

By mutual agreement between the department director or designee and the 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 suspension. If the suspension is reduced or reversed at the conclusion of the appeal process, the City shall reinstate the forfeited credits.

The provisions of this Subsection shall not be subject to the grievance procedure.

9. Labor-Management Committees (LMC's)

The City and Union acknowledge the importance of the development, implementation, and maintenance of LMC's in divisions throughout the City. The parties agree to foster and provide guidance for the establishment and ongoing maintenance of LMC's. The parties understand and agree that LMC's do not have the authority to "meet and confer" regarding issues that are within the mandatory scope of bargaining. The Subsections below shall serve as minimum guidelines for LMC's throughout the City.

a. LMC's shall be responsible for determining committee composition. However, LMC's may be composed, at a minimum, of the Assistant Department Director, a representative selected by the Business Agent for Local 39, the division manager, two supervisory/management members, two Unit members, and one member to function as the LMC's secretary/record keeper. LMC's shall meet regularly, but no less than once per month. LMC members shall be given forty-eight (48) hour notice for nonemergency meetings that are not part of the regular/routine LMC meeting schedule.

b. LMC's shall be responsible for establishing, publishing and communicating, including any amendments thereto, LMC procedural, committee composition, and subcommittee guidelines to their division staff. The primary purpose of LMC's is to discuss and evaluate matters and concerns pertinent to the applicable division and/or the division's employees. In addition, LMC's understand that safety issues and concerns, including topics for tailgate meetings as

well as changes in work rules, will be referred to the divisional safety committee.

10. Contracting Out

The City retains the right to contract out any services performed by members of this Unit. The City agrees to notify the Union when considering contracting out of services normally performed by members of this Unit which do not directly affect or displace members of the Unit due to growth or expansion.

a. The City shall notify the Union of its intent to request proposals for the contracting out of City services when those services are currently being performed by employees of this Unit. This notification will occur thirty (30) business days before the request for proposals is issued. The Union agrees that the City needs to be competitive with the private sector. Both parties acknowledge that members of the Unit have valuable experience and expertise in the provision of municipal services and in that regard are desirous of including Unit members in preparing and reviewing service delivery options and cost comparisons in an effort to enhance the City's ability to be competitive with the private sector in all areas to which Unit members are assigned. In the event the award of services to third parties results in the layoff of employees of this Unit, the parties shall meet and confer on the impact of such a decision.

b. The City agrees that before layoffs become necessary, it will use due diligence to accommodate employees displaced as a result of Council's decision to contract out any of the services enumerated above.

c. The City shall take all reasonable action to avoid layoff of employees providing the services to be contracted out, which action may include but is not limited to, holding vacant positions in classes to which employees might be transferred, notifying employees subject to layoff of examinations being conducted by the City for placement of employees in positions for which they are qualified and administering noncompetitive, qualifying examinations to employees for positions to which they are eligible to transfer.

11. Classification Matters

a. On April 16, 1997, all permanent employees occupying positions in the class of Construction Equipment Operator (CEO) in the Community Sanitation, Sewer and Water Divisions were reclassed to the Heavy Equipment Operator (HEO) class, and their salaries

were y-rated at their existing base salary level. In the event two (2) HEO positions become vacant in the Water Division only, said positions will automatically convert to Water Service Operator II (WSO II) positions.

b. Length of service for all employees reclassed/retitled under the expired March 28, 1997, side letter agreement between the City and the Union, includes an employee's continuous service in the class held prior to being reclassed/retitled.

12. Americans with Disabilities Act (ADA), Family Medical Leave Act, California Family Rights Act (CFRA), Occupational Safety and Health Act (OSHA/Cal OSHA) 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).

13. Probationary Period

Except for those entry level classifications which do not achieve permanent status, all classifications in Unit 1, represented by Local 39 are subject to a probationary period of twelve months. Employees in flexibly staffed classes would serve at least six months in the entry level class, followed by twelve months of probation when flexed to the journey level class.

P. JURY DUTY AND COURT APPEARANCES

1. Jury Duty

An employee who is assigned to a "night shift" as that term is used in Article VII, Section F. of this Agreement, and who is required to attend any court in response to a summons for jury duty or while serving on a jury will be reassigned to an 8:00 a.m. to 5:00 p.m. shift for the required time in jury duty, and night shift premium pay shall not be discontinued during the period of reassignment. The employee will maintain the employee's usual days off during this time period. All employees shall receive their regular wages or salary during the time they are required to be absent from the duties of their position to attend any court in response to a summons for jury duty or while serving on a jury, but shall pay over to the City any fees, including mileage allowances, received for such attendance or service.

2. Court Appearances

The following rules shall apply to court appearances.

a. If an employee receives a departmental notice or subpoena requiring a court appearance on the employee's regularly scheduled day off, or on vacation, or on a day off on compensatory time off which has been approved prior to notice and/or the employee's receipt of a departmental notice of subpoena, the employee shall have the option of:

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

(2) appearing at the court, with a minimum of three (3) hours pay at one and one-half (1 ½) times the base rate of pay. During this three (3) hour period, if the employee is not required to appear in court, the employee may, at the option of the department, be required to perform duties as assigned. The employee shall be released from duty when the subpoena or notice is cancelled or the court releases the employee.

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

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

(2) appearing at the court, 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 employee is not required to appear in court, the employee 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 assigned work hours, the employee shall receive a one (1) hour minimum. If the court appearance falls during assigned work hours and continues beyond the end of the shift, the employee shall be paid at the applicable hourly rate for the actual time spent in court.

c. The provisions of Subsection 2., above shall apply to employees who are required to appear in any judicial or administrative proceeding as a witness pursuant to subpoena, court order, or by request of the District Attorney. Section O. of this Agreement shall apply to all judicial proceedings (civil, criminal, or administrative) and Civil Service proceedings in which an employee's presence is ordered, directed, or requested by the City because of the employee's employment.

d. Where an employee's appearance extends beyond the applicable two (2) or three (3) hour minimum, the employee shall be paid the employee's base hourly rate of pay.

e. Any employee regularly scheduled to a work schedule other than Monday through Friday may have their schedule changed to Monday through Friday until the employee's court appearance obligations are completed.

