

MEMORANDUM OF UNDERSTANDING  
BETWEEN AND FOR  
CITY OF MERCED  
AND  
MERCED POLICE OFFICERS ASSOCIATION

January 1, 2019

Through

December 31, 2019

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is made and entered into this 20<sup>th</sup> day of May, 2019 by and between the City of Merced, hereinafter referred to as the "City," and the Merced Police Officers Association, hereinafter referred to as the "Association."

### ARTICLE I INTENT AND PURPOSE

SECTION 1.01. PURPOSES. The purposes of this Agreement are to assure the efficient and economical operation of the City; to secure and sustain maximum work effort of each employee covered by this Agreement; to maintain a harmonious relationship between the employees in the bargaining unit and the City; to establish wages, hours and working conditions; to prevent strikes, slowdowns, and any other disturbances which interfere with or interrupt operations; and to set forth the entire agreement between the City, the Association, and the employees covered by this Agreement concerning rates of pay, wages, and other conditions of employment to be observed by the parties hereto.

### ARTICLE II RECOGNITION AND NON-DISCRIMINATION

SECTION 2.01. RECOGNITION. The City hereby recognizes the Association as the exclusive representative for the purpose of meeting and conferring with respect to wages, hours of employment and other working conditions, of all full-time and regular part-time law enforcement and law enforcement associated employees employed in the classified service by the City at its police department facilities; but excluding all employees and supervisors who are specifically represented in other units.

SECTION 2.02. NON-DISCRIMINATION. In accordance with Federal and State law the City prohibits discrimination and harassment against race, religion, color, age (40 and over), sex (including gender, gender identity, gender expression), national origin, ancestry, physical or mental disability, medical condition, genetic characteristics or information, marital status, sexual orientation (including homosexuality, bisexuality, or heterosexuality), military and veteran status, or any other basis protected by law.

SECTION 2.03. ASSOCIATION AFFILIATION. The City and the Association agree to protect the rights of all employees to exercise their free choice to join or refrain from joining the Association.

SECTION 2.04. ASSOCIATION RESPONSIBILITIES. The Association recognizes its responsibilities as representative for the purpose of meeting and conferring and agrees to represent all probationary and regular full-time employees in the unit without discrimination, interference, restraint or coercion.

ARTICLE III  
DUES DEDUCTION AND FORMS

SECTION 3.01. DUES DEDUCTION. During the term of this agreement, members of the unit may tender Association dues to the Association directly. If a member voluntarily signs a dues deduction authorization form authorizing the City to deduct Association dues from the employee's regular biweekly paycheck, the City will make said deduction provided the employee is on regular pay status and the employee's paycheck is sufficient to cover the amount of the dues.

The Association is solely responsible for distributing to, and collecting from, employees the dues deduction authorization forms. It is the employee's responsibility to submit requests to start or stop dues deductions directly to the Association and not to the City. The Association is responsible for maintaining the dues deduction forms from individual employees. Copies of an individual employee's dues deduction authorization need not be provide to the City unless a dispute arises about the existence or terms of the authorization. Questions regarding Association membership, dues amount, and payroll deductions must be directed to the Association and not the City.

The Association will provide the City an updated, certified dues deduction list of bargaining unit members who have provided written authorization for dues deductions. The City will deduct dues for only those employees who are in the bargaining unit in accordance with such certified list. The Association will immediately notify the City of any changes to employee's deduction including starting and stopping dues deductions, or validly cancelling or revoking a dues deduction authorization, and will provide the City within five (5) business days, an updated, certified dues deduction list noting any specific changes from the last list provided to the City. The City will implement the change(s) in the pay period following the City's receipt of such notification. The City will issues a check to the Association no later than 30 days after the deductions occur.

SECTION 3.02. WITHDRAWAL OF MEMBERSHIP. Withdrawal of membership shall only be allowed if the request for termination of payroll deductions is received by the Association in the month of January of any year.

SECTION 3.03. CERTIFICATION OF DUES. The Association shall certify to the Finance Officer the amount of Association monthly dues, including specific amounts of related charges for insurance or other programs. If the Association changes the amount of dues, each such change must be certified to City at least four (4) weeks prior to the change becoming effective.

SECTION 3.04. LIABILITY. If during the term of this Agreement any claims, charges or lawsuits are brought against City by any party over the matter of Association dues or Association dues deduction from members' paychecks, and/or withdrawal of membership, Association agrees to indemnify, defend, and hold the City harmless from

and against any and all claims or liability of any kind arising from this section and agrees to pay any and all costs of such claims, charges, lawsuits, damages or settlements, including reasonable attorney's fees to be determined by a court of competent jurisdiction. In addition, Association shall refund to City any amounts paid to it in error upon presentation of supporting evidence.

SECTION 3.05. ORIENTATION. The Association shall be provided notice by the City of the hire of any new employee in the bargaining unit and one Association member shall be permitted no more than 30 minutes of duty to provide the new hire orientation.

#### ARTICLE IV AUTHORIZED REPRESENTATIVES

SECTION 4.01. AUTHORIZED REPRESENTATIVES. For purposes of administering the terms and provisions of the various ordinances, resolutions, rules and regulations adopted with this Memorandum of Understanding, City's principal authorized agent shall be the Municipal Employees Relations Officer or his/her duly authorized representative, except where a particular management representative is otherwise designated; Association's principal authorized agent shall be the president of the Association or his/her duly authorized representative.

SECTION 4.02. TIME OFF FOR REPRESENTATIVES. City agrees to allow three (3) employee representatives of Association reasonable time off during regular work hours without loss of compensation or other benefits when formally meeting and conferring with representatives of City on matters within the scope of representation. Such time shall include reasonable preparation time as approved by the City Manager not to exceed two (2) hours per week. Executive Board Members of the Association shall be granted time off without loss of compensation to attend regular membership meetings and regular scheduled Executive Board meetings not to exceed two (2) per month. The schedule must be submitted to the Chief thirty (30) days in advance of the meetings.

SECTION 4.03. REPRESENTATION RELEASE TIME. City and Association agree that, as long as there is no disruption of work, any one of the officers of Association may be allowed reasonable release time away from his/her work duties, without loss of pay, to assist any unit employee or employees in investigation of facts and in presentation of a grievance. An officer of the Association may assist an employee of the unit only at such time as a grievance is reduced to writing.

In addition, the City agrees to allow three (3) employee representatives of the Association reasonable time off during regular work hours without loss of compensation or other benefits when testifying or appearing as the employee representative of the Association in conferences, hearings or other proceedings before the Public Employment Relations Board, or an agent thereof, in matters relating to a charge filed by the City against the Association or a charge filed by the Association against the City and testifying or appearing as the employee representative of the Association in matters

before the Personnel Board. The Association shall provide the City with at least ten (10) calendar days' notice when requesting time off pursuant to this paragraph.

SECTION 4.04. TIME AUTHORIZATION. Association agrees that employee representatives shall not leave their duty or workstation or assignment to engage in Association representation duties without reasonable approval of the department head or other authorized City management official.

## ARTICLE V HOURS AND WORKING CONDITIONS

SECTION 5.01. WORKDAY, WORKWEEK, WORK PERIOD. For full-time sworn employees of the unit, the normal workday shall be eight (8), ten (10) or twelve (12) hours depending on assignment; the normal work period shall be eighty (80) hours during each fourteen (14) calendar days.

For full-time non-sworn employees the normal workday shall be eight (8) hours; the normal workweek shall be forty (40) hours; the normal work period shall be established by the City in compliance with the Fair Labor Standards Act. Employees may be assigned to an alternate work schedule by the Department Head. Approval of alternate work schedule shall be on a case by case basis and is not grievable.

SECTION 5.02. BULLETIN BOARD POSTING. Employees shall work a basic workweek according to the schedule prepared by the department head and posted on the department bulletin board no less than thirty (30) days prior to the effective date of the schedule.

SECTION 5.03. REST PERIODS.

- A. All employees, except Patrol, Traffic, and CSO's, shall be granted a rest period or coffee break limited to fifteen (15) minutes during each four (4) hours of regular work.
- B. Patrol, Traffic, and CSO's shall be granted a rest period or coffee break limited to twenty (20) minutes during each regular shift. Employees scheduled to work at least four (4) hours shall also be granted a twenty (20) minute rest period or coffee break.
- C. Rest periods shall not be scheduled within one (1) hour of the beginning or the ending of a work shift or lunch period.
- D. The department may make reasonable rules concerning rest period scheduling.

