

MEMORANDUM OF UNDERSTANDING

**BETWEEN AND FOR THE
CITY OF FRESNO**

AND

**AMALGAMATED TRANSIT UNION, LOCAL 1027 (ATU)
(Bus Drivers and Student Drivers - Unit 6)**

June 16, 2025 – December 13, 2026

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LEGEND

* * *	= deleted old language
[§ deleted]	= section/subsection deleted
[§§ deleted]	= two or more sections/subsections deleted
bold type	= new language

ARTICLE I

PREAMBLE

A. PURPOSE

This Memorandum of Understanding, hereinafter MOU, entered into between the City of Fresno, hereinafter the City, and Amalgamated Transit Union, Local No. 1027, hereinafter ATU, has as its purpose to establish wages, hours, and other terms and conditions of employment. In the event ATU or the City becomes aware of a practice, procedure, or activity which is not in compliance with this MOU then, notwithstanding such practice, procedure, or activity the parties shall immediately comply with the applicable provision of the MOU, rule, regulation, or statute.

B. DEFINITIONS

Unless the particular provision or the context otherwise requires, and, except to the extent that a particular word or phrase is otherwise specifically defined in this MOU, the definitions and provisions contained in Chapter 3, Sections 3-101, 3-201, 3-202, 3-501, and 3-603 of the Fresno Municipal Code hereinafter FMC, shall govern the construction, meaning, and application of words and phrases used herein. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it, or 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 ATU is governed by Chapter 10 of Division 4 of Title I of the Government Code (Section 3500 et seq., commonly known as the Meyers-Milias-Brown Act), and Article 6 of Chapter 3 of the FMC, as may be amended from time to time, and in the event of conflict between said laws and this MOU, or in the event of conflicts in interpretation, said laws shall govern.

ARTICLE II

EMPLOYEE RIGHTS

A. GENERAL - EMPLOYEE RIGHTS

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

B. NONDISCRIMINATION

The provisions of this MOU shall apply equally to, and be exercised by, all employees consistent with state and federal nondiscrimination statutes. The requirements mandated by these statutes have been established in City policies.

ARTICLE III

CITY RIGHTS

A. GENERAL

1. ATU and the City agree that the rights of the City are as set forth in FMC Section 3-605.
2. This MOU is not intended to restrict discussion with ATU regarding matters which may affect the members but which are outside the mandatory scope of bargaining.
3. Nothing in this MOU shall be construed as delegating to others the authority conferred by law on the City, or in any way abridging or reducing such authority.
4. This MOU shall be construed as requiring the City to follow its provisions in the exercise of the authority conferred upon the City by law, except that this clause shall not be deemed to be a grant of authority to sue any person, including ATU, not otherwise existing.

B. RESERVED RIGHTS

All City rights formerly or presently claimed by or vested in the City on the effective date of this MOU, even though not specifically set forth in this Article, are retained by the City unless clearly and explicitly modified or restricted in this MOU, and no City right shall be deemed waived, modified, or restricted unless such waiver, modification or restriction is explicitly and specifically approved by the City Council.

ARTICLE IV
RECOGNITION

A. UNION RECOGNITION

The City acknowledges ATU as the recognized employee organization representing the Unit, and therefore, shall meet and confer in good faith promptly upon request by ATU 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 matters within the scope of representation. In order that the meet and confer process includes adequate time for full consideration of the proposals of both parties and for resolution of any impasse, MOU negotiations may be initiated at the request of either party as early as four (4) months preceding expiration of the MOU.

B. UNION OFFICERS AND STEWARDS

1. A written list of the Officers and Stewards of ATU shall be furnished to the City immediately after their designation and ATU shall notify the City promptly in writing of any changes of such ATU Officers.
2. Not later than at the completion of the training period, the City shall inform each new Bus Driver in this unit of the name and address of ATU. The City and ATU shall share equally the cost of printing copies of this MOU sufficient to provide a copy to all current Bus Drivers, Bus Drivers hired during the term of this agreement, all Fresno Area Express, hereinafter FAX, management employees, and the Labor Relations Division.
3. The City will provide the employee information it has on file in compliance with AB 119 for all new hires in the bargaining unit within 30 days of hire, as well as all employees represented by the Union at least once per quarter.

Upon hire, the City will provide the Union with the estimated probation end date as a Bus Driver for all new hires.

Pursuant to Government Code §3358 (in AB 119), employees may opt out of releasing the following information to the Union: home address, home and personal cellular telephone numbers, and personal email addresses.

4. An ATU officer will be allowed to use up to thirty (30) minutes unpaid time to speak with each Student Driver class to provide a union orientation. FAX management may or may not attend the "orientation" at their discretion.
5. The City recognizes the ATU President, Vice President, and Secretary-Treasurer as the designated representatives of ATU, and only these

officers, or other officers designated in writing by the President, shall be authorized to meet and confer with the City, or otherwise represent ATU in its relations with the City. ATU officers off on approved ATU leave without pay on the day before or day after a holiday shall not lose credit for that holiday.

C. UNION BULLETIN BOARDS

The Union may use bulletin boards designated by the City to post materials related to Union business. 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 Director of Transportation or designee at the time of posting.

D. REPRESENTATION

ATU agrees to represent all Bus Drivers and Student Drivers in the Unit without discrimination, interference, restraint, or coercion, subject to the right of such Bus Drivers and Student Drivers to represent themselves individually in their employment relations with the City. ATU shall defend and hold harmless the City, its officers and employees, from any costs or liability arising out of or related to any claim of any Bus Drivers and Student Drivers in the Unit that ATU is discriminating and/or has discriminated against or failed to represent such Bus Drivers and Student Drivers in violation of any law or the provisions of this subsection.

E. RECOGNITION OF UNIT DESCRIPTION

Unit 6 consists of all employees in the classifications of Bus Driver and Student Driver holding a permanent full time or permanent part time position in the classified service. The City shall provide to ATU two (2) copies of the seniority list not later than 15 days after the effective date of this MOU and within five (5) work days of each change to the seniority list.

F. CITY RECOGNITION

ATU recognizes the City Manager of the City, or such other person as may be designated in writing, as the designated representative of the City, pursuant to FMC Section 3-615, and shall meet and confer in good faith promptly upon request by the City and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to make every effort to reach agreement on a successor MOU.

G. RECOGNITION OF MUTUAL OBLIGATION

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

H. POLICY MEMORANDA

FAX shall provide to the ATU President, Vice President, or Secretary-Treasurer two (2) copies of each policy memorandum addressed to Bus Drivers not later than two (2) days before the memorandum is posted in the Bus Drivers' room.

I. LOCKOUT AND STRIKE

1. No lockout of employees in this Unit shall be instituted by the City during the term of this MOU.
2. No unlawful strikes, or work stoppages of City employees, as defined in FMC Section 3-624, shall be caused, instigated, encouraged, condoned, participated in, or honored by ATU or its members during the term of this MOU.
3. **During the term of this MOU, the Unions will not condone or support so-called "sympathy strikes" where a strike or work stoppage is declared by another union.**

Nothing in this provision shall be construed to require Union members to cross a lawful primary picket line established by another labor organization when doing so would demonstrate risk to their personal safety or would otherwise violate the law.

This provision shall not interfere with any members' individual legal right to engage in a sympathy strike, nor restrain any member from refusing to cross picket lines. All members, including Executive Board members, reserve their individual, legal right to sympathy strike.

THIS PROVISION SHALL EXPIRE upon ratification of a successor MOU, unless extended in writing by both parties, the City and ATU.

J. UNILATERAL ACTION

In the event the meet and confer process for a successor MOU results in an impasse, the City shall not take unilateral action regarding wages, hours, and other terms and conditions of employment prior to completion of the impasse resolution procedures as identified in FMC 3-617 and applicable state law or as modified in the ground rules.

K. BUS OPERATION

Bus equipment in revenue service operated by, owned by or registered to, the City shall be staffed by Operators covered by this MOU. The City acknowledges that bus exchanges are a part of this Unit's usual work, and exceptions to this practice shall be for unusual and exceptional circumstances; however, commercial driver's

licensed FAX maintenance staff may be used for bus exchanges. The application of this section does not apply to the para transit service provided under contract to the City, nor does it apply to the training of Student Drivers which occurs on bus equipment in revenue service.

L. STUDENT DRIVER PROGRAM

1. Classification

- a. Student Drivers (formerly Student Bus Drivers) are in Unit 6 and are represented by the Union. Student Drivers cannot attain permanent status.
- b. The position of Student Driver shall not be an eligible option for a layoff, in other words, an employee who is a Bus Driver and is released from that position shall not have the option to return to their previous class of Student Driver.
- c. Student Drivers shall be trained in and shall perform the expected various duties typical of a Bus Driver.
- d. The Student Driver classification is designed to prepare the incumbent for a Bus Driver position. Failure to demonstrate the ability to become a Bus Driver and/or failure to complete the Student Driver training program within ten (10) weeks from date of appointment shall result in termination from the program.

2. Compensation and Benefits

- a. Student Drivers shall be compensated at the rate of ninety percent (90%) of an A Step Bus Driver as reflected in Table A attached hereto and incorporated by reference.
- b. Student Drivers shall be entitled to all benefits afforded to probationary Bus Drivers.

3. Applicability of MOU provisions

The following provisions of this MOU shall not apply to Student Drivers.

- Article VII, Section A. Disciplinary Actions, Subsection 3, Use of Hearing Officer
- Article VII, Section B. Reporting Late for Duty (Miss Outs)
- Article VIII, Section B. Assignments and Pay Time
- Article VIII, Section C. Extra Board
- Article VIII, Section D., Subsection 1. Sign-Ups
- Article VIII, Section F. Run Exchanges

- Article IX, Section D. Bus Passes
- Article IX, Section O. Bilingual Certification Program

M. BY-LAWS

ATU 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 changed.

ARTICLE V

SCOPE OF REPRESENTATION

A. GENERAL

1. "Scope of Representation" means all matters relating to employer/employee relations, including, but not limited to wages, hours, and other terms and conditions of employment. Employee rights, as set forth in FMC Section 3-604, and City rights, as set forth in FMC Section 3-605(a), are excluded from the scope of representation.
2. ATU is the exclusive representative of all employees in the Unit.
3. Subject to the provisions of FMC Section 3-620 and Article VI hereof, the parties recognize that membership in ATU is not compulsory, that Bus Drivers and Student Drivers have the right to join, not join, maintain, or drop their membership in ATU, and that neither party shall exert any pressure on or discriminate against a Bus Driver or Student Driver regarding such matters.
4. ATU agrees to represent all of the Bus Drivers and Student Drivers in the Unit fairly and equally without regard to whether or not a Bus Driver or Student Driver is a member of ATU. The terms of this MOU have been made for all Bus Drivers and Student Drivers within the Unit and not only for members of ATU, and this MOU has been executed by the City after it has satisfied itself that ATU is the choice of a majority of the Bus Drivers and Student Drivers in the Unit, subject to revocation as specified in FMC Sections 3-612 and 3-613.

B. EMPLOYEE REPRESENTATION

The City recognizes that ATU Officers and Stewards have a legally protected interest in representation of its members and discharge of other Union duties. The Union recognizes that the City has an interest in maintaining effective public service. Therefore, the Union and the City mutually agree as follows:

1. **ATU Officers (i.e., president and executive board members) and Stewards will be allowed time off to conduct Union business up to a maximum combined 2,350 total hours in a fiscal year for union business subject to the following limitations:** ATU may represent Bus Drivers and Student Drivers covered by this MOU on grievances under any City grievance procedure and on Bus Driver and Student Driver appeals allowed by City code or rule **subject to the limitations described in subsection b(i) of this section (i.e., "no more than one ATU officer or steward shall represent an individual member...").**

a. **“Union business” shall be defined as any business conducted on behalf of or related to ATU resulting in time taken away from an Officer or Stewards’ primary job assignment, not defined as City business below.** ATU Officers and Stewards shall have the same right of access to personnel files as does the Bus Driver or Student Driver represented by such Officer or Steward, provided that the Bus Driver or Student Driver either accompanies the representative or authorizes such access in writing. Copies of disciplinary letters will be released to the Union representative if the Bus Driver affirmatively requests that it be done by signing the Release included at the bottom of any Notice of Proposed Disciplinary Action.

i. ATU may request and FAX will consider a request for additional time off without pay for union business in any fiscal year where additional time is deemed necessary by the Union. No more than three (3) representatives will be allowed off at a time for these purposes. Where practical, FAX will be provided with at least five (5) calendar days, but no less than one (1) calendar day (24 hours), advance notice. A fourth (4th) representative will be allowed time off to attend the Union’s executive board meeting and/or Union meetings. In addition, a fourth (4th) Union representative may be allowed additional time off with one (1) calendar day (24 hours) advance notice and approval by the Operation Manager or designee. It is understood that time-off granted as a result of the annual vacation sign-up shall not be cancelled by the application of this subsection.

b. **“City business” shall be defined as representation of members where** ATU Officers and Stewards designated under Article IV B. of this MOU shall be excused without loss of regular compensation from their regular duties for such time as is necessary to attend and represent ATU members in * * ***Skelly meetings, disciplinary appeal hearings, grievance advisory committee hearings, ARC meetings and/or hearings, Driver or Student Driver appeals, interactive process meetings, administrative investigative interviews conducted by the City, and similar forums where a member is entitled to representation under law or other applicable City or Department policy or under this memorandum of understanding.**

i. **No more than one ATU Officer or Steward shall represent an individual member as described in subsection B above simultaneously in the same matter and at the same meeting.**

ii. *** * *An ATU Officer or Steward may be accompanied by another individual for training purposes. The individual receiving training shall not receive compensation from**

the City, however may receive compensation from the Union.

- iii. All members shall have Weingarten rights to representation in all circumstances where Weingarten applies.
- iv. For City business shall specify the nature of the City business on their leave tag (e.g., “skelly, “IP”).

[§ deleted]

- c. Any and all time spent by Officers and/or Stewards on Union business shall be deducted from ATU’s allotment of 2,350 hours.
 - i. The following activities shall be exempted from this section. Members appointed to engage in the following activities shall be afforded adequate release time without loss of pay while so engaged. This exemption shall apply to the following:
 - 1. Accident Review Committee (ARC)
 - 2. Safety Committee
 - 3. City of Fresno Health & Welfare Trust
 - 4. Negotiations Committee for Successor MOU negotiations.
 - 5. General Rules for Bus Drivers and Student Drivers Review Committee
 - 6. Any other negotiated committee agreed upon by the City and ATU
- d. The City agrees to a limited reopener if ATU and its membership votes to or approves full-time represented members.

- 2. No ATU officer or executive board member shall lose any benefits as a result of time taken off without pay to attend to Union business, **as allowable by law.**

C. GENERAL REPRESENTATION

- 1. The City recognizes the right of Bus Drivers and Student Drivers in this Unit to be represented by ATU in their employer-employee relationship with the City. A Bus Driver or Student Driver in this Unit has the right to be represented by an Officer or Steward of ATU when called by management to discuss or review any action by the Bus Driver or Student Driver when such discussion or review may result in any adverse action. Should any Bus

Driver or Student Driver request such representation, no further discussion or review may occur until a representative is present, except that no unreasonable delay shall result from such request.

2. This section does not apply to the normal ongoing employment relationship or supervisor/subordinate relationship between the City and its employees, when such matters as, including but not limited to, work direction, scheduling, and non-disciplinary counseling or performance evaluation, are the subjects of the discussion or review.

D. GRIEVANCE PROCEDURE

1. A grievance is a dispute concerning the interpretation or application of any existing City policy, written rule or regulation governing personnel practices or working conditions, including this MOU, and may, but is not limited to, include such matters as daily working assignments, equipment, safety or health hazards, and treatment of Bus Drivers or Student Drivers under any rule or regulation. This procedure shall not apply to any dispute for which there is another established resolution procedure, including but not limited to, appeal to the Fresno Civil Service Board, Retirement Board, Public Employee Relations Board unfair employer-employee relations charge or fact-finding procedure. The grievance procedure relates only to existing rights or duties, not to the establishment of a right or duty or as outlined below.
2. A written grievance must set forth the specific rule, regulation, policy or specific section of the MOU 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 within the time lines set forth in Step One, which shall be the amount of existing time left to file the grievance when the grievance was originally submitted but in no case less than one (1) calendar day. 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 a Hearing Officer. The Hearing Officer shall rule on the dispute before proceeding with the hearing. The Hearing Officer will be bound by the agreement of the parties regarding timeliness.
3. ATU may represent grievants covered by this MOU on grievances under the grievance procedure.
4. The grievant and designated representative shall be excused without loss of compensation from regular duties for such time as is necessary to attend and represent the grievant at grievance hearings, beginning at the first level of supervision.
5. The grievant (and/or designated representative) shall be entitled to request

the release from duty of no more than three (3) Bus Drivers and/or Student Drivers of this Unit, at any one time, to appear as a witness at the grievance hearing (Step Three). Each such Bus Driver or Student Driver shall be excused without loss of compensation from their regular duties for such time as is necessary to attend the grievance hearing. However, each such Bus Driver and/or Student Driver shall not be entitled to overtime compensation from FAX or the City to due to their attendance at the grievance hearing.

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

Step One

- a. The Bus Driver or Student Driver (and/or designated representative) shall discuss the issue with the Driver's group supervisor or designee before a written grievance may be filed. The designee shall be determined by any available Transit Supervisor II. In the event the designee is not available, any available Transit Supervisor will meet the requirement of Step One.
 - (1) If the issue is not settled through this discussion, it either may be discussed with the next higher supervisor, or a written grievance may be filed with the grievant's Operations Manager or designee. A written grievance must be filed, with a copy being sent to the Labor Relations Division, within twenty-one (21) calendar days from the time the grievant becomes aware or should have become aware of the issue or incident giving rise to the problem, except that the Bus Driver or Student Driver shall have seven (7) additional calendar days at each step of the grievance procedure if the grievance is co-signed by an ATU Officer.
 - (2) Upon receipt of a written grievance, the Transit Operations Manager or designee shall give the grievant a written reply within twenty-one (21) calendar days.