[§ deleted]

Q. SPECIAL RULES FOR THE SOLID WASTE MANAGEMENT DIVISION

1. Residential Solid Waste Work

a. Residential Solid Waste work is performed by assigned routes, the actual work upon which may vary according to the amounts of material placed out for collection by the customers, and is not fully subject to work planning. The work includes such collection and varied duties including, but not limited to, the collection of special pickups, skips, disposal of the day's collected material at disposal site, return and check-in at the dispatch office, and participation in any necessary briefing or training sessions.

b. During the week of Thanksgiving, routes for Thursday and Friday will be shifted to Friday and Saturday. Drivers, who complete their assigned route in less than ten hours on Saturday of Thanksgiving week, will be paid for a full shift at one and one-half times the hourly rate. **Drivers who do not work full ten-hour shifts on the Tuesday and Wednesday of Thanksgiving week due to unscheduled absences will not be eligible to work on Saturday.**

c. On those weeks when Christmas Day and New Year's Day fall on a regularly scheduled week day, the routes scheduled on Christmas and New Year's Day and the routes after these holiday**s** will be shifted by one day, to include Saturday. Drivers who complete their assigned route in less than ten hours on these assigned Saturdays of the weeks of Christmas and New Year's Day, will be paid for a full shift at one and one half times the hourly rate. **Drivers who do not work full ten-hour shifts any day of the week of Christmas Day (December 25) due to unscheduled absences will not be eligible to work on the Saturday after Christmas. Drivers who do not work full ten-hour shifts the week of New Year's Day (January 1) due to unscheduled absences will not be eligible to work the Saturday after New Year's Day.**

2. Routes and Quality Control

Route perimeters shall be structured and restructured at the discretion of the City; however, the City will include division employees in the deliberations prior to implementing any changes. Both parties acknowledge that division employees have valuable experience and expertise in the provision of municipal services, and in that regard employees are expected to be active participants in preparing and reviewing service delivery options for their routes in an effort to enhance the City's ability to be competitive with the private sector. Employees affected as a result of route perimeter restructuring shall not have the right to bump other permanently assigned employees. The City shall have the right to take necessary steps to ensure sound quality control.

3. Vacation Selection

Selection of vacation shall be on the basis of date-of-hire seniority in the Solid Waste Management Division (SWMD).

4. Route Assignment Selection

The following route assignment selection process applies to employees occupying the classes of Sanitation Operator.

a. General - All employees selecting/bidding route assignments must be qualified to drive the assigned vehicle. It is the responsibility of all employees to possess and maintain a valid California Driver's License (CDL) and Medical Certificate, and to inform SWMD of any change or incident with the potential for change to the employee's CDL status. Failure to possess and maintain a valid license or certificate shall result in the employee being placed on a leave without pay status, and subject to possible corrective action up to and including termination for failure to qualify for the position.

(1) "Floaters" are Sanitation Operators who do not have a permanent route. * * *

(2) * * * **Within six months of Council approval of the MOU, the City and Local 39 will meet to discuss possible adjustments of green waste routes based on seasonal workload variations. Route assignments may be modified if the parties reach mutual agreement.**

b. Open Permanent Routes - Permanent routes are considered open for selection/bidding when new routes are added or vacancies occur

(due to movement to another permanent route, separation from City service, promotion, etc.).

(1) Selection/bidding of open permanent routes shall be on the basis of seniority, by class.

(2) Open permanent routes that do not get selected/bid for will be assigned by management to the least senior Sanitation Operator that is available. Once Sanitation Operators are awarded their selection/bid, or are assigned by management they shall not be eligible to select/bid for six (6) months for other open permanent routes that may become available.

c. Nonpermanent Routes - Nonpermanent routes occur when a permanently assigned Sanitation Operator is absent from duty for any reason (e.g., days off, vacation, sick, injury, leave without pay, etc.). There are two types of nonpermanent routes (i.e., short term and long term).

(1) General - The following applications apply to short term and long term selection processes.

(a) The SWMD may assign employees to specific routes when no other qualified employee is available. If an employee so assigned is pulled from a route the employee selected/bid on and was awarded, then after the assignment is completed the employee will be allowed to go back to the route the employee was pulled from.

(b) Employees must remain on the nonpermanent long-term route until the return of the permanently assigned employee, or until quarterly rebidding occurs on the first working day of January, April, July, and October.

(2) Short Term Routes - This is a nonpermanent route situation of 40 hours or less, and the following assignment selection process applies to floater employees occupying the class of Sanitation Operator.

(a) Short term route assignments shall be assigned by management to the least senior Sanitation Operator.

(3) Long Term Routes - This is a nonpermanent route situation of more than 40 hours, and the following assignment selection process applies to floater employees.

(a) Selection/bidding of long term routes shall be on the basis of seniority, by class.

(b) Long term routes that do not get selected/bid for will be assigned by management to the least senior Sanitation Operator that is available.

5. Drivers assigned to the Residential Waste division who are not available for their primary duties of driving a waste collection vehicle for a period of sixty (60) calendar days or more (as verified by documentation, such as a doctor's note or other leave of absence form) when bidding for vacations and routes is in process (i.e., at the time of bidding), will not be allowed to participate in the bid. The sixty (60) calendar days calculation will start on the first day the Driver is stated to be unavailable to perform their primary duties of driving a waste collection vehicle, and end on the day the Driver is expected to return to perform their primary duties of driving a waste collection vehicle. All Drivers will be notified of the bid date at least two (2) weeks before vacation and route assignments are declared open for bidding.

   If and when a Driver returns to perform their primary duties of driving a waste collection vehicle, the Driver will be assigned as a floater and also allowed to bid on any unassigned routes.

   The Driver will be eligible to bid at the next scheduled bid as long as the Driver is not again unavailable for their primary duties of driving a waste collection vehicle for a period of sixty (60) calendar days or more.

6. These rules may be modified by mutual agreement of the parties during the term of the Agreement.

R. WASTEWATER MANAGEMENT DIVISION

1. Except for permanent employees occupying the classes of Wastewater Treatment Plant Operator-in-Training, Wastewater Treatment Plant Technician, and Wastewater Treatment Plant Specialist, seniority shall be defined as seniority in a class based on an employee's length of continuous service as a permanent employee in the employee's present class.

   a. Seniority shall not be applied to temporary or provisional/acting status employees.

   b. Continuous service shall include all time in the employee's present class. Continuous service shall not include any time spent under

suspension from duty, demotion/transfer to another class, or on any leave of absence without pay as defined in applicable sections of the FMC. A military leave of absence shall not be considered a break in service.

c. In the event seniority is equal, seniority shall be determined based upon the employee's standing on the eligible list for that class as prepared by the **Personnel Services Department**. In the event seniority is equal based on appointment to a journey level class (e.g., for a flexibly staffed series), seniority shall first be determined based upon the employee's appointment date to the entry level class. In the event the appointment date to the entry level class is also equal, seniority shall be determined by the employee's standing on the eligible list for the entry level class.

d. It is expressly understood that shift assignments and staffing levels are determined by management, and are subject to change based on varying workload, the addition of authorized staffing, and operational and service needs. Such decisions shall not be appealable or grievable.