- E. No wage deduction shall be made and no time off shall be charged against employees taking authorized rest periods. Rest periods shall be considered hours worked and employees may be required to perform duties, if necessary. Rest periods not taken shall be waived and employees shall not accrue any rights or overtime for rest periods not taken.

SECTION 5.04. MEAL PERIOD. All employees normally shall be allowed a meal period of not less than thirty (30) minutes nor more than one (1) hour which shall be scheduled generally in the middle of the work shift. The department may make reasonable rules concerning meal period scheduling. Employees are not authorized to work through a meal period to make up for previous absences, to accrue overtime, to gain entitlement to an earlier quitting time, or for any other reason, unless the employees' assigned or mandated duties require otherwise.

SECTION 5.05. WORK SCHEDULE CHANGES. Within the basic categories of workday, workweek, work period, rest period and meal period, the department head, with the approval of the City Manager, shall have the discretion to modify work schedules to meet the needs of the City. When changes in schedules are anticipated, or immediately necessitated by emergency conditions, the department head shall give employees as much advance notice as is reasonably possible. For purposes of this agreement, emergency conditions are conditions involving real or potential loss of service or property or personal danger as determined by the management of the City.

SECTION 5.06. SHIFT CHANGE. Shift change shall be made twice annually: (1) the first day of the pay period immediately following January 5 of each year, and (2) the first day of the pay period immediately following July 5 of each year.

SECTION 5.07. SENIORITY. Seniority for shift assignment, as established in the General Order, Section 339.8 (previously Special Order Manual, Section S-4), shall be adhered to.

SECTION 5.08. OVERTIME-DEFINITION. Overtime for sworn employees is defined as assigned and authorized time worked beyond the established eighty (80) hours in a fourteen (14) day (biweekly) work period. Overtime for non-sworn employees is defined as assigned and authorized time worked beyond the established forty (40) hours in a work week.

SECTION 5.09. OVERTIME-COMPUTED. No sooner than the January 1, 2019, effective the first full pay period following City Council approval of this MOU, for the purpose of computing the number of hours worked, time during which an employee is excused from work because of a holiday, vacation, sick leave, authorized compensatory time off (CTO) shall be considered time worked by the employee.

SECTION 5.10. OVERTIME-BASIC RATE. Except as otherwise provided in this Memorandum of Understanding, compensation for assigned and authorized overtime

work in excess of eighty (80) hours in a work period for all sworn members and forty (40) hours in a work week for all non-sworn members of the unit shall be at a rate equivalent to one and one-half times the regular hourly rate.

SECTION 5.11. OVERTIME-DOUBLE TIME. Employees in the unit shall be reimbursed at a rate equivalent to two (2) times the regular hourly rate for overtime in connection with parades, dances, fairs, rodeos, special ceremonies and other special events when both of the following conditions occur: 1) when the assignments for such overtime are scheduled less than five (5) days in advance of the event, and 2) when the costs of such activities are reimbursed to the City by the sponsoring group or agency.

SECTION 5.12. OVERTIME FOR GUNNERY PRACTICE. Employees shall be compensated in accordance with the regular overtime provisions of this agreement for gunnery practice for scheduled shoots when such practice occurs during off-duty hours. Such practice shall not be considered callback.

SECTION 5.13. OVERTIME-CHRISTMAS/NEW YEAR'S. Employees in the unit shall be reimbursed at a rate equivalent to two (2) times the straight time hourly rate for any event listed in Section 5.11 Overtime-Double Time, when such event starts between 8:00 p.m. December 24 and 8:00 p.m. December 25, 8:00 p.m. December 31, and 8:00 p.m. January 1.

SECTION 5.14. COURT OVERTIME-DUTY DAY. Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), any member of the unit who is subpoenaed to appear in court in connection with their official duties on a regularly scheduled duty day, but during hours when he/she is not scheduled to be on duty, and as set forth in Section 5.15 Court Overtime-Day Off, and who reports to the court, shall receive a minimum of three (3) hours pay at a rate equivalent to one and one-half times the straight time hourly rate, or shall receive pay for the actual amount of time spent in court at a rate equivalent to one and one-half times the regular hourly rate, whichever is greater

SECTION 5.15. COURT OVERTIME-DAY OFF. Any member of the unit who is subpoenaed to appear in court in connection with their official duties on a regularly scheduled day off, and who reports to the court, shall receive a minimum of three (3) hours pay at a rate equivalent to one and one-half times the regular hourly rate. If the member does not testify in the morning but is advised by the Court that the matter has been continued to that same afternoon, and the member is required to testify that afternoon, he/she shall receive pay for the accrual amount of actual time spent in court testifying at a rate equivalent to one and one-half times the regular hourly rate in addition to the payment of the initial minimum three (3) hours pay.

If a member reports to court in connection with their official duties on a regularly scheduled day off, and begins testimony at that time, he/she shall receive a minimum of three (3) hours pay at a rate equivalent to one and one-half times the regular hourly rate, or shall

receive pay for the actual amount of time spent in court testifying at a rate equivalent to one and one-half times the regular hourly rate, whichever is greater.

SECTION 5.16. CALLBACK-DEFINITION. Callback work is defined as work required of an employee when such employee is not on his/her regular shift during the period that begins one (1) hour after the employee has left work and ends one (1) hour before the employee is scheduled to begin the next regular shift.

SECTION 5.17. CALLBACK PAY. Employees called back to work by the department head or his/her representative during the period specified in Section 5.15 Court Overtime-Day Off shall receive a minimum of three (3) hours pay at the appropriate rate.

SECTION 5.18. STANDBY OR ON-CALL. Except as otherwise provided in this Memorandum of Understanding, any member of unit assigned by the department head or his/her representative to stand by or be on call outside the regular duty schedule shall receive a standby or on-call allowance of one (1) hours pay at his/her straight time hourly rate for each accumulated eight (8) hours of such standby or on-call required. An employee on standby or on-call who is called back to work shall be paid in accordance with the provisions of Section 5.16 Callback Definition.

SECTION 5.19. COMPENSATORY TIME OFF (CTO). Sworn members of the unit who work over eighty (80) hours in a 14-day work period and non-sworn members who work over forty (40) hours in a work week may be given compensatory time off (CTO) in lieu of cash payment for overtime at the discretion of the department head. The time at which compensatory time off (CTO) may be taken will be in accordance with FLSA guidelines and after considering the preferences of the employee.

SECTION 5.20. COMPENSATORY TIME OFF (CTO) RATE. When CTO is authorized in lieu of cash payment for overtime, it shall be allowed and taken at the same rate that overtime is computed in accordance with the overtime sections of this agreement.

SECTION 5.21. COMPENSATORY TIME OFF (CTO)-MAXIMUM ACCRUAL. The maximum accrual of CTO hours is eighty (80) hours. Above the maximum accrual, all overtime worked shall be paid in cash. Employees may, once per quarter, elect to cash out up to forty (40) hours of CTO.

SECTION 5.22. COMPENSATORY TIME OFF (CTO)-PAYMENT. Prior to or upon resignation, termination or retirement, or by a promotion to an exempt position, a member of this unit shall be permitted to utilize accumulated CTO, or shall be paid the cash equivalent of the accumulated CTO, prior to the effective date of the resignation, termination or retirement. Employees may cash out any accrued CTO at the rate it is earned. CTO payment shall be made by separate check.

SECTION 5.23. GENERAL AUTHORIZATION. The amount of overtime work, callback work, standby, or on-call, and the method of reimbursement for such work, such as cash, time off, or a combination thereof, shall be determined through general policy of



the City Manager except as specifically abridged in this Memorandum of Understanding. No employee shall perform overtime work, callback work, standby, or on-call unless such work is authorized and directed by the department head or his/her representative, and no employee shall be paid for such overtime, callback, standby, or on-call unless the same shall be approved by the department head on the payroll sheet submitted at the end of the pay period in which the work was performed.

SECTION 5.24. HOLIDAYS. During the term of this agreement the following holidays are recognized as City holidays for pay purposes:

New Year's Day .....	The 1 <sup>st</sup> day of January
Martin Luther King, Jr. Day .....	The 3 <sup>rd</sup> Monday of January
Washington's Birthday .....	The 3 <sup>rd</sup> Monday of February
Memorial Day .....	The last Monday in May
Independence Day .....	The 4 <sup>th</sup> day of July
Labor Day .....	The first Monday in September
Veteran's Day .....	The 11 <sup>th</sup> day of November
Thanksgiving Day .....	The 4 <sup>th</sup> Thursday in November
Day After Thanksgiving .....	The day after the 4 <sup>th</sup> Thursday in November
Christmas Day .....	The 25 <sup>th</sup> day of December
Either Christmas Eve or New Year's Eve .....	As long as the department is adequately Staffed as determined by the Police Chief or Designee
One Floating Holiday .....	To be taken at the discretion of the Police Chief Or Designee. Available to be taken up to December 31 of each calendar year. Unit members hired after the second Monday in October shall not be eligible for Floating Holiday that calendar year.

