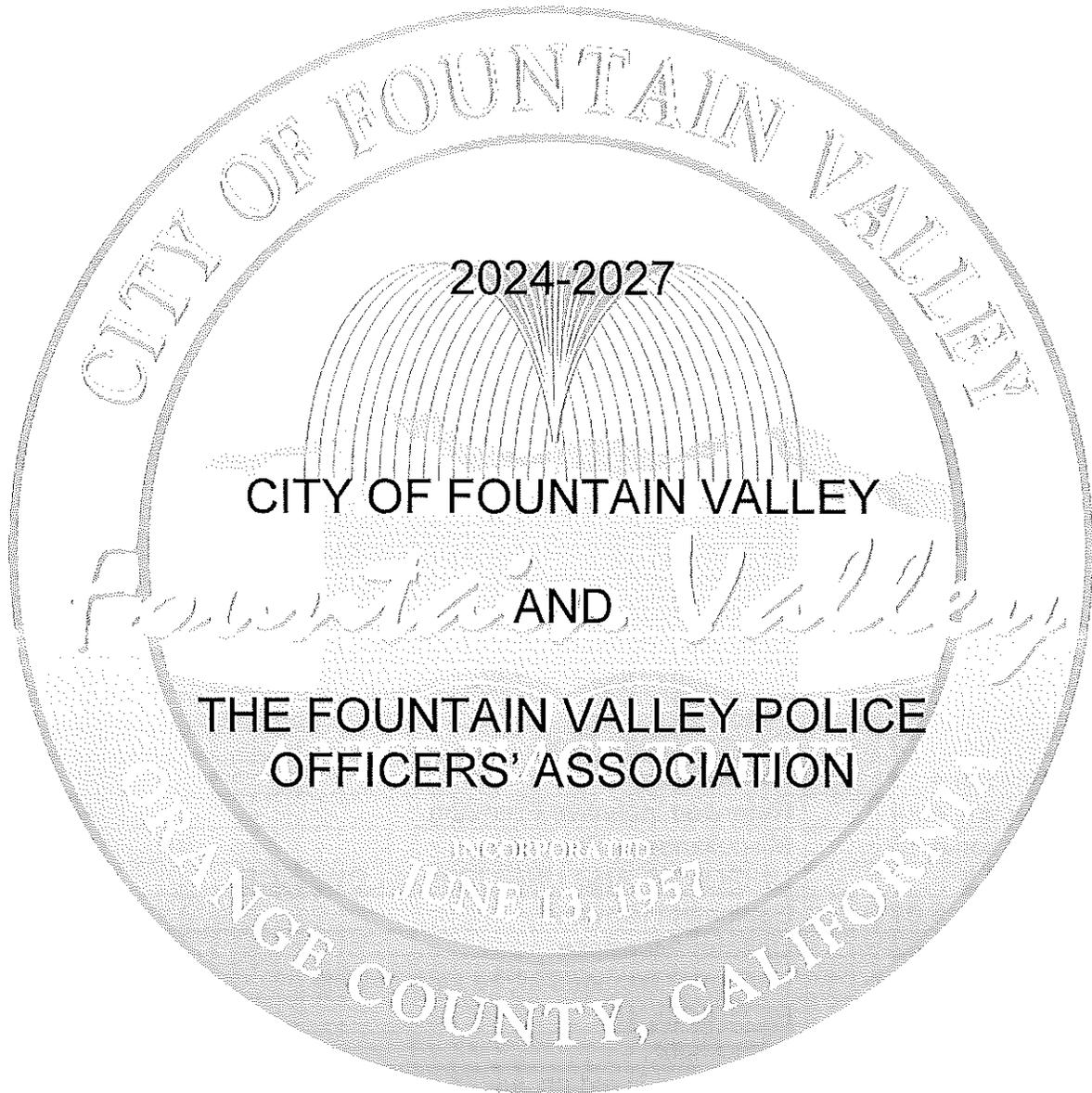


MEMORANDUM OF UNDERSTANDING



This Memorandum of Understanding sets forth the terms of agreement reached between the City of Fountain Valley and the Fountain Valley Police Officers' Association as the exclusively recognized employee organization for the Police Officers' Unit for the period beginning July 1, 2024, through June 30, 2027. Unless otherwise indicated herein, all provisions shall become effective following City Council approval of the MOU.

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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY MANAGER
FOR THE CITY OF FOUNTAIN VALLEY
AND
THE FOUNTAIN VALLEY POLICE OFFICERS' ASSOCIATION**

(July 1, 2024 – June 30, 2027)

ARTICLE 1 - RECOGNITION

The Fountain Valley Police Officers' Association (hereinafter referred to as "FVPOA") is the recognized employee organization with the right to meet and confer in good faith on behalf of sworn employees of the City in the classifications of Police Officer, Corporal and Police Sergeant, hereinafter referred to as "sworn, non-management Police personnel."

- A. The City of Fountain Valley and representatives of FVPOA have met on a number of occasions and have conferred in good faith, exchanging a number of proposals concerning wages, hours, fringe benefits and other terms and conditions of employment for the said employees of the City.
- B. The City and FVPOA have reached an understanding as to changes in wages, hours, fringe benefits, and other terms and conditions of employment contained herein.

THEREFORE, the City of Fountain Valley and the representatives of FVPOA agree as follows:

- A. Pursuant to Government Code Section 3500 et seq. and the Employer-Employee Relations Resolution No. 9379 of the City Council of the City of Fountain Valley, the City has recognized the FVPOA as the representative for sworn employees of the City in the ranks of Police Officer, Corporal, and Police Sergeant for the purpose of representation regarding wages, hours, benefits, and other terms and conditions of employment. As such, FVPOA is empowered to act on behalf of said employees whether or not they are individually members of FVPOA.
- B. This Memorandum of Understanding ("MOU") shall act as a bar to the raising of any question concerning such representation during the term of this memorandum, except that a question of representation may be raised during the period between sixty (60) days and ninety (90) days prior to the expiration of this MOU.

ARTICLE 2 - WORK SCHEDULE

Section 2.01 – Work Period. The work period for sworn, non-management Police personnel shall be twenty-eight (28) days pursuant to Section 207(k) of the Fair Labor Standards Act (“FLSA”) beginning at 12:01 a.m. on the first day of the payroll period and ending at twelve (12:00) Midnight twenty-eight (28) days later.

Section 2.02 – Work Schedule – 3/12.5. Sworn, non-management Police personnel assigned to Patrol duties (Uniform Division) shall work as follows:

Personnel assigned to Patrol (excluding School Resource Officer and Canine Officer), will be assigned to a 3/12.5 schedule. In each seven (7) calendar day period, the employee is scheduled to work three (3) twelve and a half (12.5) hour days followed by four (4) consecutive days off. During the twenty-eight (28)-day work period, the employee must work one additional ten (10) hour shift. The specific days and hours will be established in advance by the Division Commander and the Chief of Police or designee.

Section 2.02 (a)- Level Pay Plan. Employees will be paid based on the employee's twenty eight (28)-day FLSA work period with seventy-five (75) scheduled hours in one pay period and 85 scheduled hours in the other pay period.

Section 2.03 – Work Schedule – 4/10. Employees in the assignments of School Resource Officer, Canine Officer, Traffic, and non-uniformed sworn personnel, including the Detective Division and Personnel and Training, shall be scheduled to work consecutive four (4) ten (10) hour days per week, commonly known as a 4/10 schedule. The specific days and hours will be established in advance by the Division Commander and the Chief of Police or designee. This 4/10 work schedule shall remain in effect except as provided below:

- A. The Chief of Police or designee shall have the right to adjust the work schedule of non-uniformed sworn personnel during the time period in which any of the following conditions exist:
1. The Detective Bureau staffing level is at least three (3) sworn personnel below budget-authorized strength due to vacancies and/or long-term injuries or illnesses. For purposes of this subsection, "long-term injury or illness" shall mean an injury or illness which results, or is expected to result, in an employee being absent from work for a period of at least thirty (30) calendar days.
 2. The clearance rate for any six (6) month period is less than twenty-five percent (25%), using the standard formula: number of cases cleared, divided by number of open investigative cases received = clearance rate.

3. Average overtime usage for sworn non-uniformed personnel, excluding special incident overtime, exceeds ten (10) hours per month per employee. Special incident overtime may include but is not limited to the following:
 - a. Officer-involved shootings
 - b. Officer-involved death of suspect
 - c. Major task force, i.e., serial rapist
 - d. Training days
 - e. Major investigations

4. The City and the FVPOA agree that if any one (1) or more of the three (3) conditions listed above occur, the Chief of Police or designee may, at their discretion and without meeting with FVPOA representatives, modify the existing 4/10 work schedule for sworn, non-uniformed personnel, until such time as the condition or conditions cease to exist.

Section 2.04 – Work Schedule – Light Duty. Sworn, non-management Police personnel who are released to work with restrictions shall be evaluated for accommodation of light duty work. Light duty work shall be assigned based on the department's ability to accommodate and the nature of the work restrictions. This provision shall apply to both industrially injured and non-industrially injured employees.