2. For permanent employees occupying the classes of Wastewater Treatment Plant Operator-in-Training, Wastewater Treatment Plant Technician, and Wastewater Treatment Plant Specialist, seniority shall be defined as seniority in this class series based on an employee's length of continuous service as an employee in the class series (i.e., date-of-hire in the series). Wastewater Treatment Plant Operator-in-Training shall not exercise seniority rights (i.e. shift bidding) until permanent status is achieved by being promoted.

a. Seniority shall not be applied to temporary or provisional/acting status employees.

b. Continuous service shall include all time in the class series. Continuous service shall not include any time spent under suspension from duty, demotion/transfer to another class outside of the series, or on any leave of absence without pay as defined in applicable sections of the FMC. A military leave of absence shall not be considered a break in service.

c. In the event seniority is equal, seniority shall be determined based upon each employee's standing on the eligible list for initial date-of-hire into the series as prepared by the * * * **Personnel Services Department**.

d. It is expressly understood that shift position assignments by classification and staffing levels are determined by management, and are subject to change based on varying workload, the addition or reduction in authorized staffing, and operational and service needs. Management may assign any employee occupying the class of Wastewater Treatment Plant Operator-in-Training to a particular shift or stall, move stalls to different shifts, and change the days off for stalls. In the event management determines fixed shift schedules detrimentally impact operational and service needs, management may discontinue fixed shift schedules with thirty (30) days advance written notice to the affected employees, and the Labor Relations Division. The decision to discontinue fixed shift schedules is not appealable or grievable.

(1) If management discontinues fixed shift schedules, schedules shall revert to rotation through day, swing and graveyard shifts which were in existence prior to the establishment of fixed schedules.

ARTICLE VIII

FEDERAL DRUG POLICY
(FEDERAL OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT)

Policy

1. A policy which summarizes the federal regulations required by the Federal Omnibus Transportation Employee Testing Act is distributed to all affected employees during training and orientation.

2. The parties have agreed that the Medical Review Officer (MRO) **and** the **Substance Abuse Professional (**SAP**)** * * * will be those designated by the **Risk Manager** * * * and that employees referred to these services as a result of the application of this policy will be tracked separately and the charges billed directly to the City through the Risk/Safety Manager. 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 **Director of Personnel Services or designee** * * *.

3. An observer not subject to random testing under this policy, designated by one of the affected labor organizations, will be invited by the Manager of the Risk/Safety Division to be present at the time the random list is generated.

[§ deleted]

4. Any disciplinary action taken by the City as a result of this policy will be subject to the applicable provisions of current MOU's, Administrative Orders, and FMC concerning representation and hearing appeals process. Among the factors to be considered in determining the appropriate disciplinary action include the level of the offense, the nature and requirements of the work, length of employment, current job performance, and history of past disciplinary action. Pursuant to the provisions of FMC-3-605 (a)(5), the City reserves the exclusive right to determine the level of disciplinary action, utilizing the following guidelines:

   a. An employee who registers an alcohol breath level between .02 and .039 as a result of a random test will be immediately removed from the safety sensitive position for a period of eight (8) hours **Federal Transit Administration** (FTA) or twenty-four (24) hours **Federal Motor Carrier Safety Administration** (* * * **FMCSA**) and placed on administrative leave with pay for the duration of the affected scheduled shift. An employee thus removed, may be subject to appropriate disciplinary action up to and including discharge for each such offense.

   b. An employee who registers an alcohol breath level of .04 or greater, or is determined to have a positive drug test as a result of reasonable suspicion,

random selection, or post accident testing, may be referred to a SAP for evaluation. Any employee permitted to undergo rehabilitation treatment as a condition of continued employment, must complete the treatment modality/program recommended by the SAP prior to resuming a safety sensitive function and participate in any follow-up protocol recommended by the SAP. The period of absence to complete the rehabilitation program will be charged to any available sick leave, vacation, or leave without pay, at the employee's option. It is the employee's responsibility to authorize and direct the SAP/MRO to keep the City informed of the progress of treatment. An employee who fails to inform the City concerning the status of treatment, refuses to undergo recommended treatment, does not complete the recommended program and follow-up protocol, or refuses to return to work after being released from rehabilitation treatment, will be subject to disciplinary action up to and including discharge.

[§ deleted]

c. An employee who registers an alcohol breath level of * * * **.04** or greater, or is determined to have a positive drug test as a result of reasonable cause, post accident testing, mandatory follow-up testing, or refuses to submit to a drug or alcohol test, may be subject to disciplinary action up to and including discharge.

Procedure for Random Testing

1. The Risk/Safety Manager selects a date and time for testing and requests the designated labor organization observer to attend. The date is usually selected 24 hours prior to the creation of the list of names for actual testing. In order to facilitate testing, the Risk/Safety Manager will notify the designated testing facility of the date and time of expected testing so that adequate staffing needs are met.

2. At the appointed time of list creation, the Risk/Safety Manager will request the designated labor organization observer to select a random number between 1-10.

3. Based upon the number selected, the computer will generate lists until that numbered list is reached. That list will be used for testing and all others will be discarded. Both the Risk/Safety Manager and the observer will sign the selected list to verify its authenticity as being the list selected.

4. The Risk/Safety Manager will review the list and identify the physical location of all employees selected.

5. The Risk/Safety Manager contacts those departments/divisions which have effected employees and advises them that they have employees who require drug/alcohol testing.

6. The departments/divisions are responsible for notifying selected employees that they have been chosen for random testing. Selected employees for testing shall be subject to testing from the time the employee reports to work until the time he/she is relieved from work and all responsibility for performing work. Employees that are selected, but who are not reasonably expected to return to work before the next list is drawn shall not be tested.

7. Departments/divisions will notify the Risk/Safety Manager of the availability of selected employees. The Risk/Safety Manager will note this information and provide a notation in the file if an employee is bypassed.

8. The Risk/Safety Manager shall maintain a separate file for each date that testing is performed. The file shall contain the original list from which the names were used to identify employees to be tested.

9. The Risk/Safety Manager shall place a copy of the completed drug testing report into each corresponding file for that specific date of testing.

10. Upon receipt of information from the MRO that an employee has tested positive for drugs or alcohol, the Risk/Safety Manager shall advise the employee's department/divisions that the employee must be precluded from performing in a safety sensitive capacity.

11. The Risk/Safety Manager shall contact the SAP and shall advise the employee of a date and time for referral.

12. Upon receipt of the recommendation of the SAP, the Risk/Safety Manager shall confer with the employee, and the employee's representative if the employee so chooses and the department/division representative for the purpose of discussing the recommendation of the SAP, and whether a Last Chance Agreement will be considered. The purpose of the Last Chance Agreement would be to allow the employee to return to work (upon testing negative for drugs and alcohol) with the understanding that the recommendation of the SAP be completed and that any future positive test will result in termination without appeal. 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.

13. <u>Reopener</u>

    If the City proposes to change the corresponding City-wide random drug and alcohol testing policy, the parties agree to a limited reopener on the MOU policy agreement between the City and the Union.