When any day recognized as a holiday by the City falls on a Sunday, the following Monday shall be considered the holiday. When any day recognized as a holiday by the City falls on a Saturday, the preceding Friday shall be considered the holiday.

Martin Luther King Holiday will be reinstated, if successor MOU is approved by City Council prior to actual holiday. No retro payment.

SECTION 5.25. MODIFICATION OF HOLIDAY SCHEDULE. Subject to regulation and control of the City Manager, the department head may require any employee to work on any or all holidays. City agrees that the department head will not alter the regular schedule on holidays for police officers and police dispatchers assigned to the operations division.

SECTION 5.26. HOLIDAY PAY-DAY WORKED. Employees of the unit eligible for holiday benefits who are required to work on a day designated as a holiday shall be paid at the straight time rate for each hour worked during the first eight (8) hours of work on such holiday and, in addition, shall receive pay equal to and in lieu of time off at the straight time rate for the holiday.

SECTION 5.27. HOLIDAY PAY-DAY OFF. When a day designated as a holiday falls on a normally assigned day off of an employee of the unit who is eligible for holiday benefits, the employee shall receive additional pay equal to and in lieu of time off at the straight time hourly rate for the holiday.

SECTION 5.28. HOLIDAY PAY-LEAVE OF ABSENCE. Notwithstanding the provisions of Section 5.25 Modification of Holiday Schedule, an employee in the unit shall not receive holiday pay if he/she is on a leave of absence.

SECTION 5.29. HOLIDAY PAY – ADD TIME TO VACATION. Employees in the classes of Police Officer, Animal Control Officer, and Community Services Officer and Dispatcher may forfeit holiday pay for up to four holidays per year and add such time, with the approval of the department head and not to exceed four workdays (32 hours), to their vacation accumulation provided that the addition of these hours does not exceed the maximum number of vacation hours authorized to accumulate. When the employee takes such holiday time, it shall not be necessary to combine any of this holiday leave time with any vacation time.

## ARTICLE VI WAGES

SECTION 6.01. WAGES. The City and the Association agree that the Pay Plan shall be amended for the classifications represented by the Association to reflect increases effective June 17, 2019 pay period 14 of (2.50%). Wages are listed in Attachment A, which is hereby incorporated in and made a part of this Memorandum of Understanding.

The proposal shall not be retroactive and is effective on a go forward basis no sooner than pay period 14 of 2019 following ratification by membership and approval of the MOU by the City Council, but no sooner than first full pay period after City Council approval.

SECTION 6.02. PAY FOR INVESTIGATIVE DUTY. During the time an employee in the classification of Police Officer is assigned to investigative duty, he/she shall be paid an additional amount per month equal to seven and one-half percent (7.5%) of officer's monthly base rate of pay. Up to two specialty pay differentials may be added to investigative assignment pay. Appointment to investigative duty assignment shall be for a five-year period. After any period of assignment, the employee's supervisor shall

make a written recommendation to the Police Chief regarding extension of the assignment. Two year extensions may be made at the discretion of the Police Chief. Any such assignment or extension is not vested and may be revoked at any time. Removal from investigative duty assignment for the purpose of departmental needs shall not be considered discipline. Assignments to investigative duty, DART, GVSU, FTO, MMNTF, and MMGTF are not stackable. As used in this section, "assigned" means performing the duty for thirty (30) or more consecutive workdays pursuant to an order or directive from a superior officer, either verbally or in writing.

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), during the time an employee in the classification of Police Officer is assigned to a rotating investigative duty, he/she shall be paid an additional amount per month equal to seven and one-half percent (7.5%) of officer's monthly base rate of pay. Up to two specialty pay differentials may be added to the rotating investigative assignment pay. Appointment to the rotating investigative duty assignment shall be for a two-year period at the discretion of the Police Chief. After any period of assignment, the employee's supervisor shall make a written recommendation to the Police Chief regarding extension of the assignment. Assignments to rotating investigative duty, DART, GVSU, FTO, MMNTF, and MMGTF are not stackable. As used in this section, "assigned" means performing the duty for thirty (30) or more consecutive workdays pursuant to an order or directive from a superior officer, either verbally or in writing.

**SECTION 6.03. FIELD TRAINING OFFICER PAY.** An employee in the class of Police Officer who is assigned to Field Training Officer (FTO) duty shall be paid an additional amount per month equal to five percent (5%) of the officer's monthly base rate of pay. Up to two specialty pay differentials may be added to FTO assignment pay. No more than six (6) officers shall be assigned to FTO duty at any time. Assignments to investigative duty, DART, GVSU, FTO, MMNTF, and MMGTF are not stackable. As used herein, "assigned" means performing the duty for thirty (30) or more consecutive workdays pursuant to an order or directive from a superior officer either verbally or in writing.

**SECTION 6.04. PAY FOR POST CERTIFICATE AND OTHER EDUCATION.** The Professional Development program is available to all unit employees who have completed their initial 18-month probationary period.

Upon completion of a degree in Criminology or a related field, as approved by the Police Chief, and after City receipt of documentation of completion, an employee shall be paid for an AA or AS degree at a rate of \$100.00 per month, and \$200.00 per month for a BA or BS. These benefits are not stackable.

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), employees in the classification of Police Officer who have received an Intermediate POST Certificate shall receive \$100.00 per month in addition to the regular base wages. Employees in the classification of Police Officer who have received an

Advanced POST Certificate shall receive \$200.00 per month in addition to regular base wages. These benefits are not stackable.

The POST Certificate payments may be stacked together with the educational degree payments.

Funding to offset the cost of coursework is outlined in the Educational and Tuition Reimbursement Policy, P-6. Approval for participation in the Educational and Tuition Reimbursement Program shall not be unreasonably denied.

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), Dispatchers in the unit who have received an Intermediate POST Certificate shall receive \$50.00 per month in addition to regular base wages; and Dispatchers in the unit who have received an Advanced POST Certificate shall receive \$100.00 in addition to regular base wages. These benefits are not stackable.

SECTION 6.05. FILING POST CERTIFICATE. An employee becomes eligible for reimbursement for an Intermediate and/or Advanced POST Certificate on the first day of the pay period immediately following the filing of the Certificate in the Personnel Department.

SECTION 6.06. RETIREMENT. The City shall maintain in effect for all current sworn bargaining unit members the California Public Employees' Retirement System (CalPERS) three percent (3%) at fifty (50) benefit formula and two and one-half percent (2.5%) at fifty-five (55) benefit formula for all non-sworn employees.

The City shall implement a two-tiered retirement system, and all new sworn bargaining unit employees hired on or after December 12, 2012 shall be covered at three percent (3%) at fifty-five (55), if they are eligible for reciprocity as defined by CalPERS. "New Members", as defined by CalPERS shall be covered by the 2.7% at 57 benefit formula.

Non-sworn bargaining unit employees hired on or after December 10, 2012 shall be covered in the two percent (2%) at sixty (60) benefit formula, if they are eligible for reciprocity as defined by CalPERS. "New Members", as defined by CalPERS, shall be covered by the 2% at 62 benefit formula.

Participation in the CalPERS Retirement Program requires an employer and an employee contribution. Effective June 25, 2012 (PP14) unit members shall pay the entire employee contribution.

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), the 1.95% portion of the employer contribution paid by non-sworn members of the group shall be eliminated.

Employee contributions shall be made by payroll deduction and shall be considered pre-tax contributions.

SECTION 6.07. SHIFT DIFFERENTIAL. Employees assigned to a shift or unit regularly scheduled to work four (4) hours or more between 5:00 p.m. and 12:00 a.m. shall receive one and one-half percent (1.5%) shift differential in addition to his/her base wage.

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), employees assigned to a shift or unit regularly scheduled to work four (4) hours or more between 12:00 a.m. and 6:00 a.m. shall receive shift differential of three percent (3%) in addition to his/her base wage.

SECTION 6.08. SPECIALTY PAY FOR SWAT DUTY AND BOMB UNIT. During the time an employee in the classification of Police Officer is assigned to SWAT duty or to the Bomb Unit, he/she shall receive one and one-half percent (1.5%) differential in addition to his/her base wage. If an officer is assigned to more than one unit simultaneously, up to two specialty pay differentials shall be paid.