ARTICLE 3 - PROBATIONARY EMPLOYEES

Section 3.01 – Probationary Period for New Hires. New employees shall be subject to a one (1) year probationary period. Upon twelve (12) months of continuous City service and successful completion of probation, the employee shall be eligible for a merit increase. Thereafter, employees shall be eligible for merit increases effective upon completion of twenty-four (24) months, thirty (30) months, and forty-two (42) months after appointment, subject to the maximum step in the applicable salary range. For employees hired after ratification of this MOU, merit step increases shall occur upon successful completion of probation, twenty-four (24), thirty-six (36), and forty-eight (48) months after appointment, subject to the maximum step in the applicable salary range.

Section 3.02 – Probationary Period Upon Promotion. Sworn, non-management Police personnel promoted to a higher classification shall be subject to a one (1) year probationary period. Upon successful completion of the probationary period, the sworn, non-management Police employee may be recommended for permanent status and a merit increase subject to Chief of Police or designee and City Manager or designee approval. Thereafter, the sworn, non-management Police employee shall be eligible for a merit increase effective with completion of twenty-four (24) months, thirty (30) months, and forty-two (42) months after appointment, subject to the maximum step in the applicable salary range.

ARTICLE 4 - COMPENSATION

Section 4.01 - Compensation. The schedule of base salary rates is contained in Exhibit 1. There shall be across-the-board base salary increases to all represented classifications, as follows:

Adjustment Effective Day	Adjustment Amount
Effective pay period ending July 5, 2024	4%
Effective pay period ending July 4, 2025	4%
Effective pay period ending July 3, 2026	4%

Section 4.02 – Pay Periods. Sworn non-management Police personnel shall be paid on a bi-weekly basis. The basic hourly rate for all employees shall be computed by dividing the annual salary by two thousand and eighty (2080) hours.

Section 4.03 – Canine Officer/Animal Premium. This is defined as compensation to local Police Officers who are routinely and consistently assigned to handle, train, and board a canine. Compensation shall not include veterinarian fees, feed, or other reimbursable expenses for upkeep of the animal. This is designated by CCR 571 (a) as special assignment pay. Sworn, non-management Police personnel assigned to duty as a Canine Officer shall receive a salary differential of five percent (5.0%). The five percent (5.0%) Canine Officer/animal premium shall be separate from, and in addition to, other pay differentials which the employee may be receiving.

- A. Employees who are assigned to Canine Officer detail are entitled to compensation for the off-duty hours spent caring, grooming, feeding, and training their canine and maintaining their canine vehicle/unit. The parties acknowledge that the FLSA permits the parties to agree upon an estimate as to a reasonable number of hours per month for the performance of canine duties. The FLSA also allows the parties to agree on the appropriate rate of compensation for the performance of canine duties. The parties intend and actually believe that this article fully complies with the requirements of the FLSA.
- B. Canine Officers work a 4/10 work schedule. A sworn unit member assigned to canine duty is required to work one (1) hour less per shift than other Officers on that shift. That last hour of the shift will be compensated as usual as work time for the off-duty caring, grooming, feeding, exercising, and training of the canine. Since there is an average of 17.33 shifts per month, the parties agree that unit members normally spend 17.33 hours per month performing such work off-duty. Canine Officers assigned to an overtime shift must work the full number of hours of the overtime shift.
- C. A unit member who is required to perform extraordinary off-duty canine care, such as a veterinary emergency or other rare occurrence which causes a substantial increase in the normal off-duty hours worked for that month, shall submit a written request to the Chief of Police or designee for additional compensation for the hours spent performing such work. Any additional compensation shall be compensated at time and one half.

- D. City agrees to allow Canine Officers the use of a City patrol vehicle for the transportation of the Police canine to and from the Officer's personal residence.

Section 4.04 – Pay Relating to Off-Duty Court Appearances.

- A. Sworn, non-management Police personnel who must be available during off-duty hours to appear in court on official City business pursuant to notification to appear in court shall be compensated at their base hourly rate for two (2) hours of "Court Standby Pay" for the morning court session and/or two (2) hours for the afternoon court session.
- B. If an employee is required to appear in court, they shall be compensated with "Court Appearance Pay" at one and one-half times the employee's base hourly rate for the actual number of hours spent in court, with a minimum of three (3) hours.
- C. If the employee is on call for court in the morning and subsequently is required to appear in court in the afternoon, they shall be compensated at the base hourly rate for two (2) hours of "Court Standby Pay" for the morning and at one and one-half times the base hourly rate for the actual number of hours spent in court in the afternoon, with minimum pay of three (3) hours as "Court Appearance Pay." An employee cannot receive both "Court Appearance Pay" and "Court Standby Pay" for a single court session.
- D. The provisions of this section shall apply to all administrative, judicial, or quasi-judicial proceedings at which the employee must testify to matters observed in their capacity as a City employee (e.g., administrative appeal, DMV hearings, etc.)

Section 4.05 – Peace Officer Standard Training (P.O.S.T.) Certificate Pay: This is defined as compensation to local Police Officers who obtain Peace Officer Standards Training (P.O.S.T.) Certification and is designated by CCR 571 (a) as educational pay. Sworn, non-management Police personnel who have an Intermediate or Advanced P.O.S.T. Certificate shall receive either of the following:

A. Peace Officer Standard Training (P.O.S.T.) Certificate Pay for an Intermediate Certificate shall be paid to sworn, non-management Police personnel who possess an Intermediate P.O.S.T. Certificate in the amount of five-percent (5%) of their base hourly rate of pay .

(Revised 8/7/10, 8/8/09, 8/9/08, 8/11/07, 1/1/98, 1/1/97, 8/1/15, 7/1/21)

B. Peace Officer Standard Training (P.O.S.T.) Certificate Pay for an Advanced Certificate shall be paid to sworn, non-management Police personnel who possess an Advanced P.O.S.T. Certificate in the amount of twelve-percent (12%) of their base hourly rate of pay.

(Revised 8/7/10, 8/8/09, 8/9/08, 8/11/07, 1/1/98, 1/1/97, 8/1/15, 7/1/21)

Peace Officer Standard Training (P.O.S.T.) Certificate Pay, as specified in this section, will be paid to the employee effective the payroll period during which the Human Resources Department is provided with proof they meet the required criteria.

Section 4.06 – Physical Fitness Program (Wellness). This is defined as compensation to local safety members who meet an established physical fitness criterion and is designated by CCR 571 (a) as incentive pay. Sworn, non-management police personnel who meet the criteria and testing for the Physical Fitness Program specified in Article 11 shall receive:

Effective the pay period ending July 5, 2024, sworn, non-management Police personnel will receive Physical Fitness Program pay in the amount of four hundred and ninety-five dollars (\$495) per month.

Section 4.07 – Specialty Assignment Pay. Specialty Assignment pay shall be applicable as follows:

A. Specialty Assignment pay will be given to sworn, non-management Police personnel who are assigned to the following:

1. Detective Division Premium Pay: This is defined as compensation to police officers who are routinely and consistently assigned to detective or investigative division or intelligence duties and is designated by CCR 571 (a) as special assignment pay. Sworn, non-management Police personnel assigned to Detectives will receive Detective Division Premium Pay in the amount of four hundred dollars (\$400) per month.
2. Police Liaison Premium (School Resource and Community Resource (2 positions)): This is defined as compensation to police officers who are routinely and consistently assigned to function as a liaison between special persons, groups or courts and the Police Department and is designated by CCR 571 (a) as special assignment pay. Sworn, non-management Police personnel assigned to Police Liaison will receive Police Liaison Premium in the amount of four hundred dollars (\$400) per month.
3. Training Premium (Field Training Officer): This is defined as compensation to employees who are routinely and consistently assigned to train employees and is designated by CCR 571 (a) as special assignment pay.

Sworn, non-management Police personnel assigned to Field Training Officer shall receive specialty assignment pay as long as the employee maintains current certification as Field Training Officer. The City Manager or designee and Chief of Police or designee have sole discretion in determining the number of Field Training Officers to be maintained by the City. Sworn, non-management Police personnel assigned to a specialty assignment shall receive four hundred dollars (\$400) per month.

(Revised 1/8/11, 1/9/10, 1/10/09, 1/12/08, 1/1/97, 7/1/21)

4. Traffic Detail Premium: This is defined as compensation to employees who are routinely and consistently assigned to direct traffic and is designated by CCR 571 (a) as special assignment pay. Sworn, non-management Police personnel assigned to Traffic will receive Traffic Detail Premium in the amount of four hundred dollars (\$400) per month.
5. Personnel and Training Premium: This is defined as compensation to employees who are routinely and consistently assigned to Personnel and Training division duties, and is designated by CCR 571(a) as special assignment pay. Sworn, non-management Police personnel assigned to Personnel and Training will receive Personnel and Training Premium in the amount of four hundred dollars (\$400) per month.
6. Special Weapons and Tactics ("SWAT") Premium: This is defined as compensation to employees who are routinely and consistently assigned to SWAT duties, including employees who serve as crisis negotiators. Sworn, non-management Police personnel assigned to SWAT will receive a SWAT Premium in the amount of two hundred dollars (\$200) per month. SWAT pay shall be separate from, and in addition to, other pay differentials which the employee may be receiving.
7. Drug Recognition Expert ("DRE") Premium: This is defined as compensation to up to a maximum of six (6) sworn employees who are certified as a DRE, and who shall be required to perform drug recognition evaluations. Effective the pay period ending July 5, 2024, sworn, non-management Police personnel designated by the Chief (or their designee) will receive a DRE Premium in the amount of two hundred dollars (\$200) per month. DRE pay shall be separate from, and in addition to, other pay differentials which the employee may be receiving.