ARTICLE IX

HEADINGS, SAVING CLAUSE AND FULL UNDERSTANDING

A. HEADINGS

Agreement article, provision, and paragraph headings (includes exhibits, addendums, attachments, agreements 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 agreement.

B. SAVING CLAUSE

In the event any article, section, or portion of this Agreement 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 Union agree immediately to meet and confer upon a substitute for the invalidated article, section, or portion thereof.

C. FULL UNDERSTANDING

It is intended that this Agreement sets forth the full and entire understanding of the parties, and any previous understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded and terminated in their entirety. With respect to agreements, any not attached to this Agreement are hereby terminated in their entirety. Agreements attached to this Agreement shall continue in force subject to the terms contained therein, or in the absence of specified terms the agreements shall terminate upon the expiration of this Agreement. Any agreements entered into during the term of this Agreement shall continue in force subject to the terms and conditions set forth in each agreement. Further, neither party shall be bound by any promise or assurance that is not explicitly covered in this Agreement, or in an agreement signed by both parties.

ARTICLE X

TERMINATION

This Agreement shall be in full force and effect from **January 6, 2020** to **January 1, 2023** subject to the Sections (A., B., and C. below.

A. This Agreement shall become effective only after ratification by the members of this Unit, 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 **January 1, 2023**.

B. During the life of this Agreement, 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 Agreement, such party shall request in writing to meet and confer on the item, which item shall be specified in writing.

C. During the life of this Agreement, either party may refuse any request to meet and confer without explanation if the item is directly considered and specifically addressed herein or if the specific item was included in a written proposal from the party making the request during the meet and confer process which led to this Agreement.

D. REOPENERS

The parties agree to meet and confer over:

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

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

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

IN WITNESS WHEREOF, the parties hereto have set their hands this _____day of _____, 20_____.

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

BART FLORENCE
Business Manager/Secretary

STAHLY ROBERT ALDRICH
President

STEVE CROUCH
Director of Public Employees

MARINA MAGDALENO
Business Representative/Chief Negotiator

JOSE AMELY
Shop Steward

ROSEMARY AGUINALDO
Shop Steward

BRAD HOAGLAND
Shop Steward

PATRICIA MALDONADO
Shop Steward

CHRISTIAN MANZANO
Shop Steward

RICHARD MARTINEZ
Shop Steward

JESSE RAMIREZ
Shop Steward

DANIEL RUIZ
Shop Steward

FOR THE CITY OF FRESNO:

KENNETH G. PHILLIPS
Labor Relations Manager

SHELLEY MORRISON
Administrative Manager

DUANE MYERS
Fleet Manager

CHRISTIAN PIROK
Personnel Manager

STEPHANIE HERNANDEZ
Management Analyst

JANESSA SELZER
Payroll Accountant

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY:
_____
Assistant City Attorney

EXHIBIT I

Salaries Effective January 6, 2020

CLASS TITLE	A	B	C	D	E
Airports Building Maintenance Technician	3664	3848	4039	4241	4453
Airports Operations Leadworker	4280	4494	4719	4955	5202
Airports Operations Specialist	3891	4084	4288	4503	4727
Automotive Parts Leadworker	3891	4084	4288	4503	4727
Automotive Parts Specialist	3535	3712	3897	4093	4297
Aviation Mechanic I	4747	4986	5233	5496	5770
Aviation Mechanic II	5223	5483	5757	6046	6346
Aviation Mechanic Leadworker	5744	6031	6333	6649	6982
Body & Fender Repairer	4747	4986	5233	5496	5770
Body & Fender Repairer Leadworker	5223	5483	5757	6046	6346
Body & Fender Repairer Trainee	4279	4493	4718	4954	5201
Brake & Front End Specialist	5223	5483	5757	6046	6346
Bus Air Conditioning Mechanic	4747	4986	5233	5496	5770
Bus Air Conditioning Mechanic Leadworker	5223	5483	5757	6046	6346
Bus Air Conditioning Mechanic Trainee	4279	4493	4718	4954	5201
Bus Equipment Attendant Leadworker	3891	4084	4288	4503	4727
Bus Mechanic I	4279	4493	4718	4954	5201
Bus Mechanic II	4747	4986	5233	5496	5770
Bus Mechanic Leadworker	5223	5483	5757	6046	6346
Collection System Maintenance Specialist	4328	4544	4771	5009	5260
Collection System Maintenance Technician	3934	4131	4338	4554	4782
Combination Welder	4747	4986	5233	5496	5770
Combination Welder Leadworker	5223	5483	5757	6046	6346
Communications Technician I	4255	4468	4691	4925	5171
Communications Technician II	4691	4925	5171	5430	5701

EXHIBIT I

Salaries Effective January 6, 2020

CLASS TITLE	A	B	C	D	E
Cross Connection Control Technician	4547	4775	5012	5263	5525
Custodian	2905	3050	3203	3362	3530
Electronic Equipment Installer	3451	3623	3805	3995	4195
Equipment Service Worker I	3535	3712	3897	4093	4297
Equipment Service Worker II	3891	4084	4288	4503	4727
Fire Equipment Mechanic I	4279	4493	4718	4954	5201
Fire Equipment Mechanic II	4747	4986	5233	5496	5770
Fire Equipment Mechanic Leadworker	5223	5483	5757	6046	6346
Graffiti Abatement Technician	3489	3663	3848	4039	4241
Ground Water Production Specialist	4547	4775	5012	5263	5525
Ground Water Production Technician	4134	4341	4557	4785	5024
Heavy Equipment Mechanic I	4279	4493	4718	4954	5201
Heavy Equipment Mechanic II	4747	4986	5233	5496	5770
Heavy Equipment Mechanic Leadworker	5223	5483	5757	6046	6346
Heavy Equipment Operator	4415	4637	4867	5112	5366
Instrumentation Specialist	5000	5250	5513	5788	6076
Instrumentation Technician	4547	4775	5012	5263	5525
Irrigation Specialist	3839	4032	4233	4444	4665
Laborer	2948	3083	3224	3371	3530
Light Equipment Mechanic I	4279	4493	4718	4954	5201
Light Equipment Mechanic II	4747	4986	5233	5496	5770
Light Equipment Mechanic Leadworker	5223	5483	5757	6046	6346
Light Equipment Operator	3891	4084	4288	4503	4727
Locksmith	3558	3736	3922	4118	4323
Maintenance & Construction Worker	3535	3712	3897	4093	4297
Maintenance & Operations Assistant	2948	3083	3224	3371	3530