SECTION 6.09. SPECIALTY PAY FOR DEFENSIVE TACTICS INSTRUCTOR ASSIGNMENT. An employee in the classification of Police Officer or Senior Police Officer who conducts defensive tactics training shall receive one and one-half percent (1.5%) differential in addition to his/her base wage. If an officer is assigned to another unit simultaneously, up to two differentials shall be paid. Appointment to the Defensive Tactics Instructor assignment shall be for a period of five (5) years. After any period of assignment, the employee's supervisor shall make a written recommendation to the Police Chief regarding extension of the assignment. Two-year extensions may be made at the discretion of the Police Chief. Appointees may re-apply and compete for appointment at the expiration of their appointment.

SECTION 6.10. ASSIGNMENT PAY FOR CANINE HANDLERS. Employees assigned canine responsibilities shall be paid a maximum of ten (10) hours per month, at the overtime rate of one and one-half (1.5) time. Compensation shall be for time spent by officers on their off-duty time to feed and exercise the dog and to clean the kennel. Up to two specialty pay differentials may be added to canine assignment pay.

Appointment to Canine Handler assignment will last the life-of-dog. Upon retirement or death of the dog, the Canine Handler position shall be declared open for applications. The incumbent handler is eligible to apply and compete for the appointment.

Upon retirement of the dog, the dog's most recent Canine Handler shall be entitled to purchase the dog for \$1.00 (one-dollar). The Handler may be required by the City to maintain a liability insurance policy covering the dog up to \$250,000, naming the City as additional insured.

SECTION 6.11 ASSIGNMENT PAY FOR MOTORCYCLE OFFICERS. Police Officers assigned to motorcycle duty shall receive one paid administrative day (8 hours) per month, which shall not carry over to succeeding months. Compensation shall be for

time spent by officers on their off-duty time to perform motorcycle maintenance. Up to two specialty pay differentials may be added to motorcycle assignment pay.

Appointment to the motorcycle officer assignment shall be for a period of three (3) years. After any period of assignment, the employee's supervisor shall make a written recommendation to the Police Chief regarding extension of the assignment. Two year extensions may be made at the discretion of the Police Chief. Appointees may re-apply and compete for appointment at the expiration of their appointment.

**SECTION 6.12. SPECIALTY PAY FOR CRIME SCENE RESPONSE TEAM ASSIGNMENT.** An employee assigned to the Core Crime Scene Response Team (CSRT) shall receive one and one-half (1.5%) specialty pay differential in addition to his/her base wage. If an employee is assigned to another unit simultaneously, up to two specialty pay differentials shall be paid. Appointment to the Core CSRT assignment shall be for a period of five (5) years. After any period of assignment, the employee's supervisor shall make a written recommendation to the Police Chief regarding extension of the assignment. Two year extensions may be made at the discretion of the Police Chief. Employees who are not appointed to the Core CSRT, but who are temporarily required to respond as part of the CSRT, shall receive a five percent (5%) differential for the time actually worked on temporary CSRT assignment.

**SECTION 6.13. BILINGUAL PAY.** In accordance with administrative policies and procedures, employees in the unit required to speak or write in Spanish, or other eligible languages in addition to English, and including sign language, as part of the regular duties of his/her position shall be compensated at the following monthly rates in addition to the employee's rate of pay:

Verbal Skills Only	\$50.00
Written Skills Only	\$75.00
Verbal and Written Skills	\$100.00

The City Manager shall designate which languages shall be eligible for bilingual pay based on community needs and will determine the number of employees who will be eligible for bilingual pay based on community needs and will determine the number of employees who will be eligible for bilingual assignments.

**SECTION 6.14. PAYROLL INFORMATION.** City agrees to make good faith efforts to revise its payroll information system to show increased detail of deductions and pay types, including specialty pays and assignment pays.

**SECTION 6.15. SPECIALTY PAY FOR DISRUPTIVE AREA RESPONSE TEAM.** Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), an employee in the class of Police Officer who is assigned to the Disruptive Area Response Team (DART) shall be paid an additional amount per month equal to three percent (3%) of the officer's monthly base rate of pay. Appointment to DART shall be for a five (5) year period. After any period of assignment, the

employee's supervisor shall make a written recommendation to the Police Chief regarding extension of the assignment. Assignments to investigative duty, DART, GVSU, FTO, MMNTF, and MMGTF are not stackable. As used herein, "assigned" means performing the duty for thirty (30) or more consecutive workdays pursuant to an order or directive from a superior officer either verbally or in writing.

**SECTION 6.16. SPECIALTY PAY FOR GANG VIOLENCE SUPPRESSION UNIT.**

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), an employee in the class of Police Officer who is assigned to the Gang Violence Suppression Unit (GVSU) shall be paid an additional amount per month equal to three percent (3%) of the officer's monthly base rate of pay. Appointment to GVSU shall be for a three (3) year period. After any period of assignment, the employee's supervisor shall make a written recommendation to the Police Chief regarding extension of the assignment. Two year extensions may be made at the discretion of the Police Chief. Appointees may re-apply and compete for appointment at the expiration of their appointment. Assignments to investigative duty, DART, GVSU, FTO, MMNTF, and MMGTF are not stackable. As used herein, "assigned" means performing the duty for thirty (30) or more consecutive workdays pursuant to an order or directive from a superior officer either verbally or in writing.

**SECTION 6.17. SPECIALTY PAY FOR MERCED/MARIPOSA NARCOTICS TASK FORCE.**

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), an employee in the class of Police Officer who is assigned to the Merced/Mariposa Narcotics Task Force (MMNTF) shall be paid an additional amount per month equal to three percent (3%) of the officer's monthly base rate of pay. Appointment to the MMNTF shall be at the discretion of the Police Chief. Assignments to investigative duty, DART, GVSU, FTO, MMNTF, and MMGTF are not stackable. As used herein, "assigned" means performing the duty for thirty (30) or more consecutive workdays pursuant to an order or directive from the Police Chief.

**SECTION 6.18. SPECIALTY PAY FOR MERCED/MARIPOSA GANG TASK FORCE.**

Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), an employee in the class of Police Officer who is assigned to the Merced/Mariposa Gang Task Force (MMGTF) shall be paid an additional amount per month equal to three percent (3%) of the officer's monthly base rate of pay. Appointment to the MMGTF shall be at the discretion of the Police Chief. Assignments to investigative duty, DART, GVSU, FTO, MMNTF, and MMGTF are not stackable. As used herein, "assigned" means performing the duty for thirty (30) or more consecutive workdays pursuant to an order or directive from the Police Chief.

**SECTION 6.19. DISPATCHER TRAINING PAY.** Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), a Dispatcher shall be paid an additional amount per month equal to one and one half percent (1.5%) of the Dispatcher's monthly base rate of pay only when assigned by the Police Chief or designee to train a newly hired probationary Dispatcher.

ARTICLE VII  
VACATION AND SICK LEAVE

SECTION 7.01. CONTINUOUS SERVICE. For the purpose of this article, continuous service means service without any authorized break or interruption during the period for which the employee has been employed by the City. A break or interruption in continuous service shall be construed as a deliberate severance of employment initiated by either the City or the employee for periods of more than fifteen (15) calendar days.

SECTION 7.02. VACATION ACCRUAL. After the effective date of this agreement, all eligible employees shall earn vacation benefits in accordance with their length of continuous service as follows:

During the first 5 years of continuous service, full-time regular employees earn vacation benefits at the rate of 3.696 hours each biweekly pay period of continuous service. Employees who earn vacation at this rate may accumulate vacation to a maximum of 192.00 hours.

After the completion of 5 years of continuous service, full-time regular employees earn vacation benefits at the rate of 4.616 hours each biweekly pay period of continuous service. Employees who earn vacation at this rate may accumulate vacation to a maximum of 240.00 hours.

After the completion of 9 years of continuous service, full-time regular employees earn vacation benefits at the rate of 6.160 hours each biweekly pay period of continuous service. Employees who earn vacation at this rate may accumulate vacation to a maximum of 320.00 hours.

After the completion 15 years of continuous service, full-time regular employees earn vacation benefits at the rate of 6.928 hours each biweekly pay period of continuous service. Employees who earn vacation at this rate may accumulate vacation to a maximum of 360 hours. The proposal shall not be retroactive and is effective on a go forward basis following ratification by membership and approval of the MOU by the City Council, but no sooner than the first full pay period after the City Council approval.

