

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN AND FOR**

**CITY OF MERCED**

**AND**

**MERCED ASSOCIATION OF POLICE SERGEANTS**

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 Association of Police Sergeants, 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 the 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 employees classified as Police Sergeants.

**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.

**SECTION 2.05. FAIR LABOR STANDARDS ACT.** The Association shall cooperate with the City in the objectives of the Fair Labor Standards Act.

### **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 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 provided to the City unless a dispute arises about the existence or terms of the authorization. Questions regarding Association membership, dues amounts, 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 an employee's dues 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 issue a check to the Association no later than thirty (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.** Each year the Association will certify to the Finance Officer the amount of Association monthly dues. If Association changes the amount of dues, each change must be certified to the City at least (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 the 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 with orientation.

#### **ARTICLE IV** **AUTHORIZED REPRESENTATIVES**

**SECTION 4.01. AUTHORIZED REPRESENTATIVES.** For the 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. 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 of Police 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, not to exceed two (2) hours per week, 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 any employee of the unit only at such time as a grievance is reduced to writing.

**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 specific 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 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.

**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 of the unit shall be granted a rest period or coffee break limited to twenty (20) minutes during each four (4) hours of regular work.
- B. Rest periods shall not be scheduled within one (1) hour of the beginning or the end of a work shift or lunch period.
- C. The department may make reasonable rules concerning rest period scheduling.
- D. 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 forty (40) 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 reasonable 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. OVERTIME – DEFINITION.** Overtime is defined as assigned and authorized time worked beyond the established eighty (80) hours in a fourteen (14) day (biweekly) work week.

**SECTION 5.07. OVERTIME COMPUTED** No sooner than 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 or authorized compensatory time off (CTO) shall be considered as time worked by the employee.

**SECTION 5.09. 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 members of the unit shall be at a rate equivalent to one and one-half times the straight time hourly rate.

**SECTION 5.10. OVERTIME – DOUBLE TIME.** Employees in the unit shall be reimbursed at a rate equivalent to two (2) times the straight time 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 5.11. OVERTIME – CITY SPONSORED EVENTS.** Employees in the unit shall be reimbursed at a rate equivalent to the time and one-half rate for overtime in connection with City-sponsored events such as training courses other than department sponsored travel, education classes, and the annual band review.

**SECTION 5.12. OVERTIME FOR GUNNERY TRAINING.** Employees shall be compensated in accordance with the regular overtime provisions of this agreement for gunnery training for scheduled shoots when such training occurs during off-duty hours. Such training 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 5.10 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.** Any member of the unit who is subpoenaed to appear in court in connection with their official duties on a regular scheduled duty day, but during the hours when he/she is not scheduled to be on duty, and as set forth in Section 5.16 Callback - Definition, and who reports to the court, shall receive a minimum of two (2) 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 straight time 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 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 straight time 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-half (1/2) hour after the employee has left work and ends one half (1/2) hour before the employee is scheduled to begin the next regular shift.

**SECTION 5.17. CALLBACK PAY.** Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), employees called back to work by the department head or his/her representative during the period specified in Section 5.16 Callback - Definition shall receive a minimum of three (3) hours pay at the appropriate hourly 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 two (2) hours pay at his/her straight time hourly rate for each accumulated twenty-four (24) 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 6.17.

**SECTION 5.19. COMPENSATORY TIME OFF (CTO).** Members of the unit who work over eighty (80) hours in a 14-day work period 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 determined by the department head based on the needs of the City service but after considering the preferences of the employee.

**SECTION 5.20. COMPENSATORY TIME OFF (CTO)** 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 by separate check.

**SECTION 5.22. COMPENSATORY TIME OFF (CTO) – PAYMENT.** All employees will have the option to cash out a maximum of forty (40) hours of CTO that has been accumulated, payable once per quarter. Prior to or upon resignation, termination or retirement, 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.

**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 1 <sup>st</sup> 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 a holiday. When any day recognized as a holiday by the City falls on a Saturday, the proceeding Friday shall be considered the holiday.

**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 all of said holidays.

**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 said 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, said employee shall receive additional pay equal to and in lieu of time off at the straight time hourly rate for said 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 of the unit may convert holiday pay for up to four (4) 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 such holiday time is taken by the employee, 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. DEFERRED COMPENSATION.** The City has made available a deferred compensation plan for those who wish to participate at their expense. No City contribution is authorized. Participants receive this benefit during employment with the City of Merced and generally cannot withdraw the funds until retirement or service termination.