Step Two

- a. Should the grievant not be satisfied with the answer received from the Transit Operations Manager, or designee, the grievant may within fourteen (14) calendar days, file an appeal to the Director of Transportation or designee. The Director of Transportation 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 Director of Transportation or designee may confer with the grievant (and/or designated

representative) and appropriate supervisors in an attempt to bring about a harmonious mutually acceptable solution.

- b. The City, the grievant, (and/or the designated representative) may, by mutual agreement, waive steps one (1) and two (2) and proceed directly to hearing by a Hearing Officer when the issue is one over which the Transit Operations Manager, or designee, or Director of Transportation, or designee, has no jurisdiction.

Step Three

- a. If the grievant is not satisfied with the decision of the Director of Transportation or designee, the grievant may within seven (7) calendar days after receipt of the written reply, file a request for a review of the Director of Transportation's or designee's decision to the Hearing Officer, with a copy sent to the Labor Relations Division. The review/appeal to a Hearing Officer shall be reviewed and approved by ATU before it is delivered to the Labor Relations Division.
- b. The City **or** the grievant (and/or the designated representative) may, by mutual agreement, seek resolution of the grievance through mediation using the services of the State Mediation and Conciliation Service prior to hearing by a Hearing Officer. Time limits for processing of the grievance are automatically extended for as long as the mediation is in process.
- c. The Hearing Officer may be chosen either by mutual agreement of ATU and the City, or by the "strike" method from a list of neutrals provided by the State Mediation and Conciliation Service.

Fees and expenses of the Hearing Officer shall be paid half by the City and half by ATU; provided however, that the Hearing Officer may recommend that the City or ATU pay the total of such fees and expenses, should the Hearing Officer find that, but for the unreasonableness of that party's posture, the convening of the grievance hearing would not have been necessary. The City **and** the grievant (and/or the designated representative) shall make a reasonable effort to select a Hearing Officer within fourteen (14) calendar days of receipt of the grievance requesting review by a Hearing Officer by the Labor Relations Division.

- d. The Hearing Officer shall be bound by the language of the MOU, City Administrative Orders, ordinances, rules and regulations, and department rules and regulations consistent therewith in considering any issue properly before them. The Hearing Officer shall define the precise issues from those submitted by the parties and shall have no

authority to consider any other issue(s) not so submitted. The Hearing Officer may not recommend changes in established wages or benefits, nor recommend the payment of back wages or benefits to a date prior to the date of the incident.

- e. From the date a grievance otherwise meeting all criteria for the filing and processing of a grievance reaches the Labor Relations Division pursuant to subsection a. above, every effort will be made to convene the grievance hearing within thirty (30) calendar days in order to hear the grievance.
- f. All time limits herein may be extended by mutual agreement of the parties.
- g. The Hearing Officer shall talk to the grievant and supervisor involved to set forth in writing the facts of the particular situation and recommend a solution to the City Manager or designee within thirty (30) calendar days of its last meeting.
- h. The City Manager or designee shall review the decision of the Director of Transportation or designee and recommendations of the Hearing Officer and shall render a written decision to the grievant within twenty-one (21) calendar days after receipt from the Hearing Officer.
- i. Failure of the grievant to file an appeal within the specified time limit shall constitute an abandonment of the grievance. Failure of the responsible supervisor or official of the City to render a decision within the specified time limit established by this procedure shall automatically move the grievance to the next higher level for action, without action required of the grievant.

ARTICLE VI

DUES DEDUCTION

A. DUES CHECK-OFF

1. The City shall deduct the dues or benefit premiums, or both, following receipt of notice from ATU that authorization has been provided to ATU by members in the Unit. The City shall stop dues deductions or benefit premium deductions, or both, upon receipt of notice from ATU that authorization has been provided to ATU by members in the Unit. Should there be a dispute regarding the deduction of dues, ATU shall provide the City with a copy of the authorization(s) signed by the employee.
2. Dues deductions will be terminated when an employee leaves the Unit.
3. Upon written authorization by a retired member of ATU, the City shall deduct credit union payments and ATU dues and benefits from the retirement check of such retired member and forward same to the credit union or ATU as designed in such authorization.
4. ATU, 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 Government Code Section 1157.12, shall indemnify and hold harmless the City of Fresno, its officers, and employees from any liability that may result from making, canceling, or changing requested deductions.

B. EXCEPTIONS TO DUES DEDUCTION AUTHORIZATION

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 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 CHECK

1. The deduction check covering all such deductions shall be transmitted bimonthly to:

Amalgamated Transit Union
2300 Tulare Street, Suite 110
Fresno, California 93721

Should ATU elect to have the deduction check transmitted to an address other than that set forth hereinabove, ATU shall so indicate by written notice to the City's Finance Department, with a copy to the Labor Relations Division. The City shall transmit the deduction check to the address specified in the notice as early as is practicable after receipt of such notice.

2. The deduction check shall be made in favor of:

AMALGAMATED TRANSIT UNION

ARTICLE VII

DISCIPLINARY ACTIONS

A. DISCIPLINARY ACTIONS

1. *** * *Management shall notify the subject Bus Driver and the Union President, Vice President, or the Secretary-Treasurer within 42 calendar days after the actual discovery of any incident(s) by a Transit Supervisor I or higher-level manager that may lead to disciplinary action against the Driver.**
2. *** * *Should notice not be provided pursuant to Section 1 above, the incident shall not subject the Bus Driver to disciplinary action, as defined in Administrative Order 2-14.**
3. Use of a Hearing Officer in Disciplinary Action Initiated by City: Bus Drivers may elect the alternate appeal procedure before a hearing officer instead of a hearing before the Fresno Civil Service Board as provided in FMC Section 3-283.
4. **The Department/City shall conclude its investigation no later than one (1) year after discovery of the alleged policy violations(s) by the driver. Discovery of the alleged policy violation(s) shall be the date when management knows, or should have known, of the incident.**

B. REPORTING LATE FOR DUTY (MISS-OUTS)

1. Each Bus Driver should bear in mind their responsibility and should report punctually for assigned duty in order for the department to maintain the best possible balance of effectiveness and economic efficiency.
2. All Bus Drivers reporting for duty shall sign on not later than the scheduled reporting time (Example: Report time is 6:00 a.m., Bus Driver late at 6:01 a.m.). Any Bus Driver reporting after the scheduled sign-on time shall be considered "late" and charged with a miss-out for that day. A Bus Driver who is not able to report to work as needed * * * will be considered absent without pay, unless the Bus Driver was prevented from reporting to the division by circumstances beyond the Bus Driver's control as determined by the Director of Transportation or designee. Any Bus Driver who fails to sign on and has left the FAX yard performing their job duties will be charged with a miss-out. In such a case, the Bus Driver shall be allowed to complete their scheduled work assignment for that day as well as receiving a miss-out. No Bus Driver shall be charged with a miss-out and an incident for the same occurrence. In the event the sign-on sheet is not available, it is FAX's responsibility to provide an alternative method for Bus Drivers to confirm

their attendance.

3. Disciplinary action for reporting late for duty (miss-out) in any six (6) month period, in addition to working the extra board as set forth in Article VIII, Section C, shall be:

First offense - Written reprimand, in addition to which the Bus Driver shall be placed at the bottom of the extra board on the day in which the miss-out occurs at their regular/base rate of pay or, at the discretion of FAX, sent home. A Bus Driver who is sent home has the option of using Vacation Leave, compensatory time off, or leave without pay. However, this option will be nullified when a Bus Driver is sent home, but is scheduled to return later in the day, and fails to report for any reason. * * *

Second offense - Written reprimand, in addition to which the Bus Driver shall be placed at the bottom of the extra board on the day in which the miss-out occurs at the Bus Driver's regular/base rate of pay or, at the discretion of FAX, sent home. A Bus Driver who is sent home has the option of using Vacation Leave, compensatory time off, or leave without pay. However, this option will be nullified when a Bus Driver is sent home, but is scheduled to return later in the day, and fails to report for any reason. * * *

Third offense - One day suspension or a one hundred twenty-five dollar (\$125) fine to be determined at the discretion of the Bus Driver, in addition to which the Bus Driver shall be placed at the bottom of the extra board on the day in which the miss-out occurs at the Bus Driver's regular/base rate of pay or, at the discretion of FAX, sent home. A Bus Driver who is sent home has the option of using Vacation Leave, compensatory time off, or leave without pay. However, this option will be nullified when a Bus Driver is sent home, but is scheduled to return later in the day, and fails to report for any reason. * * *

Fourth offense - Two day suspension or a two hundred dollar (\$200) fine to be determined at the discretion of the Bus Driver, in addition to which the Bus Driver shall be placed at the bottom of the extra board on the day in which the miss-out occurs at the Bus Driver's regular/base rate of pay or, at the discretion of FAX, sent home. A Bus Driver who is sent home has the

option of using Vacation Leave, compensatory time off, or leave without pay. However, this option will be nullified when a Bus Driver is sent home, but is scheduled to return later in the day, and fails to report for any reason. * * *

Fifth offense - Ten day suspension or a seven hundred fifty dollar (\$750) fine to be determined at the discretion of the department, in addition to which Bus Driver shall be placed at the bottom of the extra board on the day in which the miss-out occurs at the Bus Driver's regular/base rate of pay or, at the discretion of FAX, sent home. A Bus Driver who is sent home has the option of using Vacation Leave, compensatory time off, or leave without pay. However, this option will be nullified when a Bus Driver is sent home, but is scheduled to return later in the day, and fails to report for any reason. * * *

Sixth offense - The Bus Driver may be dismissed or other such disciplinary action as may be appropriate, in addition to which the Bus Driver shall be placed at the bottom of the extra board on the day in which the miss-out occurs at the Bus Driver's regular/base rate of pay or, at the discretion of FAX, sent home. A Bus Driver who is sent home has the option of using Vacation Leave, compensatory time off, or leave without pay. However, this option will be nullified when a Bus Driver is sent home, but is scheduled to return later in the day, and fails to report for any reason. * * *

4. Any Bus Driver who fails to sign on by the scheduled sign on time and who fails to call FAX shall be considered on unauthorized leave and subject to disciplinary action, unless the Bus Driver was prevented from signing on and/or calling the Division by circumstances beyond the Bus Driver's control, as determined by the Director of Transportation or designee.
5. The Director of Transportation or designee may, in the Director's or designee's exclusive discretion, find that good cause exists for the miss-out and that a Bus Driver should not be considered late, provided that the Bus Driver makes a written or documented oral request for such consideration within 72 hours of the miss-out. The Director of Transportation or designee shall respond to such a request within ten (10) business days. Should the miss-out be excused, the Bus Driver may, with the approval of the Director of Transportation or designee, take earned vacation or sick leave, as appropriate, for the day of the miss-out.

C. USE OF VIDEO IN DISCIPLINE

The Union agrees that the City has a legitimate interest in the use of video surveillance cameras, for purposes related to safety and security of employees, City property, and the public.

The City agrees to provide advance notice before any additional surveillance cameras are installed in areas in which bargaining unit employees work.

The parties further agree that the information obtained by use of such cameras may be used for the purpose of addressing safety violations, criminal conduct, or conduct in violation of established City policies. The information obtained by the use of cameras will not be used for performance evaluations, nor will the information be used for the purposes of initiating corrective action unless such action is based on safety violations, or the commission of criminal acts; or, for corrective action for established City policies when there is a triggering incident.

Use of video for the purposes of corrective/disciplinary will be limited to review of video up to thirty (30) minutes before and up to thirty (30) minutes after a triggering incident of any of the following:

- Customer service complaint;
- Notification of a policy violation;
- Accidents or incidents causing minor damage such as to a mirror or non-moving vehicles; or
- Report of disorderly conduct.
- Accidents involving moving vehicles;
- Notification of potential vehicle code violation;
- Notification of a potential crime; or
- Customer complaint of injury.

Notice of a triggering incident as a result of a review by the Risk Management Division in the Personnel Services Department, the City Attorney's Office, and/or the Police Department may be referred to the Department of Transportation for additional investigation under the above procedure. In the event the Risk Management Division in the Personnel Services Department, the City Attorney's Office, and/or the Police Department refers a triggering incident to the Department of Transportation, the Department shall notify ATU of the triggering incident.

In the event that disciplinary action is proposed consistent with this Agreement, the City agrees to share the information obtained by the use of the surveillance camera(s) with the employee or with a representative of ATU Local 1027, if so requested by the employee or the employee's representative in writing.

ARTICLE VIII

FAX RULES AND REGULATIONS

These rules are included herein for informational purposes only, and in no way shall they infringe upon the City's rights as specified in Article III. Included herein by reference is the Department's Guidelines Instruction for Bus Drivers as they may be amended from time to time, after consultation with ATU.

A. DEFINITIONS

1. The following words or phrases wherever used in this Article shall have the following meaning unless a different meaning is clearly required by the context:
 - a. "Applicable Hourly Rate" is the rate of pay, whether regular/base rate or time and one-half, which applies to the work in question.
 - b. "Deadhead Time" is time spent driving the bus to or from the Transit yard or between routes when the bus and the Bus Driver are not in revenue service. This time is included in the platform time.
 - c. "Director of Transportation" shall mean the person in charge of FAX and shall include those persons designated to act in the Director of Transportation's behalf (e.g., Transit Operations Manager, Fleet Manager, etc.).
 - d. "Driving Time" is the elapsed time from departure of a bus from the garage or time of take over on relief to the time when the bus is returned to the garage or surrendered to a relief Bus Driver.
 - e. "Extra Board" is the procedure by which extra Bus Drivers are assigned to fill open regularly scheduled runs for any cause or work assignment other than regular runs.
 - f. "Extra Board Driver" is a Bus Driver who through seniority has elected to have work assignments made through the extra board or who through seniority has been assigned to the extra board, and who for purposes of overtime work, is still an extra board driver on scheduled day off.
 - g. "Fill" is a scheduled or unscheduled piece of work that is usually assigned to and worked by an extra board Bus Driver, or a regular Bus Driver when the need arises, and may be worked as an extra or additional piece of work.

- h. "Hold Down" is a regularly assigned piece of work performed by an extra board Bus Driver when a regularly scheduled run becomes vacant or during the term of absence of the regular Bus Driver who is unable to perform the regularly scheduled run for five or more consecutive work days or 4-10 work schedule.
- i. "Holiday Schedule" is a regular schedule having a reduced number of runs due to a declared holiday or as established by the Director of Transportation when transit service demands will be at a reduced level.
- j. "Light Duty" is work other than driving that may be assigned to a Bus Driver or Student Driver by the Director of Transportation or designee in the event the Driver is incapable of driving due to medical disability or condition.
- k. "Mark Down" is the process in which the Director of Transportation or designee may cause a correction or modification of a past sign-up by allowing only those Bus Drivers that may be affected to bid in accordance with their seniority on the open regularly scheduled run or open extra board position as may be caused by the correction or modification.
- l. "Mark Up" is the process by which a Bus Driver who did not pickup or was not assigned a run may bump Bus Drivers with less seniority already assigned.
- m. "Miss-Out" shall mean a failure by a Bus Driver to report for duty and sign on within one minute of the designated sign on time.
- n. "Pay Time" is the actual time paid to a Bus Driver or Student Driver at the regular/base monthly or hourly rate for time worked.
- o. "Platform Instructor" is a Bus Driver temporarily assigned from a list of qualified Bus Drivers approved by the Director of Transportation or designee based on the Bus Driver's accident record, complaints, sick leave, disciplinary actions, and work record for the performance of special instructional service of one or more Student Drivers or the retraining of Bus Drivers.
- p. "Platform Time" is the amount of time that Bus Drivers spend driving a bus on a scheduled or unscheduled run.
- q. "Pull In Time" is the time that Bus Drivers properly park the bus in the transit parking lot; reflected on the run guide.

- r. "Pullout Time" is the exact time the Bus Driver is scheduled to pull out of the transit yard as printed on the run guide under the heading of "Out" and indicated in the Block Paddle.
- s. "Recovery Time" or "Layover" is that portion of the regularly scheduled run at a point designated by the Director of Transportation or designee that will allow the Bus Driver the opportunity for a rest break if the run is on schedule. It is intended primarily, however, to provide the Bus Driver the opportunity to regain regularly scheduled time points during periods when traffic conditions, congestion, loading, etc., cause the run to fall behind the scheduled points. Recovery time shall not be used to extend the line.
- t. **"Red Time" is a procedure used to track and assign overtime fairly to regular drivers who have volunteered for overtime work who are part of the Black Book. Overtime assignments rotate based on the lowest number of hours accumulated first up for work. If a Bus Driver is first up for overtime work and decides that he/she doesn't want or is unable to work the assignment, the next Bus Driver in rotation will be given the assignment. The amount of time passed up by the original Bus Driver will be added to his/her accumulated time totals as "red time", thereby keeping the hourly rotation accurate. At the opening of each sign-up period, Bus Driver seniority will begin the rotation. The department shall print the Red Time list and post it on the Daily Board and email a copy to ATU officers.**
- u. "Regular Driver" is a Bus Driver who has seniority to bid and does bid a regularly scheduled run or work assignment. A regular driver working on a day off is not to be considered an extra board driver for rotation purposes.
- v. "Regular/Base Hourly Rate" shall be the equivalent of the base monthly salary for a Driver, as provided in this MOU, multiplied by 12 months then divided by 2,080 hours.
- w. "Regularly Scheduled Run" shall mean a daily work assignment that is of not less than eight (8) hours pay time which is included by the Director of Transportation or designee in a posted breakdown of operating schedules and which contains regular working time and regular pay time. It may be made up of regularly occurring pieces of work which when combined, constitute eight (8) hours or more pay time.
- x. "Relief Time" or "Travel Time" for Bus Drivers, not including special service Bus Drivers, is the elapsed time between the Bus Driver's pull out time and actual commencement of scheduled work or from

the Bus Driver's relief point, or end of the Bus Driver's scheduled work to the garage. (Travel time to a relief point shall include adequate time for relieving the Bus Driver to perform a brief safety check of the equipment.)