After the completion of 20 years of continuous service, full-time regular employees earn vacation benefits at the rate of 7.696 hours each biweekly pay period of continuous service. Employees who earn vacation at this rate may accumulate vacation to a maximum of 400.00 hours.

After the completion of 25 years of continuous service, full-time regular employees earn vacation benefits at the rate of 9.232 hours each biweekly pay period of continuous service. Employees who earn vacation at this rate may accumulate vacation to a maximum of 480.00 hours.



Part-time regular employees earn vacation benefits at a prorata rate.

SECTION 7.03. MAXIMUM VACATION ACCRUAL. When the maximum number of vacation hours is accumulated by an employee, vacation hours cease to accrue to that employee.

SECTION 7.04. VACATION PAYMENT. All employees of the unit will have the option to cash out up to a maximum of twenty (20) hours of accrued vacation time. Employees who elect to cash out vacation shall have a minimum balance of 100 accrued vacation hours prior to the cash out pay period and shall have completed their initial probationary period with the City of Merced. Vacation payment will take place once per year in the first period of December.

The proposal shall not be retroactive and is effective on a go forward basis following ratification by membership and approval of MOU by the City Council, but no sooner than first full pay period after City Council approval.

SECTION 7.05. HOLIDAYS DURING VACATION. A holiday which occurs during a scheduled vacation period, and which would have excused the employee from work, and for which no other compensation is made, shall be considered as taking the holiday and shall not be counted as a day of vacation.

SECTION 7.06. PAYMENT UPON SEPARATION. Employees who leave City employment shall be compensated for vacation accrued but not taken up to the date of separation.

SECTION 7.07. VACATION USE. Vacation used by an employee shall be charged against the vacation accrued on an hour-for-hour basis.

SECTION 7.08. SICK LEAVE ACCRUAL. All eligible employees shall earn sick leave benefits in accordance with their length of continuous service as follows:

Full-time regular employees shall earn sick leave benefits from the first day of employment at the rate of 3.696 hours each biweekly pay period of continuous service. Employees may accumulate sick leave benefits to a maximum of 1056.00 accrued sick leave hours.

Part-time employees shall earn sick leave benefits at a prorata rate.

SECTION 7.09. MAXIMUM SICK LEAVE ACCRUAL. When the maximum number of sick leave hours is accumulated by an employee, sick leave hours shall cease to accrue to that employee until they fall below accrual cap.

SECTION 7.10. SICK LEAVE DURING FIRST SIX MONTHS OF PROBATION. Sick leave with pay shall be used or authorized during the first thirteen (13) biweekly pay

periods of continuous service with the provision that, if the employee does not complete the probationary period, any sick leave used in excess of 3 days or 24 hours, whichever is greater, will be repaid at the pay rate that it was paid out.

**SECTION 7.11. SICK LEAVE FOR IMMEDIATE FAMILY CARE.** Each member of the unit eligible to use sick leave may use up to one-half of their annual accrued sick leave for the required care of a spouse, domestic partner, parent, child, sibling, grandparent, grandchildren, or domestic partner's child who is ill as defined by statute. Leave for this purpose may not be taken until it has actually accrued.

**SECTION 7.12. SICK LEAVE UPON RESIGNATION OR DISMISSAL.** An employee who resigns or is dismissed forfeits all further eligibility to any accrued but unused sick leave.

**SECTION 7.13. SICK LEAVE UPON RETIREMENT.** To the extent permitted by law, an employee who retires on an industrial disability, regardless of length of service, or an employee who is eligible for and retires in accordance with the PERS benefit plan shall be paid at the straight time hourly rate for fifty percent (50%) of the hours of accrued but unused sick leave. The remaining fifty percent (50%) of the hours of accrued but unused sick leave will be forfeited.

**SECTION 7.14. PAYMENT OF EXCESS ACCRUED SICK LEAVE.** In January of each year, employees who have accrued sick leave hours in excess of 960 as of the last pay period in the preceding December shall be paid at their straight time hourly rate for fifty percent (50%) of said hours in excess of 960, but the remaining fifty percent (50%) of hours in excess of 960 shall be forfeited.

**SECTION 7.15. HOLIDAYS DURING SICK LEAVE.** Holidays that occur during sick leave, and which would have excused the employee from work, and for which no other compensation is made, shall be considered as taking the holiday and shall not be counted as a day of sick leave.

**SECTION 7.16. SICK LEAVE USE.** Sick leave used by an employee shall be charged against the sick leave accrued on an hour-for-hour basis.

**SECTION 7.17. SICK LEAVE VERIFICATION.** Sick leave is intended to be used only when actually required to recover from illness or injury, or as time off for medical and dental appointments to the extent that such appointments cannot be scheduled outside of the workday. Employees may request accrued vacation time off to cover other personal absences not covered by this policy. The City will not tolerate abuse or misuse of sick leave privileges. In order to assure compliance by employees of the sick leave privilege and to refrain from creating undue requirements on all employees for the actions of a few, the City will consider and require verification of potential sick leave abuse on a case-by-case basis in accordance with the law. In instances where abuse is suspected, or sick leave use indicates a pattern of abuse, the department head may require written verification by means of a physician's statement.

In determining whether or not sick leave abuse exists with respect to this Article, no verified illness will be considered.

Abuse of sick leave may be subject to disciplinary actions.

SECTION 7.18. FAMILY AND MEDICAL LEAVE ACT. In accordance with administrative policies and procedures, employees in the unit shall be entitled to family and medical leave required by federal and state law.

## ARTICLE VIII HEALTH AND WELFARE

SECTION 8.01. BENEFITS PROVIDED AND REQUIRED. City shall provide a “cafeteria” plan. Each employee shall be required to participate in the following five plans to a level that provides for the employee:

- Hospital/medical care plan,
- Dental care plan,
- Vision care plan,
- Disability insurance plan,
- Life insurance plan.

Employees may request a waiver for medical, dental, or vision coverage from the Support Services Department. Such waiver may be granted only if the employee shows proof of other coverage through the employee’s spouse, or registered domestic partner as defined in City of Merced Administrative Policy P-27, effective December 1, 2006. Should an employee who has obtained a waiver to this provision lose such alternative coverage, the employee shall provide proof to the Support Services Department within five (5) business days and enroll in a City-provided insurance program. If waiver of coverage is granted the allowances as outlined in Section 9.03 will be adjusted accordingly.

Participation for the employee’s dependents, and participation in other coverages offered, is optional.

SECTION 8.02. PLAN SELECTION AND EMPLOYEE BENEFIT COMMITTEE. The City shall provide a selection of employee health and welfare benefit coverages for eligible employees and retirees, including but not limited to at least two options each for hospital/medical care plan, dental care plan, vision care plan, life insurance plan, and disability insurance plan. The plans shall be selected solely by the City following review of proposals by the Employee Benefits Committee. For the purpose of this section, it is understood that the role of the Employee Benefits Committee is advisory to the City Council. The Committee shall be comprised of representatives of each of the City’s bargaining units and management.

SECTION 9.03. SCHEDULE OF ALLOWANCES PER PAY PERIOD. The City shall contribute an amount per bi weekly pay period (based on twenty-six pay periods annually) as the Cafeteria Allowance Per Pay Period.

Effective December 18, 2017 (PP1) the per pay period cafeteria allowances are as follows:

**Medical**

Employee Only	\$230.84
Employee plus one	\$472.71
Employee plus two or more	\$694.89

**Dental, Vision, Disability, and Life**

Employee Only	\$33.28
Employee plus one	\$46.75
Employee plus two or more	\$66.54

Future health and welfare plan costs over the current cost (if any) will be shared by both the City and the employee. Any increase in the sum of core premiums necessary to purchase the above listed coverages will be shared (55/45) between the City and the employee with City paying 55% of the increase and the employee paying 45% of the increase. The City's portion shall reflect an increase in the Cafeteria Per Pay Period. The employee shall be responsible for the balance of the premiums, if any, beyond the Cafeteria Allowance Per Pay Period. This applies for all insurance coverages selected, whether those coverages are part of the five (5) basic offerings in the cafeteria, or other selections.

Employee contributions may be made on a pre-tax basis if the employee elects to participate in the Section 125 plan.

"Core" means the basic offerings in the cafeteria listed in Section 9.01.

In order to avoid issues of adverse selection and recognizing the mutual interest of the City and the Association in avoiding escalation of insurance premium expenses, no employee shall receive cash back for having waived required coverage under Section 9.01, except that a unit member who is married and whose spouse is also a current City of Merced employee, accepted for waiver of medical coverage, shall receive cash back equal to twenty-five percent (25%) of the core medical premium for a single individual.