EXHIBIT I

Salaries Effective January 6, 2020

CLASS TITLE	A	B	C	D	E
Maintenance Carpenter I	3916	4111	4317	4532	4758
Maintenance Carpenter II	4319	4535	4761	4999	5249
Park Equipment Mechanic II	3891	4084	4288	4503	4727
Park Equipment Mechanic Leadworker	4279	4493	4718	4954	5201
Parking Meter Attendant I	3196	3355	3524	3699	3884
Parking Meter Attendant II	3517	3692	3875	4069	4273
Parking Meter Attendant III	3867	4060	4263	4476	4699
Parks Maintenance Leadworker	3839	4032	4233	4444	4665
Parks Maintenance Worker I	2905	3050	3203	3362	3530
Parks Maintenance Worker II	3490	3664	3848	4039	4241
Power Generation Operator/Mechanic	5268	5531	5808	6097	6402
Property Maintenance Leadworker	3924	4119	4325	4542	4768
Property Maintenance Worker	3664	3848	4041	4242	4453
Roofer	3558	3735	3923	4118	4323
Sanitation Operator	3891	4084	4288	4503	4727
Senior Collection System Maintenance Specialist	4760	4998	5248	5510	5785
Senior Communications Technician	5174	5433	5705	5989	6289
Senior Custodian	3196	3355	3524	3699	3884
Senior Ground Water Production Operator	5562	5841	6133	6439	6761
Senior Heavy Equipment Operator	5435	5707	5992	6292	6606
Senior Sanitation Operator	4415	4637	4867	5112	5366
Senior Wastewater Mechanical Specialist	4789	5029	5279	5544	5820
Senior Wastewater Treatment Plant Operator	5562	5841	6133	6439	6761
Senior Water Distribution/Production Operator	5562	5841	6133	6439	6761
Senior Water Treatment Plant Operator	5677	5961	6259	6571	6899
Solid Waste Safety & Training Specialist	4212	4417	4635	4861	5099

EXHIBIT I

Salaries Effective January 6, 2020

CLASS TITLE	A	B	C	D	E
Street Maintenance Leadworker	3987	4185	4394	4614	4844
Street Sweeper Lead Operator	4279	4493	4718	4954	5201
Street Sweeper Operator	3891	4084	4288	4503	4727
Tire Maintenance & Repair Technician	3891	4084	4288	4503	4727
Tire Maintenance Worker	3535	3712	3897	4093	4297
Traffic Maintenance Leadworker	3987	4185	4394	4614	4844
Traffic Maintenance Worker I	3287	3451	3623	3805	3995
Traffic Maintenance Worker II	3615	3795	3986	4184	4392
Tree Trimmer Leadworker	3956	4153	4362	4580	4809
Utility Leadworker	3839	4032	4233	4444	4665
Waste Container Maintenance Worker	3196	3355	3524	3699	3884
Wastewater Distributor Technician	3577	3755	3943	4139	4346
Wastewater Mechanical Specialist*	4547	4775	5012	5263	5525
Wastewater Mechanical Technician*	4134	4341	4557	4785	5024
Wastewater Treatment Plant Operator-In-Training	3577	3755	3943	4139	4346
Wastewater Treatment Plant Specialist	4789	5029	5279	5544	5820
Wastewater Treatment Plant Technician	4547	4775	5012	5263	5525
Water Distribution/Production Specialist	4547	4775	5012	5263	5525
Water Distribution/Production Technician	4134	4341	4557	4785	5024
Water Maintenance Mechanic Specialist	4547	4775	5012	5263	5525
Water Maintenance Mechanic Technician	4134	4341	4557	4785	5024
Water Quality Specialist	4547	4775	5012	5263	5525
Water Quality Technician	4134	4341	4557	4785	5024
Welder	4279	4493	4718	4954	5201

EXHIBIT II

Salaries Effective January 4, 2021

CLASS TITLE	A	B	C	D	E
Airports Building Maintenance Technician	3774	3964	4161	4369	4587
Airports Operations Leadworker	4409	4629	4861	5104	5359
Airports Operations Specialist	4008	4207	4417	4639	4869
Automotive Parts Leadworker	4008	4207	4417	4639	4869
Automotive Parts Specialist	3642	3824	4014	4216	4426
Aviation Mechanic I	4890	5136	5390	5661	5944
Aviation Mechanic II	5380	5648	5930	6228	6537
Aviation Mechanic Leadworker	5917	6212	6523	6849	7192
Body & Fender Repairer	4890	5136	5390	5661	5944
Body & Fender Repairer Leadworker	5380	5648	5930	6228	6537
Body & Fender Repairer Trainee	4408	4628	4860	5103	5358
Brake & Front End Specialist	5380	5648	5930	6228	6537
Bus Air Conditioning Mechanic	4890	5136	5390	5661	5944
Bus Air Conditioning Mechanic Leadworker	5380	5648	5930	6228	6537
Bus Air Conditioning Mechanic Trainee	4408	4628	4860	5103	5358
Bus Equipment Attendant Leadworker	4008	4207	4417	4639	4869
Bus Mechanic I	4408	4628	4860	5103	5358
Bus Mechanic II	4890	5136	5390	5661	5944
Bus Mechanic Leadworker	5380	5648	5930	6228	6537
Collection System Maintenance Specialist	4458	4681	4915	5160	5418
Collection System Maintenance Technician	4053	4255	4469	4691	4926
Combination Welder	4890	5136	5390	5661	5944
Combination Welder Leadworker	5380	5648	5930	6228	6537
Communications Technician I	4383	4603	4832	5073	5327
Communications Technician II	4832	5073	5327	5593	5873

EXHIBIT II

Salaries Effective January 4, 2021

CLASS TITLE	A	B	C	D	E
Cross Connection Control Technician	4684	4919	5163	5421	5691
Custodian	2993	3142	3300	3463	3636
Electronic Equipment Installer	3555	3732	3920	4115	4321
Equipment Service Worker I	3642	3824	4014	4216	4426
Equipment Service Worker II	4008	4207	4417	4639	4869
Fire Equipment Mechanic I	4408	4628	4860	5103	5358
Fire Equipment Mechanic II	4890	5136	5390	5661	5944
Fire Equipment Mechanic Leadworker	5380	5648	5930	6228	6537
Graffiti Abatement Technician	3594	3773	3964	4161	4369
Ground Water Production Specialist	4684	4919	5163	5421	5691
Ground Water Production Technician	4259	4472	4694	4929	5175
Heavy Equipment Mechanic I	4408	4628	4860	5103	5358
Heavy Equipment Mechanic II	4890	5136	5390	5661	5944
Heavy Equipment Mechanic Leadworker	5380	5648	5930	6228	6537
Heavy Equipment Operator	4548	4777	5014	5266	5527
Instrumentation Specialist	5150	5408	5679	5962	6259
Instrumentation Technician	4684	4919	5163	5421	5691
Irrigation Specialist	3955	4153	4360	4578	4805
Laborer	3037	3176	3321	3473	3636
Light Equipment Mechanic I	4408	4628	4860	5103	5358
Light Equipment Mechanic II	4890	5136	5390	5661	5944
Light Equipment Mechanic Leadworker	5380	5648	5930	6228	6537
Light Equipment Operator	4008	4207	4417	4639	4869
Locksmith	3665	3849	4040	4242	4453
Maintenance & Construction Worker	3642	3824	4014	4216	4426
Maintenance & Operations Assistant	3037	3176	3321	3473	3636