Section 4.08 – Termination of Premium Pay. Premium Pay for Detective Division, Police Liaison, Training (FTO), Traffic Detail, Personnel and Training, Special Weapons and Tactics and DRE shall cease when the employee is reassigned to a non-specialty assignment. No premium pay will be applicable when an Officer is temporarily assigned to said duties because the Officer is incapacitated from serving in their usual assignment (e.g., light duty).

Section 4.09 – Bilingual Premium. This is defined as compensation to employees who are routinely and consistently assigned to positions requiring communication skills in languages other than English and is designated by CCR 571 (a) as special assignment pay.

Sworn, non-management Police personnel successfully completing proficiency certification will be eligible to receive Bilingual Premium in accordance with the following procedures:

- A. The Chief of Police or designee shall determine the languages appropriate for Bilingual Proficiency Pay.

B. Sworn, non-management Police personnel eligible to receive Bilingual Proficiency Pay must first successfully pass a proficiency test.

1. Level 1 Certified as proficient in speaking and writing an approved language: Sworn, non-management Police personnel certified by the Human Resources Director or designee as proficient in speaking and writing an approved language shall be designated as Level 1 and will receive Bilingual Premium in the amount of two hundred dollars (\$200) per month.
2. Level 2 Certified as proficient in speaking an approved language: Sworn, non-management Police personnel who are certified by the Human Resources Director or designee as proficient in speaking an approved language shall be designated as Level 2 and will receive Bilingual Premium in the amount of one hundred fifty dollars (\$150) per month.

Section 4.10 – Temporary Upgrade Pay. This is defined as compensation to employees who are required by their employer to work in an upgraded position/classification of limited duration and is designated by CCR 571 (a) as premium pay.

Employees are eligible for a five percent (5%) base pay differential when they are assigned to work in a higher classification and all of the following apply:

1. The City Manager or designee approves of the temporary upgrade; and
2. The employee performs all the duties and assume all the responsibilities of the higher classification for a period of not less than thirty (30) calendar days; and
3. Compensation for temporary upgrade pay shall be limited to the temporary filling of a vacant regular position due to termination, promotion, or extended absence of the incumbent, vacant position, or the temporary filling of newly-budgeted positions.

Section 4.11 - Overtime. City agrees to pay overtime as follows:

A. Overtime. The City will pay overtime at the rate of time-and-one-half for all hours worked in excess of one-hundred sixty (160) hours in a twenty-eight (28) day work period. Paid absences, such as sick leave, vacation, compensatory time, and holiday leave shall count as hours worked for purposes of eligibility for overtime compensation.

B. Calculation of the Overtime Rate. The City will pay overtime for all hours worked in excess of one hundred sixty (160) hours in a twenty-eight (28)-day work period. Paid absences, such as sick leave, vacation, compensatory time off, and holiday leave shall count as hours worked for the purposes of eligibility for contract overtime compensation. The City agrees to include special assignment pay, education incentive pay (i.e. POST), and court standby pay in the contract overtime rate. Should the City's payroll system be unable to calculate two different rates of pay (contract overtime and FLSA overtime), the City may provide an overtime calculation greater than the contract overtime rate but not more than the FLSA regular rate of pay.

The FLSA requires overtime be paid at the "regular rate of pay" for actual hours worked in excess of one hundred and seventy-one (171) hours in a twenty-eight day work period. Paid leave hours are not included as hours worked for FLSA overtime purposes. FLSA overtime is paid at the "regular rate of pay" which, for purposes of calculating the overtime rate, will always be expressed as an hourly rate, and includes all remuneration for employment paid to or on behalf of an employee, except payments specifically excluded by the FLSA.

Section 4.12 – Compensatory Time. Sworn, non-management Police personnel will have the option of receiving overtime compensatory time off at the rate of one-and-one-half (1.5) hours off for each hour of overtime, in lieu of a cash payment.

- A. Sworn, non-management Police personnel shall also have the option of "banking" overtime compensatory time, up to a maximum of eighty (80) compensatory time hours (fifty three (53) hours of earned overtime), and of utilizing time off from the overtime compensatory time bank upon request, subject to approval of the employee's immediate supervisor and Chief of Police or designee.
- B. Overtime compensatory time off, whether "banked" or used at the time the overtime is earned, shall be credited to the employee at the rate of one-and-one-half (1.5) hours of compensatory time for each hour of overtime worked.
- C. Employees shall have the option to annually cash out up to 40 hours of overtime compensatory time. In December of each year, employees may make an irrevocable election of up to 40 hours of overtime compensatory time off to be cashed out in the paycheck issued within the first ten (10) days in December of the following calendar year. Effective December 2024, employees may make an irrevocable election of up to 40 hours of overtime compensatory time off to be cashed out in the paycheck issued within the first ten (10) days in December 2025.
- D. The employee shall inform their supervisor at the time overtime is earned if they wish to utilize or bank overtime compensatory time in lieu of being paid overtime.
- E. Employees who separate from the City shall be paid for up to eighty (80) hours of "overtime" compensatory time that is unused at the time of separation.
- F. Members of the POA who participate in the City's on-site fitness program in the Police Department's gym will be eligible to accrue fitness compensatory time. Every forty (40) minutes of exercise equates to one (1) hour of accrued fitness compensatory time regardless of length of shift assignment (twelve and a half (12.5) or ten (10)-hour days). Employees who exercise under this program must do so prior to the start of their shift or directly after the end of their shift. Workout time must be verified by their immediate supervisor.

Employees will be responsible for coding their timecard with a fitness program/comp earned time pay code on each day they work out. Fitness compensatory time earned in the fitness program will be credited to a separate fitness comp time leave bank and subject to a cap of forty (40) hours. Employees may use their fitness compensatory

time in lieu of working the ten (10)-hour administrative day that occurs once during the twenty-eight (28)-day schedule or can use this fitness compensatory time in the same manner they use overtime compensatory time in accordance with Section 4.13 of this MOU, with no restrictions on by when it must be used. Fitness compensatory time may not be cashed out. However, upon separation or promotion of the employee, fitness compensatory time will be cashed out at the employee's current hourly rate of pay.

In the event the gym in the police department becomes unavailable for use, City Administration will work closely with the Chief of Police or designee to assist in securing an additional workout location on City premises.

Section 4.13 On-Call Pay- Unit employees assigned to the detective bureau and traffic investigations may be placed "on-call" and are required to report back to work for emergency purposes during their off-duty hours, as set forth below:

- A. On-call shall begin at the end of the regularly assigned shift on Friday through the start of the regularly assigned shift on Monday.
- B. Each week there shall be two (2) Detectives, one (1) Crime Suppression Unit member and/or one (1) Traffic Investigator assigned to be on-call for emergency response.
- C. While on-call, employees must be fit for duty and within a reasonable response time.
- D. The sworn, non-management Police employee is able to be reached at all times during the on-call period and is able to respond to call-outs immediately.
- E. The sworn, non-management Police employee will begin to respond to the work site within thirty (30) minutes of receiving the call.

Employees assigned to on-call duty shall receive two hundred dollars (\$200) for each weekend shift of on-call duty. On-call pay is in addition to any other compensation to which the employee may be entitled.

The City and FVPOA agree that the hours that an employee is on designated on-call is "uncontrolled" and shall not be considered hours worked except for such hours that the employee is en route to or from a call-out, and actual time spent on call-outs.

Section 4.14- Retention Incentive Premium- Defined as compensation to incentivize sworn, non-management Police employees to remain with the City of Fountain Valley. Effective in the pay period including March 4, 2023, employees will earn Retention Incentive Premium at the following rates based on their years of cumulative, full-time sworn law enforcement service. Only sworn law enforcement experience as defined by the California Penal Code Sections 830.1, 830.2, 830.32, 830.33 or the out-of-state equivalent as determined by the Chief of Police shall be included as qualified sworn law enforcement experience.

Years of Completed Sworn Law Enforcement Service	Premium
Completion of 5 years, beginning the 6 th year	5%
Completion of 10 years, beginning the 11 th year	7%
Completion of 15 years, beginning the 16 th year	8%
Completion of 20 years, beginning the 21 st year or more	9%

Section 4.15- Miscellaneous Provision-

- A. Effective in the pay period containing January 1, 2024, the City shall contribute \$200 per month on behalf of each unit employee to employees' 457-deferred compensation accounts.
- B. Effective the pay period ending July 5, 2024, the City shall contribute \$150 per month on behalf of each unit employee to the PORAC Retiree Medical Trust.

