

FULLERTON POLICE OFFICERS' ASSOCIATION
POLICE SAFETY UNIT
July 1, 2015 through July 30, 2019

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AGREEMENT
BETWEEN THE CITY OF FULLERTON AND
THE FULLERTON POLICE OFFICERS' ASSOCIATION
POLICE SAFETY UNIT
FOR THE PERIOD JULY 1, 2015 THROUGH JUNE 30, 2019

ARTICLE 1: INTRODUCTION

This Agreement is made by and entered into between the City of Fullerton (hereinafter referred to as the City) and the Fullerton Police Officers' Association "Police Safety Unit" (hereinafter referred to as FPOA or the Association), the recognized majority representative of persons employed in the classifications of Police Officer, Police Officer Trainee, Police Corporal, and Police Sergeant, hereinafter collectively referred to as affected employees.

Pursuant to City Council Resolution 5145 (which pertains to employer-employee relations) and California Government Code §3500, et seq., authorized representatives of the City and the Association have met and conferred in good faith concerning compensation, hours and other terms and conditions of employment of affected employees, and have reached an Agreement which shall be submitted to the City Council for its approval. Following approval, this Agreement shall be implemented by action of the Council or City Manager by appropriate ordinances, resolutions or other directives.

Therefore, the City and the Association agree that upon approval by the City Council, the compensation, hours and other terms and conditions of employment for affected employees shall be as follows:

ARTICLE 2: MANAGEMENT RIGHTS

The City retains all rights of management including but not limited to the exclusive right to determine the mission of its constituent departments, commissions and boards; to contract and sub-contract; set standards of services; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work; provided, however, that the exercise of such City rights shall not conflict with the express provisions of this Agreement.

ARTICLE 3: PEACEFUL PERFORMANCE

- (A) The parties recognize the obligation of the Association's members to continue to faithfully perform their duties for the City in accordance with the highest professional standards for peace officers.
- (B) No affected employee shall engage in, induce or encourage any concerted action against the City including, but not limited to, strikes, work stoppages, slowdowns, speed-ups, "sick-ins", "sick-outs" or withholding of services to the City.
- (C) The Association agrees that neither it nor any of its officers or agents will call, institute, authorize, participate in, sanction or ratify any concerted action against the City as specified above. In the event of any concerted action, as enumerated above, the Association, its officers, agents and representatives shall do everything within their power to end or avert same.

ARTICLE 4: IMPASSES

- (A) In the event impasse is declared, the parties agree to mediation by the California State Mediation and Conciliation Service. If a mediation meeting cannot be scheduled within 30 calendar days of the written declaration of impasse, either party may proceed to the next step.
- (B) All mediation proceedings shall be private and kept confidential. The mediator shall make no public recommendations nor take any public position on the issues.

ARTICLE 5: TERM/SUCCESSOR AGREEMENT

The term of this Agreement shall be from July 1, 2015 through June 30, 2019. Any extension of this Agreement must be mutually agreed upon by the City and the Association.

The effective date of each Article is July 1, 2015, unless otherwise indicated.

ARTICLE 6: MAINTENANCE OF EXISTING BENEFITS

Except as provided herein, all compensation, hours and other terms and conditions of employment within the lawful scope of representation of the Association presently enjoyed by affected employees shall remain in full force and effect during the term of this Agreement.

ARTICLE 7: SEPARABILITY

If any part or provision of this Agreement is rendered or declared invalid by any existing or subsequently enacted state or federal legislation, or by any decree of any court of competent jurisdiction, the remaining portions shall continue in full force and effect. The parties shall meet-and-confer on any portion so invalidated.

ARTICLE 8: CITY REVENUES

The Association shall encourage its members to live and shop in Fullerton in an effort to increase the revenue available to the City.

ARTICLE 9: DUES CHECK-OFF

- (A) Upon receipt of signed authorization from an Association member, in a form designated by the City, the regular dues of the Association shall be deducted from the member's pay. All dues collected by the City shall be remitted biweekly to the designated Association Financial Officer. The employee may revoke his/her authorization by submitting a notice in writing to the City and to the Association.
- (B) The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues check-off authorized. When a member in good standing of the Association is in a nonpay status for an entire pay period, no dues withholding will be made from future earnings to cover that pay period, nor will the member be permitted to deposit with the City the amount which would have been withheld if the member had been in a pay status during that period. No deduction shall be made from the pay of an employee who is in a nonpay status during only a part of the pay period and the salary is not sufficient to cover the full withholding. In this connection, all other legal and required deductions have priority over Association dues.
- (C) The Association shall indemnify, defend, and hold the City harmless against any claims made and against any suit instituted against the City on account of check-off of Association dues. In addition, the Association, upon presentation of supporting evidence, shall refund to the City of Fullerton any amounts paid to it in error.

ARTICLE 10: REASONABLE TIME OFF TO MEET AND CONFER

The Association may select no more than two employee members to attend scheduled meetings with the City on subjects within the scope of representation during regular work hours without loss of compensation. Where circumstances warrant, the City Manager may approve the attendance at such meetings of additional employee representa-

tives with or without loss of compensation. The Association shall, whenever practicable, submit the names of all such employee representatives to the City at least two working days in advance of such meetings. It is further provided:

- (A) That no employee representative shall leave his or her duty or work station or assignment without approval of the Chief of Police or other authorized City management official.
- (B) That any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules.

Nothing provided herein, however, shall limit or restrict City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.

ARTICLE 11: ASSOCIATION LEAVE

- (A) Employees represented by the Association may take leave for Association business under the Provisions of this Article. It is envisioned that the leave will primarily be used by the FPOA President specifically, and other Board members generally. On occasion, leave for Association business may also be used by other FPOA members based on the needs of the Association.

This leave is separate from the City-paid leave authorized for Association members under Article 10.

- (B) Requests by Association members for leave from duty shall be made to the Chief of Police or his designee, according to current practices. When the City cannot reasonably accommodate a request for leave because of staffing level shortages, the request shall be denied.
- (C) An employee may request Association leave to attend events that occur during the employee's work hours. The types of events that Association members would attend include, but shall not be limited to, PORAC meetings, schools, seminars, conferences, courses, and community meetings. Association leave shall be granted in one-hour increments only.
- (D) The first 144 hours of Association leave taken collectively by all employees during each payroll year shall be paid by the City. Beyond that amount, an employee who is granted leave may be authorized by the Association to be paid for such leave from an Association-paid leave account. Any employee so authorized shall fill out the appropriate form, as provided by the City, indicating that the leave is for Association business and that the Association is to be billed for that leave.

- (E) Each month the City will provide the Association a list of employees who have used Association-paid leave, the number of hours used, and the employee's regular hourly rate. Within thirty (30) days, the Association shall reimburse the City for all Association-paid leave. Such reimbursement shall be at the base hourly rate of the employee using such leave.
- (F) Individual employees will not have leave time deducted from their personal leave banks for Association leave.

ARTICLE 12: ACCESS TO WORK LOCATIONS

Officers of the Association and their officially designated representatives shall be granted reasonable access to employee work locations for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation. Such non-employee officers or representatives shall not enter any work location without the consent of the Department Head or the City Manager. Access may be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

Solicitation of membership and activities concerned with the internal management of the Association, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, will not be permitted during working hours without prior approval by the Chief of Police or designee. Such approval shall not be unreasonably withheld.

ARTICLE 13: USE OF CITY FACILITIES

- (A) The Association may, with the prior approval of the City Manager or designee, use City facilities for meetings. All such requests shall be in writing and shall state the purposes of the meeting. The City reserves the right to assess reasonable charges for the use of such facilities.
- (B) The use of City equipment other than items normally used in the conduct of business meetings (e.g., desks, chairs, and writing boards) is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.
- (C) The Association may, with the prior approval of the City Manager, use the City mail service for the distribution of a regularly published employee newsletter.

ARTICLE 14: USE OF BULLETIN BOARDS

The Association may use portions of City bulletin boards under the following conditions:

- (A) All materials must receive the approval of the Director of Human Resources or designee.
- (B) All materials must be dated and must identify the Association as the publisher.
- (C) The actual posting of materials will be done as soon as possible after they have been approved. Unless special arrangements are made, materials posted will be removed 31 days after the publication date.
- (D) The City reserves the right to determine where bulletin boards shall be placed and what portion of them is to be allocated to Association materials.

ARTICLE 15: SCHEDULE OF BASE SALARY RATES and
ALLOCATION OF CLASSES TO SALARY RANGES

- (A) The Schedule Of Base Salary Rates and Allocation Of Classes To Salary Ranges is contained in Appendix A. Base salary rates shall be adjusted by across-the-board increases as follows:

Effective July 4, 2015: 6.0%

Effective the first pay period after July 1, 2016: 3.0%

Effective the first pay period after July 1, 2017: 2.0%

Effective the first pay period after July 1, 2018: 2.5%

- (B) The base salary range for the classification of Police Corporal shall be 7.5% above that of Police Officer.
- (C) The discretionary personal leave program shall be eliminated effective September 30, 2011 for this unit except that discretionary personal leave accumulated and not used by September 30, 2011 will be available for employee use until such time as the employee separates from the City. This discretionary personal leave will have no cash value and its use must be approved by the Police Chief, or his designee, and not require overtime backfill. Employees on discretionary personal leave will be on paid status.

ARTICLE 16: INCREMENT PAY

- (A) Motorcycle Duty Pay

An employee who performs the duties of Motorcycle Officer for at least 50% of the scheduled work time during a pay period shall receive additional pay in an amount equal to 5% of the top step of the Police Officer base salary rate for that pay period.

(B) Accident Investigator Pay

A Police Officer who performs the duties of an Accident Investigator at least 50% of the scheduled work time during a pay period shall receive an additional 5% of his/her base salary rate for that pay period.