EXHIBIT II

Salaries Effective January 4, 2021

CLASS TITLE	A	B	C	D	E
Maintenance Carpenter I	4034	4235	4447	4668	4901
Maintenance Carpenter II	4449	4672	4904	5149	5407
Park Equipment Mechanic II	4008	4207	4417	4639	4869
Park Equipment Mechanic Leadworker	4408	4628	4860	5103	5358
Parking Meter Attendant I	3292	3456	3630	3810	4001
Parking Meter Attendant II	3623	3803	3992	4192	4402
Parking Meter Attendant III	3984	4182	4391	4611	4840
Parks Maintenance Leadworker	3955	4153	4360	4578	4805
Parks Maintenance Worker I	2993	3142	3300	3463	3636
Parks Maintenance Worker II	3595	3774	3964	4161	4369
Power Generation Operator/Mechanic	5427	5697	5983	6280	6595
Property Maintenance Leadworker	4042	4243	4455	4679	4912
Property Maintenance Worker	3774	3964	4163	4370	4587
Roofer	3665	3848	4041	4242	4453
Sanitation Operator	4008	4207	4417	4639	4869
Senior Collection System Maintenance Specialist	4903	5148	5406	5676	5959
Senior Communications Technician	5330	5596	5877	6169	6478
Senior Custodian	3292	3456	3630	3810	4001
Senior Ground Water Production Operator	5729	6017	6317	6633	6964
Senior Heavy Equipment Operator	5599	5879	6172	6481	6805
Senior Sanitation Operator	4548	4777	5014	5266	5527
Senior Wastewater Mechanical Specialist	4933	5180	5438	5711	5995
Senior Wastewater Treatment Plant Operator	5729	6017	6317	6633	6964
Senior Water Distribution/Production Operator	5729	6017	6317	6633	6964
Senior Water Treatment Plant Operator	5848	6140	6447	6769	7106
Solid Waste Safety & Training Specialist	4339	4550	4775	5007	5252

EXHIBIT II

Salaries Effective January 4, 2021

CLASS TITLE	A	B	C	D	E
Street Maintenance Leadworker	4107	4311	4526	4753	4990
Street Sweeper Lead Operator	4408	4628	4860	5103	5358
Street Sweeper Operator	4008	4207	4417	4639	4869
Tire Maintenance & Repair Technician	4008	4207	4417	4639	4869
Tire Maintenance Worker	3642	3824	4014	4216	4426
Traffic Maintenance Leadworker	4107	4311	4526	4753	4990
Traffic Maintenance Worker I	3386	3555	3732	3920	4115
Traffic Maintenance Worker II	3724	3909	4106	4310	4524
Tree Trimmer Leadworker	4075	4278	4493	4718	4954
Utility Leadworker	3955	4153	4360	4578	4805
Waste Container Maintenance Worker	3292	3456	3630	3810	4001
Wastewater Distributor Technician	3685	3868	4062	4264	4477
Wastewater Mechanical Specialist	4684	4919	5163	5421	5691
Wastewater Mechanical Technician	4259	4472	4694	4929	5175
Wastewater Treatment Plant Operator-In-Training	3685	3868	4062	4264	4477
Wastewater Treatment Plant Specialist	4933	5180	5438	5711	5995
Wastewater Treatment Plant Technician	4684	4919	5163	5421	5691
Water Distribution/Production Specialist	4684	4919	5163	5421	5691
Water Distribution/Production Technician	4259	4472	4694	4929	5175
Water Maintenance Mechanic Specialist	4684	4919	5163	5421	5691
Water Maintenance Mechanic Technician	4259	4472	4694	4929	5175
Water Quality Specialist	4684	4919	5163	5421	5691
Water Quality Technician	4259	4472	4694	4929	5175
Welder	4408	4628	4860	5103	5358

EXHIBIT III

Salaries Effective January 3, 2022

CLASS TITLE	A	B	C	D	E
Airports Building Maintenance Technician	3850	4044	4245	4457	4679
Airports Operations Leadworker	4498	4722	4959	5207	5467
Airports Operations Specialist	4089	4292	4506	4732	4967
Automotive Parts Leadworker	4089	4292	4506	4732	4967
Automotive Parts Specialist	3715	3901	4095	4301	4515
Aviation Mechanic I	4988	5239	5498	5775	6063
Aviation Mechanic II	5488	5761	6049	6353	6668
Aviation Mechanic Leadworker	6036	6337	6654	6986	7336
Body & Fender Repairer	4988	5239	5498	5775	6063
Body & Fender Repairer Leadworker	5488	5761	6049	6353	6668
Body & Fender Repairer Trainee	4497	4721	4958	5206	5466
Brake & Front End Specialist	5488	5761	6049	6353	6668
Bus Air Conditioning Mechanic	4988	5239	5498	5775	6063
Bus Air Conditioning Mechanic Leadworker	5488	5761	6049	6353	6668
Bus Air Conditioning Mechanic Trainee	4497	4721	4958	5206	5466
Bus Equipment Attendant Leadworker	4089	4292	4506	4732	4967
Bus Mechanic I	4497	4721	4958	5206	5466
Bus Mechanic II	4988	5239	5498	5775	6063
Bus Mechanic Leadworker	5488	5761	6049	6353	6668
Collection System Maintenance Specialist	4548	4775	5014	5264	5527
Collection System Maintenance Technician	4135	4341	4559	4785	5025
Combination Welder	4988	5239	5498	5775	6063
Combination Welder Leadworker	5488	5761	6049	6353	6668
Communications Technician I	4471	4696	4929	5175	5434
Communications Technician II	4929	5175	5434	5705	5991