- y. "Report Time" is that period of time between sign-on time and pull out time when a Driver shall gather supplies pertinent to this work and make a "Determination of Equipment Condition" as required by Title 13, California Highway Patrol, Motor Carrier Safety Regulations.
- z. "Sign-on Time" is the time at which a Driver is to be on duty as determined and posted on the run break-down sheets and daily sign-on sheets.
- aa. "Sign-up" is that process by which the Director of Transportation or designee will provide a listing of regularly scheduled runs for which the Bus Drivers may bid by seniority for their work assignments as specified in other provisions in the MOU.
- bb. "Split Shift" is a regularly scheduled run having a break in driving time: provided however, that a break in driving time of less than one-half hour shall not be considered a split shift and shall be paid as time worked.
- cc. "Spread Time" for a Bus Driver is the total elapsed time from "sign on" on the Bus Driver's first run of a day to the time of completion of the Bus Driver's last run operated on the same day.

[§ deleted]

- dd. "Standby Bus Driver" is 1) an extra board Bus Driver, day off Bus Driver or regular Bus Driver scheduled to report at a specific time to protect the extra board for possible substitution in the event another Bus Driver fails to report as assigned; 2) an extra board Bus Driver that may be assigned to stand by when their previously assigned run for the day is filled by the regularly assigned Bus Driver. When this occurs that Bus Driver shall be paid either the amount of work time originally scheduled or the time actually worked, whichever is greater; or, 3) a regular Bus Driver that may be assigned to standby when any portion of their regular assignment is not available.
- ee. "Student Driver" is a trainee employee who will not achieve permanent status as a trainee, and who must be trained and instructed on all lines and bus equipment of the system until in the opinion of the Director of Transportation or designee the trainee employee is capable of performing the duties of a regular or extra board Bus Driver.

- ff. "Temporary Vacancy" is a run or shift vacated temporarily through illness, industrial injury, leave of absence, suspension or vacation.
- gg. "Time Point" is the time when a Bus Driver is due to depart a specific location while performing a work assignment as shown on the Bus Driver's printed schedules for Transit service.
- hh. "Travel Time" for special service Bus Drivers is the elapsed time from the garage to the point of pick-up or the time from the special service release point to the garage for regular Bus Drivers. (See the definition of "Report Time", above.)
- ii. "Tripper" is a regularly occurring piece of work less than four (4) hours not incorporated into a regular run which may be bid by regular Bus Drivers, Permanent Part Time Bus Drivers or assigned to the extra board.
- jj. "Work Assignment" may be pieces of work, fills, special service, or replacement work as necessary to be assigned in order to accomplish all work for the day, or other duties assigned. Other duties would not include refueling vehicles or restocking of schedules and transfers. Bus Drivers may be assigned work including telephone answering, public relations, transport of other Bus Drivers, coach preparation, radio operation, passenger counts, road calls, training and conference meetings.
- kk. "Vacancy" is a run or shift permanently vacated due to retirement, resignation or termination from City service.
- ll. "Vacation Block" is a minimum of * * * **seven (7)** or more consecutive Bus Driver work days, * * * **inclusive** of * * * days off.
- mm. "G.P.S." is a global positioning satellite system which will not serve as the sole basis for disciplinary action. Any alleged schedule adherence violation must be supported by at least two (2) verifiable sources such as, but not limited to, GPS, video, or supervisor observation in order for FAX to take any corrective action. A complaint by a member of the public may be used to initiate an investigation, but will not be used as one of the verifiable sources.
- nn. "Rest Break" is defined as employees who work at least 3.5 hours in a day, excluding standby, will be entitled to a five (5) minute break. Employees who are assigned at least 7 hours of work in a day, excluding standby, will be entitled to two breaks of five (5) minutes duration. A break is defined as time the bus is parked along the route, or at the end of the line (including any layover point on a looped route

turn around) where a driver has the option to secure the bus, get out of the seat, and/or use a nearby facility for food, or shelter with or without passengers on board. Time at the downtown station stops (Shelters A, B and L) or at Manchester Center will not be counted towards break time.

- oo. * * * **“Vehicle Inspection Report”** is the form used by a Driver to provide information to the maintenance supervisor that the equipment that the Driver is operating requires corrective maintenance.

B. ASSIGNMENTS AND PAY TIME

1. Bus Drivers shall select their assignment to regularly scheduled runs and regularly scheduled trippers, or to work from the extra board, on the basis of seniority. Bus Drivers without sufficient seniority to qualify for regularly scheduled runs shall be assigned to the extra board. Not more than 25 trippers may be reserved for PPT Bus Drivers who shall bid among themselves for such trippers. Driving assignments selected or assigned shall not exceed state and federal driving statutes/requirements. The City and ATU may agree upon rules and regulations regarding a four ten-hour day work schedule. At the request of ATU, FAX agrees to maintain a minimum of 14 midday runs (i.e., runs with sign-on times beginning at 7:00 a.m. and ending no later than 12:00 p.m.), which have Saturday and Sunday as the days off; however, the City retains the right to set levels of service, which if reduced, the City agrees to meet and confer solely on the effects of such a reduction.
2. A regular Bus Driver may be relieved from an assignment so as to provide a nine (9) hour rest period if said assignment would preclude the Bus Driver from assuming the next day's regular scheduled work, provided that the relief is not made more than nine (9) hours prior to the commencement of the next day's assignment. In the event the Bus Driver is not relieved, the Bus Driver will assume their next regular day's assignment as soon as the Bus Driver is legal to drive. Such an assignment will not result in a reduction in the amount of pay time for that day.
3. The City shall pay overtime to its regular Bus Drivers as follows:
 - a. For work performed in excess of eight (8) hours in one day, one and one-half (1 1/2) times the regular/base hourly rate.
 - b. For work voluntarily performed on any regularly scheduled day off, one and one-half (1 1/2) times the regular/base hourly rate, except that, on any given work week, a Bus Driver who has not had forty (40) hours of actual work time and has not been available for work on the Bus Driver's regular work day for any reason other than an

approved leave (i.e., leave time pre-arranged, approved, and authorized) shall be paid at straight time for work voluntarily performed on a regularly scheduled day off. For purposes of this provision, union business shall be considered approved leave. The Bus Driver shall be eligible for overtime if forced to work by the Department or has worked over forty hours in a work week.

- c. For work performed in excess of a 12-hour spread on a regularly assigned split run, one and one-half (1 1/2) times the regular/base hourly rate. The City will make a reasonable effort to eliminate the number of runs with spread times of 13 hours or more. Bus Drivers with spread runs greater than 13 hours will be compensated at double the regular/base hourly rate for work performed in excess of 13 hours. However, the compensation received under this subsection shall not be applicable to regular Bus Drivers who selected (i.e., during the sign-up process) "trippers" as part of their regular work assignment.
 - d. Except for absences due to injury on the job, time off (e.g., non-productive hours such as miss-outs, vacation, sick leave, doctor's appointments, etc.) shall not count toward the calculation of daily overtime.
 - e. There shall be no "pyramiding" of overtime or other premiums. "Pyramiding" shall refer to the times when multiple qualifications for overtime or other premiums exist.
 - f. Bus Drivers who are unable to work the day immediately preceding their regularly scheduled days off for any reason, excluding union business, may be precluded from working their days off.
4. The City shall pay overtime to its extra board Bus Drivers as follows:
- a. For work performed in excess of eight (8) hours in one day, one and one-half (1 1/2) times the regular/base hourly rate, provided the guarantee requirement in Article VIII, subsection C.3., Guarantee, below has been met.
 - b. For work voluntarily performed on any regularly scheduled day off, one and one-half (1 1/2) times the regular/base hourly rate, except that, on any given work week, a Bus Driver who has not had forty (40) hours of actual work time and has not been available for work on the Bus Driver's regular work day for any reason other than an approved leave (i.e., leave time pre-arranged, approved, and authorized) shall be paid at straight time for work voluntarily performed on a regularly scheduled day off. For purposes of this provision, union business shall be considered approved leave. The

Bus Driver shall be eligible for overtime if forced to work by the Department or has worked over forty hours in a work week.

- c. For work performed in excess of a 12-hour spread one and one-half (1 1/2) times the regular/base hourly rate. (It is expressly understood that an extra board Bus Driver is required to accept the “tripper” that is part of the regular Bus Driver’s bid.
 - d. Except for absences due to injury on the job, time off (e.g., non-productive hours such as miss-outs, vacation, sick leave, doctor’s appointments, etc.) shall not count toward the calculation of daily overtime.
 - e. Bus Drivers who are unable to work the day immediately preceding their regularly scheduled days off for any reason, excluding union business, may be precluded from working their days off.
- 5. Standby time shall be paid at the applicable hourly rate, and for the purpose of computing overtime, shall be included in the total number of hours worked in the pay period in which the standby time occurs.
 - 6. Layover time shall be paid for at the applicable hourly rate, and for the purpose of computing overtime, shall be included for round-trip special service runs less than 100 road miles from the garage.
 - 7.
 - a. A Bus Driver called back to work after completing work assignments for the day and having left the property or on a day not scheduled to work, will be paid for the actual time worked or for two (2) hours, whichever is greater. A Bus Driver called into work may be assigned one or more pieces of work for that day, however the two (2) hour minimum will apply only once for that day.
 - b. A Bus Driver called in to work before the Bus Driver’s initial regular work assignment for the day shall be paid a minimum of two (2) hours or for actual work, whichever is greater.
 - 8. Report back refers to a standby Bus Driver who during the course of the day is released from duty, and directed to return later that same day. FAX will limit the number of report backs to no more than three (3) occurrences in a day, which includes the initial standby assignment for the same day.

In the event FAX requests a fourth report back, the standby Bus Driver will have the right to refuse. If the standby Bus Driver chooses to accept the fourth report back request, the standby Bus Driver will receive the applicable regular/base rate of pay for actual hours worked, plus all applicable premiums. In the event the standby Bus Driver refuses to accept the fourth report back request, FAX may, at its discretion, place the standby Bus

Driver on standby, and assign the standby Bus Driver to the assignment that was the subject of the fourth report back.

In the event the fourth report back assignment is changed through no fault on the part of the standby Bus Driver, the standby Bus Driver will be paid the applicable regular/base rate of pay for the number of hours of the fourth report back assignment, or the number of hours actually worked, whichever is greater.

9. Each Bus Driver assigned to duty as a Platform Instructor of a Student Driver shall be paid for four (4) hours at straight time in addition to scheduled hours, for each full shift worked as a Platform Instructor, regardless of the number of students instructed. Such four (4) hours shall not be considered as time worked nor for calculation of any overtime due, nor shall it be considered as a part of the "guarantee" for an extra board Bus Driver. A list of Bus Drivers eligible for instructor duty shall be kept by FAX and instructor duty shall be equitably assigned, consistent with the needs of the service.
10. Notwithstanding any other provision of this MOU, a Bus Driver assigned to a round trip special service run in connection with emergency duty with fire, police, armed forces, etc., shall be paid at the applicable hourly rate for all driving time and at straight time hourly rate for any other compensable time.
11. Any Bus Driver required to take a City-ordered physical examination (not including D.M.V. required physical) shall be compensated at the applicable hourly rate for the time actually required to take the examination.
12. The number of regularly scheduled split runs shall not exceed 46% of the total number of regularly scheduled runs, calculated on a weekly basis.
13. Any Bus Driver who is assigned to perform work normally performed by an employee in a lower class due to injury, illness, light duty or other reason, shall be paid at the Bus Driver's rate of pay subject to the provisions of Article IX, Section B. Pay for provisional appointments and acting pay shall be governed by the applicable provisions of the FMC and salary resolution.
14. Whenever a regular run includes a scheduled coach pull-in, five (5) minutes sign-off time will be included in the pay time. Whenever a regular run includes an in-service relief, five (5) minutes sign-on time will be included in the pay time.
15. A Bus Driver assigned to training will be paid for actual hours spent in training plus any time worked that day. Bus Drivers paid for eight (8) hours training may be given additional work at the discretion of the dispatcher.

C. EXTRA BOARD

1. Assignment of Work From the Extra Board

This procedure defines the method by which extra board personnel are assigned to the board and the procedure to be followed in assigning work to extra board Bus Drivers.

a. Assignment to the Board

- (1) Bus Drivers shall bid for extra board positions at each sign up in order of seniority.
- (2) Extra board Bus Drivers shall have two regularly scheduled days off per week. Extra board days off shall be determined by the needs of the system and bid on by extra board Bus Drivers in order of their board seniority. Split days off will be kept to a minimum.

b. Assignment of Work Hours

- (1) Extra board Bus Drivers on days off shall have first choice of available day off work or first right of refusal of available day off work. However, if no Bus Driver accepts the offer of extra work, the least senior extra board day off Bus Driver will be assigned. In the event extra board Bus Drivers have been exhausted, any Bus Driver, in inverse seniority, shall be assigned that work to meet the needs of the system. (See Article VIII C. 1. c. (3) (e).)
- (2) Should there be no extra board Bus Driver available for extra work or unfilled work, a regular Bus Driver shall be assigned to meet the needs of the system. However, on the day of work, should a piece of work become available one hour prior to sign on time and there are no standby Bus Drivers or working extra board Bus Drivers available, any Bus Driver who is available may be used to meet the needs of the system.
- (3) All Bus Drivers, except extra board Bus Drivers, desiring work on their days off will indicate so by signing the extra work list provided at each sign up.
- (4) All regular Bus Drivers desiring extra work on their scheduled work days will indicate so by signing the extra work list provided at each sign up.

- (5) All extra board Bus Drivers desiring to work on their scheduled days off will indicate so by signing the extra board days off weekly overtime selection form.
- (6) Extra board Bus Drivers may drive any combination of regular runs, details or any other duty provided such an assignment will not violate California Highway Patrol Rules and Regulations.
- (7) If a Bus Driver is unable to report to work as assigned due to the previous day's assignment, the Bus Driver will be placed in the proper rotation of standby when legal to drive. If two or more Bus Drivers are legal to drive at the same time, standby order will be determined according to the position on the extra board rotation order for that day.

c. Work Assignments: Day Before Operating Day

- (1) The rotation line shall be established above the first Bus Driver with the greatest seniority at each sign up. The rotation line shall move two (2) positions down the board for each day of service. This rotation rate may be changed by mutual agreement. This number shall include the positions of Bus Drivers who are on days off, on sick leave, vacation days, suspensions, hold downs, or not working for any reason. It is expressly understood that an extra board Bus Driver is required to accept the tripper that is part of the regular Bus Driver's bid.
- (2)
 - (a) The posting of daily assignments shall be accomplished no later than 3:00 p.m. the day before the work is performed. Extra board Bus Drivers shall call in after 4:00 p.m. to ascertain their assignment for the next day. Whenever assignments must be changed after 4:00 p.m., FAX shall notify all affected Bus Drivers.
 - (b) Mis-assignments may be corrected by 4:00 p.m. After that time, FAX has the option of paying for the error under Section C. 2. (e) below, or of changing the assignments and notifying all Bus Drivers affected. A Bus Driver who discovers an error in the Board should bring that error to the attention of the supervisor on duty responsible for the Board as soon as the error is discovered.

- (c) Any other work becoming available after the Board is posted, regardless of the time, shall be treated as a fill and shall be assigned to a standby Bus Driver on the day of work.
- (d) ATU shall be furnished a copy of the first daily assignment sheet, then the finished copy if revised, to include corrections to mis-assignments.
- (e) Any Bus Driver who is assigned work not consistent with the terms and conditions of the MOU shall be paid for the work the Bus Driver should have performed, subject to the following:
 - (i) Only the first Bus Driver originally mis-assigned shall be compensated.
 - (ii) Pay shall be only at the regular/base hourly rate, which shall count towards weekly overtime.
 - (iii) For a mis-assignment of day off work, the Bus Driver will be paid for the actual hours mis-assigned, in increments of one-tenth of an hour, or four (4) hours, whichever is less at the regular/base hourly rate. This shall be the full compensation for a mis-assignment of day off work.
 - (iv) Payment for a mis-assignment must be requested within seven (7) calendar days from the date the assignment in dispute was posted. If payment is requested within seven (7) calendar days, the department shall have fourteen (14) calendar days from receipt of the request to provide a response to the dispute. If the department fails to respond to the dispute or denies the payment within the fourteen (14) calendar days, the Bus Driver must utilize the grievance procedure for any payment due to a mis-assignment. The time for submitting such a grievance, if necessary, will commence on the date the department's response is delivered to the driver or on the fourteenth (14th) day, whichever is sooner.
- (f) If ATU or a Bus Driver alleges that an error in assignment has been made, the Bus Driver shall work

the assignment and may grieve the assignment afterwards as described in (iv), above.

- (g) Changing of the extra board rules may be made by mutual agreement of both parties.

- (3) FAX retains the exclusive right to determine combinations of work for the extra board based upon the needs of the system. This procedure defines the method by which extra board personnel are assigned to the board and the procedure to be followed in assigning work to extra board Bus Drivers.

- (a) Extra board work will be assigned daily from the rotation line down the board in the following manner:

- (i) Available daylight runs, with most hours first, available midday runs with most hours second, available night runs with most hours third, available split runs, with most hours fourth.

- (ii) Combinations of work totaling as close to eight (8) hours as practicable, but not less than seven (7) hours, combinations of work with most hours will be assigned first. Combinations of work are not regular runs and details, but pieces of work other than regularly scheduled runs. They can be a combination of details, fills, etc.

Details not assigned may be added to regularly scheduled runs worked by extra board Bus Drivers, as needed on a most pay time basis.

- (iii) Standby assignment for regular extra board Bus Drivers (total number determined when all other work is assigned).

- (iv) Details, Trippers and Fills less than seven (7) hours with most hours first.

- (v) Assignments of equal hours with earliest sign-off first.

- (b) Bus Drivers who volunteered to work overtime will be assigned in the following order:

1st - Extra board Bus Drivers on their day off.