(C) Bilingual Pay

An employee shall be eligible to receive bilingual pay in the amount of 3% of his/her base pay if the following conditions are met:

- (1) The employee is required, on a frequent and recurring basis, to speak and/or translate by reading and/or writing one or more languages other than English in the performance of his/her public contact duties.
- (2) The employee must pass a language skills test approved or administered by the City.

(D) Field Training Officer Pay

A Police Corporal or Police Officer shall receive an additional 5% of his/her base pay when designated by the City as a Field Training Officer.

(E) Career Development Pay

A Police Officer, Police Corporal, or Police Sergeant

- (1) Shall receive an additional 2.5% of his/her base pay when he/she meets each of the following eligibility qualifications:
 - (a) Has an Advanced POST Certificate.
 - (b) Has completed at least one year in one of the following specialty assignments: Motor, K9, Accident Investigation, Detective, Community Service, or Training (not FTO).
 - (c) Has commenced his/her 15th year as a sworn law enforcement officer and at least his/her 10th year of sworn law enforcement experience with the City of Fullerton.
- (2) Shall receive an additional 9.5% of his/her base pay when he/she meets each of the eligibility qualifications in Article 16 (E)(1) and has commenced of his/her 20th year as a sworn law enforcement officer and at least his/her 15th year of sworn law enforcement experience with the City of Fullerton. This pay shall be in lieu of, not cumulative to, the pay in Article 16 (E)(1).

ARTICLE 17: OVERTIME PAY

(A) Work Period

The work period for purposes of the Fair Labor Standards Act (FLSA) shall be 28 days in length pursuant to Section 207(k) of the FLSA.

(B) Overtime Provisions

- (1) The FLSA requires that each nonexempt employee required to work in excess of 171 hours in a work period shall receive compensation at the rate of time-and-one-half of his/her regular pay. The regular rate of pay shall include those pay components required by the FLSA, including but not limited to the following elements in addition to base salary:
 - (a) Education Incentive Pay (but not tuition reimbursement)
 - (b) POST Pay
 - (c) Motorcycle Duty Pay
 - (d) Accident Investigator Pay
 - (e) Bilingual Pay
 - (f) Field Training Officer Pay
 - (g) Career Development Pay
- (2) The FLSA requires that, in determining eligibility for overtime at the regular rate, paid and unpaid leaves of absence shall be excluded when calculating the total hours worked. Paid leaves of absence include, but are not limited to the following:
 - (a) Vacation
 - (b) Holiday Leave
 - (c) Sick Leave
 - (d) Administrative Leave
 - (e) Compensatory Time Off
 - (f) Workers' Compensation Leave
 - (g) Labor Code 4850 Time
 - (h) Jury Duty
 - (i) Bereavement Leave
 - (j) Military Leave
- (3) Paragraph (2) above notwithstanding, work performed in excess of the employee's regularly scheduled workday or workweek shall be paid at the rate of time and one-half of the employee's regular rate of pay.
- (4) There shall be no pyramiding of overtime. Hours worked by an employee in any workday, workweek or work period on which premium rates have

once been allowed shall not be used again in any other overtime computation.

- (5) In all instances except outside overtime (which must be paid in cash), an employee may elect to receive compensatory time off at the appropriate overtime rate in lieu of receiving paid overtime.
- (6)
 - (a) Should any employee exceed 480 hours of accrued compensatory time, he/she shall be paid for those excess hours at the appropriate overtime rate (straight time or premium rates).
 - (b) All compensatory time on the books at the end of each payroll year shall be paid off at the appropriate overtime rate (regular or base) unless used by the end of the following March, in accordance with established practice.
 - (c) Compensatory time balances shall be paid in full prior to the effective date of any salary increase. However, when an employee has a pre-scheduled and approved leave to use a portion or all of his/her compensatory time balance, that portion shall remain available for that leave; the remaining balance shall be cashed out.

(D) Authorization

All overtime requests shall have the authorization of a supervisor prior to the commencement of such overtime work. Where prior written authorization is not feasible, explicit verbal authorization must be obtained. Where verbal authorization is obtained, written authorization must be obtained as soon thereafter as practicable. Dispatched calls beyond the end of duty time are considered as authorized. This does not preclude compensation in those instances where an employee is required to perform emergency law enforcement duties as required by law.

An employee's failure to obtain prior written approval or explicit verbal authorization followed by written authorization may result in denial of the overtime request.

(E) Clothes Changing

Employees are not authorized to wear their uniforms or any part thereof that is distinguishable as such unless on-duty. Each employee is provided with a locker for his/her own personal convenience. Each employee may or may not utilize the locker for storage and changing purposes at his/her own discretion.

Nothing herein prevents an employee from wearing his/her uniform to and/or from his/her residence to work as long as the badge and insignia are covered by a non-police issue garment such as a windbreaker. Employees choosing to wear

their uniforms covered to and/or from work should not wear their "Sam-Browne" belt, holster and duty weapon to and/or from work.

Time spent in changing clothes before or after a shift is not considered time worked and is not compensable in any manner whatsoever.

(F) Shift Trades

The practice of shift trading shall be voluntary in behalf of each employee involved in the trade. The trade must be due to the employee's desire or need to attend to a personal matter, and not due to the department's operations. The employee providing the trade shall not have his/her compensable hours increased as a result of the trade; nor shall the employee receiving the trade have his/her compensable hours decreased as a result of the trade. Any premium pay or other extra compensation will be waived by both individuals during the period they work for the other. Any hours worked beyond the normal workday will be credited to the individual actually doing the work.

"Paybacks" of shift trades are the obligation of the employees involved in the trade. Paybacks are to be completed within one (1) calendar year of the date of the initial shift trade. Any dispute as to paybacks is to be resolved by the involved employees, and under no circumstances will the City be obligated for any further compensation whatsoever to any of the involved employees. The City is not responsible in any manner for hours owed to employees by other employees who leave the employment of the City or are assigned other duties.

If one individual fails to appear for the other, the employee who has assumed responsibility for the duty assignment will either be charged with a paid leave of absence as appropriate or will be listed as absent without leave and may be subject to discipline.

(G) Early Relief

The practice of early shift relief shall be voluntary in behalf of each employee involved in the relief. The employee providing the early relief shall not have his/her compensable hours increased as a result of the early relief; nor shall the employee relieved early have his/her compensable hours decreased as a result of the early relief. "Paybacks" of early relief hours are the sole obligation of the two employees involved in the early relief. Any dispute is to be resolved by the involved employees, and under no circumstances will the City be obligated for any further compensation whatsoever to any of the involved employees. The City is not responsible in any manner for hours owed to employees by other employees who leave City employment of the City or are assigned other duties.

(H) Firearms Qualification

Employees who shoot at the range at times other than the required qualification dates will be considered to be on personal time. Such time is not counted as working time and is not compensable in any manner whatsoever.

(I) Training Time

Training time outside normally scheduled work hours shall be compensated pursuant to the Code of Federal Regulations, §553.226, et seq.

An employee assigned to a training class that lasts eight or more hours on a day when he/she is regularly scheduled to work will be deemed to have worked his/her entire shift for that day. When assigned training on a regularly scheduled workday is less than eight hours, the employee will return to duty and complete any remaining portion of his/her scheduled shift.

Any training consisting of three, four or five consecutive eight-hour days shall be deemed to be the employee's workweek.

All employees, regardless of assignment, who are assigned to a training class on their regularly scheduled day off will have the days they work adjusted to accommodate the training. Overtime will not be paid for assigned training.

Travel time to or from the training site during the duty shift will be credited as time worked.

(J) Travel Time

Travel time outside normally scheduled work hours shall be compensated pursuant to the Code of Federal Regulations, §785.33, et seq.

(K) City Vehicle Use

Employees who are provided with a City vehicle to travel to and from work shall not be compensated in any manner whatsoever for such travel time in the City vehicle. This provision also applies in those situations where the radio must be left on and monitored.

This provision does not preclude compensation in those situations in which an employee is required to perform emergency law enforcement duties during his/her travel to or from work as required by law. In such cases, appropriate compensation shall be provided.

(L) City Motorcycle Use

An employee assigned to motorcycle duty may elect, subject to the approval of the Department, to use a City-assigned motorcycle to travel to and from work. Such travel time shall not be compensated in any manner whatsoever. An employee authorized by the City to travel to and from work on his/her assigned motorcycle shall not perform any upkeep, maintenance or repairs on the motorcycle during off duty hours. All upkeep, maintenance and repairs are to be performed by City mechanics or designated vendors under the City's direction.

This provision does not preclude compensation in those situations in which an employee is required to perform emergency law enforcement duties during his/her travel to or from work as required by law. In such cases, appropriate compensation shall be provided.

(M) Canine Assignment

Each canine handler shall be compensated at the rate of 30 minutes for each calendar day for the care, feeding, grooming, exercise, training and companionship of his/her assigned dog. The compensation shall be in the form of a work-day reduced by 30 minutes at the beginning or end of the shift, as determined by the City. Canine handlers will work four shifts of 9.5 hours each per week. When used, paid leave will be charged at the rate of 9.5 hours per shift.

On non-work days, canine handlers shall be paid for 30 minutes of time for the care, feeding, grooming, exercise, training and companionship of his/her assigned dog at a rate equal to two-thirds (2/3) of his/her regular rate of pay. This payment shall be made at time and one-half.

If the FLSA is invalidated, set aside or otherwise held inapplicable to local governments, the overtime provisions contained in the paragraph above shall be null and void.

Employees assigned to canine duty shall not be compensated in any manner whatsoever for time spent traveling to and from work because they have been provided a City vehicle.

(N) Athletic Activity

The City provides a gym facility for the voluntary use of employees during their off-duty hours. Time spent by employees in working out at the gym facility, and any other off-duty athletic activity, shall not be considered time worked and shall not be compensated in any manner.