EXHIBIT III

Salaries Effective January 3, 2022

CLASS TITLE	A	B	C	D	E
Cross Connection Control Technician	4778	5018	5267	5530	5805
Custodian	3053	3205	3366	3533	3709
Electronic Equipment Installer	3627	3807	3999	4198	4408
Equipment Service Worker I	3715	3901	4095	4301	4515
Equipment Service Worker II	4089	4292	4506	4732	4967
Fire Equipment Mechanic I	4497	4721	4958	5206	5466
Fire Equipment Mechanic II	4988	5239	5498	5775	6063
Fire Equipment Mechanic Leadworker	5488	5761	6049	6353	6668
Graffiti Abatement Technician	3666	3849	4044	4245	4457
Ground Water Production Specialist	4778	5018	5267	5530	5805
Ground Water Production Technician	4345	4562	4788	5028	5279
Heavy Equipment Mechanic I	4497	4721	4958	5206	5466
Heavy Equipment Mechanic II	4988	5239	5498	5775	6063
Heavy Equipment Mechanic Leadworker	5488	5761	6049	6353	6668
Heavy Equipment Operator	4639	4873	5115	5372	5638
Instrumentation Specialist	5253	5517	5793	6082	6385
Instrumentation Technician	4778	5018	5267	5530	5805
Irrigation Specialist	4035	4237	4448	4670	4902
Laborer	3098	3240	3388	3543	3709
Light Equipment Mechanic I	4497	4721	4958	5206	5466
Light Equipment Mechanic II	4988	5239	5498	5775	6063
Light Equipment Mechanic Leadworker	5488	5761	6049	6353	6668
Light Equipment Operator	4089	4292	4506	4732	4967
Locksmith	3739	3926	4121	4327	4543
Maintenance & Construction Worker	3715	3901	4095	4301	4515
Maintenance & Operations Assistant	3098	3240	3388	3543	3709

EXHIBIT III

Salaries Effective January 3, 2022

CLASS TITLE	A	B	C	D	E
Maintenance Carpenter I	4115	4320	4536	4762	5000
Maintenance Carpenter II	4538	4766	5003	5252	5516
Park Equipment Mechanic II	4089	4292	4506	4732	4967
Park Equipment Mechanic Leadworker	4497	4721	4958	5206	5466
Parking Meter Attendant I	3358	3526	3703	3887	4082
Parking Meter Attendant II	3696	3880	4072	4276	4491
Parking Meter Attendant III	4064	4266	4479	4704	4937
Parks Maintenance Leadworker	4035	4237	4448	4670	4902
Parks Maintenance Worker I	3053	3205	3366	3533	3709
Parks Maintenance Worker II	3667	3850	4044	4245	4457
Power Generation Operator/Mechanic	5536	5811	6103	6406	6727
Property Maintenance Leadworker	4123	4328	4545	4773	5011
Property Maintenance Worker	3850	4044	4247	4458	4679
Roofer	3739	3925	4122	4327	4543
Sanitation Operator	4089	4292	4506	4732	4967
Senior Collection System Maintenance Specialist	5002	5251	5515	5790	6079
Senior Communications Technician	5437	5708	5995	6293	6608
Senior Custodian	3358	3526	3703	3887	4082
Senior Ground Water Production Operator	5844	6138	6444	6766	7104
Senior Heavy Equipment Operator	5711	5997	6296	6611	6942
Senior Sanitation Operator	4639	4873	5115	5372	5638
Senior Wastewater Mechanical Specialist	5032	5284	5547	5826	6115
Senior Wastewater Treatment Plant Operator	5844	6138	6444	6766	7104
Senior Water Distribution/Production Operator	5844	6138	6444	6766	7104
Senior Water Treatment Plant Operator	5965	6263	6576	6905	7249
Solid Waste Safety & Training Specialist	4426	4641	4871	5108	5358

EXHIBIT III

Salaries Effective January 3, 2022

CLASS TITLE	A	B	C	D	E
Street Maintenance Leadworker	4190	4398	4617	4849	5090
Street Sweeper Lead Operator	4497	4721	4958	5206	5466
Street Sweeper Operator	4089	4292	4506	4732	4967
Tire Maintenance & Repair Technician	4089	4292	4506	4732	4967
Tire Maintenance Worker	3715	3901	4095	4301	4515
Traffic Maintenance Leadworker	4190	4398	4617	4849	5090
Traffic Maintenance Worker I	3454	3627	3807	3999	4198
Traffic Maintenance Worker II	3799	3988	4189	4397	4615
Tree Trimmer Leadworker	4157	4364	4583	4813	5054
Utility Leadworker	4035	4237	4448	4670	4902
Waste Container Maintenance Worker	3358	3526	3703	3887	4082
Wastewater Distributor Technician	3759	3946	4144	4350	4567
Wastewater Mechanical Specialist	4778	5018	5267	5530	5805
Wastewater Mechanical Technician	4345	4562	4788	5028	5279
Wastewater Treatment Plant Operator-In-Training	3759	3946	4144	4350	4567
Wastewater Treatment Plant Specialist	5032	5284	5547	5826	6115
Wastewater Treatment Plant Technician	4778	5018	5267	5530	5805
Water Distribution/Production Specialist	4778	5018	5267	5530	5805
Water Distribution/Production Technician	4345	4562	4788	5028	5279
Water Maintenance Mechanic Specialist	4778	5018	5267	5530	5805
Water Maintenance Mechanic Technician	4345	4562	4788	5028	5279
Water Quality Specialist	4778	5018	5267	5530	5805
Water Quality Technician	4345	4562	4788	5028	5279
Welder	4497	4721	4958	5206	5466

Attendance Policy – Unit 1, Represented by Local 39

Purpose

To establish an attendance policy for employees in Unit 1, represented by Local 39.

Policy & Procedures

This policy is to be construed on a rolling 12-month period following the effective date. A primary requirement for continued employment is regular attendance. While the City recognizes some absences may be unavoidable, City departments and the employees have an obligation to the public that demands regular and prompt attendance.

Although it is recognized that excessive absenteeism is a proper reason for corrective/disciplinary action, up to and including termination of employment, it is the policy of the City to identify problem areas by keeping proper records, exploring avenues of available assistance, and encouraging compliance with attendance standards.

This attendance policy was developed to establish uniform guidelines to further efforts to provide service to the public, and is designed to be a no-fault program. The pervasive problems stemming from inordinate absences are the focus of this policy, not the nature of the absences.

Authorized leaves **(i.e., union business, bereavement leave, disciplinary suspensions, approved leaves of absence, and hearing and court appearances by subpoena)** and statutorily protected leaves (e.g., Family and Medical Leave Act **(FMLA)**, California Family Rights Act **(CFRA)**, military leave, **workers' compensation leave, and Protected Sick Leave** * * * are outside the scope of this attendance policy.

In the event of a serious illness or injury to the employee requiring the employee's absence during a future period of time, or a serious illness or injury to the employee's spouse, dependent minor children, or parents requiring the employee's absence during a future period of time, the applicable City department, the employee and the Union may agree to a plan for the employee's absence(s) over a specified period of time. If such plan is agreed upon, absences under such plan shall not be subject to this policy.

DEFINITIONS AND RULES - SECTION I:

1. Excluding the authorized and statutorily protected leaves discussed above, an absence or absenteeism is defined as any failure to show up for or remain at work as scheduled regardless of the reason. Any employee, who fails to show up for work or remain at work as scheduled, will be charged with an incident of absence under this policy.

   (a) Authorized leaves (i.e., scheduled leave time prearranged, and approved) shall not be considered an incident.