- 2nd - Extra board Bus Drivers on hold downs on their days off.
 - 3rd - Regular Bus Drivers who signed up for overtime on their regular work day.
 - 4th - Regular Bus Drivers who signed up for overtime on their days off.
 - 5th - Regular Bus Drivers who are not part of the Black Book who notify dispatch about their availability to volunteer for overtime on their days off. Requests must be submitted to dispatch by 10:00 AM the day before.**
 - 6th - Bus Drivers who volunteer to work while on vacation, in the order of seniority, subject to the provisions of Article VIII, D.2.I.
- (c) Bus Drivers who volunteered for overtime work on days off must notify the dispatcher by 10:00 a.m. the day before their days off, of their intent to refuse any extra work. Any extra time refused by regular Bus Drivers will be documented and tracked as red time as if it were actually worked.
 - (d) Bus Drivers not working on their sixth day, but working on their seventh day, must be contacted by dispatch before being assigned any work. Dispatch must contact the Bus Driver in person or in person by phone (telephone answering machines or third parties do not constitute contacting the Bus Driver).
 - (e) No extra board or regular driver will be forced to work on their seventh day. For purposes of forced work, the seventh day will be the drivers second scheduled day off (i.e., drivers that have Sundays and Mondays as days off, Monday will be considered the seventh day). If a driver is to be forced to work on their sixth day, dispatch must contact the bus driver in person or by phone (telephone answering machines or third parties do not constitute contacting the bus driver).
 - (f) Any Bus Driver forced to work on their sixth day will be notified by 4:00 p.m., or earlier, the day the extra board is posted.

d. Work Assignments: The Day of Operation

- (1) Should a piece of work become available on the day of operation and there are no standby Bus Drivers or any scheduled to report prior to sign on time, work will be assigned in the following order, except as provided for in Article VIII C.1.b.(2) and Article VIII C.1.c.(3)(e):

1st - Extra board Bus Drivers on their regular work day, including those Bus Drivers assigned to a hold down.

2nd - Extra board Bus Drivers on a day off who signed up for overtime.

3rd - Extra board Bus Drivers on hold downs on days off who signed up for overtime.

4th - Regular Bus Drivers who signed up for overtime on their regular work day.

5th - Regular Bus Drivers on days off who signed up for overtime.

6th - Bus Drivers who volunteer to work while on vacation, in the order of seniority.

7th - Regular Bus Driver on a regular work day that did not sign up for overtime when it becomes necessary to maintain the service.

8th - Extra board Bus Drivers on a day off who did not volunteer for overtime with the least seniority.

9th - Regular Bus Driver on a day off who did not volunteer for overtime with least seniority.

- (2) In the event there are two or more Bus Drivers standing by, the first Bus Driver shall take the assignment that signs on first (first up, first out). However, if two assignments sign on at the same time, the first Bus Driver will take the assignment which contains the most number of hours. If the assignments are of equal pay time, the first Bus Driver will take the assignment with the earliest sign off time. If standby extra board Bus Drivers are to be cut off (released), such cut offs shall be from first sign on time. However, if standby Bus Drivers sign on at the same time, release will be from the bottom of the list.

2. Hold Down Work Assignments

- a. When it becomes known that a regular run will be open for a period of five (5) or more working days or 4-10 work schedule the run will be designated a hold down. Such open runs shall be made available to extra board Bus Drivers on a seniority basis. Hold downs will be posted for bidding for three work days following the day of posting. Bidding cutoff will be at 8:00 P.M. and hold downs will be assigned on the day prior to the extra board being completed. Such assignment shall last for the dates originally posted or until such time as the regular Bus Driver returns or the next sign-up.
- b. Bus Drivers working hold downs, will assume the days off of the hold down.
- c.
 - (1) A hold down will not start until the Bus Driver has actually worked the hold down; i.e., pulled out the bus. If the Bus Driver assigned the hold down fails to pull out the run on the first day (except as provided in c. (2) or c.(3) below, the hold down will be assigned to the next Bus Driver in seniority who bid the hold down providing the hold down lasts for at least five (5) more working days or 4-10 work schedule. However, if the piece of work lasts for only four (4) more working days, it will be filled day by day off the extra board in the normal rotation and not be considered a hold down.
 - (2) Notwithstanding c. (1) above, a Bus Driver that bids a hold down who fails to pull out the run on the first day only, due to vacation, City business, union business, jury duty, sick leave, medical appointment, military leave, or state and federal mandates, shall retain the hold down. Failure to pull out the run on the first day of the run for any other reasons shall result in loss of the hold down. Missing the first two days of the hold down shall result in the loss of the hold down, regardless of the reason for the absence. Bus Drivers who have been absent 40 hours or more when the hold down is scheduled to start will not be forced on the hold down on their first regular day of work. However, if there are five (5) or more days or 4-10 work schedule left on the hold down, the next available least senior Bus Driver returning from an absence will be assigned that hold down. With the exception of the condition above, Bus Drivers forced on hold downs will not lose the hold down.
 - (3) An Extra Board Bus Driver who is successful in bidding or forced on a hold down assignment will not report to work until such time that the Bus Driver is legal to drive. Upon reporting

to work, the Bus Driver will then be given the hold down assignment. After completing the hold down assignment for the first day, if the driver has not worked at least eight hours for the day, the dispatch supervisor may assign the driver, according to Article VIII, C., 1, d., (1) or if determined by the dispatcher supervisor that the extra board driver is not needed, the extra board driver shall be released from any further work for the day and will be paid the guaranteed eight (8) hours.

- d. In the event no Bus Driver bids the hold down (or no other Bus Driver has bid the run in the situation described in c. [1] above), it shall be assigned to the extra board Bus Driver with the least seniority. The assignment shall be for the dates originally posted or until such time as the regular Bus Driver returns or the next sign up or markdown which-ever occurs first. A hold down may be reassigned to the same Bus Driver if the Bus Driver is still least in seniority.
- e. Forced hold downs with indefinite ending dates, shall expire on the last day of each month and will be re-posted to be effective the first working day of the following month.

3. Guarantee

Each extra-board Bus Driver shall be guaranteed pay equivalent to eight (8) hours at the regular/base rate of pay on each of the Bus Driver's regular work days, provided the Bus Driver actually works all of their assignment(s) for that day.

D. GENERAL RULES FOR BUS DRIVERS AND STUDENT DRIVERS

ATU and the City agree to meet to revise the General Rules for Bus Drivers, to be developed by a joint committee comprised of three (3) ATU members and three (3) members of City management, within three (3) months of MOU ratification.

1. Sign-Ups

- a. Upon implementation of a two week pay period, sign-ups will be adjusted to coincide with the biweekly pay periods. There shall be five (5) complete sign-ups per year:
 - (1) January
 - (2) March

- (3) June
- (4) August
- (5) November

- b. If it becomes necessary to have an emergency sign-up, the above sign-ups will still be held, unless an emergency sign-up was held within thirty (30) calendar days of scheduled sign-up. This exception shall only be invoked once in any rolling twelve (12) month period.
- c. If there is a change in the pay hours in any regularly scheduled run or bid trippers exceeding fifteen (15) minutes, the Department and the Union shall meet to determine how the matter will be resolved. Such resolution may include, but shall not be limited to, providing alternate work to keep employees whole or reassignments. If the parties are unable to reach mutual agreement on resolution within seven (7) calendar days of notice of the change in pay hours, there shall be a new sign-up or mark down as required to allow seniority to prevail in the selection of work assignments.
- d. FAX will notify the membership **a minimum of** thirty (30) calendar days in advance of the effective date of the next bid sign-up. A sign-up roster shall be posted **within * * * fifteen (15)** calendar days prior to the day of a sign-up, except in emergencies or other instances beyond the control of FAX. A copy shall be provided to ATU. Bus Drivers may leave a written proxy with the dispatcher, and the dispatcher and the ATU President or designee will work jointly to select a run for the Bus Driver according to the proxy. Choices on the proxy shall be ranked in numerical order of priority (e.g., 1=first choice, etc.). **The sign-ups will not be held up for any Bus Driver. If a run selection is not submitted or** the run or runs specified in the proxy are not available, the run or runs will be selected by the ATU President or designee. Sign ups will be conducted over a twelve (12) hour period with the first bid to be submitted and posted no later than 6:00 a.m. and concluding at 6:00 p.m. Bus Drivers selecting assignments * * * will be allotted fifteen (15) minutes for the purpose * * *.

The ATU President or designee when performing duties in association with this provision will be considered on City business during the time the sign-up process is scheduled by the Department. Such time shall be compensable at the applicable hourly rate for all hours during and until the bid sign-up is concluded. However, if the bid sign-up concludes earlier than the scheduled time, the ATU President or designee shall be assigned alternative duties to assure

no loss of scheduled pay occurs.

The ATU President or designee who is assigned a partial day to conclude the sign-up process shall be assigned alternative duties, at the discretion of the Department, to assure the person is compensated for no fewer hours than would have been received on that day if not assigned to the sign up.

The ATU President or designee shall not be scheduled to perform the bid sign-up process on their scheduled days off.

- e. Sign up procedures may be modified by mutual agreement between the City and ATU.

[§ deleted]

- f. FAX and ATU agree to meet no later than thirty (30) calendar days prior to each of the annual run sign ups listed in subsection 1(a) of this Section for the sole purpose of reviewing and discussing the system schedule. FAX agrees to duly consider feedback provided by ATU but reserves the right to build the system schedule based on operational need. Any scheduled meetings pursuant to this section may be cancelled upon mutual agreement of the parties. Time spent at these meetings by ATU representatives will be considered Union Business pursuant to Article V. Section B. subsection 4.

2. Annual and Daily Vacation

- a. Vacation shall be accrued at the following rates:

less than five (5) years of service, eight (8) hours per month; between five (5) years and eight (8) years, ten (10) hours per month; between eight (8) years and twenty (20) years, 11.33; and more than twenty (20) years, 14.66 hours per month.

- b. Daily vacation is that earned vacation (or leave used for vacation purposes) time off not assigned upon the basis of seniority.
- c. Bus Drivers are encouraged to utilize earned leave for vacation purposes on a scheduled basis.
- d. Approval for daily vacation may be granted in minimum increments of one (1) hour when said vacation will not interfere with the operations of FAX and when such vacation can be granted without the necessity of paying undue overtime for replacement personnel. Daily vacation, when granted, must be on a first come, first serve basis, except in the event the Director of Transportation or designee

determines emergency or other unusual circumstances exist.

- e. Daily Vacation Leave - Within ninety (90) to thirty (30) calendar days advance request, FAX will grant daily vacation leave requests of five (5) consecutive days or less to the first four (4) Bus Drivers who request such time.

Before a request will be approved, Bus Drivers must have sufficient time in their leave bank to cover the requested daily vacation. A Driver who has sufficient leave when daily vacation is initially approved but does not have sufficient leave before the scheduled leave will be advised that the leave is cancelled. * * *

It is expressly understood that the requested daily time of five (5) consecutive days or less must be taken within ninety (90) calendar days of said request. Cancellations require four (4) calendar days advance notice to FAX. FAX shall give four (4) calendar days advance notice to Bus Drivers of cancellation of daily vacation due to an emergency. An emergency is defined as circumstances beyond the control of FAX, and shall not include staffing shortages. Should the number of Bus Drivers reach 300, daily vacation will be allowed for the first five (5) Bus Drivers who request such time in accordance with the same terms herein.

- f. Annual vacation shall be bid on the basis of seniority.
- g. Annual vacation bids shall start the first Monday in * * * **October** for the following calendar year. The vacation calendar listing the Bus Driver names and seniority numbers will be posted five days prior to the commencement of the vacation bidding. Vacation sign-ups will be conducted Monday through Friday until each Bus Driver has had an opportunity to submit a bid according to the procedure in h. below.
- h. In accordance with seniority, * * * **ten (10)** Bus Drivers per day, Monday through Friday, will be scheduled to submit their vacation block bids by 4:00 p.m. of the scheduled day on a vacation bid form and awarded according to the Bus Driver's seniority. Vacation bids will not be held up for any Bus Driver. Should a Bus Driver submit a vacation bid after the Bus Driver's scheduled time period, it shall be accepted at that time for the vacation time slots available at the time submitted. In accordance with seniority, Bus Drivers may submit bids for as many time blocks of vacation that is equal to their annual accrual, plus thirty percent (30%) of their vacation balance at the time of the sign up. (Note: Holiday leave is not counted as annual leave accrual for annual vacation bid, but will be considered as part of the leave bank for the purpose of determining the additional 30% of hours that can be bid.) The number of Bus Drivers allowed on

scheduled vacation blocks at any one time period will be determined by the Operations dispatching supervisory staff according to manpower requirements.

- (1) It is understood that permitting the blocking of vacation in segments greater than seven (7) consecutive days or more which includes * * * days off may result in the fragmentation of blocks, in which event Bus Drivers who have yet to make their vacation selection will need to bid on those remaining segments in blocks of six (6) consecutive days or less.
- (2) All Bus Drivers shall be allowed to sign up for the amount of annual accrued vacation, except as provided in paragraph (6), below.
- (3) Bus Drivers shall have only one opportunity to select vacation time, or times, of their choice during the bidding period. Once all eligible Bus Drivers have exercised their right to bid on vacation time, there shall be no second time around to sign-up.
- (4) Bus Drivers will be allowed to select any amount of consecutive vacation days not less than a minimum of seven (7) consecutive days or more which includes * * * days off * * *.
- (5) In the event there are no vacation blocks of seven (7) consecutive day blocks left, which include * * * days off, the Bus Drivers may choose any partial blocks left, not to exceed their annual accrued vacation time. Example: For a two (2) week accrual, the Bus Driver could pick any blocks left that add up to ten (10) days.
- (6) Additional fragmentation of vacation blocks will be allowed to enable a Bus Driver to bid all accrued vacation time for that year. This will only be allowed if the Bus Driver's remaining days do not fit a fragmented vacation block.
- (6) Additional fragmentation of vacation blocks will be allowed to enable a Bus Driver to bid all accrued vacation time for that year. This will only be allowed if the Bus Driver's remaining days do not fit a fragmented vacation block.

It is the Bus Driver's responsibility to verify that they have adequate vacation hours accrued prior to starting any vacations.

- i. A Bus Driver may cancel scheduled vacation with seven (7) or more

calendar days advance notice, and less than seven (7) calendar days if an emergency as determined by the Director of Transportation or designee.

- j. When a vacation block has been vacated due to retirement or termination from employment, it shall be put up for a seniority bid. When a vacation block has been vacated for any other reason, it may be put up for a seniority bid. Vacated vacation blocks will be posted on a vacation bid form for a period of five days and will be pulled for assignment at 8:00 p.m. on the fifth day. It will be all Bus Drivers' responsibility to periodically check the posting board for any pieces of work that may be available or vacations that may be available.

Bus Drivers desiring to bid on posted vacated vacation blocks must indicate so by signing on the posted form for the entire vacation block. This block may be in addition to their already scheduled vacation providing that they have the time available for both vacations or they may give up their previously bid vacation and it will then be considered vacant and may be bid according to the vacated vacation block procedure.

- k. It is each Bus Driver's responsibility to monitor their vacation accrual hours. Bus Drivers with less than 20 years of service are allowed to accrue 340 hours of vacation. Bus Drivers with 20 or more years of service are allowed to accrue 420 hours. During the term of this MOU, Bus Drivers who have reached maximum accrual, and have bid at least two weeks of scheduled vacation, may request from the department an additional 20% accrual for a period of 90 days. If the Bus Driver is unable to reduce their vacation accrual balance by the end of the extension period, the Bus Driver shall have all excess hours above the maximum accrual cashed out at the Bus Driver's regular/base rate of pay.
- l. At the discretion of management, Bus Drivers on scheduled vacation leave may be permitted to work by notifying the department of their desire to work prior to the beginning of the scheduled vacation. A Bus Driver who fails to operate a run as a result of a request to work while on scheduled vacation, will be subject to any established disciplinary action
- m. Exchange of regular scheduled vacation blocks may take place between drivers by mutual agreement during calendar year that the vacations were bid. The exchange will be in equal days with a minimum exchange of seven (7) consecutive days. Notice must be given within seven (7) or more calendar days of exchange taking place.

3. Alternative Workweek Work Schedules

- a. Alternative workweek work schedules may be necessary in order to provide minimum staffing, and/or based upon the service needs of the public, and/or other operational efficiency requirements. It is expressly understood that work assignments are determined and established by FAX based upon these requirements.
- b. If established, Bus Drivers may select a 5/8 or 4/10 assignment based on the applicable MOU provisions contained in Article VIII, D.1., Sign-Ups.
- c. The hours for Bus Drivers working a 5/8 will consist of five (5) eight (8) hour days with two (2) consecutive days off. The hours for Bus Drivers working a 4/10 will consist of four (4), ten (10) hour days with three (3) consecutive days off.
- d. FAX may discontinue alternative workweek work schedules at any time if it is determined by management that they detrimentally affect department operations and services. A thirty (30) day advance notice will be given in writing to affected Bus Drivers, ATU Local 1027, and the Labor Relations Division. The decision to discontinue alternative workweek work schedules is neither appealable nor grievable. If FAX discontinues alternative workweek work schedules established under this provision, a new sign-up will be held and Bus Drivers will revert to 5/8 standard/normal workweek work schedules in accordance with Article VIII, D.1., Sign-Ups.
- e. Except as detailed directly below, applicable MOU provisions, Salary Resolution, FMC, and Administrative Order Sections concerning alternative workweek work schedules (i.e., 4/10) limitations on OT, holidays, leave accrual and usage, sick leave accrual and usage, and night shift premium pay will govern.

- (1) OT - Work in excess of ten (10) hours in one (1) day, or on days off in a workweek shall be compensated at one and one-half (1 1/2) times the base rate of pay.

Ten (10) hours of work on a holiday, which is a regular workday, shall be compensated at normal base pay, plus eight (8) hours of straight time/base pay for the holiday.

- (2) Holidays - Bus Drivers working a 4/10 shall receive the holidays outlined in Article VIII, D.5., Holidays. Bus Drivers off on a holiday which falls on a regular workday shall receive eight (8) hours of base pay for the holiday, and may elect to take two (2) hours Vacation Leave or Holiday Leave to provide

for a full ten (10) hours of pay, or may elect to take two (2) hours leave without pay.

(3) Sick Leave - Bus Drivers working a 4/10 shall accumulate the same number of hours of sick leave per month as under the 5/8 standard.

(4) Vacation - Bus Drivers working a 4/10 shall accumulate the same number of vacation hours per month as under the 5/8 standard.

f. In the event FAX decides to discontinue the 4/10 alternative workweek work schedules, a new sign-up will be held using run-cuts substantially similar to those in effect at the time this agreement is ratified. The run-cuts to be bid will include a percentage of daylight, midday, and night runs, with days off similar to those in effect at the time this agreement is ratified.