**SECTION 8.04. MEDICAL/HEALTH, DENTAL AND VISION CARE COVERAGE AFTER RETIREMENT.**

- A. In accordance with Administrative Policy and Procedure No. P-17 the City shall provide a hospital/medical care plan for eligible retirees. The hospital/medical care plan shall be selected solely by the City and shall provide essentially the same benefits to retirees as are provided to full-time employees. An employee shall be considered a retiree of the City if the employee retires in the California

Public Employees' Retirement System and his/her last active place of full-time employment within the system was with the City. All retirees are eligible except as provided below and shall receive hospital/medical care coverage under the following conditions:

1. The retiree is age 50 or over with at least ten (10) years of service with the City; or
2. Retiree is retired because of a service-connected disability; or
3. Retiree is retired because of a non-service connected disability with at least ten (10) years of service.

Spouse of eligible retiree may remain on the plan until the retiree is deceased. The spouse and retiree shall be responsible for payment of the premium for coverage of spouse.

New unit employees hired after December 31, 2002 will not be entitled to receive the City's health/medical plan coverage after retirement.

- B. **City Contribution.** For those eligible retirees in retirement status prior to January 1, 2007, the City agrees to contribute the amount necessary to provide a comparable hospital/medical plan for each eligible retiree.

For those active unit members who retire after January 1, 2007, the City agrees to contribute the monthly premium for each eligible retiree capped at the following amounts: \$390.55 monthly for Retirees over 65, and \$546.51 monthly for Retirees under 65. The Retiree shall pay any amount over the capped premium.

- C. **Supplemental Retirement Medical Allowance.** An employee retiring on or after January 1, 1999, and eligible for retirement medical benefits as provided in this Section, said retired employee and spouse and/or other dependents shall continue to be covered under the City's medical plan until both persons reach age 65. The City shall pay the premium for the retired employee, and the dependent(s) premium shall be the responsibility of the retired employee. At the age of 65, the City's medical plan shall be secondary to Medicare medical coverage or any other benefit coverage available to the retired employee and eligible spouse.
- D. An eligible employee who retires after August 1, 1998, and his/her spouse and/or dependents, shall be eligible to continue coverage under the City's dental and vision plans. The premiums shall be the responsibility of the retired employee. At the age of 65, or upon the dropping of coverage by the employee, or the death of the eligible employee, the City's dental and vision plans will no longer be available to the retired employee and his/her eligible spouse and/or dependents.

ARTICLE IX  
LEAVE FOR COURT APPEARANCE

SECTION 9.01. LEAVE FOR COURT APPEARANCE. An employee may be granted leave to perform jury duty or to appear as a witness under subpoena, as provided by law. Section 15.02 of the Personnel Rules and Regulations shall govern compensation of subpoenaed employees.

ARTICLE X  
LEAVES OF ABSENCE

SECTION 10.01. ARMED FORCES LEAVE. Leaves of absence for armed forces service shall be granted employees in accordance with State and Federal law.

SECTION 10.02. BEREAVEMENT LEAVE. In the event of a death in the immediate family, an employee, upon request, shall be granted up to twenty-four (24) hours bereavement leave with pay without charge to accumulated sick leave or vacation. An additional twenty-four (24) hours bereavement leave shall be granted upon request of the employee, if sufficient accrued hours are available, in cases where extensive travel is required to attend the funeral, or where other extenuating circumstances require attendance of the employee for additional time. Such additional bereavement leave shall be charged against the employee's accumulated sick leave.

SECTION 10.03. DEFINITION OF IMMEDIATE FAMILY. For the purposes of Section 10.02, the immediate family shall be restricted to father, mother, spouse, domestic partner, child, brother, sister, or grandparent related by blood, marriage, or adoption, or a stepchild of the employee's current spouse.

SECTION 10.04. OTHER FUNERAL LEAVE. In the event of the death of a person not immediately related to an employee, as defined above, upon request, the employee's department head may grant up to sixteen (16) hours bereavement leave which shall be charged against the employee's sick leave credits.

SECTION 10.05. LEAVE OF ABSENCE WITHOUT PAY. Employees shall not be entitled to leave of absence without pay as a matter of right, but only upon the determination of the City that it is in the best interest of public service and that there is a presumption that the employee intends to return to work upon the expiration of the leave of absence.

SECTION 10.06. ELIGIBILITY. Employees may be eligible for a leave of absence without pay for compelling personal or medical reasons. Leave time shall not be considered time worked.

SECTION 10.07. APPROVAL. All requests for leaves of absence without pay shall be in writing. All leaves of absence without pay must be recommended by the department head and approved by the City Manager. No such leave may extend beyond twelve (12) months. Leaves of absence without pay may only be approved following the expiration of entitlements of sick leave and vacation where applicable.

SECTION 10.08. FRINGE BENEFITS DURING LEAVE OF ABSENCE (EXCLUDING MILITARY/ARMED FORCES LEAVE). Rights accrued to an employee at the time a leave of absence without pay is granted shall be retained by the employee. Benefits including, but not limited to, health/medical insurance, vision care, dental care, vacation, sick leave, holidays, retirement, time in step, seniority accrual, salary increases, salary range/step increases, uniform allowance, and other similar benefits shall not be granted or accrued to a person on an approved leave of absence without pay during the period of absence, and the City shall neither pay nor be required to pay any premiums or other costs which it would pay if the employee was at work. The employee may obtain health/medical insurance coverage through COBRA at their own expense.

SECTION 10.09. ABSENCE WITHOUT OFFICIAL LEAVE (AWOL). Failure to report for duty or failure to report for duty after a leave of absence request has been disapproved, revoked or cancelled, or at the expiration of a leave, shall be considered an absence without official leave.

SECTION 10.10. VOLUNTARY RESIGNATION. Any employee in this unit absent without official leave for two (2) or more consecutive days or absent an aggregate of sixteen (16) hours in any calendar month without a satisfactory explanation shall be deemed to have voluntarily resigned from the City of Merced.

## ARTICLE XI UNIFORMS

SECTION 11.01. UNIFORM MAINTENANCE ALLOWANCE. Effective June 17, 2019 (pay period 14), the City agrees to provide a uniform maintenance allowance of \$40.38 biweekly for Senior Police Officers and Police Officers, and \$32.92 bi-weekly for all other uniformed personnel. All applicable deductions will be subtracted from payments for uniform maintenance allowance and paid by employee.

Probationary employees will be provided two uniform pants, two short-sleeved shirts, two long-sleeved shirts, and a jacket at the time of hire. At the new-hire employee's one-year anniversary, the City shall provide the balance of the uniform allowance, if any, from the prior year. Thereafter, the employee shall receive the appropriate bi-weekly allowance commencing with the first full pay period following the anniversary of the date of hire.

SECTION 11.02. SPECIAL UNIFORM/EQUIPMENT FURNISHED. The City agrees to furnish initially one set of the required special equipment of helmet, boots, gloves, jacket

or riding suit, and two pair of pants to each police officer assigned to motorcycle duty. The equipment shall remain the property of the City. Replacement of worn or damaged equipment shall be the responsibility of the employee. In addition, on an annual basis for the term of this agreement, City agrees to purchase and provide one pair of pants to each police officer assigned to motorcycle duty.

## ARTICLE XII GRIEVANCE PROCEDURE

SECTION 12.01. DEFINITIONS. The following words used in this Article are defined as follows:

Grievance. A claimed violation, misapplication or misinterpretation of a specific provision of this Memorandum of Understanding which adversely affects the grievant.

Grievant. An employee who is filing a grievance. Any alleged violation, misapplication or misinterpretation that affects more than one employee in a similar manner may be consolidated and thereafter represented by a single grievance. The Association shall have the option to be considered as the grievant on any grievance that affects more than one employee.

Workday. A day in which the City's main administrative office is open for business.

SECTION 12.02. TIME LIMIT FOR FILING GRIEVANCE. A grievance shall be barred and not considered if based upon a condition or event which occurred or existed more than ten (10) workdays immediately prior to the date on which the grievance is first presented.

SECTION 12.03. PROCEDURE. The City and the Association agree to the following exclusive procedure of presenting and adjusting grievances that must be processed in accordance with the following steps, time limits and condition.

SECTION 12.04. STEP ONE. The aggrieved employee shall discuss the matter with the employee's immediate supervisor. If the grievance is not settled within five (5) workdays following this discussion, the grievance, within such time, shall be reduced to writing on the form provided by the Personnel Department and submitted to the grievant's immediate supervisor. Within ten (10) workdays after receipt of the written grievance, the immediate supervisor shall answer the grievance in writing.