ARTICLE 5 - UNIFORMS AND UNIFORM ALLOWANCE

Section 5.01 – Equipment Provided. Sworn, non-management Police personnel shall be required to purchase, maintain, and wear uniforms as specified by the Chief of Police or designee. The following equipment will be provided by the City at no cost to the employee: handgun, ammunition, magazines, baton and grommet, baton ring, mace, mace holder, handcuffs, handcuff case, magazine holder, key holder, whistle, Sam brown belt, keepers (for Sam brown belt), helmet, face shield, holster, badge, hat piece badge, name tag, body armor (vest), raincoat/pants/boots, uniform patches.

Section 5.02 – Uniform Allowance. This is defined as compensation paid for the purchase and maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are solely for personal health and safety such as protective vests, pistols, bullets and safety shoes. These are designated by CCR 571 (a) as statutory items. Sworn, non-management Police personnel will receive a one thousand two hundred dollar (\$1,200) annual uniform allowance in bi-weekly in increments of forty-six dollars and fifteen cents (\$46.15) per pay period. Employees who work less than a full year will receive a pro-rated amount for the number of pay periods worked. For "classic" employees as defined by CalPERS, bi-weekly uniform allowance will be reported to CalPERS each payroll period.

(Revised 1/8/11, 1/9/10, 1/10/09, 1/12/08, 1/1/97, 7/1/21)

Section 5.03 Uniforms Damaged in the Line of Duty. Upon submission of proper documentation by the Department that an employee's uniform has been damaged in the line of duty, the City may, at its option, pay for the cost of repair or replacement of the

uniform, unless it is determined that such damage was the result of negligence on the part of the employee. Damaged in the line of duty shall not include normal wear and tear.

ARTICLE 6 – RETIREMENT.

Section 6.01 - Retirement. All sworn, non-management Police personnel are members of the California Public Employees' Retirement System ("CalPERS") and are subject to all applicable provisions of the City's contract with CalPERS. In addition, the parties desire to recognize and comply with AB 340 (California Public Employees' Pension Reform Act of 2013 ("PEPRA")).

Section 6.02 – Employees Hired on July 31, 2010 or Earlier. Sworn, non-management Police personnel employed by the City on July 31, 2010 or earlier, will be eligible for the following retirement benefits:

BENEFIT	GOVERNMENT CODE SECTION
3% at 50	21362.2
Single Highest Year	20042
Service Credit for Unused Sick Leave	20965
2% Cost-of-Living	21329
Prior Service Credit	20055
Post-Retirement Survivor Allowance	21624, 21626 and 21635
Retired Death Benefits	21620
Pre-Retirement Option 2W Death Benefits	21548
Military Service Credit	21024
Military Service Credit for Retirees	21027
Peace Corps Service Credit	21023.5
Public Service Layoff Service Credit	21022
Member Cost Sharing	20516
Public Service Credit for Service Rendered to a Nonprofit Corporation	21026
Local System Service Credit Included in Basic Death Benefit	21536
Cancellation of Payments for Service Credit Purchase Upon Industrial Disability Retirement	21037

Employee Contribution.

Effective the pay period including July 1, 2023, employees shall pay a CalPERS contribution of twelve percent (12%) of compensation earnable in accordance with Government Code 20516(a). The City has adopted the CalPERS resolution in accordance with IRS Code Section 414(h)(2) to ensure that both the employee contribution and the City pickup, as defined by IRS Code Section 414(h)(2), of the required member contribution are made on a pre-tax basis. However, ultimately, the tax status of any benefit is determined by the law.

Section 6.03 – Employees Hired Between August 1, 2010 through December 31, 2012 or “Classic” Employee Hired after January 1, 2013. Sworn, non-management Police personnel employed by the City of Fountain Valley between August 1, 2010 through December 31, 2012 or a “Classic” employee hired by the City after January 1, 2013. “Classic” employees are defined as those individuals who are:

- A. Working for an employer providing CalPERS retirement benefits who begins employment with the City of Fountain Valley without a break in service or a break in service of less than six (6) months; or
- B. Current member of a public retirement system or plan with reciprocity with CalPERS. Classic members will be covered under the 3% at 55 formula with the benefits specified below.

Classic employees will be eligible for the following retirement benefits:

BENEFIT	GOVERNMENT CODE SECTION
3% at 55	21363.1
Three Highest Years Average	20037
Service Credit for Unused Sick Leave	20965
2% Cost-of-Living	21329
Pre-Retirement Option 2W Death Benefits	21548
Military Service Credit	21024
Military Service Credit for Retirees	21027
Peace Corps Service Credit	21023.5
Public Service Layoff Service Credit	21022
Different Level of Benefits	20475
Public Service Credit for Service Rendered to a Nonprofit Corporation	21026
Local System Service Credit Included in Basic Death Benefit	21536
Cancellation of Payments for Service Credit Purchase Upon Industrial Disability Retirement	21037

Sworn non-management police personnel will pay the required employee contribution (9% of pensionable income) toward CalPERS retirement.

The City has adopted the CalPERS Resolution (City Council Resolution No. 8998) in accordance with and as permitted by Internal Revenue Code Section 414(h)(2) to ensure that the employees' payment (i.e., “pick up” as that term is used in Section 414(h)(2)) of their employee contribution is made on a pre-tax basis.

Section 6.04 – New Members or New Employees Under PEPRA. Assembly Bill No. 340 established the California Public Employees' Pension Reform Act of 2013 (hereinafter referred to as PEPR). PEPR mandates the retirement benefits and employee contributions for “New Members” or “New Employees” (as those terms are

defined by the law) hired on or after January 1, 2013.

New Members defined by PEPRA. New Members are defined by PEPRA as an employee who becomes a member of a public retirement system for the first time on or after January 1, 2013 and:

- A. Was not a member of a public retirement system before January 1, 2013; or
- B. Was a member of a public retirement system before January 1, 2013 that is not subject to reciprocity with the new public employer's plan; or
- C. Alternatively, anyone who was an active member of a retirement system, has a break in service of six (6) months or more, and returns to active membership in the same system with a new employer.

New Employees defined by PEPRA.

An individual hired on or after January 1, 2013 and:

- A. Never worked in the public sector before January 1, 2013; or
- B. Worked in the public sector before January 1, 2013, but worked for an employer with a retirement plan that did not have reciprocity with the new employer's plan.

New members and new employees will be eligible for the following retirement benefits:

Provision	Government Code Section
2.7% @ 57 Formula for Safety Members	Section 7522.25(d)
Different Level of Benefits	Section 20475
Final Compensation 3 Years	Section 20037
Military Service Credit as Public Service	Section 21024
Military Service Credit for Retired Persons	Section 21027
Post-Retirement Survivor Allowance to Continue After Remarriage	Section 21635
Pre-Retirement Death Benefits to Continue After Remarriage of Survivor	Section 21551
Pre-Retirement Option 2W Death Benefit	Section 21548
Prior Service	Section 20055
Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service	Section 21023.5
Public Service Credit for Periods of Layoff	Section 21022
Unused Sick Leave Credit - Local Member	Section 20965

Employee Contribution. PEPRA (Government Code Section 7522.30) states "Equal sharing of normal costs between public employers and public employees shall be the standard." The standard shall be that employees pay at least fifty percent (50%) of normal costs and that the employer not pay any of the required employee contribution.

The "normal cost rate" shall mean the annual actuarially determined normal cost for the defined benefit plan of an employer expressed as a percentage of payroll.

New Members and New Employees shall pay fifty percent (50%) of the normal cost adjusted annually in accordance with the CalPERS actuarial valuation for the City of Fountain Valley 2.7% at 57 plan. Any change to the New Member and New Employee contribution rate will become effective the first payroll period closest to July 1 of the appropriate year.

Upon receipt of the annual actuarial valuation from CalPERS for the 2.7% at 57 plan, the Human Resources Department will forward a copy to the Association specifying the New Member and New Employee contribution rate for the upcoming period. This process shall serve as the meet and confer process for any increase in the employee contribution rate.

Section 6.05 – Compensation Reportable to CalPERS. For purposes of calculating retirement benefits, City will report to the California Public Employees' Retirement System all regular compensation and applicable special compensation (uniform allowance, P.O.S.T. Certificate, Retention Incentive, physical fitness program pay (wellness) and applicable special assignment pay) for employees hired on or before December 31, 2012. SWAT Premium is not reportable as special compensation. In accordance with PEPR, for employees hired beginning January 1, 2013 and later, uniform allowance is not pensionable compensation and, therefore, may not be reported to CalPERS as pensionable compensation. In addition, for employees hired beginning January 1, 2013 and later, PEPR, amendments to PEPR and CalPERS law will define those special pays which may be reportable as pensionable compensation.

Section 6.06 – Pre-Tax Employee Contributions. Employee contributions may be deducted on a pre-tax basis as deferred income for Federal and State tax purposes. Any income tax obligation or penalties arising from such tax treatment shall be the exclusive responsibility of the employee. In the event of any adverse tax treatment for the employees, the City shall not be responsible and the City has made no representation regarding such tax treatment and employees shall seek such advice from their Association or personal tax advisors regarding such matters.