4. Sick Leave

a. Full-time Bus Drivers and Student Drivers shall accrue **Sick Leave** at the rate of eight (8) hours for each completed calendar month of employment. Sick leave shall accumulate up to a maximum of nine hundred (900) hours.

[§ deleted]

* * * Attendance Policy, Addendum I, incorporated into this MOU by reference shall apply, as well as the FMC, City administrative orders, policies, procedures, rules and regulations concerning **Sick Leave** usage and administration. In the event of any conflict, the provisions of the Attendance Policy, shall apply.

b. Notwithstanding the provisions in the Attendance Policy, the following shall apply:

(1) A Bus Driver subject to disciplinary action that results in a suspension without pay or imposition of a fine shall have the option to request either the suspension without pay or in lieu of the suspension, a fine pursuant to FMC Sections 3-280 and 3-281.

(2) Bus Drivers and Student Drivers are encouraged to schedule all routine medical and/or dental appointments outside of regular work hours when practical. **Bus Drivers and Student Drivers must notify dispatch by 10:00 a.m. the day prior of routine medical and/or dental appointments.** * * *

The parties acknowledge that there may be situations in which it will not be reasonable to schedule a doctor's appointment that would allow a Bus Driver or Student Driver to return to work in less than four (4) hours (e.g., Bus Driver has a 5:00 a.m. sign on time and the doctor does not schedule appointments until 9:00 a.m.). In those cases in which notice of the routine medical and/or dental appointment was given before 10:00 a.m. the day prior to the appointment, the Bus Driver can request the use of vacation leave to cover the time between the appointment and the sign on time. If approved, this time will be considered as pre-approved leave* * * An exception to this provision is if multiple health care provider appointments are scheduled for the same day.

[§§ deleted]

Employees may use any accrued and available Sick Leave in accordance with the California Labor Code (e.g., sections 233, 245.5, 246, and 246.5, and other applicable sections).

- c. Protected Sick Leave shall be defined as accrued and available Sick Leave used pursuant to Sick Leave protected at law.**
- d. Only the use of Sick Leave shall be protected under these Sick Leave provisions. The use of other leave banks will not be recognized as protected Sick Leave under this policy. Employees must have Sick Leave hours accrued and available in order for leave to be considered protected under this policy and under law.**
- e. Sick Leave may be used only consistent with FMC 3-107, and/or as provided by law, and may not be used for any other purposes.**
- f. Abuse and/or misuse of Sick Leave, including using or attempting to use Sick Leave for an unauthorized purpose, misrepresentation of any facts related to the use of Sick Leave, or similar, may result in corrective and/or disciplinary action, up to and including termination in accordance with AO 2-14.**
 - a. Abuse and/or misuse may be indicated by patterns of Sick Leave usage (e.g., calling out every Friday), evidence that an employee is not taking Sick Leave for an authorized reason (e.g., live streaming from a social event while out "sick"), or similar.**

b. Abuse and/or misuse will be investigated, and corrective and/or disciplinary action will result if abuse and/or misuse is sustained.

- g. Bus Drivers returning from sick or injury pay who fail to notify Dispatch before 10:00 a.m. the day prior to their return may be given any available work or sent home, as determined by the Department.

[§§ deleted]

- h. Employees who terminate City employment and return within one year of such termination will be entitled to reinstatement of their unused **Sick Leave** balances at the time of termination from City employment* * *.

5. Holidays

- a. Except as may be modified in this Section, Holidays shall be governed by FMC Section 3-116.
- (1) January 1.
 - (2) The third Monday in January.
 - (3) The third Monday in February.
 - (4) The last Monday in May.
 - (5) July 4.
 - (6) The first Monday in September.
 - (7) November 11.
 - (8) Thanksgiving Day in November.
 - (9) The Friday after Thanksgiving Day in November.
 - (10) December 24, with FAX's prerogative to operate at either Saturday or Sunday level service.
 - (11) December 25.
 - (12) Bus Driver's or Student Driver's Birthday.
 - (13) One personal business day (eight hours to be credited to the employee's Holiday Leave bank on August 1, 2022, and on

January 1st of each year thereafter). **Members on Personal Days off shall not be required to provide any written or verbal justification to the Department for taking the day off. Personal days shall be scheduled consistent with other, applicable sections of this MOU.**

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

- b. All Bus Drivers and Student Drivers will receive eight (8) hours compensation for the above holidays with the following exceptions:
 - (1) Work performed on a holiday which is a scheduled work day, a Bus Driver or Student Driver shall receive regular salary plus the applicable hourly rate for the hours worked on that day.
 - (2) Bus Drivers and Student Drivers who are on leave without pay prior to a holiday will not receive compensation or leave for the holiday unless they actually work the holiday.
 - (3) Bus Drivers and Student Drivers will be credited with eight hours of vacation in recognition of their birthday.
- c. **Extra Board Bus Drivers who do not receive a piece of work on their scheduled work day which is a holiday or who receive a partial piece of work on their scheduled work day which is a holiday shall receive eight (8) hours of compensation for the holiday in addition to applicable regular pay and/or guarantee pay.**
- d. When a holiday falls on a regularly scheduled day off, Bus Drivers and Student Drivers in this unit will receive (8) hours of holiday leave.
- e. Bus Drivers and Student Drivers 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.
- f. Holiday leave may be used for the same purpose and in the same way as approved vacation except as noted in * * *g. and * * *h. below.
- g. Effective October 29, 2018, all Holiday Leave will be placed in a special Holiday Leave bank which shall not be subject to the provisions of subsection * * *h. below. Employees can cash out up to 48 hours or up to 25% of their balance of the Special Holiday Leave bank, whichever is greater, each fiscal year between July 1st and December 30th. Any Special Holiday Leave balance will be cashed

out upon leaving City service.

- h. Holiday Leave will be accrued until it reaches forty-eight (48) hours. Upon reaching the Holiday Leave bank cap, all additional Holiday Leave earned will be cashed out unless and until the Holiday Leave bank balance falls below the cap. Any Holiday Leave balance for Bus Drivers or Student Drivers leaving City service will be cashed out. Holiday Leave may be taken in accordance with Section 5* * *f. or may be cashed out at any time.
- i. Holiday Leave and Special Holiday Leave is not counted as annual leave accrual for annual vacation bid, but will be considered as part of the leave bank for the purpose of determining the additional 30% of hours that can be bid.

[§ deleted]

6. Return to Service or Position

- a. For leaves of absence approved by the City and not exceeding one year, seniority for the purpose of bidding runs only shall continue to accumulate. Leave taken under the California Family Rights Act of 1991 (CFRA) and/or the Federal Family and Medical Leave Act of 1993 (FMLA) and/or any other protected leave will not affect a Bus Driver's seniority accrual.
- b. Any Bus Driver who is promoted, transferred, or demoted, except for disciplinary reasons, who returns to a position in the class of Bus Driver within one year of such action, shall be considered as maintaining seniority for the purposes of bidding for runs only. For periods exceeding one year, return to a position in the class of Bus Driver shall be considered as new employment for the purposes of bidding runs.
- c. Former and current employees who return to service as a Bus Driver from a reinstatement list or as a result of involuntary demotion due to layoff shall, at the time of return to service as a Bus Driver, be placed at the bottom of the seniority list for the purpose of bidding for runs in the order of return to service. Thereafter, the reinstated Bus Drivers shall move up the seniority list as new or reinstated full time Bus Drivers are added.

7. Complaints* * *

- a. *** * * A "Complaint" is an expression of dissatisfaction or safety concern from a member of the public regarding a driver's services, performance, or conduct.**

- b. *****Complaints received from members of the public about Bus Drivers will be routed to a dedicated telephone line and/or email address established by the Department where the Complaint shall be recorded and/or maintained. The Department must attempt to contact the Complainant to seek further details, if necessary, and offer the Complainant an opportunity to submit a signed Complaint. Complaints, whether signed or unsigned, will be investigated. The department will endeavor to review the telephone line and email address complaints daily. If a complaint comes directly to management, management will follow the process and route to the dedicated telephone line and email address.**
- c. *** * *If a Complaint is not sustained on its own merits, the Complaint will be disregarded, and no further action will be taken. If a Complaint requires further investigation, the subject Driver and the Union shall be noticed of an administrative interview, as part of the investigation into the Complaint as soon as practical.**
- (1) The Driver and Union shall be provided with a summary of the Complaint, including the date and approximate time of the alleged incident in the notice of interview.**
 - (2) The department will endeavor to complete the investigation within ninety (90) days, not to exceed six (6) months, unless the department deems it a more serious matter, which requires further investigation (e.g., AO 2-16 investigations, criminal event, matters that involve more than one (1) driver, etc.), in which case ATU will be notified within six (6) months of the investigation. In the event the investigation will take longer than ninety (90) days, the department will notify the driver and union.**
 - (3) Failure by the Department to follow the procedures outlined in this Article, except for those investigations determined to be “serious” will result in no discipline to the employee regardless of the findings of the Department’s investigation.**

After completion of the administrative investigation, subject Driver and the Union shall either receive a closure notice if the Complaint is not sustained, or shall receive notice through corrective and/or disciplinary action if the Complaint is sustained and follow FMC 3-280 and/or AO 2-14.

[§§ deleted]

For purposes of this provision, the following definitions shall apply:

Sustained: * * * **A preponderance of the evidence establishes that the alleged misconduct occurred and constitutes a violation of established policies or rules.**

*** * *Not Sustained: A preponderance of the evidence does not establish that the alleged misconduct occurred, or that the alleged conduct does not violate a rule or policy.**

[§§ deleted]

8. Accidents/Incidents

Any Bus Driver or Student Driver required by the City to complete an accident or incident report before or after normal working hours shall be paid at the applicable hourly rate for fifteen (15) minutes or the time actually required to complete the report. Bus Drivers and Student Drivers shall complete accident/incident reports before the close of the business day on the day of the accident/incident unless physically incapable of doing so. Drivers who do not complete the accident/incident reports before the close of the business day on the day of the accident/incident will be subject to discipline.

The Bus Driver or Student Driver can be required to complete the report in an area designated by management. If requested, Bus Drivers and Student Drivers will be allowed to consult with a representative of their choice while completing an accident/incident report.

It is the Bus Driver's or Student Driver's responsibility to request a representative and obtain one (although FAX will make reasonable efforts to contact representatives who are working). The representative will not be paid during time spent representing Bus Drivers and/or Student Drivers; however, a representative on stand-by may assist without loss of compensation, but may have to leave if assigned work.

The Bus Driver or Student Driver may choose to wait for a particular representative, but will not be paid while waiting. A Bus Driver or Student Driver who chooses to leave and return later, before the close of the business day to fill out the report, will be paid as if the Bus Driver or Student Driver had filled out the report at the end of the normal shift. A Bus Driver or Student Driver cannot create an entitlement to any form of premium pay by exercising the option to leave and return later to fill out the report. A supervisor can be present with the Bus Driver or Student Driver and representative while the report is being completed.

When a Bus Driver or Student Driver is charged with a preventable accident:

- a. The Bus Driver or Student Driver shall have seven (7) calendar days to appeal the charge to the Accident Review and Safety Committee (ARC). Not more than thirty-one (31) days from the date of the appeal, the ARC shall review the charge and make recommendations. If no such review is conducted, through the fault of the City, the charge shall be dismissed.
- b. A request for postponement by either party beyond the next scheduled ARC hearing date may be granted by * * *majority decision of the ARC if good cause exists. If no postponement is requested or granted by majority decision of the ARC, and/or the Bus Driver or Student Driver does not appear at the hearing, the decision of the ARC shall become final on the hearing date.

ATU shall have the right to conduct its own investigation of accidents and incidents. It may interview witnesses, preserve evidence, etc. Union representatives must make it clear that they are not representing the City when engaging in this activity. They cannot be in FAX uniform. They must make it clear that they are acting on behalf of the Bus Driver as an individual.

9. Accident Review and Safety Committee (ARC)

- a. **The ARC is established to review bus driver accidents using video from the bus cameras, driver and supervisor reports, and other information readily available for the sole purpose of making a determination of whether the accident at was “preventable” or “non-preventable”.**
- b. **The ARC shall not be used as a de facto investigative body to determine policy violations by the subject bus driver, unrelated to the accident under review.**
- c. The ARC shall be comprised of two (2) Bus Drivers selected by ATU and two (2) FAX Management employees selected by the Director of Transportation or designee. The Chair shall be mutually selected by FAX and ATU and shall be a City employee familiar with safety procedures and practices. All members, including the Chair, shall serve for a minimum of six months. The City and ATU representatives may be removed and a new member(s) selected with fifteen (15) days prior notice to the other party.
- d. **The ARC shall present its findings and determination of whether the accident at issue was preventable or non-preventable to the Union and the Department.**

[§§ deleted]

- e. The ARC shall meet at least once monthly.
- f. Such bus maintenance records and information as may be pertinent to the ARC's findings shall be made available if requested at least three (3) working days in advance of the ARC's hearing date. All information distributed at the ARC meetings for review of accidents/incidents may be kept by ATU representatives.

A Bus Driver and/or Student Driver may be represented by ATU at the ARC hearing, and may show a pertinent video to explain their side of the case. The video will not include interviews of witnesses. It is understood that the video will be short in length (3-5 minutes). **The ATU representative at the ARC Hearing shall be paid for doing City Business at this Hearing, pursuant to Article V, Section B.**

FAX equipment will not be used to "stage" an incident unless approved by the FAX Operations Manager. A representative may ride a FAX bus, in revenue service and under normal circumstances, with a video camera.

All safety rules must be followed while on board the bus. If a video is presented to the ARC, management has the right to delay a decision on the case while additional follow-up is conducted.

Any delay as a result of a video, will automatically extend any time lines on any possible action taken. A Bus Driver and/or Student Driver may present a witness' written account of what they saw, but witnesses are not allowed at the ARC.

The ARC will view all videos and will not screen some and not others.

Post-ARC Independent Director Review

Members can request a review in writing or in person, but not both.

- A. Either party (Driver/ATU or Management) may request review of an ARC determination by the Department Director. The decision of the Director shall be final and binding. The review shall consist of the Director completing an independent review of ARC packet, the decision, and any written statement provided by the party requesting a review.**

Such reviews shall be conducted as follows:

- i. Where Management is requesting written review, it shall**

make the request within ten (10) calendar days of ARC's final determination.

- a. Requests shall be made to the Director via email and shall be copied to the Department Personnel Manager and the Assistant Director.
 - b. The Director shall render a final determination within twenty-eight (28) calendar days of the request to review. The Director shall notify Management and the impacted Driver in writing.
- ii. Where a Driver/ATU is requesting written review, the Driver/ATU shall make the request within ten (10) calendar days of ARC's final determination.
 - a. Requests shall be made to the Director via email and shall be copied to the Department Personnel Manager and the Assistant Director.
 - b. The Director shall render a final determination within twenty-eight (28) calendar days. The Director shall notify the impacted Driver/ATU in writing.
 - c. Any corrective action and/or disciplinary action resulting from a sustained preventable accident shall be paused until after the Director's decision.
 - d. Should disciplinary action result from a sustained preventable accident, employees shall be entitled to their full due process rights under City policy and law.
- B. Upon majority support by the executive board of ATU, a requesting party shall be entitled to an in-person meeting with the Director.
- C. If either party pursues Post-ARC Director Review pursuant to this section and the Director does not issue a determination within twenty-eight (28) calendar days ARC's determination shall become final and binding.

E. BENEFITS FOR PERMANENT PART TIME (PPT) BUS DRIVERS

1. General

Bus Drivers occupying PPT allocated positions shall be members of the recognized ATU unit. The terms and conditions set forth in the current MOU apply to Bus Drivers occupying PPT allocated positions, in addition to those set forth in this agreement and FMC, administrative orders, policies, procedures, rules and regulations.

2. Additional Departmental Rules and Regulations

- a. PPT Bus Drivers shall not be part of the extra board, but at each sign-up period shall be allowed to bid one (1) or more work assignments by seniority from assignments designated by management as regular PPT work assignments. PPT Bus Drivers shall not be allowed to bid or be assigned more than thirty-two (32) hours of work per week, except in an acting capacity. PPT Bus Drivers who are assigned to drive more than thirty-two (32) hours per week will be paid one and one-half (1 1/2) times the applicable hourly rate except for those situations that are beyond the control of the Department. Examples of these situations may include vehicle breakdown, traffic conditions and passenger loads, etc.
- b. Spread time provisions shall not apply to PPT Bus Drivers.
- c. In addition to any prescribed forms of discipline, PPT Bus Drivers receiving miss-outs may receive work for the day of the miss-out at the discretion of management. Work so received shall not exceed the number of hours the PPT Bus Driver was scheduled to work for the day of the miss-out.

3. Recruitment and Retention

- a. PPT Bus Drivers shall be recruited, hired, employed, and disciplined as permanent employees pursuant to the FMC, administrative orders, policies, procedures, rules, regulations, the MOU, and as may be provided in this agreement.
- b. All PPT Bus Drivers hired on or after July 1, 2006, shall serve a probationary period consisting of nine (9) months from the date of appointment to a PPT allocated position. A Bus Driver who completes a PPT probationary period shall not serve an additional probationary period if appointed to a permanent full-time allocated Bus Driver position as long as such employment as a PPT Bus Driver has been continuous up to appointment to a permanent full-time allocated Bus Driver position.

If a PPT Bus Driver is appointed to a permanent full-time allocated Bus Driver position, the Bus Driver shall complete the balance of the required probationary period for a full time Bus Driver. Any PPT Bus

Driver who is absent for any reason from work for five (5) consecutive regular work days (four (4) consecutive regular work days for those on a four (4) day work week) shall have their probationary period extended by one (1) week for each consecutive five (5) regular work days absence (four (4) consecutive regular work days for those on a four (4) day work week).