(O) Call-Back Pay

Call back duty occurs when an employee is ordered to return to duty on a non-regularly scheduled work shift. Call back does not occur when an employee is held over from his/her prior shift or is working prior to his/her regularly scheduled shift.

An employee called back to duty shall be credited with a minimum of four hours work commencing when he/she reports to duty. Any time worked in excess of four hours shall be credited on an hour for hour basis for actual time worked. Travel time shall not be considered time worked and shall not be compensated in any manner whatsoever.

Where an employee is notified of the order to return to duty at least five days in advance of the call back, the provisions of this section shall not apply and the employee shall only receive overtime compensation for time actually worked, except that where the call back occurs on a regularly scheduled day off, the employee shall be credited with a minimum of two hours worked commencing when he/she returns to duty.

(P) Court Standby Pay

(1) An off-duty employee may leave a telephone number where he/she may be reached while on court standby. Such time is not considered time worked under the Fair Labor Standards Act and will not be compensated, except as set forth below.

(2) All court standby pay shall be at the employee's straight time regular hourly rate.

(3) Court sessions shall be defined as follows:

Morning – from court opening until 12:30 p.m.

Afternoon – from 12:31 p.m. to court closing.

(4) If an employee is on standby for the morning session only and is called to appear in court during that morning session, he/she is paid for the appearance time only, with a two-hour minimum. If an employee is on morning session standby and is not called to appear, he/she will be paid for two hours of standby time.

(5) If an employee is on standby for the afternoon session only and is called to appear in court during that afternoon session, he/she is paid for the appearance time only, with a two-hour minimum. If an employee is on afternoon session standby only and is not called to appear, he/she will be paid for two hours of afternoon standby time.

- (6) If an employee is on standby for the entire court day and is not called to appear, he/she will be paid for four hours of standby time.
- (7) If an employee is on standby for the entire court day and is called to appear, he/she is paid for court appearance time only with a four-hour minimum.
- (8) When an employee is directed to be on standby for a particular court session and the directive is rescinded prior to the beginning of that session, the employee shall receive the standby pay provided herein for that session unless the directive is rescinded prior to 96 hours before the session.
- (9) This payment is made pursuant to this Agreement, not pursuant to the FLSA.

(Q) Court Appearance Pay

All court appearance pay shall be at one-and-one-half (1.5) times the employee's regular rate of pay.

For off-duty court appearances pursuant to a lawful subpoena relating to events occurring during the course and scope of an employee's employment, an employee shall be credited on an hour-for-hour basis for the time actually spent in court. An employee shall be credited with a minimum of two hours for the court appearance; except, where the employee's regularly scheduled work shift commences or ends within two hours after/before the court appearance, the employee shall receive court appearance pay only for the actual time spent in court. Where two or more court appearances are required on the same date for different cases, and are separated by a period of at least two hours, a two-hour minimum payment shall apply to each such court appearance. Unless otherwise required by law, travel time shall not be considered time worked and shall not be compensated in any manner whatsoever, except for civil subpoenas, and criminal appearances outside of Orange County.

An employee who has been placed on standby will not be eligible for Court Appearance Pay unless thereafter the employee has been directed to appear in court.

(R) Telephonic Testimony

Whenever an officer subpoenaed to appear in court or in another official proceeding relating to events occurring during the course and scope of employment is directed by the person conducting the proceeding to testify by telephone in lieu of appearing, the officer shall telephone the person conducting the proceeding 15 minutes prior to the hearing time to provide a telephone number at which the officer can be reached to offer testimony. The officer will receive a minimum of one

hour of pay at a time-and-one-half rate. Should an officer be required to testify for more than one hour or on more than one occasion on the same date for the same event, for a total period of more than one hour, the employee shall receive time-and-one-half pay for the actual time spent testifying via the telephone. When complying with subpoenas for telephonic hearings, employees are not entitled to court standby pay as described in Article 17(P), nor are they entitled to court appearance pay as described in Article 17(Q).

(S) Detective Standby Pay

An employee assigned to Detective Standby shall be available by telephone and able to report for duty if called. Such time is not considered time worked under the Fair Labor Standards Act and will not be compensated, except as set forth below.

- (1) Detective Standby pay shall be at the employee's straight time regular hourly rate.
- (2) An employee shall receive two hours standby pay for each weekend day (Saturday and Sunday) or Holiday (as defined in Article 32) on which he/she is assigned to Detective Standby.
- (3) Assignments to Detective Standby shall be at the discretion of the Chief of Police or his/her designee and shall be limited to not more than 2 detectives each from Crimes Persons, Crimes Property and Family Crimes Divisions and 1 from Accident Investigation for each weekend day or Holiday.
- (4) Assignments will not be made for Holidays when Detectives are scheduled to work regular hours.
- (5) An employee called into work while on Detective Standby shall be paid in accordance with Article 17(O) Call-Back Pay in addition to Detective Standby Pay.

ARTICLE 18: ACTING PAY

The pay provisions of the City's Acting Pay program (contained in Resolution 8485) are modified to provide that an employee 1) shall receive Acting Pay beginning at the start of the first full shift following 80 consecutive working hours of an Acting assignment, and 2) shall be paid for all time served in a subsequent Acting position if the employee has received Acting Pay for the same temporary classification within the preceding 12 months, and there are at least seven consecutive calendar days in the second Acting assignment.

ARTICLE 19: EDUCATIONAL INCENTIVE PROGRAM

(A) Objectives

The education program is designed to encourage employees to continue their development by enrolling in approved courses which will:

- (1) Educate them in new concepts and methods in their occupational field and prepare them to meet the changing demands of their job.
- (2) Help prepare them for advancement to positions of greater responsibility with the City.

To meet these objectives, the program is made up of four parts:

- (1) Tuition Reimbursement - Reimbursement of fees for tuition, registration and reading materials for eligible course(s).
- (2) Education Incentive Pay - A percentage payment based upon the completion of a degree or equivalent units of study in specified majors.
- (3) POST Certificate Pay - A flat rate for employees who possess POST certificates and who fail to comply with incentive pay maintenance requirements.

(B) General Guidelines

- (1) The Director of Human Resources or his/her appointed representative shall:
 - (a) Review written applications submitted under this program by employees through the Chief of Police.
 - (b) Grant approval by certifying the acceptability of majors, courses and expenditures, or suggesting those courses which will qualify the employee for education pay/tuition reimbursement.
 - (c) Consult with Department Heads and school authorities in connection with the development and establishment of criteria and standards.
 - (d) Render a decision on applications for tuition reimbursement or educational incentive pay within 60 days from the date an application was received in the Human Resources Department.

- (2) If approval is denied, the employee may submit a written appeal within 30 days of denial by the Human Resources Department to an Education Review Committee consisting of three members appointed by the City Manager. The decision of the Committee shall be final and binding on all parties subject to their right to seek judicial review, and the decision shall not be subject to the grievance procedure set forth in Article 45.

(C) Eligibility

- (1) All regularly appointed employees who have passed their initial probation period are eligible to receive tuition reimbursement. Courses must commence after the employee passes the initial probation period; be in excess of the educational standards for the classification (as noted in the class specification) and not be taken to acquire skills, knowledge and abilities which the employee was deemed to have when appointed to the classification. An example of this would be job-related college or university courses when the specification for the classification calls for high school graduation.
- (2) Courses must be approved by one of the six regional accreditation associations recognized by the Council on Post-Secondary Accreditation. Credits given for non-classroom assignments, such as life experience, military training, and professional training are not eligible for tuition reimbursement. These courses will be considered eligible for educational incentive pay when receiving compensation for an approved completed degree.
- (3) Courses must be: 1) related to the employee's current classification; 2) related to a City classification to which the employee may reasonably expect promotion within five years of completion of his/her educational objective; or 3) required for the completion of the pre-approved job-related major. An example of the third requirement would be general education or elective requirements for the major as stated in the school catalog.
- (4) Courses shall not duplicate training which the employee has already had or which is to be provided in-house unless approval has been granted by the Chief of Police and the Human Resources Department.
- (5) Courses related to the use of City-approved computer equipment purchased by the employee may be authorized under the tuition reimbursement program if pre-approval is granted before commencement of a non-accredited class.
- (6) Courses cannot be taken on City time. The employee must certify that all courses submitted for approval were taken on his/her off-duty time.

- (7) To certify eligibility, a fully completed pre-approval form shall be submitted to the Chief of Police and to the Human Resources Department before the course begins.

(D) Reimbursement

- (1) Tuition reimbursement request forms must be submitted within three months of completion of approved course(s). A minimum final grade of "C" or its equivalent is required for reimbursement. A pass in a pass/fail course will be considered equivalent to a "C" for reimbursement purposes only. No reimbursement shall be made for audited or incomplete courses.
- (2) Employees shall be reimbursed for tuition and any fees and reading materials required by the academic institution for the eligible courses. Expenses for parking, travel, lodging, meals, transcript fees, materials and any other costs are not reimbursable.
- (3) Employees shall be reimbursed up to the dollar amount charged for the same number of units per term by California State University, Fullerton, except that those enrolled in University of California courses shall be reimbursed up to the dollar amount charged for the same number of units by the UC campus attended.

In all cases, there shall be a maximum of \$2,500 per fiscal year for courses taken during that particular fiscal year. The difference between the City's maximum obligation during any fiscal year and the total amount of actual reimbursement received by the employee during that fiscal year shall not be carried over or be available for use by the employee in any subsequent fiscal year.