Section 6.07 – Employment of Laid Off Employee. If a sworn, non-management police personnel employed by the City on July 31, 2010 or earlier, is laid off then re-hired, the City will re-hire the employee under the 3% at 50 formula subject to CalPERS regulations and approval.

ARTICLE 7 – HEALTH AND OTHER INSURANCE FOR ACTIVE EMPLOYEES

Section 7.01 - Overview. The City contracts with CalPERS for medical insurance. This MOU recognizes two tiers of employees for purposes of medical coverage. Tier 1 employees are those employees hired on July 31, 2010 and earlier. Tier 2 employees are those hired on or after August 1, 2010. Tier 1 employees shall be entitled to a basic flex dollar medical allowance administered through a cafeteria plan qualified under the tax code. In addition, Tier 1 employees shall be entitled to an additional sum described

herein as a longevity health stipend. Tier 2 employees shall only be entitled to the basic flex dollar allowance administered through a cafeteria plan, as described herein. In addition, Tier 1 employees are entitled to different health coverage upon retirement than Tier 2 employees.

Section 7.02 – CalPERS Medical. The City contracts with the California Public Employees' Retirement System's Public Employees' Medical and Hospital Care Act (PEMHCA) for medical insurance for City employees. The payment of premiums towards group medical/dental/life insurance will be through the administration of a flexible benefit package.

The City shall pay the CalPERS statutory minimum employer contribution specified in Section 22892 of the Public Employees' Medical and Hospital Care Act.

Section 7.03 – Employees Defined.

Tier 1 employees are defined as those individuals employed in a full-time position with the City of Fountain Valley beginning July 31, 2010 and earlier.

Tier 2 employees are defined as those individuals employed in a full-time position with the City of Fountain Valley beginning August 1, 2010 and later.

If an employee separates employment then later returns to employment with the City of Fountain Valley, the date the employee returned to employment will become the hire date for the employee and will be considered a Tier 2 employee and only eligible for Tier 2 benefits.

Section 7.04 – Tier 1 Employees City Contribution.

Effective the pay period including January 1, 2024 the City contribution for Tier 1 employees is as follows:

Flex Dollar Allowance	Flex Allowance
Electing Employee Only coverage	\$2,100.00
Electing Employee +1 Dependent coverage	\$2,100.00
Electing Employee + Family coverage	\$2,100.00

The amount identified as flex dollars is inclusive of the PEMHCA statutory minimum contribution.

Sworn, non-management Police employees who elect not to be covered under the medical plan provided through the cafeteria plan shall receive PEMHCA minimum per month as cash wages. However, the employee will be required to pay for dental and life insurance premiums, both of which are mandatory out of the waiver of premium contribution. In order to opt out of the City's medical coverage, employees will be required

to maintain and provide proof of group health plan coverage through an alternative source and the alternative group health plan coverage must meet the Affordable Care Act's requirements regarding affordability and minimum value.

Section 7.05 – Tier 2 Employees City Contribution. Effective the pay period including January 1, 2022 the City will make the contributions to each employee's flexible spending account based upon coverage subject to the provisions below:

Effective the pay period that includes January 1, 2024, the monthly City contribution for Tier 2 will be:

Flex Dollar Allowance	Flex Dollars
Electing Employee Only coverage	\$1,075.00
Electing Employee +1 Dependent coverage	\$1,667.00
Electing Employee + Family coverage	\$2,100.00

The flex dollar allowance includes the PEMHCA minimum employer contribution. Tier 2 employees do not qualify for the longevity health stipend.

Section 7.06 – Cafeteria Plan. The provisions of the Cafeteria Plan are described below.

A. **Benefits Provided Through the Cafeteria Plan.** The insurance benefits provided for in this Article will be provided through the provision of a cafeteria plan adopted in accordance with the provisions of Internal Revenue Code § 125: medical and dental.

Each month the City will contribute to the cafeteria plan flex dollars for current employees and new hires as specified in Section 7.04 and 7.05 accordingly. In addition, the City will contribute a longevity stipend for Tier 1 employees as specified in Section 7.04. The City's flex dollar contribution includes the CalPERS statutory minimum paid by the City.

Prior to January 1, 2011, dependent dental premiums were fully employee paid. However, due to the provisions of the cafeteria plan, dependent dental premiums are to be deducted from the flex dollars if sufficient monthly residue exists. Upon retirement, retirees are not covered by a cafeteria plan; therefore, dependent dental premiums will be fully retiree paid if coverage is elected. Nothing in these provisions require City contributions towards dependent dental premiums.

B. **The Purchase of Optional Benefits Through the Cafeteria Plan.** The cafeteria plan offers sworn, non-management Police employees the opportunity to purchase medical insurance, dental insurance, vision insurance, life insurance, and AFLAC insurance. Eligible employees may select from any of the medical insurance plans offered by CalPERS. If CalPERS changes any of the medical insurance plans by either adding or deleting the plan options, employees will be limited to those plan options offered by CalPERS.

Sworn, non-management Police employees may elect any of the optional AFLAC insurance options the City offers to employees.

Dental and life insurance are not optional benefits and such premiums will be deducted from each employee's cafeteria plan flex dollars or waiver of premium contribution.

- C. Employee Contributions for Benefit Options. If a sworn, non-management Police employee chooses benefits whose aggregate cost exceeds the total flex dollar City contribution to the cafeteria plan, the City will automatically deduct the excess amount on a pre-tax basis if applicable, from the employee's bi-weekly paycheck.
- D. The Receipt of Cash Through the Cafeteria Plan. Sworn, non-management Police employees will be eligible to receive cash (subject to taxation as wages) through the cafeteria plan if they either opt out of receiving medical insurance or if they choose benefits that do not cost as much as the flex dollars provided by the City towards the cafeteria plan. Any such employee shall be eligible to receive up to a maximum of three hundred and fifty dollars (\$350)/month in cash. The employees in this unit who are receiving cash through the cafeteria plan in excess of three hundred and fifty dollars (\$350) as of January 1, 2018 are grandfathered (upon completion of an exhibit amending the MOU listing the grandfathered individuals) to continue to receive cash in excess of three hundred and fifty dollars (\$350) per month until they are no longer represented by POA, or the receipt of cash falls below three hundred and fifty dollars (\$350).

Section 7.07 – Term Life Insurance. The amount of term life insurance for each sworn, non-management Police employee shall be fifty thousand dollars (\$50,000).

Section 7.08 – Long-Term Disability Insurance. The City agrees to pay thirty dollars (\$30.00) per month per employee for Long-Term Disability insurance benefits to eligible sworn, non-management Police personnel during the course of this agreement. Long-term disability is provided through the POA's provider and the City does not guarantee any minimum level of benefits. The City shall not be responsible if sworn, non-management Police personnel do not elect to participate in the Long-Term Disability program, even though the City contributes thirty dollars (\$30.00) per month towards such program.

- A. Eligibility. An employee shall be eligible to receive Long-Term Disability benefits after the sixty (60) day benefit waiting period and after providing satisfactory medical proof that the employee qualifies for Long-Term Disability benefits. However, after thirty (30) days of continuous disability, an employee may receive fifty percent (50%) of the long-term disability benefit during any portion of the benefit waiting period the employee is ineligible to receive sick pay.

Benefits are payable subject to the following conditions and limitations:

1. The employee must be unable to perform with reasonable continuity the material duties of their own occupation, or be unable to earn more than fifty percent (50%)

of their Indexed Pre-disability Earnings while working in their own occupation (refer to the Plan Document for definition).

2. No benefits are payable for the first sixty (60) calendar days that the employee is absent from work as a result of the disability unless 7.08 A. applies. This period is known as the Benefit Waiting Period.
3. During the Benefit Waiting Period, an employee may utilize sick leave, vacation, compensatory time off, or absent no pay, if the disability is due to non-job related causes.
4. If the employee's disability is due to job-related causes, the employee's absence from work will be charged to industrial injury leave for a period of up to one (1) year from the date the disability was incurred, pursuant to Labor Code Section 4850, after which the employee is eligible for Long-Term Disability benefits.

The following deductible benefits/income will be credited against the amount of Long-Term Disability benefits listed above to which an employee is otherwise entitled:

1. Salary, including payment for sick leave, compensatory time off or other compensated absences excluding vacation.
 2. Workers' Compensation benefits for temporary disability, whether partial or total.
 3. Compensation paid to the employee in lieu of Workers' Compensation benefits (i.e., salary paid pursuant to Labor Code Section 4850).
 4. Social security benefits.
 5. Retirement or pension benefits.
- B. Off-Payroll Status. An employee who is receiving Long-Term Disability benefits is placed in an off-payroll status and is not eligible to receive other employee benefits during such period of time, except for group health insurance benefits, which the employee may continue to receive at their own cost as per COBRA, unless the employee meets the criteria under Article 7 of this MOU or is otherwise eligible pursuant to law.
- C. Plan Document. All benefits shall be subject to the language contained in the POA Plan Document. All capitalized definitions shall have the meanings ascribed in the Program.