**SECTION 6.03. PAY FOR POST CERTIFICATE.** Effective the first day of the full pay period following City Council approval of this MOU (no retroactivity), unit employees who have received an Intermediate and an Advanced POST Certificate shall receive \$100.00 per month in addition to regular base wages, and employees who have received a Supervisory POST Certificate shall receive \$200.00 per month in addition to regular base wages. These benefits are not stackable.

**SECTION 6.04. FILING POST CERTIFICATE.** An employee shall be reimbursed for an Intermediate, Advanced and/or Supervisory POST Certificate retroactive to the date the application was approved by the Chief of Police.

**SECTION 6.05. RETIREMENT.** The City shall maintain in effect for all current members of this unit the California Public Employees' Retirement System (CalPERS) three percent (3%) at fifty (50) benefit formula.

The City shall implement a two-tiered retirement system, and all newly hired bargaining unit employees hired on or after December 12, 2012 will 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.

Participation in the CalPERS Retirement Program requires an employer and an employee contribution. Effective June 25, 2012 (PP 14) unit members shall pay the entire employee contribution.

**SECTION 6.06. CANINE HANDLER COMPENSATION.** 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.

**SECTION 6.07. SHIFT DIFFERENTIAL.** Unit employees assigned to a shift or unit regularly scheduled to work four (4) hours or more between 2:00 p.m. and 10:00 p.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), unit employees assigned to a shift or unit regularly scheduled to work

four (4) hours or more between 10:00 p.m. and 6:00 a.m. shall receive three percent (3%) shift differential in addition to his/her base wage.

## **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.** All eligible employees earn vacation benefits in accordance with their length of continuous service as follows:

During their 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 of 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 MOU by the City Council, but no sooner than the first full pay period after City Council approval.

After the completion of 20 years of continuous service, employees earn vacation benefits at the rate of 7.692 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, employees earn vacation benefits at the rate of 9.230 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.

**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 pay period in 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 use 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 earn sick leave benefits in accordance with their length of continuous service as follows:

Full-time regular employees earn sick leave benefits from the first date 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.

**SECTION 7.09. SICK LEAVE DURING FIRST SIX MONTHS OF PROBATION.** Probationary employees may be allowed to use sick leave accrued to them under the same rules and regulations as regular employees during the first thirteen (13) biweekly pay periods of continuous service, if the employee does not complete the probationary period, any sick leave hours used in excess of 3 days or 24 hours, whichever is greater, will be repaid at the pay rate it was paid out.

**SECTION 7.10. 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.

**SECTION 7.11. 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 7.12. SICK LEAVE UPON RETIREMENT.** To the extent permitted by law, a sworn employee who retires on an industrial disability, regardless of length of service, and an employee who is eligible for and retires in accordance with the PERS benefits plan will 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 7.13. 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 will 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 will be forfeited. Payment shall be made by separate check.

**SECTION 7.14. 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 holiday and shall not be counted as a day of sick leave.

**SECTION 7.15 SICK LEAVE USE.** Sick leave used by an employee shall be charged against the sick leave accrued on an hour-for-hour basis.

**SECTION 7.16. 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 sick leave 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 begins to lead toward 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 unless the frequency of the illness(es) adversely affects the City's ability to reasonably deliver services.

Where it is reasonably determined that the sick leave privilege has been abused, those employees responsible for such abuse shall be subject to disciplinary actions.

**SECTION 7.17. FAMILY AND MEDICAL LEAVE ACT.** In accordance with administrative policies and procedures, employees in the unit will 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, and;
- 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 notify 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 8.03. 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	\$ 228.16
Employee plus one	\$ 467.10
Employee plus two or more	\$ 686.60

**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 the 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: \$455.54 monthly for retirees over 65, and \$637.45 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 serving in the interests of the City. Jury duty includes preliminary jury selection procedures, appearance in court as a member of a jury panel, and appearance at a Coroner's inquest.

Employees shall not waive jury duty fees. A salaried employee who is absent for jury duty is paid his/her regular salary only if the employee remits the amount received for such duty to the City. If the employee elects to retain the jury duty fees, the employee's time off for jury duty is not compensable. The employee may elect to use vacation to cover the time off.

Payment for travel expenses and/or subsistence received by the employee on jury duty need not be remitted to the City.

*Reference: Code of Civil Procedure, Section 200.*

There is not a blanket exemption under which employees may be excused from jury duty. However, courts can make individual exemptions, at their discretion, if jury service would entail undue hardship on the person or the public served by the person. When appropriate, supervisors may request exemption of individual employees from jury duty when such service would entail undue hardship on the City.