- (4) Employees must submit a bona fide certification of major, fees paid and grade achieved from the attendant institution to have their reimbursement request considered. These documents must accompany the reimbursement request form in order to be processed.
- (5) Requests for educational incentive pay and tuition reimbursement should be submitted on the same form if applying for both.
- (6) Upon separation from employment, employees shall reimburse the City for any funds received under this program for courses completed during the last 12 months of employment. This payback provision does not apply to employees who receive a service or disability retirement [as defined in Article 25(B)], who are laid off by the City or who separate as a result of a City/departmental reorganization.

(E) Education Incentive Pay

- (1) Qualifying employees in all classifications except Police Officer Trainee shall be eligible for Educational Incentive Pay upon meeting designated criteria:
 - (a) Employee is currently employed full time, with a minimum of one-year current, continuous full-time service as an employee of the City.
 - (b) Meets all of the requirements listed under Eligibility.
 - (c) Any employee who has met all the eligibility requirements may receive incentive pay under this section for education completed prior to employment with the City.
 - (d) One Hundred and Twenty (120) semester units or 180 quarter units shall be considered equivalent to a B.A. or B.S. degree; 60 semester units or 90 quarter units shall be considered equivalent to an A.A. degree.
 - (e) Compensation as set forth below shall be paid to all qualifying employees effective the first day of the pay period following approval.
- (2) Compensation
 - (a) Compensation of 7.5% of base salary, not to exceed 7.5% of the top step of a Police Corporal's base salary rate, shall be awarded for any of the following:
 - (1) B.A. or B.S. degree.
 - (2) Advanced POST Certificate plus 60 semester (or equivalent) units.
 - (3) Advanced POST Certificate. Under this option, an employee with less than 60 semester (or equivalent) units must complete, during off-duty time, three semester units or the equivalent of City-approved course work each fiscal year in order to maintain this level of education incentive pay during the next fiscal year. Employees with less than 60 semester (or equivalent) units who have failed to comply with this maintenance requirement in the preceding fiscal year shall be compensated as provided in paragraph (F) below.

No payment shall be made when the Advanced Certificate is a requirement of the classification held.

- (b) Compensation of 3% of base salary, not to exceed 3% of the top step of a Police Corporal's base salary rate, shall be awarded for either of the following:
 - (1) A.A. or A.S. degree.
 - (2) Intermediate POST Certificate. Under this option, the employee must complete, during off-duty time, three (3) semester units or the equivalent of City-approved course work each fiscal year in order to maintain this 3% pay during the next fiscal year. Employees covered by this option who have failed to comply with this maintenance requirement in the preceding fiscal year shall be compensated as provided in paragraph (F) below.

No payment shall be made when the Intermediate Certificate is a requirement of the classification held.

(F) POST Certificate Pay

Compensation shall be awarded as shown to those employees who possess the indicated POST certificate, and who have failed to comply with the maintenance requirements in the preceding fiscal year as set forth above.

Intermediate Certificate - \$23.07/biweekly
Advanced Certificate - \$46.15/biweekly

An employee may switch between the education incentive pay program and the POST Certificate Pay program only once every fiscal year.

ARTICLE 20: UNIFORM ALLOWANCE

- (A) Employees shall receive an allowance for this purpose. The biweekly amount shall be \$31.54.
- (B) The City shall furnish the required safety equipment (including a leather jacket) to employees assigned to motorcycle duty, and replace said equipment as needed.

ARTICLE 21: SURVEYS

In determining what is adequate compensation, the parties shall use as a guideline the compensation provided to comparable employees in the following cities: Anaheim, Buena Park, Costa Mesa, Garden Grove, Huntington Beach, Newport Beach, Orange and Santa Ana.

ARTICLE 22: CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS)

- (A) For unit employees hired as police safety members before December 23, 2012, the City's contract with CalPERS shall include the following options:
- (1) 3% at 50 benefit formula (Cal. Gov. Code §21362.2).
 - (2) One-Year Highest Compensation (Cal. Gov. Code §20042).
 - (3) Post-Retirement Survivor Allowance (Cal. Gov. Code §§21624 and 21626).
 - (4) Fourth Level of 1959 Survivor Benefits (Cal. Gov. Code §21574).
 - (5) Military Service Credit as Public Service (Cal. Gov. Code §21024), in which the employee pays the entire cost.
 - (6) Pre-Retirement Optional Settlement 2 Death Benefit (Cal. Gov. Code §21548).

For unit employees hired as police safety members on or after December 23, 2012, the City's contract with CalPERS shall include the following options:

- (1) For such employees who are not considered "new members" as defined under the Public Employees' Pension Reform Act of 2013 (Cal. Gov. Code §7522 – 7522.74), hereinafter "PEPRA" - 3% at 55 benefit formula (Cal. Gov. Code §21363.1).
- (2) For such employees who are "new members" as defined in Government Code section 7522.04(f) - 2.7% @ 57, as mandated by PEPRA.
- (2) Employees who are not "new members" as defined under PEPRA will have their final compensation calculated based on the provisions of California Government Code §20037. Final Compensation shall be based upon the average of highest paid 36 consecutive months.
- (3) Employees who are "new members" as defined under PEPRA will have their final compensation calculated based on the provisions of California Government Code §7522.32. Final Compensation shall be based upon the average of the highest pensionable compensation for 36 consecutive months.
- (4) Post-Retirement Survivor Allowance (Cal. Gov. Code §§21624 and 21626).
- (5) Fourth Level of 1959 Survivor Benefits (Cal. Gov. Code §21574).

- (6) Military Service Credit as Public Service (Cal. Gov. Code §21024), in which the employee pays the entire cost.
- (7) Pre-Retirement Optional Settlement 2 Death Benefit (Cal. Gov. Code §21548).

(B) Employer-Paid Member Contributions

For employees who are not “new members” as defined under PEPRA, the City shall pay each affected employee's CalPERS normal member contribution (as defined in §20677 et seq. of the California Government Code) into each affected employee's account with CalPERS, pursuant to §20691 of the California Government Code, and include this payment within the employee's compensation earnable that is reported to CalPERS, pursuant to §20636(c)(4) of the California Government Code.

This employer-paid member contribution shall not be considered base salary, and is not taxable income, pursuant to Section 414(h)(2) of the Internal Revenue Code. However, should any state or federal agency alter the current income tax treatment of such payment, the consequences of such action shall be the sole responsibility of the affected employees, and shall in no way alter any obligation of the City toward such employees.

As mandated by PEPRA, each employee meeting the definition of “new member” as defined under Government Code §7522.04(f) shall contribute his/her full member contribution of fifty percent (50%) of the normal cost as determined by CalPERS. (Cal. Gov. Code §7522.30) This contribution shall be made by way of payroll deductions.

(C) Cost Sharing

Police Safety Members under the 3% @ 50 benefit formula shall contribute 9.252% of their compensation earnable (as defined in Government Code §20636) toward the employer contribution rate, and police safety members who are hired under the 3%@55 benefit formula shall contribute 9.0%. As previously agreed, the City amended its contract with CalPERS effective December 23, 2012 to implement the provisions of California Government Code §20516(a), to provide that the greatest portion possible of the contribution shall be made pursuant to that section, with the balance of the contribution made pursuant to Government Code Section §20516(f). In the event of a change in the law or legal determination that any portion of the employee contribution toward the employer rate is not allowable as agreed, the employer-paid member contributions shall be reduced by whatever portion is not allowable and the parties shall meet and confer to determine the appropriate modifications of benefits to offset this change.

For Miscellaneous employees, the total employee contribution required by this Article shall be 7%.

It is further provided that should legislation be enacted that requires employees pay any portion of the required member contribution, then the City shall take whatever action is necessary to reduce the amount of the employee pick-up of the employer contribution by the amount of the required payment by the employee of the member contribution.

(D) CalPERS Categories

SAFETY

Police Officer
Police Corporal
Police Sergeant

MISCELLANEOUS

Police Officer Trainee

ARTICLE 23: SOCIAL SECURITY

In the event the City and its employees are required to participate in the Federal Social Security program, the contribution designated by law to be the responsibility of the employee shall be paid in full by the employee, and the City shall not be obligated to pay or "pick up" any portion thereof.

ARTICLE 24: MEDICARE

Employees hired by the City on or after April 1, 1986 shall be required to pay the designated employee contribution to participate in the MediCare Program, and the City shall be under no obligation to pay or "pick up" any such contribution.

ARTICLE 25: HEALTH INSURANCE

(A) Contributions – Employees

- (1) The City shall contribute the following monthly amounts toward the payment of premiums for employees and their dependents under the existing programs (or a new program providing substantially similar coverage and benefits mutually agreed upon by the City and the Association):

For coverage in effect on July 1, 2015.

For employees hired before July 26, 1996:

	Blue Cross	CalCare	Kaiser
Single	\$803.86	\$548.71	\$487.75
Two-Party	\$1,831.72	\$1,153.22	\$974.87
Family	\$2,363.79	\$1,576.84	\$1,311.15

Any increases in the Blue Cross (Anthem) Prudent Buyer, CalCare or Kaiser premium rates shall be divided equally between the City and the employee.

For employees hired on or after July 26, 1996:

	Blue Cross	CalCare	Kaiser
Single	\$487.75	\$548.71	\$487.75
Two-Party	\$974.87	\$1,153.22	\$974.87
Family	\$1,311.15	\$1,576.84	\$1,311.15

For persons hired on or after July 26, 1996, who choose the Blue Cross plan, the City's maximum contribution shall be equal to the City's contribution toward the Kaiser plan in each category.

Any increases in the CalCare or Kaiser premium rates shall be divided equally between the City and the employee

Effective January 1, 2016, the Blue Cross (Anthem) Prudent Buyer and the CalCare HMO plans shall be amended to include the benefit plan changes specified on Appendix C.

The City may reopen this Agreement on the issue of health insurance benefits, to negotiate changes to the health insurance benefits, including but not limited to, insurance plans provided and contributions made by the City or employees, in the event necessary to avoid penalties under the Affordable Care Act or applicable regulations and their interpretation by the federal government .