Section 7.09 – Flexible Spending Program

The City shall provide a voluntary Flexible Spending Plan (Section 125 Plan under the Internal Revenue Code) to employees covered under this MOU. Enrollment in the plan allows employees to pay for out-of-pocket Health Care and Dependent Care costs with pre-tax dollars. The City will abide by Flexible Spending Account limits as set each year

by the Internal Revenue Service (IRS).

At enrollment and annually thereafter, participants must designate the Flexible Spending Account election amount for the remainder of the year for new hires and for the next year for current employees. The annual amount is deducted from the employee's paycheck in equal installments, on a pre-tax basis, and credited to the employee's Flexible Spending Account. Reimbursement will be paid directly by a third party administrator.

Federal law prohibits any change in a Flexible Spending Account during the calendar year unless the employee or their dependent(s) have a qualifying "life event," as defined by the California Department of Insurance. Examples of a qualifying "life event" include marriage, divorce or legal separation, birth or adoption of a dependent, death of a dependent, or a change in the employee or employee's spouse's employment status. The change in the Flexible Spending Account must be due to and consistent with the "life event" which permits the change.

An annual open enrollment period will be provided for the upcoming calendar year's program and employees must affirmatively enroll in the Flexible Spending Account for each year. There is no automatic renewal.

When estimating annual expenses, employees are cautioned to only consider those expenses they are reasonably certain they will incur. Any amount left in a Flexible Spending Account at the end of the year is forfeited.

Deductions for Flexible Spending Accounts shall not reduce earnable compensation for purposes of calculating benefits or contributions for CalPERS.

The City maintains the right to select and change, if needed, the vendor to administer the Flexible Spending Account program.

Section 7.10 -- Retiree Health Savings Account. Sworn, non-management Police employees hired on 8/1/2010 or later, will be required to contribute twenty-five dollars (\$25) per payroll period to the employee's retiree health savings account. Contributions to the retiree health savings are made solely by the employee and all administrative fees for the plan will be deducted from each employee's individual account assets. The account assets that accumulate, plus investment earnings, will be used in retirement to pay health insurance premiums and other eligible out-of-pocket medical expenses such as deductibles, co-payments and dental care in accordance with Internal Revenue Code Section 213. The employee contribution will be portable if an employee should leave employment with the City prior to retirement.

ARTICLE 8 – MEDICAL/DENTAL INSURANCE FOR RETIREES

The City shall provide group medical/dental insurance to sworn, non-management Police employees who retire from the City meeting the criteria and subject to the conditions and limitations noted below. The City contracts with the California Public Employees' Retirement System's Public Employees' Medical and Hospital Care Act (PEMHCA) for medical insurance for City employees and retirees. Benefits are

grouped in tiers based upon hire date and years of continuous City service.

Tier	Hire Date	Years of Continuous City Service	Provisions the Employee in the Specified Tier is Eligible for
1A	2/15/94 and earlier	10 or more years	1,3,4,5,6,7, 8,11,13,16
1B	2/16/94-10/25/04	15 or more years	1,3,4,5,6,7, 8,11,13,16
1C	10/26/04-7/31/2007	15 but less than 20 years	1,3,4,5,6,7, 9,12,13,16
1D	10/26/04-7/31/2007	20 or more years	1,3,4,5,6,7, 8,11,13,16
1E	8/1/07-7/31/10	15 but less than 20 years	1,3,4,5,6,7, 9,12,14,16
1F	8/1/07-7/31/10	20 or more years	1,3,4,5,6,7, 8,11,14,16
1G	7/31/07 and earlier (Disability Retirement)	N/A	2,3,4,5,6,7, 8,11,13,16
1H	8/1/07-7/31/10 (Disability Retirement)	N/A	2,3,4,5,6,7, 8,11,14,16
1I	7/31/10 and earlier if City service does not fit into Tiers 1A-1H		1,6,7,15
2A	8/1/10 and later	N/A	1,6,7,10,15
2B	8/1/10 and later (Disability Retirement)	N/A	2,6,7,10,15

The provision numbers listed below correspond to the code above designating which benefits each retiree is eligible for. If a code is not included in the "Provisions the Employee in the Specified Tier is Eligible for" section, the employee in the specified tier is not eligible for that specific provision.

Provision No. 1 - Retired Employee Definition. A sworn, non-management Police employee is a retired employee when they:

- A. Have reached 50 years in age or greater;
- B. Have been employed for at least five (5) years;
- C. Are a vested member of CalPERS;
- D. Retire with a service retirement after October 1, 1980;

- E. Retire directly from active duty and maintain continuous coverage both prior to and subsequent to their retirement.
- F. Any lapse in coverage will make the employee permanently ineligible for City contributions towards such retiree's premiums in excess of the CalPERS statutory minimum employer contribution.

Provision No. 2 - Disability (Totally) Retired Employee Definition. A sworn, non-management Police employee is disability (totally) retired when:

Any of the following permanent disabilities shall be conclusively presumed to be total in character (total disability):

- A. Loss of both eyes or the sight thereof.
- B. Loss of both hands or the use thereof.
- C. An injury resulting in a practically total paralysis.
- D. An injury to the brain resulting in incurable imbecility or insanity.

In all other cases, permanent total disability shall be determined in accordance with the fact.

Totally disabled employees may apply to the life insurance carrier for continued life insurance coverage under the waiver of premium provision. Coverage is subject to the annual provision, review and approval of the insurance carrier.

Provision No. 3 - Eligible Qualified Dependent Coverage Limitation.

For Retirements Effective July 31, 2012 or Earlier.

Definition of Qualified Dependent: Qualified dependent coverage is limited to the eligible retiree and the same number of dependents or less as the employee had six (6) months before retiring, except for newborn children of the retiree who shall be covered from birth if they are enrolled.

For Retirements Effective August 1, 2012 and Later.

Definition of Qualified Dependent: A spouse and/or dependent child covered on the employee's medical and dental plan for a minimum of two (2) full years (twenty-four (24) months) prior to retirement. Such dependent will be classified as a qualified dependent.

New Spouse Exception. An exception will be made for employees who get married and add his/her spouse to their medical plan within thirty (30) calendar days of the marriage. In such cases, the spouse must be on the plan for a minimum of one (1) full year (twelve (12) months) prior to their retirement in order to receive City contributions towards retiree medical and will be classified as a qualified dependent. No other exceptions will be made.

Dependent Children. City contributions for dependent children will end the month during which the dependent child turns age twenty-three (23). The dependent child may continue on the plan until age twenty-six (26), in accordance with plan provisions; however, the City will not pay any contributions toward the dependent child's medical premium past age twenty-three (23). The following examples illustrate the impact to the City contribution when a dependent child turns age twenty-three (23):

- A. If the retiree covers 1) themselves and 2) a dependent child, the month during which the dependent child reaches age twenty-three (23), the City ceases contributions for the dependent child and pays only single coverage for the retiree.
- B. If the retiree covers 1) themselves, 2) a spouse and 3) a dependent child, the month during which the dependent child reaches age twenty-three (23), the City ceases contributions for the dependent child and pays two-party coverage for the retiree and spouse.
- C. If the retiree covers 1) themselves, 2) a spouse and 3) more than one (1) dependent child, the City will continue to pay family coverage. Effective during the month during which the youngest child reaches age twenty-three (23), the City ceases contributions for the dependent child(ren) and pays two-party coverage for the retiree and spouse.

Definition of Non-Qualified Dependent for Retirements Effective August 1, 2012 and Later.

A dependent added to the employee's medical and dental plan less than two (2) full years (twenty-four (24) months) prior to retirement or at a later date is ineligible for any City contribution towards medical insurance. The non-qualified dependent may enroll in the medical plan; however, premiums for such enrollment are entirely dependent paid. The City will not pay any contributions towards the medical premium for non-qualified dependent(s). Non-qualified dependents may not enroll in the dental plan.

Premiums for additional covered dependent(s) or dependent(s) added on at a later date in accordance with plan provisions will be paid entirely by the retiree and will be classified as non-qualified dependent(s). Dependent dental premiums will be paid entirely by the retiree. Failure to pay premiums for non-qualified dependent(s) will result in loss of coverage.

Provision No. 4 - Separation then Return to City Service. If an employee separates employment and later returns to employment with the City of Fountain Valley, the date the employee returned to employment will become the hire date for the employee and they will be considered a new hire and only eligible for new hire benefits. The City will send a notice to the retiree where they acknowledge they were advised if the retiree reinstates on the medical, they are no longer eligible for any City contribution other than the PEMHCA minimum employer contribution.

Provision No. 5 - Limitation. There is no cash back provision if the premiums for the medical and dental plans for qualified dependents is less than the difference between

the CalPERS statutory minimum and the medical premium for the plan selected for the retiree and eligible qualified dependent(s) and retiree only dental premium up to the maximum the City contributes for active sworn, non-management Police personnel for Tier 1 employees.

Provision No. 6 - Life Insurance. Retirees are not eligible for life insurance coverage through the City.