SECTION 12.05. STEP TWO. The answer from the immediate supervisor shall be final unless the grievance is appealed in writing to the involved department head within five (5) workdays from the date of the supervisor's written answer. The department head shall investigate and provide a written answer to the grievant within twenty (20) days.



SECTION 12.06. STEP THREE. The answer from the department head shall be final unless the grievance is appealed in writing to the Director of Support Services or designee within five (5) workdays from the date of the department head's written answer to Step Two. The Director of Support Services or designee shall discuss the grievance with the grievant or the Association representative at a time mutually agreeable to both parties. Within five (5) workdays after the close of discussion, the Director of Support Services or designee shall give his written answer.

SECTION 12.07. STEP FOUR. The answer from the Director of Support Services or designee shall be final unless the grievance is appealed in writing to the Personnel Board Chairperson within five (5) workdays after receipt of the Director of Support Services' or designee's written answer in Step Three. The Personnel Board, after conducting such hearing, shall forward its recommendation to the City Manager for final determination. The City Manager, after consideration of the Personnel Board's recommendation, shall provide his written final determination to the aggrieved employee within ten (10) workdays.

SECTION 12.08. EFFECT OF TIME LIMITS. The parties agree to follow each of the foregoing steps in the processing of a grievance and if, in any step, the City's representative fails to give his/her written answer within the time limit therein set forth, the grievance shall automatically be transferred to the next step at the expiration of such time limit. Any grievance not moved by the grievant or the Association to the next step within the time limits provided following the City's answer will be considered settled on the basis of the City's last answer.

SECTION 12.09. EXTENSION OF TIME LIMITS. Extensions of days to answer or move a grievance may be extended by mutual written agreement.

SECTION 12.10. REPRESENTATION. Nothing contained in this Article shall be interpreted to preclude an employee from requesting a representative to be present at each step in the grievance procedure.

### ARTICLE XIII CITY RIGHTS

SECTION 13.01. CITY RIGHTS. It is understood and agreed that management reserves and retains all its inherent managerial rights, powers, functions, and authorities which management had prior to entering into this Memorandum of Understanding, limited by those provisions of this Memorandum of Understanding which specifically curtail or limit such rights, powers, functions, and authorities, and by the Meyers-Milias-Brown Act; and subject to the right of an employee to grieve the practical consequences of a management right/decision on wages, hours, and other terms and conditions of employment.

SECTION 13.02. NO ABROGATION OF RIGHTS. The City and Association acknowledge that the management rights, including but not limited to those set forth in Section 1.05 of the Employer-Employee Organizations Relations Policy of the City of Merced, and all applicable State laws are neither abrogated nor made subject to negotiation by adoption of this Memorandum of Understanding.

SECTION 13.03. SUPREMACY OF CHARTER. In the event of any conflict between the provisions of this Memorandum of Understanding and the Merced City Charter, the provisions of the Merced City Charter shall govern.

#### ARTICLE XIV PERFORMANCE EVALUATION

SECTION 14.01. PERFORMANCE EVALUATION. The City and the Association agree that the appropriate supervisory personnel of the City are responsible for preparing periodic reports as to the progress, capacity, efficiency, competency, suitability, conduct and merit of its employees. It is the responsibility of each supervisor to establish realistic achievement levels.

SECTION 14.02. PERFORMANCE REPORT REVIEW OF EMPLOYEE. The City and the Association agree that one of the prime benefits of a performance reporting system is that it can bring together the employee and the supervisor in a frank and constructive discussion and appraisal of the employee's work, achievement levels, and the specific ways in which they may be improved. The City and the Association agree that each performance report shall be discussed with the employee to point out areas of successful performance and areas where performance can be improved or where it is unacceptable. The City and the Association agree that the employee shall be encouraged to comment about his/her work performance, either in a written statement attached to the report or verbally.

SECTION 14.03. ADDITIONAL REVIEW OF PERFORMANCE REPORT. The City and the Association agree that when an employee has concerns about one or more ratings of the performance report developed by the supervisor, the employee shall be granted an opportunity to review and discuss the performance report with appropriate supervisors in the chain of command, up to and including the department head. The conclusions of the department head shall be final and shall not be appealable or reviewable as a grievance.

SECTION 14.04. SIGNATURE ON PERFORMANCE REPORT. The City and the Association agree that the employee's signature on the performance report acknowledges that he/she is aware of its contents and has discussed the report, but does not necessarily mean the employee agrees fully with the contents of the report and may so state on the report before signing it.

SECTION 14.05. PUNITIVE ACTION. The City and the Association agree that the City shall not take punitive action against an employee solely because of a performance evaluation. For purposes of this agreement, punitive action consists of dismissal, suspension, demotion, an official letter of reprimand, or reduction in class or salary.

ARTICLE XV  
NON-SWORN EMPLOYEE RIGHTS

SECTION 15.01. POLYGRAPH. The City and the Association agree that an employee shall not be compelled to submit to a polygraph examination against his/her will. No disciplinary action or other recrimination shall be taken against an employee refusing to submit to a polygraph examination, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that employee refused to take a polygraph examination.

SECTION 15.02. LOCKER SEARCH. The City and the Association agree that the City shall have the right to search an employee's locker or other space provided to him/her by City for storage. No search shall take place unless in the employee's presence or with his/her consent, or unless the employee has received notice that a search will be conducted.

SECTION 15.03. PERSONNEL FILE. The City and the Association agree that an employee shall not have any comment adverse to his/her interest entered in his/her personnel file without the employee having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if after reading such instrument the employee refuses to sign it. Should an employee refuse to sign, that fact shall be noted on that document. An employee shall have 5 (five) business days within which to file a written response to any adverse comment entered in his/her personnel file. Such written response shall be attached to, and shall accompany, the adverse comment.

SECTION 15.04. INTERROGATION. The City and the Association agree that when any employee is under investigation and subjected to interrogation by his/her supervisor, or any other member of the City, which could lead to disciplinary action, such interrogation shall be conducted under the following conditions. For the purpose of this section, disciplinary action is defined as any action that may lead to dismissal, demotion or suspension.

- A. Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters which could result in disciplinary action against any employee, that employee, at his/her request, shall have the right to be represented by a representative of his/her choice who may be present at all times during such interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose,

or be subject to, any disciplinary action for refusing to disclose any information received from the employee under investigation for non-criminal matters.

- B. This section shall not apply to any interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other employee, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

## ARTICLE XVI NO STRIKE – ASSOCIATION OBLIGATIONS

SECTION 16.01. NO STRIKE. The Association, its officers, agents, members, and employees covered by this Agreement agree that so long as this Agreement is in effect, there shall be no strikes, partial or complete, sit-downs, slowdowns, mass absenteeism, stoppages or cessation of work, including any unlawful acts of any kind that interfere with the City's operations. In the event that any concerted action as described above occurs, Association will notify the members that such activity is in violation of this Memorandum of Understanding and the Association will notify the members that such concerted action shall cease and the members shall return to work. Any violation of this provision may be made the subject of disciplinary action, including discharge. Only the fact as to whether or not an employee engaged in a violation of this article may be subject to the grievance provisions of this Agreement.

SECTION 16.02. OBLIGATIONS OF ASSOCIATION. In the event of any failure of Section 16.01 to operate effectively in any work stoppage, the Association, its officers, stewards and agents, agree that they will immediately take and continue to take all reasonable steps to restore full operations.

## ARTICLE XVII SCOPE OF AGREEMENT

SECTION 17.01. SCOPE OF AGREEMENT.

- A. For the term of this Agreement, this Memorandum of Understanding fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire understanding between the parties regarding the provisions contained in this MOU; provided, however, that nothing herein shall prohibit the parties from changing the terms of this Memorandum of Understanding by mutual agreement.
- B. Any agreement, alteration, understanding, waiver or modification of any of the terms or provisions contained in this Memorandum shall not be binding on the

parties unless made and signed by all of the parties to this Memorandum, and approved and implemented by the City Council.

- C. The waiver of any breach, term or condition of this Memorandum by either party shall not constitute a precedent in the future enforcement of any or all of its terms and provisions.

#### ARTICLE XVIII SEPARABILITY

SECTION 18.01. SEPARABILITY OF PROVISIONS. Every clause of this Agreement shall be deemed separable from every other clause of this Agreement and in the event that any clause or clauses shall be finally determined to be in violation of any law by judgment or decree of any court of competent jurisdiction, then any such clause or clauses only, to the extent only that any may be in violation, shall be deemed unenforceable without impairing the validity and enforceability of the rest of this Agreement.