- (2) During the term of this agreement, the City shall engage a consultant to study the feasibility and costs of changing medical insurance plans, carriers and contribution strategies. At the conclusion of the work by the consultant, the City or Association may reopen this Agreement to meet and confer on potential changes to Article 25 to be effective on or after January 1, 2017

(B) City Contributions - Retirees

For each person regularly employed for 20 cumulative calendar years or more who retires from the City subsequent to September 30, 1995, the City shall pay the same contribution provided to active employees for employee-only coverage under the City health plan chosen by the employee, provided, however, for persons hired by the City on or after January 1, 2012, the maximum monthly contribution paid under this paragraph shall be Two Hundred Dollars (\$200.00). With respect to any such person who retired between January 1, 1985 and September 30, 1995 the City shall pay 100% of the employee-only premium.

For each person who has been regularly employed for ten or more cumulative calendar years but less than 20, and who retires subsequent to September 30, 1995 the City shall pay 50% of the contribution provided to active employees for employee-only coverage under the City health plan chosen by the employee, provided, however, for persons hired by the City on or after January 1, 2012, the maximum monthly contribution paid under this paragraph shall be One Hundred Dollars (\$100.00). With respect to any such person who retired between January 1, 1985 and September 30, 1995 the City shall pay 50% of the employee-only premium.

"Retiree" shall mean only those former employees who receive a CalPERS retirement allowance that has been in effect since the day after official separation from City of Fullerton employment.

This obligation to pay health insurance premiums shall end at such time as the retiree becomes eligible to enroll, automatically or voluntarily, in MediCal or MediCare.

A retiree desiring to have health insurance coverage for him/herself or for dependents shall remit to the City a check for the amount of the premium less the City contribution no later than the 15th of the month preceding the effective month of coverage.

The City will reimburse retirees who live out-of-state for the actual cost of procuring comparable health insurance in an amount not to exceed what the City would otherwise be obligated to pay on behalf of the retiree pursuant to this paragraph (B) for single-party Blue Cross coverage. This reimbursement shall have no cash value to the retiree.

(C) Single-Party In-Lieu Pay

- (1) Except as provided in paragraphs (2) and (3), each employee with "single-party only" coverage under a City health insurance plan shall receive \$15 per pay period, which shall be considered as ordinary income for purposes of reporting gross income to the Internal Revenue Service and the State

Franchise Tax Board. In addition, the City shall contribute into the deferred compensation account of each such employee an amount equal to \$39.23 per pay period.

- (2) The following employees who have "single-party only" coverage under the Blue Cross plan shall not be eligible to receive the payments (totaling \$54.23) described in the preceding paragraph:
 - (a) Persons regularly appointed on or after August 11, 1995 and,
 - (b) Persons regularly appointed prior to August 11, 1995 who 1) as of that date have "2-party" or "family" coverage under the Blue Cross plan and 2) later elect to convert to "single-party only" coverage under the Blue Cross plan.
 - (3) Persons regularly appointed prior to August 11, 1995 who a) as of that date have "2-party" or "family" coverage under the Blue Cross plan and b) later elect to receive "single-party only" coverage under a plan maintained by the City other than Blue Cross shall still be eligible to receive those payments. Likewise, persons regularly appointed prior to August 11, 1995 who as of that date have "single-party only" coverage under the Blue Cross plan will continue to receive the payments described above, even if at some subsequent future time they should convert to either "2-party" or "family" coverage under the Blue Cross plan and then later return to "single-party only" coverage under the Blue Cross plan, provided that they will not be eligible to receive the payments during the period they are not receiving "single-party only" coverage.
 - (4) A person regularly appointed on or after August 11, 1995 who is not on the Blue Cross plan but subsequently switches to Blue Cross "single-party only" coverage shall not be eligible for Single-Party In-Lieu pay.
 - (5) Employees appointed on or before August 11, 1995 who "opt out" under the provisions of paragraph (E) below are not eligible for Single-Party In-Lieu pay if they re-enroll in a City health plan.
- (D) Married Employee Couples

One member of a married employee couple may elect to "opt out" of the group medical plan on a voluntary basis. The City will then pay the two-party or family premium for the covered spouse, depending on the number of dependents covered. The other spouse will receive a cash payment of 50% of the City's reduced cost, not to exceed \$50.00 per pay period.

(E) Opt Out

This benefit is not available to an employee eligible for the "Married Employee Couples" benefit described above.

- (1) An employee may "opt out" of the City's medical plan under these conditions:
 - (a) The employee must sign a document stating his/her desire to waive medical insurance.
 - (b) The employee must provide proof of other coverage, which shall be confirmed by the City each year prior to open enrollment.
 - (c) The employee may only re-enroll during 1) annual open enrollment, or 2) upon loss of coverage in accordance with the underwriting guidelines for each of the City's health plans. Re-enrollment in the Blue Cross Prudent Buyer plan may be subject to pre-existing conditions, if established by the provider.
- (2) The employee will then receive a cash payment equal to 50% of the City's reduced cost, including SPIL Pay, if any. The minimum payment shall be \$50 per pay period, and the maximum shall be \$100 per pay period.

ARTICLE 26: REIMBURSEMENT ACCOUNT PROGRAM

The City's Reimbursement Account Program shall be made available to all affected employees.

Pursuant to said program, an employee shall be entitled to request that eligible expenses be paid or reimbursed by the City out of the employee's account, with the employee's base salary being reduced by the amount of any such payments or reimbursements.

Each employee with a payroll deduction for medical and dental insurance premiums shall have his/her salary reduced by the amount of those deductions, on a before-tax basis.

ARTICLE 27: LIFE INSURANCE

The City will provide \$20,000 group term life insurance for each employee. Each employee shall be eligible to purchase additional City group term life insurance at the employee's option, and at the employee's own cost.

ARTICLE 28: DENTAL INSURANCE

The City shall pay the entire employee-only premium (but no more than \$25 per month) under any group dental insurance plan administered by the City.

A retiree [as defined in Article 25(B)] and his/her eligible dependents may subscribe to a City dental plan by paying the full premium for the coverage chosen. A retiree desiring to have dental insurance coverage for him/herself or for dependents shall remit to the City a check for the amount of the premium no later than the 15th of the month preceding the effective month of coverage.

ARTICLE 29: VISION INSURANCE

The City shall provide vision care insurance to employees on the Blue Cross (Anthem) Prudent Buyer and California Care medical plans and pay an amount equal to the employee-only premium.

Effective January 1, 2012 or as soon thereafter as possible, employees enrolled in the Blue Cross (Anthem) Prudent Buyer or California Care medical plans may enroll eligible family members in the City sponsored vision plan at their own option and cost, payable through a payroll deduction. Eligibility and enrollment of such family members is subject to the standard plan rules.

ARTICLE 30: SELF-INSURANCE/OTHER

The City shall have the right to provide all or any portion of the benefits presently available under any existing health, long-term disability, dental, or vision plan through a self-insurance program, or, in the case of vision insurance, via a contract with a direct provider; however, the election of such option shall not cause affected employees to suffer any loss of benefits or coverage.

A medical advisory committee, to include representatives of the four major employee organizations, has been established. The Committee shall meet with City representatives at least four times per year. This Committee's functions shall include analysis of plan coverage and cost containment opportunities, the review of alternative approaches to medical insurance, and communications to and from employees, for the purpose of providing reasonably priced medical care. Committee recommendations shall be developed with a view toward including them in this Agreement.

ARTICLE 31: CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT

Employees not entitled to benefits under Article 25(B) who are allowed to remain on a City health or dental insurance plan following separation from employment pursuant to

the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) may be charged the maximum rate permissible by law (presently 102% of the premium for an active employee).

ARTICLE 32: HOLIDAYS

(A) All regular full-time employees who work or are absent from work with the approval of their Department Head on the work day before and the work day after any such holiday shall receive the following paid holidays of eight hours each, except as provided in (11) below:

- (1) January 1, New Year's Day
- (2) The third Monday in February, Presidents' Day
- (3) The last Monday in May, Memorial Day
- (4) July 4, Independence Day
- (5) The first Monday in September, Labor Day
- (6) November 11, Veteran's Day
- (7) Thanksgiving Day
- (8) The Friday following Thanksgiving Day
- (9) December 24, Christmas Eve (if a Saturday or Sunday, the following Tuesday shall be observed)
- (10) December 25, Christmas Day
- (11) December 31, New Year's Eve, unless it falls on a Saturday or Sunday, when no holiday shall be observed.

(B) No other day shall be such a holiday unless it is a nonrecurring holiday designated specifically by the President of the United States and/or the Governor of California, and approved by the City Council.

(C) Employees Working With Regard To Holidays

- (1) When a holiday falls on a Saturday, an employee, in lieu of pay for that holiday, shall be permitted an absence from work with pay equal to a regularly scheduled work day on either the Friday immediately before or the Monday immediately after the holiday, as designated by the Department Head to keep the department open and functioning on said days.
- (2) When a holiday falls on a Sunday, such employee, in lieu of pay for that holiday, shall be permitted an absence from work with pay equal to a regularly scheduled work day on the Monday immediately following the holiday.
- (3) An employee with a workweek other than Monday through Friday shall be permitted a corresponding absence from work when a holiday falls on his/her regular shift off. That absence from work must be taken immedi-

ately preceding or following the holiday, as designated by his/her Department Head. If an employee's regular work schedule precludes such absence in order to provide the usual continuous services of his/her department, the employee shall be compensated in the form of compensatory time of eight hours to be used in accordance with existing holiday compensatory time payoff policies.