Provision No. 7 - CalPERS Statutory Minimum Employer Contribution. Only while participating in the CalPERS medical plan will the City pay the CalPERS statutory minimum employer contribution specified in Section 22892 of the Public Employees' Medical and Hospital Care Act (PEMHCA) to CalPERS. Should the City discontinue contracting with PEMHCA at any time, the City will not be responsible for paying any contribution towards health insurance premiums for such retiree and those premiums shall be entirely retiree paid. The City will not make any contributions towards dental insurance, unless provided for in a separate provision.

Provision No. 8 - City Contributions.

For Retirements Effective July 31, 2012 or Earlier.

The City will contribute towards the monthly medical premium for the retiree and the same number of dependents or less as the employee had six (6) months before retiring, except for newborn children of the retiree who shall be covered from birth if they are enrolled and retiree only dental premium up to the maximum the City contributes for active sworn, non-management Police personnel. The premiums shall be based on medical/dental coverage for the eligible retiree and medical coverage only for eligible dependent(s) as defined in the service provider's group health benefit agreement. No City contributions towards dental insurance for dependents.

For Retirements Effective August 1, 2012 and Later.

The City will contribute towards the monthly medical premium for the retiree and qualified dependents who were covered on the employee's plan for a minimum of two (2) full years (twenty-four (24) months) prior to retirement (designated as qualified dependent) and retiree only dental premium up to the maximum the City contributes for active sworn, non-management Police personnel. The premiums shall be based on medical/dental coverage for the eligible retiree and medical coverage only for the qualified dependent, if applicable. No City contributions towards dental insurance for dependents.

Provision No. 9 - City Contributions (75%).

For Retirements Effective July 31, 2012 or Earlier.

The City will contribute towards the monthly medical premium for the retiree and the same number of dependents or less as the employee had six (6) months before retiring, except for newborn children of the retiree who shall be covered from birth if they are enrolled and retiree only dental premium up to seventy-five percent (75%) of the maximum the City contributes for active sworn, non-management Police personnel. The premiums shall be based on medical/dental coverage for the eligible retiree and medical coverage only for eligible dependent(s) as defined in the service provider's group health benefit agreement. No City contributions towards dental

insurance for dependents.

For Retirements Effective August 1, 2012 and Later.

The City will contribute towards the monthly medical premium for the retiree and those eligible dependent(s) who were covered on the employee's plan for a minimum of two (2) full years (twenty-four (24) months) prior to retirement (designated as qualified dependent) and retiree only dental premium up to seventy-five percent (75%) of the maximum the City contributes for active sworn, non-management Police personnel. The premiums shall be based on medical/dental coverage for the eligible retiree and medical coverage only for the qualified dependent, if applicable. No City contributions towards dental insurance for dependents.

Provision No. 10 - Retiree Health Savings Account. See, Section 7.10, above.

Provision No. 11 – City Contributions at Age 65. Coverage will become supplemental to Medicare at age sixty-five (65). The City will pay the medical premium, as applicable, for the retiree and eligible qualified dependent(s) and retiree only dental premium up to the maximum the City contributes for active sworn, non-management Police personnel for Tier 1 employees. The retiree will continue paying the dependent dental premium if coverage is elected and will solely be responsible for paying Medicare premiums.

Provision No. 12 – City Contributions at Age 65. Coverage will become supplemental to Medicare at age sixty-five (65). The City will pay the medical premium, as applicable, for the retiree and eligible qualified dependent(s) and retiree only dental premium up to seventy-five percent (75%) of the maximum the City contributes for active sworn, non-management Police personnel for Tier 1 employees. The retiree will continue paying the dependent dental premium if coverage is elected and will solely be responsible for paying Medicare premiums.

Provision No. 13 – Surviving, Eligible Qualified Dependent(s) City Contribution. City contributions continue for the surviving spouse or surviving dependent of a deceased retiree. The City pays the actual basic medical premium for the surviving spouse and eligible qualified dependent(s) up to the maximum the City contributes for active sworn, non-management Police personnel for Tier 1 employees minus the CalPERS statutory minimum employer contribution during the time period the survivors are eligible for City contributions. There shall be no City contributions towards dental premiums.

Provision No. 14 – Surviving, Eligible Qualified Dependent(s) City Contribution.
Employees hired beginning August 1, 2007 and after.

City contributions for the surviving spouse and dependent(s) of a deceased retiree will terminate effective when any of the following occur:

- A. Surviving spouse obtains or is eligible to receive other medical/dental insurance coverage including Medicare.
- B. Surviving spouse remarries.

- C. Surviving dependent child obtains other medical/dental coverage.
- D. Surviving dependent child is no longer eligible for coverage in accordance with the medical/dental plan requirements.

During the period the City pays insurance premiums, the City pays the actual basic medical premium for the surviving spouse and eligible qualified dependent(s) up to the maximum the City contributes for active sworn, non-management Police personnel for Tier 1 employees minus the CalPERS statutory minimum employer contribution during the time period the survivors are eligible for City contributions. No City contributions towards dental premiums.

Provision No. 15 - Retiree Contributions. The retiree enrolls in the medical plan at his/her own expense for medical insurance.

The retiree will be eligible for COBRA continuation for dental for a maximum of eighteen (18) months. Extension of coverage may apply in accordance with COBRA regulations; however, unless the retiree meets these COBRA provisions, the maximum coverage period for dental upon retirement is eighteen (18) months. To maintain COBRA coverage, the full premium plus a two percent (2%) administrative fee is payable by the retiree. Failure to pay premiums will result in loss of coverage. The employee is not eligible for any flexible spending or other contribution from the City towards continued dental insurance upon retirement.

Provision No. 16 - Retiree Contributions.

Premiums for Plan Selected Exceeds the Total City Contribution. If a retiree chooses benefits whose aggregate premium cost exceeds the total City contribution, the retiree will be responsible for paying the excess premiums.

Non-Qualified Dependent(s). If non-qualified dependent(s) are covered under the plan, the retiree will be responsible for paying for the full premium for such dependent(s).

Dependent Dental Premium. If dependent dental coverage is elected, the dependent dental premium is deducted from the City's reimbursement to the retiree for health premiums or the retiree will be billed because such premiums continue to be employee/retiree paid.

Medicare Premium. Medicare premiums are fully paid by the retiree or their survivor.

ARTICLE 9 - LEAVES

Section 9.01 – Holidays. Sworn, non-management Police personnel will be entitled to eleven (11) paid holidays (88 hours) per year. Ten (10) of these holidays will be observed in accordance with those legal holidays observed by the City, while the remaining holiday will be a "floating" holiday. This "floating" holiday will be accrued on January 1 of each

year and may be used at any time during the year. If this accrued "floating" holiday is not used prior to November 30 of each year, it will be paid in accordance with Section 9.02 below.

The eleven (11) paid holidays to which sworn, non-management police personnel are entitled shall be as follows:

- New Year's Day
- Martin Luther King Jr. Day
- President's Day (Washington's Birthday)
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving and the day after Thanksgiving
- Christmas
- "Floating Holiday"

The exact date upon which each of the above holidays will be observed and during which City Hall will be closed shall be set by Administrative Regulation each year, after meeting with FVPOA representatives.

Section 9.02 – Holiday Pay (Time Off). Defined as additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays. The MOU provides holiday credit and allows employees to cash out accumulated holiday credit, the cash out must be done at least annually and reported in the period earned. This is designated by CCR 571 (a) as statutory items. Sworn, non-management Police personnel will have, in addition to regular base pay, the option of taking holiday time off with the approval of their supervisor, or of being paid for the unused holiday time (holiday pay). Holiday time off is to be taken in conjunction with an actual City holiday and if not used due to shift or schedule assignments, the unused accrued balance will be paid as holiday pay on the employee's bi-weekly paycheck corresponding to the payroll period during which the holiday is observed.

Section 9.03 – Vacation Accrual Rate. Effective the pay period including July 1, 2021 existing and new sworn, non-management Police personnel will accrue vacation leave at the following rates based on their years of sworn law enforcement service. Only sworn law enforcement experience as defined by the California Penal Code Sections 830.1, 830.2, 830.32, 830.33 or the out-of-state equivalent as determined by the Chief of Police or designee shall be included as qualified sworn law enforcement experience.

Length of Service	Hours Accrued Per Pay Period (based upon 26 pay periods annually)
Date of Hire – 1 year	3.08 hours (80 hours total)
2-5 years	4.62 hours (120 hours total)
6-9 years	5.38 hours (140 hours total)

10-11 years	6.15 hours (160 hours total)
12-14 years	6.92 hours (180 hours total)
15 years or more	7.69 hours (200 hours total)

Vacation hours shall be earned and accrue proportionally as the year is worked.

Vacation may accrue to a maximum of two hundred seventy (270) hours. Upon reaching the maximum accrual, no additional hours will accrue to the employees' vacation bank until the use of accrued vacation or the employee elects and receives vacation payoff as identified below and the vacation bank is therefore below the maximum of two hundred seventy (270) hours.

Section 9.04 – Annual Vacation Payoff. At the end of each calendar year, sworn non-management Police personnel shall have the option of receiving a cash payment for accrued vacation up to a maximum of forty (40) hours if the following criteria are met:

- A. A minimum of eighty (80) hours of vacation has been used during the calendar year. Vacation may be utilized in any increment as approved by his/her supervisor as long as a minimum of eighty (80) hours has been used.
- B. A minimum accrual of forty (40) hours of vacation remains after payoff.