## **ARTICLE X**

### **LEAVES OF ABSENCE**

**SECTION 10.01. ARMED FORCES LEAVE.** Leaves of absence for armed forces service shall be granted to employees in accordance with State 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. Upon request, the City Manager may grant an additional twenty-four (24) hours bereavement leave which shall be charged against the employee's accumulated sick leave in cases where extensive travel is required to attend the funeral.

**SECTION 10.03. DEFINITION OF IMMEDIATE FAMILY.** For the purposes of Section 11.02, 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, salary increases, salary range/step increases, uniform allowance, and other 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.

**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 satisfactory explanation shall be deemed to have voluntarily resigned from the City of Merced.

## **ARTICLE XI**

### **UNIFORMS**

**SECTION 11.01. UNIFORMS MAINTENANCE ALLOWANCE.** Effective June 17, 2019 (PP14), the City agrees to provide a bi-weekly uniform maintenance allowance for each unit employee of \$40.38 required to wear a uniform. All applicable deductions will be subtracted from payments for uniform maintenance allowance and paid by employee.

## **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 conditions.

**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 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 the 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 of 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, function, and authorities which management had prior to entering into this Memorandum of Understanding unless and only to the extent that the provisions of this Memorandum of understanding specifically curtail or limit such rights, powers, functions, and authorities, 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 negotiations by adoption of this Memorandum of Understanding.

**SECTION 13.03. NO MODIFICATION OF CHARTER.** This Memorandum of Understanding is not intended to, nor may it be construed to, modify the provisions of the Merced City Charter relating to Civil service or personnel administration.

#### **ARTICLE XIV** **NO STRIKE – ASSOCIATION OBLIGATIONS**

**SECTION 14.01. 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, stoppages or cessation of work, including actions of a sympathy nature, boycotts or any unlawful acts of any kind that interfere with the City's operations. 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 14.02. OBLIGATIONS OF ASSOCIATION.** In the event of any failure of Section 14.01 No Strike to operate effectively in any work stoppage, the Association, its officers, steward and agents, agree that they will immediately take and continue to take all reasonable steps to restore full operations.

#### **ARTICLE XV** **SCOPE OF AGREEMENT**

**SECTION 15.01. SCOPE OF AGREEMENT.** 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.

#### **ARTICLE XVI** **SEPARABILITY**

**SECTION 16.01. 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 XVII** **DURATION OF AGREEMENT**

**SECTION 17.01. 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 XVIII** **LAYOFF**

### **SECTION 18.01. 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 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. Seniority is determined by the total continuous service in the City. The following provisions apply in computing total continuous service:
  - 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; and
  - c. Time worked in an extra help, seasonal, provisional, temporary, grant or other limited term status, shall not count as service.
4. 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.

5. 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.
6. 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.
7. 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. The City Manager and each department head shall use such list when a vacancy arises in the same or lower class.
8. 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.
9. 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 that person to be dropped from the re-employment list. Failure of a person to respond within seven (7) workdays to the offer of re-employment shall be considered a refusal.
10. 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.
11. 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 classifications.

## **ARTICLE XIX**

### **TOBACCO PRODUCT USE**

**SECTION 19.01. 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 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, City administrative policy, and this agreement.

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

## **ARTICLE XX**

### **AMERICANS WITH DISABILITIES ACT**

**SECTION 20.01. AMERICANS WITH DISABILITIES ACT.** The City and the Association recognize that the City has an obligation under law to meet with individual employees who allege a need for reasonable accommodations in the workplace because of a disability. If by reason of the aforesaid requirement the City contemplates actions to provide reasonable accommodation to an individual employee in compliance with the ADA which are in potential conflict with any provision of this Memorandum of Understanding, the Association will be advised of any such proposed accommodation prior to implementation by the city.



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

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

FOR THE ASSOCIATION:

FOR THE CITY:

\_\_\_\_\_  
GARY MESSING  
SPOKESPERSON

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

\_\_\_\_\_  
ROBERT SOLIS

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

\_\_\_\_\_  
REY ALVAREZ

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

\_\_\_\_\_  
EDDIE DRUM

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

\_\_\_\_\_  
JOE PEREZ

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

This is a Side Letter to the January 1, 2019 Memorandum Of Understanding ("MOU") between the City and MAPS.

This side letter is only effective for the term 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  
SPOKESPERSON

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

\_\_\_\_\_  
ROBERT SOLIS

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

\_\_\_\_\_  
REY ALVAREZ

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

\_\_\_\_\_  
EDDIE DRUM

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

\_\_\_\_\_  
JOE PEREZ

**ATTACHMENT A**  
**MAPS 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>
MP	680	POLICE SERGEANT	\$	\$7,325	\$	\$7,691	\$	\$8,076	\$	\$8,479	\$	\$8,903

All numbers have been rounded to the nearest \$1