- (4) When any employee is absent from work under circumstances which entitle him/her to receive sick leave benefits for any holiday, there shall be no double payment. Instead, he/she shall be paid the holiday benefit hereunder, and shall not be charged or paid for the sick leave benefits for such time that he/she received holiday pay.

(D) Employees Working Without Regard To Holidays

Each employee who is normally required to work without regard to holidays shall receive an additional eight hours of pay for each holiday. In lieu of receiving payment in cash as each holiday occurs, such employee may elect to receive holiday leave on a bi-weekly basis. This leave shall be added to the employee's existing vacation balance. The employee's vacation balance shall then be reduced by the number of hours actually absent from work for vacation or holiday purposes. At the end of each payroll year, such employees may elect to convert up to the previous year's maximum vacation accrual for holidays into a cash payment at the base salary rate then in effect.

ARTICLE 33: VACATION

(A) Accrual

- (1) Each employee shall accrue vacation credit with pay in accordance with the following table:

	Number of Hours	
	Annually	Biweekly
Until the 5th Anniversary	104	4.00
From the 5th to the 10th Anniv.	120	4.62
After the 10th Anniversary	128	4.93
After the 11th Anniversary	136	5.24
After the 12th Anniversary	144	5.54
After the 13th Anniversary	152	5.85
After the 14th Anniversary	160	6.16

- (2) Vacation credit shall accrue each pay period in which the employee has worked or used paid leave except sick leave at least one full regular work-

day. An employee absent on sick leave or unpaid leave of absence for an entire pay period shall not receive vacation credit for that pay period.

- (3) An employee shall not be entitled to accrue and accumulate vacation credits until successful completion of the Police Academy. At that time, the employee immediately shall be credited with four (4) hours of vacation for each biweekly period during which he/she attended the Academy, and shall begin accruing future vacation credits in the manner described above in subparagraph (1).

(B) Use

Employees shall request and use vacation in accordance with Police Department policies, rules and practices and the following:

- (1) Department Head Approval. No vacation absence with pay may be taken without approval by the Chief of Police or designee.
- (2) Employees in the Police Academy are not allowed to use vacation.
- (3) An employee on his/her initial probation period with the City may use only a total of three shifts of vacation if approved by the Chief of Police or his/her designee.
- (4) Vacation may not be used when an employee is absent for personal medical reasons and has sick leave available.

(C) Accumulation Limit

An employee may accumulate vacation credits, with the right to take or be paid for if not taken, up to twice his/her annual vacation allowance. Vacation credit earned beyond the maximum is forfeited with the following exception:

When any written request by an employee to take a vacation is presented to the Chief of Police (or designee) and refused or not acted upon and the employee is not allowed other vacation time off to prevent a loss of vacation credits, and the employee would thereby lose any vacation credits by reason of the accrual limit herein provided, the employee shall then be paid at the straight time salary rate then in effect. That payment shall be not only for the time worked, but also for the vacation time that would have been credited to the employee for so working were it not for said accumulation limit, until such time as he/she is permitted to take a vacation.

(D) Separation From Employment

Any employee, except those in the Police Academy or on their initial probation period with the City, who separates from employment by resignation, layoff, or otherwise, shall be paid the balance of his/her accumulated vacation credits at the base pay rate in effect on the date of separation. In the case of the employee's death, the balance shall be paid to the employee's designee or, if none, to the employee's estate.

ARTICLE 34: SICK LEAVE

(A) Each regular full-time employee shall earn and accumulate 3.69 hours of sick leave for each pay period in which the employee has worked at least one full regular workday. An employee absent on vacation shall receive sick leave credit, but an employee absent on sick leave or unpaid leave of absence for an entire pay period shall not receive sick leave credit for that pay period.

(B) Sick Leave Usage

Sick leave is provided so that employees will not suffer financially because of inability to work due to bona fide illness or injury. An employee shall be allowed to use his/her accumulated sick leave as follows:

(1) Absences relating to the health of the employee:

- (a) Personal illness or physical incapacity which does not result from service-connected illness or injury. The sole exception to the above is that sick leave may be used to supplement workers' compensation temporary disability benefits so that an employee will receive full salary between the expiration of Labor Code §4850 benefits and the start of benefits under the long-term disability insurance program. This exception shall be applied retroactively only when the employee has returned to work for a minimum of 30 working days.
- (b) Medical or dental appointments;
- (c) Forced quarantine in accordance with community health regulations;

(2) (a) Absences relating to the health of the employee's family:(a) Health conditions of or medical or dental appointments for the employee's spouse, parents, children, stepchildren, brother, sister, mother-in-law, father-in-law or others as required by law in a total amount not to exceed 48 hours in a payroll year.

- (b) The care of an employee's newborn child/children or the placement with an employee of a son or daughter for adoption or foster care within the first 12 months after birth or placement, for up to 96 hours.
- (c) The serious health conditions of a family member which qualifies under the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), provided that the employee has submitted all necessary documentation to the Human Resources Department certifying the condition qualifies for FMLA or CFRA .

In no event shall the total time taken pursuant to 2a, 2b, and 2c exceed 480 hours in any 12-month period. This maximum limit of 480 hours shall be reduced by any time taken pursuant to the employee's own FMLA qualifying condition(s) within such rolling 12-month period except as otherwise required by law.

(C) Approval of Sick Leave

- (1) Sick leave may be taken only when an employee has sick leave credits. The first sick leave with pay may not be taken until 24 hours of sick leave has been credited. No payment for sick leave shall be made without the approval of the Chief of Police or designee.
- (2) Prior to resuming work after taking three or more consecutive shifts of sick leave, an employee shall submit a physician's certification that he/she was off work for a covered reason and that the employee is able to perform his/her normal job duties. For example, an employee absent on Monday, Tuesday and Wednesday must provide this release upon returning to work on Thursday.

If the absence of three or more consecutive shifts is for family illness (see B2 above), the employee shall submit certification from the family member's attending physician of the medical condition during the length of absence for which paid leave is requested. The physician's certification shall verify that the family member had an illness, injury, or medical procedure during the period of time for which paid leave is requested. However, the certification shall not be required to include a diagnosis or description of injury or treatment.

(D) Bereavement Leave

The death of a member of the employee's immediate family shall entitle the affected employee to be absent for three regular work shifts, and such absence shall not be charged to sick leave. An employee may also use two shifts of accumulated sick leave per incident for bereavement purposes, and the City Man-

ager may authorize up to an additional five shifts of sick leave usage for bereavement purposes when appropriate.

The definition of "immediate family" for the purpose of bereavement leave shall include the employee's spouse, parents, children, stepchildren, brother, sister, mother-in-law, father-in-law, grandparent, grandchild, stepparent, legal guardian, or others as required by law.

(E) Annual Optional Conversion of Sick Leave

A person who has been regularly employed by the City for the full preceding payroll year may convert at the base hourly rate in effect at the end of that payroll year a fixed percentage of the unused portion of sick leave credits earned during the preceding payroll year in accordance with the following:

- (1) An employee who uses two regularly scheduled shifts or less of sick leave during the preceding payroll year may convert either,
 - (a) Up to 60% to cash or a deferred compensation contribution under the City's plan, or
 - (b) Up to 30% to vacation and up to 30% to either cash or deferred compensation.
- (2) All other employees may convert either,
 - (a) Up to 50% to cash or deferred compensation; or
 - (b) Up to 25% to vacation and up to 25% to either cash or deferred compensation.

All sick leave credits not taken as sick leave or otherwise converted shall remain within the employee's accumulated sick leave credits.

(F) Payment for Unused Sick Leave Upon Separation

Except as provided in this subparagraph, no payment shall be granted to an employee for accrued sick leave at the time of separation.

Employees regularly (i.e., non-hourly) appointed on or before June 30, 1984 and employed continuously thereafter and those appointed after that date who are killed in the line of duty and qualify under the federal Public Safety Officers' Benefits Act of 1976 ("eligible employees," for purposes of this subparagraph only) are entitled to payment for unused sick leave upon separation as follows:

- (1) If an eligible employee separates due to death or retirement, 50% of the unused sick leave credits accumulated will be paid to the employee or, in the case of the employee's death, to the employee's designee or, if none, to the employee's estate. Such payment will be at the base salary rate in effect at the time of separation.
- (2) An eligible employee who separates after ten years of continuous service for any reason other than death or retirement shall be compensated for 50% of the unused balance of all accumulated sick leave credits in excess of 960 hours, to be paid at the base salary rate in effect at the time of separation.

ARTICLE 35: WORKERS' COMPENSATION PROGRAM

- (A) Sworn peace officers shall have all of the benefits conferred upon them by the laws of the State of California with respect to job-incurred illness or injury.
- (B) The anniversary date of any employee who is absent from work as a result of an illness or an injury, either of which were induced by or arose from the performance of duties in the course of his/her employment, shall not be affected as long as the employee is receiving an amount equal to his/her full pay. During such time, the employee shall continue to accrue vacation and sick leave benefits in the same manner as though he/she were not absent.

ARTICLE 36: JURY DUTY

When an employee is duly summoned to jury duty, he/she shall receive her/his regular pay for any regularly scheduled working hours spent in actual performance of such service. If the employee received \$50 or more for such service, the employee shall remit to the City all fees and allowances payable for such service, less reimbursements from the court for meals, travel or lodging.

Employees who have the option to request call-in juror status shall exercise that option.

ARTICLE 37: APPOINTMENTS

The City's Personnel Rules and current practices are hereby amended to provide as follows:

The City has the right to promote to Sergeant or to Corporal any person who is among the top three candidates on the eligible list applicable to the position.