- c. Appointments to vacant permanent full-time allocated Bus Driver positions shall be made from Bus Drivers holding positions as PPT Bus Drivers. The Bus Driver having the greatest seniority as a PPT Bus Driver shall be offered the vacant position which the City may in its sole discretion, decide to fill. Seniority only for the purpose of promotion shall be reduced twenty-one (21) calendar days for each twenty-one (21) consecutive calendar days that the PPT Bus Driver is not doing platform work. In the event all PPT allocated Bus Driver positions are vacant, appointments shall be made from a Bus Driver eligible list. Service as a PPT shall not be counted toward seniority as a permanent full-time Bus Driver, except where length of service of two (2) or more permanent full-time Bus Drivers is identical.
- e. In the event of a reduction in work force or lay off, PPT Bus Drivers shall be separated from city service before any permanent full-time Bus Driver as defined in the FMC.
- f. The parties agree that Bus Drivers occupying permanent full-time positions may transfer to vacant PPT allocated positions, and will receive the benefits provided in Article VIII, subsection E. in accordance with the provisions set forth below:
 - (1) The opportunity to transfer from full-time to part-time Bus Driver positions will coincide with the bid sign-up.
 - (2) A full-time Bus Driver intending to transfer to a part-time Bus Driver must give written Notice to the Operations Manager or designee thirty (30) days in advance of the next bid sign-up.
 - (3) An employee transfer will take place only if a part-time Bus Driver wishes to transfer to a full-time Bus Driver position.
 - (4) A transfer from full-time to part-time can only occur twice during a Bus Driver's career with the City of Fresno.
 - (5) If a full-time Bus Driver transfers to a part-time Bus Driver position, their seniority as a full-time Bus Driver will be governed by Article VIII, Section E.3.c of the current MOU.
 - (6) Seniority for all part-time Bus Drivers including full-time

drivers who have transferred to part-time will continue to be date of hire in the class of a Bus Driver.

- (7) Return to status as a full-time Bus Driver will be governed by Article VIII, Section E.3.c of the current MOU.
 - (8) Full-time Bus Drivers who transfer to part-time positions will continue to be a participant in the Retirement program, and make prorated contributions based on the number of hours work, and shall receive prorated service credits, in accordance with Article VIII, Section E.3.c of the current MOU.
 - (9) A Bus Driver returning to full-time status in accordance with Article VIII, Section E.3.c of the current MOU. of the current MOU will be assigned to the Extra Board on the basis of the Bus Driver's full-time seniority. The Bus Driver's day off will be determined in accordance with the days that would have been available during the current sign-up. The Bus Driver may choose days off from available days off. The Bus Driver will not be able to bump any Bus Driver who has chosen a hold down, but may bid on new hold downs available subsequent to return to full-time status.
- g. Management will limit the number of PPT Bus Drivers to not more than fifteen percent (15%) of the total allocation of permanent, full-time Bus Drivers.

4. Benefits

- a. Uniform Allowance - PPT Bus Drivers shall receive the same uniform allowance as that set forth in MOU Article IX (E).
- b. Jury Duty/Court Attendance - PPT Bus Drivers shall be compensated for jury duty attendance and court attendance in accordance with applicable FMC provisions.
- c. Workers' Compensation – Workers' Compensation benefits shall be those amounts established by the State of California Workers' Compensation regulations.
- d. Overtime - PPT Bus Drivers shall receive overtime compensation at the applicable hourly rate of hours worked in excess of forty (40) hours in a week, and for hours worked on a holiday.

e. Holidays - PPT Bus Drivers shall receive paid leave for holidays at a rate proportionate to a permanent full-time employee (FTE) occupying the class of Bus Driver.

f. Sick Leave - PPT Bus Drivers shall accumulate sick leave at a rate proportionate to a permanent FTE occupying the class of Bus Driver.

Sick leave may be taken in accordance with provisions of this MOU, FMC Section 3-107, and in accordance with applicable provisions of the California Labor Code including, but not limited to Section 233, Section 245.5, and Section 246. These provisions of the California Labor Code will be administered on a fiscal year basis, i.e July 1 through June 30.

g. Vacation - PPT Bus Drivers shall accumulate vacation leave at a rate proportionate to a permanent FTE occupying the class of Bus Driver.

h. Retirement - PPT Bus Drivers shall not be members of the Employees' Retirement System, and shall be enrolled in the Social Security program. This retirement paragraph does not apply to Bus Drivers who transfer from permanent full-time Bus Driver positions to PPT allocated positions, and who were in the Employees' Retirement System at the time of the transfer. Such Bus Drivers shall remain in the Employees' Retirement System, make prorated contributions based on the number of hours worked, and shall receive prorated service credits.

h. Health and Welfare - Benefits shall be provided as outlined in Article IX (C).

F. RUN EXCHANGES FOR BUS DRIVERS

1. Extra board Bus Drivers are excluded from participating in run exchanges. The exchange (i.e. substitute work for another Bus Driver) must be between regular Bus Drivers only and must be completed by the end of the sign up in which it was created. The process for allowing the exchange of runs will be reviewed periodically and FAX management may, at its discretion, extend the process to include Bus Drivers' days off.
2. The exchange must be documented on a form, signed by both Bus Drivers, and approved by FAX management at least 48 hours before the exchange is to take place and/or 24 hours before the board is posted.
3. The City shall incur no additional liability due to such exchanges nor shall the City assume any responsibility regarding "pay back" of the exchange. The hours worked by the substitute Bus Driver will be excluded by the City in the calculation of the hours for which the substitute Bus Driver would

otherwise be entitled to overtime compensation under the Fair Labor Standards Act. When one Bus Driver substitutes for another, each Bus Driver will be compensated as if they worked their normal scheduled run.

4. When one Bus Driver substitutes for another, the Bus Driver being substituted for will be credited as if the Bus Driver had worked their normal schedule for that shift. If the substituting Bus Driver wishes to be compensated for the substitute shift worked at the base/straight time rate of pay, then the Bus Driver being substituted for shall transfer the applicable number of vacation or CTO hours to the substituting Bus Driver's "like" account. (Note: The Bus Driver being substituted for may only select one account from which to take hours for transfer, and those hours shall only be transferred to the volunteer substitute's "like" account. If the substituting Bus Driver's selected account is at the maximum allowable balance, the substituting Bus Driver shall be compensated at the base/straight time rate of pay from the transferred hours. An internal processing form has been established to accomplish this transfer.)
5. Any Bus Driver who fails to operate a run as a result of an exchange, will be subject to any established disciplinary action, and will not be permitted to engage in future exchanges for a period of one year.

ARTICLE IX

COMPENSATION AND BENEFITS

A. GENERAL

1. All economic benefits provided by Council ordinance or formal Council resolution and not otherwise clearly and explicitly modified or restricted in this MOU shall be continued without alteration during the term of this MOU. **All economic benefit modifications in this MOU shall be effective the beginning of the pay period after Council approval, unless explicitly stated otherwise in the MOU.**

B. SALARIES

1. *****The base rate of pay of all employees in this unit will be increased by five and one-half percent (5.5%) as reflected in Schedule A, attached hereto and incorporated by reference, effective the beginning of the pay period after Council approval.**

[§§ deleted]

2. Employees in Unit 6 hired on or after April 6, 2015, 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. 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 enter Unit 6 and were paying an additional one and one half percent (1.5%) of their pensionable compensation immediately prior to entering Unit 6, 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.

The parties agree to a limited reopener of this provision in regard to the possible revision of Normal Contributions to the Employee Retirement System for those employees paying an additional one and one half percent (1.5%)

C. FRESNO CITY EMPLOYEES HEALTH AND WELFARE TRUST

1. The City and ATU agree that the Fresno City Employees Health and Welfare Trust has the sole authority to determine the benefits that will be provided during the term of this MOU. The sole responsibility of the City under this clause is to provide a set dollar amount to be contributed to the Trust on behalf of the Bus Drivers and Student Drivers represented by ATU. Effective May 1, 2015, the City's contribution for Bus Drivers and Student Drivers will be seventy-five percent (75%) of the premium established by the Fresno City Employees Health and Welfare Trust Board through June 30, 2015. Effective July 1, 2015, increases to the health and welfare premium will be split so that 50% will be absorbed by the City and 50% will be absorbed by employees, except that the employee share shall not exceed thirty percent (30%). Should the employee share be set at thirty percent (30%), the City share shall be seventy percent (70%). Bus Drivers may opt to contribute the amount necessary to make up the difference through payroll deductions, or accept a reduced coverage option.

In order to achieve compliance with the Affordable Care Act (ACA) (U.S. Public Law 111-148 and 111-152) and ACA regulations, if an employee in this Unit would otherwise be required to pay more than 9.5% of the employee's total base salary and earned premium pays (other than overtime) for a calendar month for health care premiums for a health insurance plan that provides minimum essential coverage, the City will pay an additional amount towards the health insurance premium necessary to reduce the employee health insurance contribution so the employee's contribution is no more than 9.5% of total base salary and earned premium pay for a calendar month. The additional amount shall not exceed the minimum required amount by the ACA to maintain affordability. The City shall determine the amount of additional payment. Such payment will not be provided if the cost of an available health insurance plan that provides minimum essential coverage does not exceed the 9.5% of the employee's total base salary and earned premium pay for the month even if the employee does not elect to enroll in that plan.

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 written request, the City will meet with the Union to match that benefit.

The City may meet with ATU and other City bargaining units to discuss an alternative health care plan and/or to modify the Health and Welfare Trust agreement, and to ensure compliance with the Affordable Care Act.

The parties also agree to work collectively in conjunction with their Board representatives to research and recommend potential cost-saving measures for the Health & Welfare Trust, which may include a choice of

health program options based on individual need or preference, including a reduced option equivalent to the City's premium contribution, a separate rate for single employees with no dependents, or other flex plan programs; mandatory generic mail order drug maintenance for employees who require prescription drug therapy for any period of 90 days or more; or other measures that may be identified as this work progresses.

D. BUS PASSES

Free bus passes shall be provided to Bus Drivers in this Unit, covering the Bus Driver, registered domestic partner, spouse, dependent children eighteen years of age or younger, and disabled children. To be eligible for the free pass, the family member must also be eligible to be enrolled as a dependent in the City Health & Welfare Plan. The passes must be renewed every fiscal year and issued to each Bus Driver.

It is the responsibility of the Bus Driver to ensure that bus passes are not abused by family members, however, Bus Drivers will not be penalized for unknown dependent misuse of bus passes. Misuse of bus passes by dependents may result in loss of pass privileges for the dependent for a period not to exceed six (6) months. Any Bus Driver who knowingly allows the abuse of free bus passes by family members may have the privilege of bus passes revoked for all members, including the Bus Driver, for a period not to exceed six (6) months.

Bus passes will be provided to retired motor coach operators. The passes will require annual renewal and are intended for use by the retired Bus Driver only.

E. UNIFORM PURCHASE AND MAINTENANCE ALLOWANCE

1. Uniform Purchase and Maintenance Allowance

Bus Drivers shall receive a **voucher credit for ~~\$530~~ seven hundred fifty dollars (\$750)** per year as a uniform **purchase available in semi-annual installments every January 1 and July 1. The voucher can only be used at the uniform vendor selected by the Department.** * * *Proration of the uniform * * ***voucher will be** based upon the number of * * ***hours** actually worked (vacation and light duty days are considered * * ***hours** worked) during the previous six (6) month period in accordance with the following proration guidelines. **Until a uniform vendor is selected by the Department, members shall receive the uniform maintenance allowance prorated and paid in semi-annual installments (by separate check) on the first pay date following each January 1 and July 1.**

No. * * *Hours Worked	% \$ To Receive

* * *720 hours or more	100%
* * *576 to 712 hours	75%
* * *432 to 568 hours	50%
* * *288 to 424 hours	25%
* * * 144 to 280 hours	10%
* * *17 days 136 hours	0%

2. Uniform application and enforcement to be consistent with uniform policy as developed by FAX.

F. PROBATIONARY PERIOD

The probationary period for new Bus Drivers shall be nine (9) months. Such period to begin after the training period has been satisfactorily completed. Any Bus Driver who is absent for any reason from work for five (5) consecutive regular work days (or four (4) consecutive work days for those on a four (4) day work week) shall have their probationary period extended by one (1) week for each absence of consecutive five (5) regular work days (or four (4) consecutive regular work days for those on a four (4) day work week).

G. LEAVE WITHOUT PAY

Leave without pay may be granted for a period not to exceed 120 days and may be extended by the City Manager, subject to the provisions of FMC Section 3-104.

Leave taken under the Family Rights Act of 1991 and/or any other protected leave will not affect a Bus Driver's seniority accrual.

H. UNAUTHORIZED LEAVE AS RESIGNATION

A Bus Driver who without prior approval is absent or fails to perform their duties for three (3) consecutive working days shall be deemed to have resigned their position, effective upon the first day of absence. FMC Section 3-115 controls the applicability and administration of this section.

I. WORKERS' COMPENSATION

1. The percentage of wages or salary and benefits received by an employee holding a permanent position who suffers an injury in the course and scope of city employment shall be the percentage and benefits established by the State of California.
 - a. Compensation for a work related injury or illness shall begin following the first three (3) days after the Bus Driver or Student Driver leaves work as a result of the injury or illness. However, this three (3) day waiting period shall be waived and compensation shall begin on the first day of a work related injury or illness only if:
 - (1) the Bus Driver or Student Driver is hospitalized as an inpatient for at least twenty-four (24) hours;
 - (2) the Bus Driver or Student Driver is absent from work 14 days or more;
 - (3) the Bus Driver or Student Driver is placed on light duty at any time during the first three (3) days.
2. Partial days of absence due to a work related injury or illness, including the day of injury or illness, shall be at full pay for the work hours absent and shall not count toward the three (3) day exclusion period; however, this time shall be recorded as work related injury/illness absence.
3. At the Bus Driver's or Student Driver's option, in the event work related injury/illness pay from the City is not provided during the first three (3) days of absence due to the work related injury or illness, the Bus Driver may take Sick Leave, Vacation Leave, or Holiday Leave for that period.
4. If the Bus Driver or Student Driver opts to use Sick Leave, Vacation Leave, or Holiday Leave the first three (3) days and it is later determined that work related injury/illness pay under paragraph 1. a. above, beginning on the first day of a work related injury is an accepted workers' compensation claim, the leave time shall be restored to the Bus Driver or Student Driver and the Bus Driver's or Student Driver's pay or leave balance will be adjusted accordingly.
5. If a Bus Driver or Student Driver is placed on Sick Leave, Vacation Leave, or Holiday Leave pending determination as to whether the injury or illness is industrial, and the injury or illness is determined to be industrial Sick Leave, Vacation Leave, or Holiday Leave shall be restored and the Bus Driver or Student Driver placed on work related injury/illness leave as provided herein.

6. If a Bus Driver or Student Driver is placed on Sick Leave, Vacation Leave, or Holiday Leave pending determination as to whether the injury or illness is industrial, and the injury or illness is determined not to be industrial, * * * Vacation Leave, or Holiday Leave shall not be restored and the absence will be considered an incident as outlined in the Attendance Policy attached hereto and incorporated by reference.
7. Retirement benefits shall not be reduced as a result of the level of compensation established herein. Changes in contribution by the City and Bus Driver shall be in accordance with applicable retirement code sections.
8. Taxes shall not be withheld on compensation which is paid due to an injury or illness sustained in the course and scope of employment with the City. In the event a court of competent jurisdiction, or other competent authority, finds this Section invalid, the provisions of Article X of this MOU shall apply. Any subsequent agreement reached by the City and ATU on a replacement for this Section shall be made effective back to the date of the determination of the invalidity of this Section.

J. RETIREMENT

The parties agree that during the term of this MOU they will continue to meet and confer with respect to those enhanced retirement benefits currently being explored by the Retirement Board, as well as with respect to those issues related thereto. It is understood that this does not commit the parties to a particular outcome; only to continue meet and confer on this subject during the term of this agreement.

K. HEALTH REIMBURSEMENT ARRANGEMENT (HRA)

The City currently maintains a Health Reimbursement Arrangement (HRA) that qualifies as a "health reimbursement arrangement" as described in Internal Revenue Service (IRS) Notice 2002-45 and other guidance published by the IRS regarding HRAs.

On August 1, 2022, employees in this Unit active on August 1, 2022 will receive a one-time credit of thirty-two (32) hours in a Special HRA bank to be credited to an HRA account for eligible employees upon retirement. Hours in the Special HRA Bank may not be used as leave time and cannot be cashed out. There will be no cash out or transfer of hours in the Special HRA bank for employees who are not eligible to participate in the HRA upon retirement.

At separation from permanent employment with the City of Fresno by service retirement or at disability retirement if the Bus Driver is otherwise eligible for service retirement, Bus Drivers who have used eighty (80) hours or less of sick leave time (excluding only hours used for Workers' Compensation benefits, Bereavement Leave and any statutorily protected leave (e.g., FMLA/CFRA, Protected Sick Leave) in the 24 months preceding their date of retirement, will be credited with an

account for the Bus Driver under the HRA to be used to pay premiums for medical insurance (including COBRA premiums) and qualified medical expenses pursuant to the City of Fresno Retiree HRA Plan Document. 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 80% of the Bus Driver’s then current hourly base rate of pay.
- The number of hours in the Special HRA bank multiplied 100% of the Bus Driver’s then current hourly base rate of pay.
- The hourly base rate of pay shall be the equivalent of the monthly salary for a Bus Driver as reflected in Exhibit A, multiplied by twelve (12) months then divided by 2,080 hours.

At the employer’s option, the HRA accounts shall be book accounts only – no actual trust account shall be established for any Bus Driver. 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 to pay premiums for medical insurance (including COBRA premiums) and qualified medical expenses pursuant to the City of Fresno Retiree HRA Plan Document 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, Bus Drivers shall not be allowed to cash out any accumulated or accrued sick leave at retirement.

L. TEMPORARY ASSIGNMENT TO PERFORM DUTIES OF ABSENT BUS DRIVERS

1. All temporary assignments shall be in accordance with FMC Sections 3-256, 3-257, 3-258, 3-259 and 3-260.
2. Notwithstanding the fact that such Bus Drivers may retain permanent status in their positions in this Unit, in the event a Bus Driver previously holding a position in this Unit is assigned to perform the duties of a position outside this Unit, such Bus Driver shall not be deemed to be included in this Unit during such assignment.