#### ARTICLE XIX PERSONNEL RULES AND REGULATIONS

SECTION 19.01. PERSONNEL RULES AND REGULATIONS. The City and the Association have met and conferred on the March 1989 Personnel Rules and Regulations and exceptions to those Rules and Regulations are contained in this Memorandum of Understanding.

#### ARTICLE XX DURATION OF AGREEMENT

SECTION 20.01. DURATION OF AGREEMENT. Except as otherwise set forth in this Memorandum of Understanding, the specific provisions of this Agreement shall be effective following City Council approval of new terms and conditions of employment. and shall remain in full force and effect to and including December 31,2019.

#### ARTICLE XXI LAYOFF

SECTION 21.01. LAYOFF.

- 1. In lieu of being laid off an employee may elect demotion ("bumping") to:
  - A. Any class in the same class series with a lower maximum salary;

- B. A class in the same line of work (as determined by the City) as the class of layoff, but of lesser responsibility, and with substantially the same or a lower maximum salary.
2. In order to bump to a new classification, the employee must have more seniority than the employee that will be displaced.
3. The employee bumping to a new classification must have held that classification at some time in his/her career.
4. Seniority is determined by the time in the class from which the employee is bumping, plus time in any higher classification in the same series. The following provisions apply in computing seniority:
  - A. Time spent on military leave shall count as service in the event the leave was taken subsequent to employment;
  - B. Time worked in regular and/or probationary status shall count as service;
  - C. Time worked in an extra help, seasonal, provisional, temporary, grant or other limited term status, shall not count as service.
5. To be considered for demotion in lieu of layoff, an employee must notify the Personnel Manager within seven (7) calendar days of receipt of the notice of layoff.
6. In cases where there are two or more employees in a class from which the layoff is to be made, such employees shall be laid off in inverse order of seniority, with seniority defined as time in the class from which the layoff is to be made plus time in any higher classification in the same series.
7. Employees bumping to a lower or similar class shall be placed at the salary step representing the least loss of pay, without exceeding the employee's current rate of pay.
8. The names of persons laid off or demoted in accordance with this policy shall be entered upon a re-employment list in the order of lay off. Such list shall be used by the City Manager and each department head when a vacancy arises in the same or lower class.
9. Names of persons laid off shall be carried on a re-employment list for two (2) years, except that persons appointed to regular positions of the same or higher level shall be dropped from the list upon such appointment. Persons re-employed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for the two (2) years.

10. Refusal of a person to accept the first offer of re-employment with the same classification or a classification at the same or higher range shall cause the name of the person to be dropped from the re-employment list. Failure of a person to respond within seven (7) work days to the offer of re-employment shall be considered a refusal.
11. If the provisions of this policy are in conflict with the provisions of a memorandum of understanding, the MOU shall be controlling without further action.
12. An employee may not demote to a frozen position or a position that is being eliminated as part of the layoff, and an employee electing demotion must meet the minimum qualifications for the new classification.
13. Non-unit employees may only bump into previously held classifications.

ARTICLE XXII  
RETIREEES' MEDICAL TRUST

SECTION 22.01 RETIREEES' MEDICAL TRUST. The City and the Association agree to meet and confer during the contract term with respect to the possible establishment, by the Association, of a retiree medical trust, to be administered by the Association for the benefit of its separated employees. Such a trust may be implemented by the Association during the contract term if agreed upon by the parties, and if the Association's plan results in no cost to the City (other than minor costs associated with payroll deductions and transmittals of such funds to the trust) and the plan presented is legally sound. The Association agrees to incorporating a clause indemnifying, defending and holding harmless the City, if the retiree medical trust is agreed upon and established.

ARTICLE XIII  
SMOKING AND TOBACCO PRODUCT USE

SECTION 23.01. SMOKING AND TOBACCO PRODUCT USE. The City of Merced declares a hiring policy which disqualifies habitual users of tobacco products from eligibility for employment. Employees hired for positions in the bargaining unit after January 1, 2006 (except reinstatements and re-hires after layoff after the effective date of this agreement) shall not be permitted to habitually use any tobacco products, consistent with this policy. Failure to follow this policy will lead to disciplinary action, up to and including dismissal.

Employees hired into the bargaining unit prior to December 31, 2005 will be permitted to use tobacco products in a manner consistent with any restrictions established by State law and this agreement.

Under no circumstances shall any tobacco product be used at any time inside a City building or vehicle.



**ATTACHMENT A**  
**MPOA WAGE SUMMARY**  
**Effective PP14 - 6/17/2019**

<u>CLASS</u>	<u>GRADE</u>	<u>TITLE</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
PD	538	ANIMAL CONTROL OFFICER I	\$ 2,919	\$ 3,065	\$ 3,218	\$ 3,379	\$ 3,548
PD	591	ANIMAL CONTROL OFFICER II	\$ 3,649	\$ 3,831	\$ 4,023	\$ 4,224	\$ 4,435
PD	593	COMMUNITY SERVICES OFFICER	\$ 4,240	\$ 4,452	\$ 4,675	\$ 4,909	\$ 5,154
PD	571	DISPATCHER I	\$ 3,494	\$ 3,669	\$ 3,852	\$ 4,045	\$ 4,247
PD	592	DISPATCHER II	\$ 3,851	\$ 4,044	\$ 4,246	\$ 4,459	\$ 4,681
PD	593	LEAD DISPATCHER	\$ 4,240	\$ 4,452	\$ 4,675	\$ 4,909	\$ 5,154
PD	548	PARKING ENFORCEMENT OFFICER I	\$ 2,997	\$ 3,147	\$ 3,305	\$ 3,470	\$ 3,643
PD	568	PARKING ENFORCEMENT OFFICER II	\$ 3,305	\$ 3,470	\$ 3,644	\$ 3,826	\$ 4,017
PD	591	POLICE COMMUNITY AIDE	\$ 3,649	\$ 3,831	\$ 4,023	\$ 4,224	\$ 4,435
PD	642	POLICE CORPORAL	\$ 6,455	\$ 6,778	\$ 7,117	\$ 7,473	\$ 7,846
PD	620	POLICE OFFICER	\$ 5,310	\$ 5,576	\$ 5,855	\$ 6,147	\$ 6,455
PD	588	POLICE OFFICER TRAINEE	\$ 3,439	\$ 3,611	\$ 3,791	\$ 3,981	\$ 4,180
PD	640	SENIOR POLICE OFFICER	\$ 5,860	\$ 6,153	\$ 6,460	\$ 6,783	\$ 7,122

All numbers have been rounded to the nearest \$1

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

FOR THE ASSOCIATION:

FOR THE CITY:

\_\_\_\_\_  
GARY MESSING  
MPOA BUSINESS AGENT

\_\_\_\_\_  
STEVE CARRIGAN  
CITY MANAGER

\_\_\_\_\_  
NATHANIEL MCKINNON  
MPOA PRESIDENT

\_\_\_\_\_  
STEPHANIE DIETZ  
ASSISTANT CITY MANAGER

\_\_\_\_\_  
COURTNEY BOHANAN  
REPRESENTATIVE

\_\_\_\_\_  
DENEEN L. PROCTOR  
DIRECTOR OF SUPPORT SERVICES

\_\_\_\_\_  
TIM GACHES  
MPOA REPRESENTATIVE

\_\_\_\_\_  
SHELLINE BENNETT  
CITY SPOKESPERSON

SIDE LETTER TO THE JANUARY 1, 2019 ,MOU  
BETWEEN  
THE CITY OF MERCED  
AND  
MERCED POLICE OFFICERS ASSOCIATION

This is a side letter to the January 1, 2019 Memorandum of Understanding (“MOU”) between the City of MPOA.

This side letter is only effective for the terms of the January 1, 2019 MOU and shall sunset on December 31, 2019 and have no force or effect following this date.

During the term of the January 1, 2019 MOU and contingent upon the City possibly having a final, completed compensation study being conducted by an outside vendor, upon written notice to the other party, either the City or Union may reopen negotiations for the sole purpose of discussing base wage increases only.

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

FOR THE ASSOCIATION:

FOR THE CITY:

\_\_\_\_\_  
GARY MESSING  
MPOA BUSINESS AGENT

\_\_\_\_\_  
STEVE CARRIGAN  
CITY MANAGER

\_\_\_\_\_  
NATHANIEL MCKINNON  
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MPOA REPRESENTATIVE

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SHELLINE BENNETT  
CITY SPOKESPERSON