ARTICLE 38: WORK SCHEDULES

- (A) Time Worked - Each full-time employee shall work or be on approved leave an average of 40 hours during each calendar week, 80 hours during each City pay period, or 160 hours during each FLSA work period. Part-time employees shall work between 20-39 hours per FLSA work period. Employees shall work such additional hours as may, from time to time, be required in the judgment of the City to serve the citizens of the city.
- (B) Work Schedules - The work schedules currently in use are generally as shown on Appendix B.
- (C) Alternatives to the traditional schedule have been developed (see Appendix B) and are described below. The following rules apply to alternative schedules:
 - (1) Under the terms and for the duration of this Agreement, the City will be in compliance with the Madera decision, and will have no additional overtime obligations, either prospective or retroactive, under that decision.
 - (2) Implementation of an alternative schedule does not create any additional obligation for daily or other overtime, unless required by the Fair Labor Standards Act.
 - (3) Personnel assigned to an alternative work schedule shall continue to accrue vacation, holiday and sick leave in accordance with the current accrual rates. When vacation, holidays or sick leave are used, the employee shall be charged based on actual time taken, calculated hour-for-hour.
 - (4) The Association and the City will meet and confer over any issues which may arise which have not been foreseen and addressed in this Agreement.
- (D) 3/12 Plus 10 Plan
 - (1) The regular work schedule for Uniform Patrol Officers, except those assigned to Traffic or Canine duty, shall be the "3/12 plus 10" plan, hereafter referred to as The Plan. The Plan shall consist of twelve 12.5-hour workdays and one 10-hour workday in each 28-day work period per section 207(k) of the Fair Labor Standards Act ("FLSA"). for each employee. This equals 160 work hours during each 28-day work period. With the exception of the 10-hour workdays and the possible exception of relief teams, each employee shall be scheduled to work three 12.5-hour days, with four consecutive days off, in each seven-day calendar period.

Actual work schedules shall be designed and implemented by the City, subject to the following limitations: The regular schedule for an employ-

ee's three consecutive 12.5-hour workdays will have shifts that begin within a two-hour window of time (i.e. one hour before or one hour after the regular starting time) on each day. The daily scheduled starting time(s) for the 12.5-hour workdays shall remain the same from week to week. It is intended that The Plan will minimize the use of relief teams, which have inconsistent hours or work days that are not consecutive. When relief teams are necessary, no more than 10% of Patrol personnel assigned to The Plan will be assigned to such teams, unless otherwise agreed upon by the Association.

Unless otherwise agreed upon by management and the employee or prevented by an emergency, 10-hour workdays will be prescheduled for a fixed day at the discretion of management. It is intended that once the day is selected for the 10-hour workday, it will remain the same from one work period to another. The scheduling of all ten-hour workdays will accommodate the required eight-hour rest period between work shifts as described below, and will be consecutive to (before or after) the employee's regular 12.5-hour workdays. The 10-hour workdays will be scheduled so as to occur entirely within the time period normally worked on the employee's 12.5-hour workday, unless otherwise agreed upon between management and the employee(s) involved.

The average workweek, for benefit plan purposes only, shall be 40 hours.

- (2) The City shall have the right to alter the time and date work shifts begin and end, subject to the limitations set forth in paragraph (C)(1), provided that work schedules of individual employees shall not be changed for the purpose of avoiding an obligation to pay overtime, except in the case of emergencies. An emergency in this context occurs when management must call for mutual aid from other cities or when it is necessary to preplan the use of mutual aid for a pending event by arranging for a Code Charlie or Code Charlie Checkmate. An emergency does not exist when pre-planned, nonemergency special events require additional staffing.
- (3) "Flexible scheduling" for Sergeants shall be discontinued while The Plan remains in effect unless otherwise approved by management.
- (4) Overtime
 - (a) An employee may not work back-to-back shifts. When a shift change or other event would require an employee to work back-to-back shifts, management shall adjust the schedule to avoid this situation.
 - (b) To help ensure an employee is adequately rested, a minimum of eight cumulative non-work hours must occur between duty shifts.

Where needed, adjusted schedules as approved by management, vacation time or compensatory time may be used to accomplish this purpose. Overtime hours earned by the employee may also be used to offset hours needed to achieve the required rest period when agreed upon by management and the employee involved.

- (c) Overtime assignments shall not exceed two hours immediately following or prior to a regularly scheduled 12.5-hour work shift unless required by an emergency or otherwise approved by management. On the final shift of the employee's regularly scheduled workweek, overtime assignments may be extended two additional hours, for a total of four overtime hours.
- (d) Outside overtime assignments shall be limited to non-duty days, except upon conclusion of the last 12.5-hour workday of the week or on a ten-hour workday. When the last workday of the week is a 12.5-hour day, outside overtime shall be limited to four hours, unless otherwise approved by management.
- (e) With respect to employees described in paragraph (D)(1) above, all briefings, meal periods and breaks shall be included within the daily work schedule. Each such employee shall be entitled to appropriate overtime compensation for any and all time worked in excess of his/her daily work schedule, or 160 hours over two biweekly pay periods within a 28 day FLSA work period. Any such employee shall not be entitled to overtime compensation if the duties or responsibilities of his/her assignment preclude him/her from being able to take a meal period or breaks.

(5) Injured-On-Duty

While an employee is on injured-on-duty status for more than one work-week (3 consecutive shifts), his/her work schedule shall be 8:00 a.m. to 5:00 p.m., Monday through Friday.

- (E) Except as provided herein and in paragraph (F), the regular schedule for employees not on the "3/12 plus 10" plan shall be 80 hours in a 14-day period, consisting of eight workdays of nine hours duration and one workday of eight hours (i.e., a 9/80 Plan). DARE Officers shall be on the 4/10 schedule, except that when school is not in session, their work schedule will become that of the Division to which they are assigned. Motor Officers, Accident Investigators and Canine Officers shall continue to participate in a 4/10 plan consisting of four 10-hour workdays, with three consecutive days off, in a seven-calendar-day period.

(F) 4/10 Plan - Investigation Bureau

- (1) Employees assigned to the Investigation Bureau shall have a "4/10" work schedule. The parties may mutually consent to a different schedule for any detail within the bureau.
- (2) Meal periods shall be non-paid time.
- (3) Investigators assigned to a task force (e.g., RNSP or OCATTS) shall be on the work schedule utilized by the task force.

ARTICLE 39: PAYROLL SYSTEM

- (A) The City shall utilize the biweekly pay system. Pay periods shall begin at 12:01 a.m. every other Saturday, and end at midnight on the second Friday (i.e., 14 calendar days later) thereafter. Paydays shall occur on the Friday following the conclusion of each pay period. The one exception to this is when that Friday is a City holiday, the payday shall fall on the preceding business day.
- (B) Each affected employee shall participate in the City's direct deposit payroll program.
- (C) The payroll year begins on the first day of the biweekly pay period that is paid in a new calendar year, and ends on the last day of the pay period that is paid within the same calendar year.

ARTICLE 40: VENDING MACHINES

The Association may use City property and utilities to provide vending machines for use by affected employees, and the Association shall receive the profits therefrom. The City retains the right to approve any changes in location or number of vending machines.

The FPOA shall hold the City harmless from the existence of any and all vending machines, and from the use and operation thereof; from the consumption of any product dispensed thereby; and from any malfunction, personal injury, property damage or accident resulting from the existence, use or operation thereof.

ARTICLE 41: SUBSTANCE ABUSE

- (A) It is the responsibility of all affected employees to cooperate to protect the lives, personal safety and property of coworkers and fellow citizens. The parties hereto and all affected employees shall take all reasonable steps to accomplish these goals and to minimize potential dangers.

- (B) It is in the best interest of the City, the Association, affected employees and the public to ensure that affected employees do not appear for work under the influence of drugs or alcohol, or possess illegal substances or alcohol while at work because such conduct is likely to result in reduced productivity, an unsafe working environment, poor morale and increased potential liability to the City. "Under the influence of drugs" means the use of any illegal substance or misuse of a prescribed drug in a manner and to a degree that impairs the employee's work performance or the ability to use City property or equipment safely.
- (C) The City pays for a counseling service for employees who have problems with drugs and/or alcohol. The City and the Association agree that every effort shall be made by the City and the Association to refer employees who have such problems to this counseling service for assistance.
- (D) The City may compel an employee who is unable to perform the duties of his/her position to submit to a medical examination on City time and at the City's expense.

ARTICLE 42: USE OF TOBACCO

- (A) In addition to the policy set forth in City directives, no employee shall use tobacco products in any form inside or on City buildings, structures, facilities, vehicles, and no uniform employee shall use tobacco products in plain view of the public at any time.

ARTICLE 43: MEDICAL EXAMINATIONS

- (A) The City shall provide a periodic medical exam to affected employees on a voluntary basis. This exam shall include at least the same elements as provided in the pre-employment medical exams given to new officers. A description of the exam requirements is contained in the Police Department Manual.
- (B) When the exam is scheduled during an employee's regularly scheduled shift, the employee shall be entitled to up to two hours leave with pay per annum for this purpose. If any additional on-duty time is needed, that time shall be charged to sick leave, subject to the existing rules and procedures governing sick leave.
- (C) The examination information and results shall not be made available to the City except in accordance with Civil Code §56.10, et seq., and except that the medical provider shall give the City a written statement concerning the employee's fitness for duty.

- (D) The City retains the right to unilaterally determine 1) the scope of employee medical exams paid for by the City; 2) the methods by which those exams are delivered; and 3) the medical providers to perform those exams.
- (E) The City retains the right to have an employee examined by a City-designated physician to determine if the employee is able to physically and mentally perform all the duties of his/her position on a regular and continuing basis. The cost of said examination will be borne by the City, and the results shall be furnished to the employee upon request.

ARTICLE 44: DISCIPLINE

In addition to the discipline alternatives set forth in current policy and practice, an employee may elect, when offered by the City, to reduce his/her vacation balance. If the discipline is a suspension without pay, it is the employee's option to reduce his/her vacation balance in lieu of being absent without pay.