M. FEDERAL DRUG POLICY (FEDERAL OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT)

Policy

1. The City maintains two separate policies, as listed below, to distinguish those specific procedures required by the Federal Transit Administration (FTA) and the Federal Motor Carrier Safety Administration (FMCSA):

“Fresno Area Express, Controlled Substances and Alcohol Testing Policy for ‘Safety-Sensitive’ Employees/Individuals Subject to Federal Transit Administration Regulations” (“City’s FTA Policy”), as may be amended from time to time after compliance with applicable collective bargaining laws; and

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

In addition to the City’s FTA Policy noted above, Administrative Order 2-25, The City’s City-wide drug and alcohol policy, shall apply to ATU members.

2. Each policy, as revised, is intended to sufficiently summarize the current Federal Regulations required by the Federal Omnibus Transportation Employee Testing Act of 1991, as amended. Should any amendments/ revisions to applicable policies occur, a copy of the amended revision will be forwarded to ATU with an offer to meet and confer regarding any potential impact of the amendment/ revisions to the affected employees in this Unit. The FTA policy will be distributed to every affected employee in this Unit upon any amendments/ revisions to the policy, and at the time of training and orientation.
3. The Risk Manager or designee will request an observer not subject to random testing under this policy, (designated observer) and designated, consistent with the FTA policy, by one of the representatives of affected labor organizations, to be present at the time the random list is generated.
4. A Substance Dependency Advisory Committee shall be maintained and meet at the request of any employee to review the impact, modification or repeal of the Federal Omnibus Transportation Employee Testing Act and make recommendations to the City Manager on all matters relevant to the implementation of this policy. Half of the Committee members shall be appointment by the City and half shall be appointed by all recognized employee organizations that are subject either to the regulations promulgated by the Federal Transit Administration (FTA), or the Federal

Motor Carrier Safety Administration (FMCSA).

5. Any disciplinary action taken by the City as a result of this policy will be subject to the applicable provisions of current MOUs, Administrative Orders, and the FMC concerning representation and appeal process/hearing. Among the factors to be considered in determining 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 Section 3-605(a)(5), the City reserves the exclusive right to determine the level of disciplinary action subject to the disciplinary process referenced above, utilizing the guidelines set forth in the City's FTA policy.

Procedures for Random Testing

Random drug and alcohol testing shall be in accordance with the City's FTA policy and subject to the testing guidelines established by Federal Law.

N. VERIFIED TRANSIT TRAINING (VTT)

FAX will provide VTT as required by the State of California. FAX will notify Bus Drivers of their scheduled training time(s).

Training will be treated as a regular assignment and will be subject to the rules regarding an assignment. Training time under this provision will be considered hours worked for the purposes of calculating overtime.

O. BILINGUAL CERTIFICATION PROGRAM

1. The bilingual certification program consists of a City administered examination process whereby Bus Drivers may apply for bilingual examination, and if certified by the examiner, receive bilingual premium pay for interpreting and translating.
 - a. The Bilingual certification examinations will be conducted as necessary. Examination applications will be available at the Personnel Services Department and City department personnel units. In order to remain eligible to receive bilingual premium pay, employees must take and pass the certification examination every five (5) years.

In order to qualify for the examinations, applications must be provided to the Personnel Services Department.

- b. Bilingual certification examinations are conducted for languages as listed in the Salary Resolution.

- (1) Certified Bus Drivers 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 Bus Driver's Director of Transportation or designee.
- (2) Certified Bus Drivers shall not refuse to interpret/translate while on paid status. Refusal may result in appropriate disciplinary action. Certified Bus Drivers may be assigned to any situation, and may be required to prepare written reports/materials related to the situation.

- c. The bilingual premium pay rate for Bus Drivers will be * * ***one hundred dollars (\$100)** per month regardless of how many languages for which an employee is certified.

P. AMERICANS WITH DISABILITIES ACT, FMLA, AND CFRA

The City and the Union are aware of the passage of the Americans with Disabilities Act, the Federal Family and Medical Leave Act of 1993 (FMLA), and the California Family Rights Act of 1991 (CFRA). Leave taken under the FMLA and (CFRA) is governed by Administrative Order 2-21.

Q. SHIFT DIFFERENTIAL

Each permanent full-time equivalent Bus Driver who is scheduled to work between the hours of 8:00 p.m. and 4:00 a.m. shall receive "night shift" premium pay, in addition to the Bus Driver's base rate of pay, at the rate of one and 75/100 dollars (\$1.75) per hour for all actual hours worked, that fall solely within the 8:00 p.m. to 4:00 a.m. time period.

R. MOVEMENT BETWEEN STEPS

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

S. PAY FOR PERFORMANCE

It is agreed between the parties to continue to discuss and consider during the term of this agreement a pay for performance plan. Such pay for performance plan will only be implemented upon mutual agreement between ATU and the City.

T. STATE DISABILITY INSURANCE (SDI)/PAID FAMILY LEAVE (PFL)

1. Employees who are in bargaining Unit 6, Bus Drivers represented by the

Amalgamated Transit Union, Local 1027, shall be enrolled in the State Disability Insurance (SDI) coverage plan.

Employees eligible for SDI benefits are those who are defined by Section 2601, et seq. of California Unemployment Insurance Code.

Eligible employees covered under the SDI program shall receive benefits pursuant to California Unemployment Insurance Code Section 2655.

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 who file a State Disability Insurance (SDI)/Paid Family Leave (PFL) claim must notify the City within fourteen (14) calendar days of their 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. 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. Employees who are absent from duty and are receiving SDI benefits who are eligible to use sick leave, vacation leave, and/or holiday leave, shall be eligible to integrate the payment of SDI/PFL benefits with such City-paid leave benefits.
 - a. Employees who elect to integrate must provide Payroll with a copy of the Notice of Computation within fourteen (14) calendar days of the issue date and are required to authorize EDD to share benefit computations with the City on their initial claim forms. 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.
 - b. 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).
 - c. 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, with the exception of exigent circumstances as set forth in subsection a above, 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.

- d. 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.
5. While integrating SDI/PFL benefits, employees will be in paid status for the purpose of leave accruals, holiday benefits, step increases, and health insurance coverage.

An employee who is integrating leave and has exhausted all other leave balances may apply for donated time in accordance with City policies. Use of donated time shall be in accordance with the provisions of this Section.

If the employee does not act to integrate benefits or exhausts their available leave balances, the employee will be in a Leave Without Pay (LWOP) status.

6. 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.
7. Service credits toward seniority, step increase eligibility, and probation periods shall be in accordance with the MOU and City policies/procedures.
8. 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.
9. 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.

U. PRODUCTIVE TIME

The Union and the City have agreed to new provisions on leave, overtime, and holiday pay which are expected to reduce absenteeism and overtime pay, and increase productive time (i.e., actual time a Bus Driver is at work). Productive time at the start of the MOU averages about 1,550 hours per employee per fiscal year.

The goal is to increase productive time to at least 1,700 hours average per employee per fiscal year. FAX will provide data on productive time at least every two (2) months during the term of this agreement. The Union and FAX agree to meet on a regular basis to discuss productive time and means to improve time at work.

The Union and the City agree to create a subcommittee to meet on a quarterly basis the calendar year following ratification of the MOU to discuss ways to improve and address absenteeism. The subcommittee shall be comprised of two (2) ATU members selected by ATU and two (2) FAX Management employees selected by the Director of Transportation or designee.

ARTICLE X

SAVING CLAUSE/FULL UNDERSTANDING

A. SAVING CLAUSE

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

B. FULL UNDERSTANDING

It is intended that this MOU sets forth the full and entire understanding of the parties, and any previous understanding or agreements by the parties regarding any such matters are hereby superseded, and terminated in their entirety. With respect to side letter agreements, any not attached to this MOU are hereby terminated in their entirety. Side letter agreements attached to this MOU shall continue in force subject to the terms contained therein, or in the absence of specified terms the side letters shall terminate upon the expiration of this MOU. Any side letter agreements entered into during the term of this MOU shall continue in force subject to the terms and conditions set forth within each side letter. This paragraph is not intended to prevent either party from relying on discussions which occurred during the meet and confer process for the purpose of clarifying the meaning of this MOU.

C. LIMITED REOPENERS

1. The parties agree to a limited reopener on work rules contained in this MOU. The parties agree to meet promptly to discuss the work rules at the request of either the City or the Union. Any change to work rules in this MOU require mutual agreement by the parties.
2. The parties agree to meet and confer over revisions to the Personnel provisions of the FMC, Chapter 3, Article 1. If impasse is declared, impasse procedures in Chapter 10 of Division 4 of Title I of the Government Code (Section 3500 et seq., commonly known as the Meyers-Milias-Brown Act) shall apply.
3. The parties agree to meet and confer over revisions to the Civil Service Regulations in the FMC, Chapter 3, Article 2. If impasse is declared, impasse procedures in Chapter 10 of Division 4 of Title I of the Government Code (Section 3500 et seq., commonly known as the Meyers-Milias-Brown Act) shall apply.

4. The parties agree to meet and confer over revisions to the Employer-Employee Relations provisions in the FMC, Chapter 3, Article 6. If impasse is declared, impasse procedures in Chapter 10 of Division 4 of Title I of the Government Code (Section 3500 et seq., commonly known as the Meyers-Milias-Brown Act) shall apply.
5. The parties agree to a limited reopener to meet quarterly, at minimum, during the first year of the MOU to discuss and evaluate the feasibility of establishing a Workers' Compensation Alternative Dispute Resolution (ADR) program.

ARTICLE XI

TERM* * *

This MOU shall be in full force and effect from * * * **June 16, 2025** through * * * **December 13, 2026**, subject to the Sections A., B., C., and D. below.

- A. This MOU shall become effective only after ratification by the members of ATU, 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 * * * **December 13, 2026**.
- B. During the life of this MOU, should either party desire to modify its terms or to meet and confer as to matters within the scope of representation not addressed in this MOU, the party requesting such modification shall request in writing to meet and confer on the item, which item shall be specified in writing.
- C. During the life of this MOU, either party may refuse such request without explanation if the item is directly related to or is an item directly considered herein, or if the item was included in a written proposal from the party making the request during the meet and confer process which led to this MOU.
- D. Nothing in this Article shall preclude the City from entering into a Joint Powers Authority or Regional Transit District during the term of this agreement with written notice to ATU. Following said notice, the parties agree to discuss the impact of such decision on the members of this unit.

ARTICLE XII

TROLLEY OPERATIONS

The provisions as expressed in Article XII are exclusively applicable to permanent employees in the classification of Trolley Operator. Provisions expressly provided herein do not apply to employees in the classifications of Student Driver and Bus Driver who are assigned to the Department of Transportation, i.e., Fresno Area Express or FAX.

A. APPLICABILITY OF MOU PROVISIONS

The following provisions of this MOU shall apply to Trolley Operators.

Article I; Article II; Article III; Article IV Sections A-J and M; Article 5 Sections A-C; Article VI; Article IX Sections: A, C, E, G, H, I J, K, M, O, P, R and T; Article X, Article XI and Article XII

The following provisions of this MOU shall not apply to Trolley Operators.

Article VII and Article VIII.

B. DEFINITIONS OF SERVICE

1. **Fixed Route Service:** Service that operates along a predetermined route with established stops and a consistent schedule, providing transportation to the general public.
2. **Special Service:** A flexible, non-fixed route service that operates on an intermittent basis to provide transportation for special events, seasonal events, emergency situations, or other unique circumstances.
3. **Charter Service:** Transportation service where a trolley is reserved for exclusive use by a third party.

C. NEW EMPLOYEE ORIENTATION

The Personnel Services Department (“PSD”) provides a new employee orientation (“NEO”) to all newly hired City employees. PSD will notify the Union at least ten (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 unforeseen urgent need critical to City operations.

An ATU officer will be invited to the NEO meeting room immediately prior to a session to be conducted by the Union and will be introduced by a City staff

member. The Union will be provided an opportunity to meet with new employees represented by the Union during a session of the NEO. The ATU officer shall be afforded up to thirty (30) minutes to meet with new employees. The session will not be held if there are no new employees represented by the Union attending NEO or if an ATU officer is not available. Time spent at NEO sessions by ATU officers will be considered Union Business pursuant to Article V. Section. B. subsection 4.

D. TROLLEY OPERATOR MEAL PERIODS AND REST BREAKS

It is expressly understood by the parties that provisions in this MOU and the Side Letter of Agreement between the City and ATU, Local 1027, regarding Wage Order No. 9-2001 providing meal periods and rest breaks to Bus Drivers do not apply to employees in this Unit in the classification of Trolley Operator. Instead, meal periods and rest breaks for employees in the Trolley Operator classification shall be governed by the below provisions.

1. Meal Periods

Employees in the Trolley Operator classification working a shift of seven (7) hours or more will not have a designated unpaid meal period. Included in a Trolley Operator work shift of seven (7) hours or more will be a paid thirty (30) minute meal period. Employees in the Trolley Operator classification working a shift of less than seven (7) hours shall not be entitled to a meal period.

2. Rest Breaks

Employees in the classification of Trolley Operator shall be entitled to a ten (10) minute break for each three and one-half (3.5) hours of work. A break shall include time the trolley is parked along the route or at the end of the line when a Trolley Operator has the option to secure the trolley and disengage from work-related activities.

E. TROLLEY OPERATOR PROBATIONARY PERIOD

The probationary period for new Trolley Operators shall be one (1) year in accordance with FMC Sec 3-272.

F. TROLLEY OPERATOR COMPENSATION AND BENEFITS

1. Rate of Pay

The base rate of pay for Trolley Operators shall be paid in accordance with Schedule A attached hereto and incorporated by reference.

The City shall pay overtime to its full time Trolley Operators for work

performed in excess of eight (8) hours in one day or over forty (40) actual worked hours in a work week at one and one-half (1 ½) times the regular base hourly rate.

2. Vacation

- a. **Vacation shall be accrued at the following rates:**

Less than five (5) years of service, eight (8) hours per month; between five (5) years and eight (8) years, ten (10) hours per month; between eight (8) years and twenty (20) years, 11.33; and more than twenty (20) years, 14.66 hours per month. Permanent Part-time employees shall accrue Vacation Leave in accordance with Section F below.

3. Sick Leave

- a. **Full-time Trolley Operators shall accrue sick leave at the rate of eight (8) hours for each completed calendar month of employment. Sick leave shall accumulate up to a maximum of nine hundred (900) hours. Permanent Part-time employees shall accrue Sick Leave in accordance with Section F below.**
- b. **A supervisor shall have the right to require that a Trolley Operator provide a health care provider's verification of illness, unless prohibited under California Labor Code 233, SB616, FMLA/CFRA, or other protected leave.**
- c. **Trolley Operators are encouraged to schedule all medical and/or dental appointments outside of regular work hours when practical.**
- d. **Full-time Trolley Operators shall be allowed to use accrued and available Sick Leave on a protected basis as required and defined by California Labor Code Section 233 and SB616, and other applicable law.**
- e. **Employees who terminate City employment and return within one year of such termination will be entitled to reinstatement of their unused sick leave balances at the time of termination from City employment, up to a total of 48 hours.**

4. Holidays

- a. **Except as may be modified in this Section, Holidays shall be governed by FMC Section 3-116.**

- (1) **January 1.**
- (2) **The third Monday in January.**
- (3) **The third Monday in February.**
- (4) **The last Monday in May.**
- (5) **July 4.**
- (6) **The first Monday in September.**
- (7) **November 11.**
- (8) **Thanksgiving Day in November.**
- (9) **The Friday after Thanksgiving Day in November.**
- (10) **December 24.**
- (11) **December 25.**
- (12) **Employee's Birthday.**
- (13) **One personal business day (eight hours to be credited to the employee's Holiday Leave bank on August 1, 2022, and on January 1st of each year thereafter).**

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

b. All Trolley Operators will receive compensation for the above holidays with the following exceptions:

- (1) **Work performed on a holiday which is a scheduled workday, a Trolley Operator shall receive regular salary plus the applicable hourly rate for the hours worked on that day.**
- (2) **Trolley Operators who are on leave without pay prior to a holiday will not receive compensation or leave for the holiday unless they actually work the holiday.**
- (3) **Trolley Operators will be credited with up to (8) hours of vacation leave based on their respective FTE at a rate proportionate to a permanent full-time equivalent employee in recognition of their birthday.**
- (4) **When a holiday falls on a regularly scheduled day off, Trolley Operators in this unit will receive up to (8) hours of holiday leave based on their respective FTE at a rate proportionate to a permanent full-time equivalent employee.**
- (5) **Trolley Operators 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.**
- (6) **Holiday leave may be used for the same purpose and in the same way as approved vacation except as noted in (7). and (8). below.**

- (7) Effective October 29, 2018, all Holiday Leave will be placed in a special Holiday Leave bank which shall not be subject to the provisions of subsection (8). below. Employees can cash out up to 48 hours or up to 25% of their balance of the Special Holiday Leave bank, whichever is greater, each fiscal year between July 1st and December 30th. Any Special Holiday Leave balance will be cashed out upon leaving City service.
- (8) Holiday Leave will be accrued until it reaches forty-eight (48) hours. Upon reaching the Holiday Leave bank cap, all additional Holiday Leave earned will be cashed out unless and until the Holiday Leave bank balance falls below the cap. Any Holiday Leave balance for Trolley Operators leaving City service will be cashed out. Holiday Leave may be taken in accordance with Section b.7. or may be cashed out at any time.

G. BENEFITS FOR PERMANENT PART TIME (PPT) TROLLEY OPERATORS

1. General

Trolley Operators occupying PPT allocated positions shall be members of the recognized ATU unit. The terms and conditions set forth in the current MOU apply to Trolley Operators occupying PPT allocated positions, in addition to those set forth in this agreement and FMC, administrative orders, policies, procedures, rules and regulations.

2. Additional Rules and Regulations

- a. Trolley Operators shall be recruited, hired, employed, pursuant to the FMC, administrative orders, policies, procedures, rules, regulations, the MOU, and as may be provided in this agreement.
- b. All PPT Trolley Operators shall serve a probationary period consisting of one (1) year from the date of appointment to a PPT allocated position. A Trolley Operator who completes a PPT probationary period shall not serve an additional probationary period if appointed to a permanent full-time allocated Trolley Operator position as long as such employment as a PPT Trolley Operator has been continuous up to appointment to a permanent full-time allocated Trolley Operator position.