   (b) A day or days of continuous absence due to illness shall be considered one incident.

   (c) Employees who are absent for an indefinite period due to illness must keep their supervisor informed as to the status of their absence, including specifying any tentative return date if requested by their supervisor or designee. An employee on extended leave for any reason may be contacted by the applicable City department to schedule a return-to-work evaluation before returning to work.

2. Employees who call in advance to give notice they will be late, and report to work within one (1) hour will be charged with a tardy. However, failure to report to work within one (1) hour after their scheduled start time will result in the issuance of a second tardy. Two (2) tardies in any rolling 12-month period shall be equal to one (1) incident.

3. The City reserves the right to require an employee to report to work for the balance of the day on which tardiness occurs. Failure by the employee to report to or remain at work for the balance of the day as directed by a supervisor may be cause for disciplinary action.

4. Any employee who does not report to work in person or by telephone will be considered absent without leave, and subject to disciplinary action as provided in the applicable provisions of the Fresno Municipal Code, as the same may be amended from time-to-time.

5. Employees who are tardy, and employees who are otherwise eligible to use sick leave for an absence but have insufficient sick leave to cover the absence, will be charged leave without pay. Employees who are absent for an approved FMLA**/CFRA** qualified event who have no sick leave may use other leave balances.

CORRECTIVE/DISCIPLINE ACTIONS - SECTION II:

1. Excessive absenteeism by an employee shall subject said employee(s) to corrective/disciplinary action. Excessive absenteeism for purposes of this policy shall be defined as four (4) or more occurrences (i.e., incident) of absence within any consecutive 12-month period beginning with the effective date of this policy. The 12-month period referred to in this policy shall mean a “rolling” 12-month period.

2. The corrective/disciplinary actions under this policy are noted in the table below.

Incident	Level
4th	Verbal Warning
5th	Letter of Understanding
6th	Written Reprimand
7th	2 Working Days Suspension
8th	5 Working Days Suspension
9th	10 Working Days Suspension
10th	Termination

The City reserves the right to deviate from this table of progressive corrective/disciplinary actions under mitigating circumstances, or when there is a pattern of excessive absenteeism indicating abuse of time off. An example of a mitigating circumstance is a case where an employee with an otherwise exemplary prior history of good attendance (three [3] to five [5] years) experiences an unexpected problem, which causes inordinate temporary absenteeism.

3. An employee who has no additional incidents for 90 calendar days after receipt of an incident shall have * * * **their** number of incidents reduced by one (1). The employee must have no additional incidents for an additional 30 calendar days before an additional incident is removed. If an employee receives an incident before an additional 30 calendar days has passed, then no incident will be removed until 90 calendar days after the last incident. The incident to be removed shall be the oldest in the rolling 12-month review period.

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

Overtime

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

ARTICLE VII

COMPENSATION AND BENEFITS

D. OVERTIME

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

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

continues past midnight and rolls into the following work day, the entire call will be paid at the rate effective at the start of the call.

3. Telephone Calls – Employees who are called at home to assist with City work that must be accomplished, but are not called to a worksite, shall receive a minimum of twelve (12) minutes of pay for each such call. Calls such as attempts to locate the employee or provide information on changes in work schedules are not compensable for the purpose of this provision. **Telephone calls received after leaving the assigned work area for the day, or on the employee's first day off, shall be paid at time and one-half (1 ½) the employee's base rate of pay. Telephone calls received on the employee's second day off will be paid at two (2) times the employee's base rate of pay. Employees on a 4/10 schedule will get time and one-half (1 ½) the employee's base rate of pay on the employee's first and second day off, and will receive two (2) times the employee's base salary on the third day off.**

4. There shall be no pyramiding or duplication of overtime or premium rates.

5. In clarification of the above, it is the policy of the City that overtime work is to be discouraged. However, in case of emergency or whenever the public interest requires, the Chief Administrative Officer, or any department head or designee with respect to any employee in the department head's or designee's department, may require an employee to perform overtime work. No employee shall be entitled to compensation or compensating time off for overtime work unless such overtime work is approved as provided in this Agreement.

6. Excluding holidays, all employees shall be compensated for approved overtime work by additional pay as follows (refer to Article VII, Section H Subsection 1. for holiday overtime compensation):

   a. Work performed in excess of eight hours on a regular workday and work performed on the employee's first regular day off but not a holiday shall be compensated at one and one-half times the applicable hourly rate.

   b. Work performed on the employee's second regular day off shall be compensated at twice the applicable hourly rate.

   c. If overtime continues past midnight and rolls into the following work day, the overtime will be paid at the rate effective at the start of the shift.

   d~~c~~. The provisions of Subsections 6.a. through 6.b. above shall not apply to any employee who works a regularly scheduled workday of ten hours during a regularly scheduled workweek of four days.

e~~d~~. Overtime shall be credited in units of one-tenth of an hour.

f~~e~~. All employees who work a regularly scheduled workday of ten hours during a regularly scheduled workweek of four days shall be compensated for approved overtime work by additional pay as follows:

(1) Work performed in excess of ten hours in one day or on either or both of the first two scheduled days off in a workweek shall be compensated at one and one-half times the applicable hourly rate.

(2) Work performed on the third scheduled day off in a workweek, shall be compensated at two times the applicable hourly rate.

(3) If overtime continues past midnight and rolls into the following work day, the overtime will be paid at the rate effective at the start of the shift.

g~~f~~. The procedures in this sub-section (sub-section f.) shall not apply to the Water Distribution mandatory overtime list for stand-by/emergency operations.

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

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

Employees will be called from the work unit voluntary overtime list in seniority order by classification. After the most senior employee(s) accepts the overtime assignment, declines the overtime assignment, or does not respond to the City's attempt to contact the employee, the City will contact the next most senior employee until the overtime

assignment is staffed. If an employee works, declines, or does not respond to the call, the employee will be moved to the bottom of the list and will rotate through the list. If the overtime work is planned at least two days in advance, employees will have one hour to respond to the offer of overtime before moving to the next name on the seniority list.

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

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

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

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

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

h~~g~~. The City shall not adjust a regular workweek schedule during said workweek to avoid the payment of overtime.

i~~h~~. Overtime shall not be credited for units of overtime less than one-tenth of an hour, and fractional units of overtime less than one-tenth of an hour shall not accumulate.

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

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

Signature on File
BART FLORENCE
Business Manager/Secretary

Signature on File
STAHLY ROBERT ALDRICH
President

Signature on File
STEVE CROUCH
Director of Public Employees

Signature on File
RUBEN ZARATE
Business Representative

FOR THE CITY OF FRESNO:

Signature on File
RICHARD E. BOYD
Labor Relations Manager

DATE: *August 21, 2020*

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: *Signature on File*
Assistant City Attorney