ARTICLE 45: GRIEVANCES AND DISCIPLINARY APPEALS

- (A) Purpose: To provide a means by which employee grievances may be considered, discussed and resolved at the closest possible level to the point of origin.
- (B) A grievance is any dispute concerning the interpretation or application of the Employer-Employee Resolution, or of rules or regulations governing personnel practices or working conditions, or of the practical consequences of a City rights decision on wages, hours and other terms and conditions of employment.

Grievances shall be waived for all purposes if not presented to the supervisor within 14 calendar days from the date the aggrieved employee knew, or by reasonable diligence could have known, of the occurrence of the act or omission on which the grievance is based.

Grievances shall be presented in accordance with the procedures set forth below. The affected employee may process the grievance with or without his/her recognized employee organization representative.

- (C) Informal procedure: An employee with a grievance shall first discuss it with his/her immediate supervisor without delay. If the problem is not answered to the employee's satisfaction, he/she shall have the right to discuss the grievance with the supervisor's immediate superior. Every effort shall be made to resolve the problem in this manner.
- (D) Formal procedure: If informal efforts have not been successful in resolving the grievance, the employee may utilize this formal procedure by submitting an ap-

peal in writing within 14 calendar days of the response given in the informal procedure.

In the event the recipient of the formal grievance determines that the explanation contained in the written appeal was inadequate for any reason, that person shall immediately notify the grievant of the precise manner in which the explanation was determined to be deficient, and inform the grievant that he/she has an additional seven calendar days within which to correct that deficiency by submitting a modified written appeal. The grievant shall have the right to amend the written appeal at any time prior to arbitration.

- (1) First level of appeal: The appeal shall be submitted to the employee's immediate supervisor who shall consult with his/her superior and render his/her decision and comments in writing within 14 calendar days of receipt of the appeal.
- (2) Second level of appeal: If the employee does not agree with the decision, or if no answer has been received within 14 calendar days, he/she may present the appeal in writing to the Department Head. Failure of the employee to take further action within 14 calendar days after receipt of the first level decision, or within a total of 14 calendar days if no decision is rendered, will bar further consideration.
- (3) Department review: Upon receipt of the appeal, the Department Head should discuss the grievance with the employee, his/her representative, if any, the supervisor and the Director of Human Resources. The Department Head shall render his/her decision and comments in writing and return them to the employee within 14 calendar days after receiving or hearing the appeal, whichever occurs later. If the employee does not agree with the decision rendered, or if no answer has been received within 14 calendar days, he/she may present the appeal in writing to the City Manager. Failure of the employee to take further action within 14 calendar days after receipt of the decision, or within a total of 14 calendar days if no decision is rendered, will bar further consideration of the appeal.
- (4) City Manager review: The City Manager shall discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The City Manager may designate a committee or officer not in the employee's normal line of supervision to advise him/her concerning the appeal. The City Manager shall render a decision in writing to the employee within 14 calendar days after receiving or hearing the appeal, whichever occurs later.
- (5) Grievance Mediation: This procedure is available after the City Manager level of the grievance procedure is completed.

- (a) If either party is not satisfied with the City Manager's decision it may, within 14 calendar days following receipt of the City Manager's decision, submit a written request to the other party for mediation of the dispute. Mediation shall be voluntary by both the City and the grievant.
- (b) Grievance mediation is a supplement to, and not a substitute for, the steps of the regular grievance procedure outlined in this Article. Any deadlines for the grievance procedure shall be waived to permit the grievance to proceed to arbitration should mediation be unsuccessful.
- (c) If the parties agree to mediation, a request shall be submitted to the California State Mediation and Conciliation Service (CSMCS) in writing. If the CSMCS is unable to serve in a timely manner, the parties shall agree on another mediator. Any costs of the mediator or the mediation process shall be divided equally between the City and the Association.
- (d) The function of the mediator shall be to attempt to assist the parties to achieve a mutually satisfactory resolution of the dispute. The mediator has no authority to compel resolution of the grievance.
- (e) Proceedings before the mediator shall be informal, and the Rules of Evidence shall not apply. No record, stenographic or tape recordings of the meetings will be made. The mediator's notes are confidential, and their content shall not be revealed. Nothing said or done by the parties or the mediator during the grievance mediation session can be attributed to the other party in any subsequent arbitration, court or government agency proceeding.
- (f) The mediator may conduct the conference utilizing all of the customary techniques associated with mediation, including the use of separate caucuses.
- (g) In the event that no settlement is reached during the mediation process, the mediator may provide the parties, either in separate or joint session, with an oral advisory opinion unless both parties agree that no such opinion is necessary.
- (h) If either party does not accept the mediator's opinion, the matter may then proceed to arbitration in the manner and form provided in this Article. Such arbitration hearings will be held as if the grievance mediation had not taken place. The mediator may not serve as the arbitrator.

- (i) If a satisfactory resolution of the dispute is achieved by this mediation process, the parties shall sign a written statement to that effect and thus waive the right of either party to any further appeal.
- (6) Arbitration: If either party so requests, a professional arbitrator shall hear the grievance on its merits for the purpose of attempting to resolve the dispute in a satisfactory manner. Such requests for arbitration must be filed in writing with the Director of Human Resources within 14 calendar days following receipt of the City Manager's written decision. Failure to do so will bar consideration by an arbitrator.

If the parties are unable to agree on an arbitrator, the Director of Human Resources shall immediately request the California State Mediation and Conciliation Service to provide a list of seven arbitrators acceptable to that organization. The parties shall alternatively strike names from that list until only one person remains. That individual shall be the arbitrator. The determination as to which party strikes first shall be made by random means, such as a coin flip.

This paragraph shall not diminish the City Council's authority to review the arbitration decision.

The City Council shall have the right to refuse arbitration if, in its judgment, the issue to be submitted to arbitration has recently been reviewed by a professional arbitrator for Fullerton.

- (7) The arbitrator, after hearing all pertinent evidence and testimony, shall make written recommendations to the City Manager and the parties involved. Then, if either party is still in disagreement, it may request that the City Council decide the matter. Such requests must be filed in writing with the Human Resources Director within 14 calendar days from the date of the arbitrator's recommendations. Failure to do so will bar Council consideration of the arbitrator's recommendations.

The arbitrator shall limit his/her findings and recommendations strictly to the interpretation or application of this Agreement or of Rules and Regulations governing personnel practices or working conditions, or the practicable consequences of a City rights decision on wages, hours and other terms and conditions of employment, and shall make no recommendation:

- (a) Contrary or inconsistent with or modifying or varying in any way the provisions of the Employer-Employee Relations Resolution.
- (b) Inconsistent with the City's duties, responsibilities, or obligations as provided by law.

- (c) Recommending any wage increase or decrease.
- (d) Recommending the payment of back wages for more than 14 calendar days prior to the date the aggrieved employee knew, or by reasonable diligence could have known, of the occurrence of the act or omission on which the grievance is based.

The arbitrator shall make no recommendation reversing, overruling, or otherwise modifying any City decision or omission except after finding (1) the City decision violated some express provision of the Resolution, or (2) the City decision or omission was, under the circumstances, arbitrary, capricious, discriminatory or otherwise unreasonable.

- (8) The City Council shall be guided by the arbitrator's recommendations in reaching its decision. The Council shall act upon the arbitrator's recommendations within 60 calendar days of the Director of Human Resource's receipt of a request for it to do so. The City shall notify the employee of the Council's action by first class mail. Such notice shall be postmarked no later than three calendar days after the Council action.

(E) Conduct of Grievance Procedure

- (1) The time limits specified above may be extended to a specified date by mutual agreement of the parties concerned. Unless so extended, failure to timely process a grievance shall bar further processing of such grievance.
- (2) The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her appeal at any level of review.
- (3) The employee and/or his/her representative may use a reasonable amount of work time as determined by the appropriate supervisor or Department Head in conferring about and presenting the appeal. However, no employee shall absent him/herself without first being excused by his/her supervisor.
- (4) Employees shall be assured freedom from reprisal for using the grievance procedure.
- (5) The settlement terms of a grievance which is processed by an employee individually or by an informally recognized employee organization shall not conflict with the express provisions of this Agreement.
- (6) The costs of the arbitrator and any administrative fees shall be borne equally by the City and the Association.

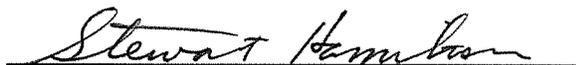
(F) Appeals From Disciplinary Action

- (1) When an employee seeks to appeal disciplinary action, (following the provision of all procedural safeguards required to be provided prior to the imposition of discipline), he/she shall initiate the formal Grievance Procedure by filing a written grievance at the level of the authority which has effectively imposed the discipline. This appeal must be received by said authority within 14 calendar days after the employee's receipt of the document which imposes such discipline.
- (2) Should an employee wish to appeal the consequences of disciplinary action beyond the City Manager stage, he/she shall submit his/her written request for arbitration to the City's Director of Human Resources within 14 calendar days following receipt of the City Manager's written decision. Failure of the employee to so act will bar further consideration of the grievance.

DATED: October 26, 2015

For The Fullerton Police
Officers' Association

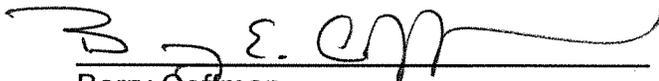
For The City Of Fullerton



Stewart Hamilton
President



Gretchen R. Beatty
Director, Human Resources



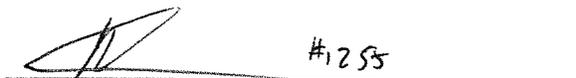
Barry Coffman
Representative



Julia James
Director, Administrative Svcs.



Robert Kirk
Representative



Kenneth Edgar
Representative