If a PPT Trolley Operator is appointed to a permanent full-time allocated Trolley Operator position, the Trolley Operator shall complete the balance of the required probationary period for a full time

Trolley Operator.

- c. In the event of a reduction in work force or lay off, PPT Trolley Operators shall be separated from city service before any permanent full-time Trolley Operator as defined in the FMC.**
- d. Full-time employees who transfer to part-time positions will continue to be a participant in the Retirement program, and make prorated contributions based on the number of hours work, and shall receive prorated service credits, in accordance with the FMC.**
- e. PPT Trolley Operators shall receive the same uniform allowance as that set forth in MOU Article IX (E).**
- f. Jury Duty/Court Attendance - PPT Trolley Operators shall be compensated for jury duty attendance and court attendance in accordance with applicable FMC provisions.**
- g. Workers' Compensation – Workers' Compensation benefits shall be those amounts established by the State of California Workers' Compensation regulations.**
- h. Overtime - PPT Trolley Operators shall receive overtime compensation at the applicable hourly rate of hours worked in excess of forty (40) hours in a week, and for hours worked on a holiday.**
- i. Holidays - PPT Trolley Operators shall receive paid leave for holidays at a rate proportionate to a permanent full-time employee (FTE) occupying the class of Trolley Operator.**
- j. Sick Leave - PPT Trolley Operators shall accumulate sick leave at a rate proportionate to a permanent FTE occupying the class of Trolley Operator.**
- k. Sick leave may be taken in accordance with provisions of this MOU, FMC Section 3-107, and in accordance with applicable provisions of the California Labor Code including, but not limited to Section 233. Section 245.5, and Section 246. These provisions of the California Labor Code will be administered on a fiscal year basis, i.e July 1 through June 30.**
- l. Vacation - PPT Trolley Operators shall accumulate vacation leave at a rate proportionate to a permanent FTE occupying the class of Trolley Operator.**
- m. Retirement - PPT Trolley Operators shall not be members of the Employees' Retirement System and shall be enrolled in the Social**

Security program unless already a member of the Employees' Retirement System.

- n. Health and Welfare - Benefits shall be provided as outlined in Article IX (C).**

H. TROLLEY OPERATION

Trolley equipment operated by, owned by or registered to the City shall be primarily staffed by Trolley Operators covered by this MOU and side letter(s). The Trolley is uniquely utilized for fixed route, special events, as well as charter service and the City shall endeavor to utilize Trolley Operators when practicable. On occasion the Trolley equipment may be operated by other commercial licensed drivers.

I. TROLLEY OPERATOR GRIEVANCE PROCEDURE

- 1. A grievance is a dispute concerning the interpretation or application of any existing City policy, written rule or regulation governing personnel practices or working conditions, including this MOU, and may, but is not limited to, include such matters as daily working assignments, equipment, safety or health hazards, and treatment of Trolley Operators under any rule or regulation. This procedure shall not apply to any dispute for which there is another established resolution procedure, including but not limited to, appeal to the Fresno Civil Service Board, Retirement Board, Public Employee Relations Board unfair employer-employee relations charge or fact-finding procedure. The grievance procedure relates only to existing rights or duties, not to the establishment of a right or duty or as outlined below.**
- 2. A written grievance must set forth the specific rule, regulation, policy or specific section of the MOU 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 within the time lines set forth in Step One, which shall be the amount of existing time left to file the grievance when the grievance was originally submitted but in no case less than one (1) calendar day. 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 a Hearing Officer. The Hearing Officer shall rule on the dispute before proceeding with the hearing. The Hearing Officer will be bound by the agreement of the parties regarding timeliness.**
- 3. ATU may represent grievants covered by this MOU on grievances under the grievance procedure.**

4. The grievant and designated representative shall be excused without loss of compensation from regular duties for such time as is necessary to attend and represent the grievant at grievance hearings, beginning at the first level of supervision.
5. A grievant (and/or designated representative) assigned to the General Services Department shall be entitled to request the release from duty of no more than one (1) Trolley Operator of this Unit, at any one time, to appear as a witness in the grievance hearing (Step Three). The employee(s) shall be excused without loss of compensation from their regular duties for such time as is necessary to attend the grievance hearing. However, each such employee shall not be entitled to overtime compensation from their respective department or the City due to their attendance at the grievance hearing.

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

Step One

- a. The Trolley Operator (and/or designated representative) shall discuss the issue with the Operator's supervisor before a written grievance may be filed.

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.

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

- a. Should the grievant not be satisfied with the answer received from the immediate supervisor or designee, the grievant may within fourteen (14) calendar days, file an appeal to the Director of General Services or designee. The Director of General Services 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 Director of General Services or designee may confer with the grievant

(and/or designated representative) and appropriate supervisor in an attempt to bring about a harmonious mutually acceptable solution.

- b. The City, the grievant, (and/or the designated representative) may, by mutual agreement, waive steps one (1) and two (2) and proceed directly to hearing by a Hearing Officer when the issue is one over which the immediate supervisor, or designee, or Director of General Services, or designee, has no jurisdiction.

Step Three

- a. If the grievant is not satisfied with the decision of the Director of General Services or designee, the grievant may within seven (7) calendar days after receipt of the written reply, file a request for a review of the Director of General Services or designee's decision to the Hearing Officer, with a copy sent to the Labor Relations Division. The review/appeal to a Hearing Officer shall be reviewed and approved by ATU before it is delivered to the Labor Relations Division.
- b. The City or the grievant (and/or the designated representative) may, by mutual agreement, seek resolution of the grievance through mediation using the services of the California State Mediation and Conciliation Service prior to hearing by a Hearing Officer. Time limits for processing of the grievance are automatically extended for as long as the mediation is in process.
- c. The Hearing Officer may be chosen either by mutual agreement of ATU and the City, or by the "strike" method from a list of neutrals provided by the California State Mediation and Conciliation Service. Fees and expenses of the Hearing Officer shall be paid half by the City and half by ATU; provided however, that the Hearing Officer may recommend that the City or ATU pay the total of such fees and expenses, should the Hearing Officer find that, but for the unreasonableness of that party's posture, the convening of the grievance hearing would not have been necessary. The City and the grievant (and/or the designated representative) shall make a reasonable effort to select a Hearing Officer within fourteen (14) calendar days of receipt of the grievance requesting review by a Hearing Officer by the Labor Relations Division.
- d. The Hearing Officer shall be bound by the language of the MOU, City Administrative Orders, ordinances, rules and regulations, and department rules and regulations consistent therewith in

considering any issue properly before them. The Hearing Officer shall define the precise issues from those submitted by the parties and shall have no authority to consider any other issue(s) not so submitted. The Hearing Officer may not recommend changes in established wages or benefits, nor recommend the payment of back wages or benefits to a date prior to the date of the incident.

- e. From the date a grievance otherwise meeting all criteria for the filing and processing of a grievance reaches the Labor Relations Division pursuant to subsection a. above, every effort will be made to convene the grievance hearing within thirty (30) calendar days in order to hear the grievance.
- f. All time limits herein may be extended by mutual agreement of the parties.
- g. The Hearing Officer shall talk to the grievant and supervisor involved to set forth in writing the facts of the particular situation and recommend a solution to the City Manager or designee within thirty (30) calendar days of its last meeting.
- h. The City Manager or designee shall review the decision of the Director of General Services or designee and recommendations of the Hearing Officer and shall render a written decision to the grievant within twenty-one (21) calendar days after receipt from the Hearing Officer.

Failure of the grievant to file an appeal within the specified time limit shall constitute an abandonment of the grievance. Failure of the responsible supervisor or official of the City to render a decision within the specified time limit established by this procedure shall automatically move the grievance to the next higher level for action, without action required of the grievant.

IN WITNESS WHEREOF, the parties hereto have set their hands this 13th day
of October.

FOR ATU:

Signature on File

FOR THE CITY OF FRESNO:

Signature on File

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

Signature on File

BY: _____

Deputy City Attorney

SCHEDULE A – SALARIES

Effective October 20, 2025

STEP	A	B	C	D	E	Longevity
Bus Driver - Monthly	4876	5121	5376	5644	5926	6223
Bus Driver - Hourly	28.130769	29.544230	31.015384	32.561538	34.188461	35.901923
Student Driver – Monthly	4433					
Student Driver - Hourly	25.575					
Trolley Operator	4876	5121	5376	5644	5926	

Attendance Policy Unit 6, Represented by ATU, Local 1027

Purpose

To establish an attendance policy for employees in Unit 6, represented by ATU, Local 1027.

Policy & Procedure

* * * 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. It is the employees' responsibility to maintain their physical and mental * * * **wellbeing** and to achieve a maximum level of productivity.

[§§ deleted]

* * * **Use of Sick Leave as described in Article VIII (D)(4) of this MOU**, and state and federal statutorily protected leaves (e.g., Family and Medical Leave Act, California Family Rights Act, Protected Sick Leave, military leave, * * * **etc.**) * * * **shall be allowed, except that any abuse and/or misuse of Sick Leave, or other statutorily protected leave, shall be investigated, and shall subject the employee to corrective and/or disciplinary action up to and including termination consistent with Administrative Order 2-14.**

[§ deleted]

DEFINITIONS AND RULES - SECTION I:

1. Excluding the authorized and statutorily protected leaves discussed above, * * * **“absenteeism” is defined as * * * excessive unscheduled absence from work assigned in accordance with this MOU, whether assigned on a voluntary or involuntary basis.** * * *

[§ deleted]

2. Any employee who does not report to work in person **or does not report an unexpected absence to the department through normal means (i.e., calling dispatch and speaking to dispatch staff)** * * * will be considered absent without leave (i.e., **“no call, no shows”**), and subject to * * * **corrective and/or disciplinary action, regardless of whether the absence itself would otherwise be protected. Corrective and/or disciplinary action under this provision will be administered consistent with Administrative Order 2-14.**

3. **Employees must notify the Department through normal means of an unexpected absence no later than thirty minutes before their sign-on time. Failure to do so may result in corrective and/or disciplinary action, regardless of whether the absence itself would otherwise be protected. Corrective and/or disciplinary action under this provision will be administered consistent with Administrative Order 2-14.**

CORRECTIVE/DISCIPLINE ACTIONS FOR EXCESSIVE ABSENTEEISM - SECTION II:

1. Excessive absenteeism by an employee shall subject said employee(s) to corrective/disciplinary action, **up to and including termination.** * * *
2. **An “incident” shall be defined as an unexpected absence where an employee is unable to report to work as scheduled, and has exhausted all Sick Leave balances, or where Sick Leave is inapplicable (e.g., personal business).**
3. **A continuous absence shall constitute no more than one “incident,” regardless of length, except that in the event the employee is on a leave without pay status, the employee must seek and obtain approval from the appointing authority consistent with the Fresno Municipal Code. If leave without pay is not approved, the employee shall be considered “absent without leave,” under Fresno Municipal Code 3-286(b)(5), and subject to corrective and/or discipline consistent with Administrative Order 2-14 (i.e., in this circumstance, unapproved leave without pay is treated as an independent violation of City rules, and not subject to the matrix below).**
4. The corrective/disciplinary levels **for excessive absenteeism** under this policy are noted in the table below.

Incident	* * *Corrective Action/Disciplinary Level		
4th	Verbal Warning		Verbal Warning
5th	Letter of Understanding		Letter of Understanding
6th	Written Reprimand		Written Reprimand
7th	\$150 Fine	OR	2 Working Days Suspension
8th	\$450 Fine	OR	5 Working Days Suspension
9th	10 Working Days Suspension		10 Working Days Suspension
10th	Termination		Termination

The City reserves the right to deviate from this table of progressive corrective/disciplinary action under mitigating **or aggravating** circumstances. 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, or whenever there is a pattern of abuse of time off.

5. An employee who has no additional incidents for 90 calendar days after receipt of an incident shall have the 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. * * *



Employee Performance Evaluation Form

ADDENDUM I

Date: _____

Employee Name: _____

Rating Period: From _____ to _____

Type of Evaluation: ☐ Annual ☐ Probationary (Mid-Probation/End of Probation)

Rater's Name: _____ Rater's Title: _____

Rating Categories: 1) Unsatisfactory/Needs Improvement, 2) Average, 3) Above Average, 4) Superior

Values (ACT IT)

Accountability: Take personal responsibility for actions.

Compassion: Care about and respect people.

Trust: Believe in each other.

Innovation: Seek new and creative ways to improve our business.

Teamwork: Work together to achieve the City Vision.

Category	Rating			
	1	2	3	4
Attendance – Attendance is within acceptable guidelines.				
Observance of work hours – Reports to work on time.				
Compliance with rules – Complies with FAX rules and regulations.				
Responsibility – Completes assignments in a responsible manner. Takes responsibility for actions on the job..				
Safety practices/Operation of and care of equipment – Demonstrates general observance of safety practices and safety rules.				
Public contact – Demonstrates positive contacts with public.				
Interpersonal skill – Gets along with peers, supervisors and other staff.				
Job knowledge, skills and proficiency – Demonstrates an understanding of the scope of assigned duties and the ability to perform those duties as directed.				
Judgement – Handles day to day problems.				
Deadlines – Runs schedules within guidelines.				
Overall Score				



Employee Performance Evaluation Form

ADDENDUM I

Based on the ratings given above, rate the employee on Key Objectives below:

Key Objectives

Category	Rating			
	1	2	3	4
Customer Satisfaction: Works well with the public.				
Employee Satisfaction: Works well with co-workers, supervisors.				
Financial Management: Uses available resources effectively.				

Comments on Ratings by Rater

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Employee Comments

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Note: Attach current Success Plan.

Rater: This report is based on my best judgment of the of the rated employee's performance.

Signature: _____ Date: _____

Reviewer: _____ Date: _____

For final Probation reports only: I do ☐, I do not ☐ recommend this employee be granted permanent status.

Employee: I certify that this report has been discussed with me. I understand that my signature does not necessarily indicate agreement.

☐ I wish to discuss this report with the reviewer.

Signature: _____ Date: _____

**2006 SIDE LETTER OF AGREEMENT
BETWEEN AND FOR THE
CITY OF FRESNO
AND
AMALGAMATED TRANSIT UNION, LOCAL 1027
(Bus Drivers-Unit 6)**

WAGE ORDER No. 9-2001 SIDE LETTER AGREEMENT

1. It is agreed between the parties hereto that given the nature of the work provided by the members of the bargaining unit, such members cannot be relieved of all duty, as contemplated by Section 11.C. of Wage Order No. 9. In view of this fact, the parties have entered into this Side Letter Agreement providing that, commencing July 1, 2006, the employees in the Bus Drivers' Unit (Unit 6) may receive an on-the-job paid meal period rather than a duty-free meal period.
2. It is further agreed between the parties hereto that this Agreement expressly provides for rest periods for the employees covered by this Agreement, and that the employer will make reasonable efforts to provide rest periods during the work period but it is understood that such rest periods may be delayed. In instances when such rest periods must be delayed, such periods may, at the direction of the employer, be aggregated and/or provided at the end or the beginning of the employee's work shift.
3. It is agreed that, unless this Side Letter Agreement is terminated as provided in Article IX, Section B.2., of the FY07-FY09 MOU between the City and Local 1027, this Side Letter Agreement will remain in effect perpetually.
4. It is agreed between the parties hereto that starting July 1, 2006, and continuing thereafter, even if this Agreement is terminated as provided in Article IX of the FY07-FY09 MOU, the base pay for all bargaining unit employees will be increased by \$0.41 per hour. It is further agreed that, provided this Side Letter Agreement is not terminated as provided in Article IX, Section B.2., of the FY07-FY09 MOU between the parties, every five (5) years thereafter, i.e., starting July 1, 2011, the base pay for bargaining unit employees will be increased by an amount equal to the increase in the annual consumer price index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 12-month percent change, multiplied by \$0.41.
5. It is further agreed that should this Side Letter Agreement be terminated, as provided in Article IX, of the FY07-FY09 MOU, ATU Local 1027 will no longer be bound by its agreement with the City, and the City will be obligated to abide by all applicable aspects of Wage Order No. 9 including, but not limited to, the provisions of sections 11 & 12 thereof.
6. If it is subsequently determined, by any court of competent jurisdiction, that the City is liable for penalties with respect to the meal period and/or rest period provisions of

Page 2


Side Letter Agreement RE: Wage Order No 9
Amalgamated Transit Union, Local 1027 (ATU)

IWC Wage Order No. 9, in spite of the existence of this Side Letter Agreement, the Side Letter will expire, ATU Local 1027 will no longer be in agreement with the City to allow on the job paid meal periods and/or rest periods as provided by the Side Letter Agreement, and Local 1027 and the City will meet and confer in an effort to discuss mutually agreeable options at that time.

7.e It is agreed between the parties hereto that any disputes pertaining to the matter set forth in this Side Letter Agreement shall be submitted to the grievance procedure set forth in the Memorandum of Understanding to which this Side Letter Agreement is attached, except that final and binding arbitration, as described below, shall replace the "Grievance Advisory Committee" described at Step Three of that procedure. The final and binding arbitration shall be heard by an arbitrator selected from a panel of seven (7) arbitrators provided by the California State Mediation and Conciliation Service. Said arbitrator, once selected, shall convene the parties for a hearing as soon as practical. The arbitrator shall not have the authority to amend, alter or change any provision of the Side Letter Agreement. A written award on the merits shall be final and binding on the parties. Compensation for the arbitrator shall be shared equally between the parties.


8.e The parties further acknowledge that it is understood and agreed that this Side Letter of Agreement has the full force and effect of any other provision of the current MOU, and that this Side Letter of Agreement will be treated, for all purposes, as if it were an integrated portion of the current MOU.

**AMALGAMATED TRANSIT
UNION, LOCAL 1027**



RICK STEITZ
President

FOR THE CITY OF FRESNO



KENNETH G. PHILLIPS
Labor Relations Manager

DATE: 10-30-06

DATE: October 16, 2006

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: Victoria Parks Tuttle
Deputy City Attorney