If the aforementioned criteria have been met, sworn, non-management Police personnel may request a cash payment of forty (40) hours maximum to be included in the paycheck issued within the first ten (10) days in December.

To request a vacation payoff, the employee must submit an irrevocable election form specifying the number of hours the employee is requesting which must be received in the Human Resources Department before December 31 of the year prior to the payoff. For example, to receive a payout in 2025, a sworn, non-management Police personnel must submit a completed irrevocable election form to Human Resources before December 31, 2024. If during the 2025 calendar year, the employee meets the criteria specified herein to be eligible for vacation payoff, they will receive the requested payoff. If the employee does not submit the irrevocable election form within the required timeline or they do not meet the criteria for payoff, no payoff will be given.

Section 9.05 – Sick Leave Accrual Rate. Sick leave shall accrue as 4.62 hours per bi-weekly pay period (120 hours per year). Upon separation from service with the City, all accrued sick leave shall be converted to the eight (8) hour accrual rate (3.69 hours per pay period or 96 hours per year)

Section 9.06 - Sick Leave Usage. The first five (5) days or work hours equivalent (e.g. 50 hours for employees on a 4/10 schedule) of paid sick leave taken each twelve (12) month period will be considered sick leave used pursuant to the Healthy Workplaces, Healthy Families Act of 2014 (California Labor Code sections 245-249). The twelve (12) month period is July 1 through June 30 for employees hired prior to July 1, 2015. For employees hired on or after July 1, 2015, the twelve (12) month period is the twelve (12)

month period beginning on the employee's hire date, until the following July 1, at which point the employee's twelve (12) month period will change to July 1 - June 30.

- A. Employee's Sick Leave. Employees can use sick leave for themselves for preventive care (such as physical exams) or care of an existing health condition;
- B. Family Sick Leave. Employees can use up to a maximum of one-half of one year's annual accrued sick leave (e.g. sixty (60) hours for employees who accrue one hundred twenty (120) hours per year) per year for family sick leave. Family sick leave may be used for the diagnosis, care, or treatment of an existing health condition of, or preventive care for family members. In this section the term "family members" means any of the following:

A child (biological, adopted, foster child, step child, legal ward or a child to whom the employee stands in loco parentis) regardless of age or dependency status.
A biological, adoptive, or foster parent, step parent or legal guardian of an employee or the employee's spouse or registered domestic partner or a person who stood in loco parentis when the employee was a minor child.
A spouse.
A registered domestic partner.
A grandparent.
A grandchild.
A sibling.
An employee may designate one person per 12-month period at the time the employee requests family sick leave.
Individuals who live in the same household or whose relationship to the employee is that of a dependent or near-dependent.

- C. Employees can use sick leave for specified purposes if they are victims of domestic violence, sexual assault or stalking as set forth in California Labor Code section 230(f) and 230.1(a).

After an employee has used five (5) sick leave days (or work hours equivalent) in a twelve (12) month period, the use of sick leave shall be subject to the approval of the Chief of Police or designee who may request a physician's statement substantiating the illness and release to duty before allowing an employee to return to duty. Sick leave shall only be used for real medical illness or to seek medical evaluation or consultation and shall not be considered personal time to be used at the employee's discretion. Sick leave may be used for absences resulting from industrial injuries and illnesses.

Section 9.07 – Sick Leave Payoff at Separation. City shall make a cash payment to sworn, non-management Police personnel for accrued unused sick leave as follows:

- A. An employee who separates from employment for any reason other than termination for cause after a minimum of ten (10) years of service, shall be paid an amount equal to twenty-five percent (25%) of the salary value of the employee's accrued, unused sick leave balance at the 8-hour rate at the date of separation.

B. In the event of death at any time while an employee is employed by the City, twenty-five percent (25%) of the monetary value of the employee's accrued, unused sick leave at the time of death shall be paid to their estate.

Section 9.08 – Service Credit for Unused Sick Leave. Pursuant to the City's contract with CalPERS, an employee who is applying for a service retirement may request that accrued, unused sick leave, up to a maximum of 2,000 hours, for which the employee is not compensated be credited towards retirement service credit in accordance with the provisions of Government Code Section 20965. If an employee accepts the twenty-five percent (25%) payment as provided in Section 9.07, the employee shall only be entitled to credit the remaining seventy-five percent (75%), up to a maximum of 2,000 hours, towards such service retirement credit.

Section 9.09 – Bereavement Leave. Sworn, non-management Police personnel who have been employed for at least thirty (30) days with the City shall be entitled to a maximum of five (5) working days absence (three (3) of which shall be with pay) for each occurrence as Bereavement Leave, when they are compelled to be absent from duty by reason of death of an immediate family member, or in the event of critical illness where death appears to be imminent. For purposes of bereavement leave, "immediate family member" refers to spouse, registered domestic partner, child, stepchild, grandchild, sibling, parent, grandparent, or parent-in-law, or legal guardian.

Section 9.10- Association Release- The City grants to the FVPOA one hundred (100) hours per fiscal year of paid release time for use by its Board of Directors to attend trainings, seminars, conferences, and other association-related functions. Each fiscal year, up to fifty (50) hours of unused association release may be rolled over into the following fiscal year, and added to that fiscal year's annual accrual. Association release must be approved by the Chief of Police, but such approval shall not be unreasonably withheld.

ARTICLE 10 - ILLEGAL/CONTROLLED SUBSTANCE SCREENING

Section 10.01 – Pre-Employment/Promotional Substance Screening. FVPOA acknowledges City's right to, at its discretion, include illegal/controlled substance screening as part of the pre-employment physical examination and promotional selection process for FVPOA employees. (See Exhibit 2 for a detailed explanation of promotional selection substance screening.)

Section 10.02 – Probationary Period Substance Screening. FVPOA acknowledges the City's right to, at its discretion, perform random illegal/controlled substance screening during an employee's probationary period for FVPOA employees. (See Exhibit 2 for a detailed explanation of this provision.)

Section 10.03 – Random, Reasonable Suspicion and Post-Accident Drug and Alcohol Testing. FVPOA and the City agree to implement a random, reasonable suspicion and post-accident drug and alcohol testing for all sworn non-management Police Personnel. Refer to Administrative Regulation No. 1057 for the actual policy.

Section 10.04 - Definition. "Illegal/Controlled Substance" is defined as a drug, substance, or immediate precursor which are included in Schedules I through V, inclusive of the "California Uniform Controlled Substances Act" (Health and Safety Code Sections 11054-11057), as well as opiates and narcotic drugs, as defined in Health and Safety Code Sections 11018-11020.

ARTICLE 11 - PHYSICAL FITNESS (WELLNESS) PROGRAM

Section 11.01 – Physical Fitness (Wellness) Program. This is defined as compensation to local safety members who meet an established physical fitness criterion and is designated by CCR 571 (a) as incentive pay. All sworn, non-management Police personnel may participate in a voluntary Physical Fitness Program and receive physical fitness pay above their base pay (as identified in Section 4.07) each month for achievement of specific performance standards as specified in Exhibit 3.

Section 11.02 – Elements of the Physical Fitness Program. The Physical Fitness Program shall involve the following elements:

- A. Performance testing shall be carried out semi-annually, with the process being presided over by a representative from the FVPOA.
- B. Performance testing shall include ten (10) minutes of cardio, twenty (20) jumping jacks, twenty (20) lunges, twenty (20) push-ups and twenty-five (25) crunches.
- C. Performance testing shall be conducted while the Officer is on duty; however, workouts in preparation for the testing shall be carried out on off-duty hours.
- D. Eligible personnel who have previously met all performance standards and are unable to re-qualify due to an injury or illness shall continue to receive the applicable bonus subject to the determination of the Chief of Police or designee that the person is unable to participate in the performance test. However, said personnel shall be required to submit to a performance test as soon as they are released to full duty.
- E. Eligible personnel who fail any or all standards of the performance testing process shall be given the opportunity to retest within thirty (30) days of the failure.

ARTICLE 12 - GRIEVANCE PROCEDURE

Section 12.01 – Subject Matter and Scope of Grievances. Except where appeal is otherwise provided, a grievance may be initiated by any employee who believes that the application of a policy, rule, or procedure has been incorrect or inappropriate, and has adversely affected their employment.

- A. Specifically excluded from the scope of grievances are the following:
 - 1. Performance evaluations

2. Matters which are within the jurisdiction of another agency (i.e., Worker's Comp. claims, etc.), and for which appeal is otherwise provided.
 3. Recruitment/testing/selection procedures.
 4. Classification plan.
 5. Discipline appeal.
- B. With respect to performance evaluations being excluded from the grievance process, any performance evaluation in which the employee disagrees with all or part of the evaluation and provides written support will be forwarded to the City Manager or designee with all documentation by the Human Resources Department when the evaluation is received. The City Manager or designee may then take whatever action is deemed appropriate, if any.

Section 12.02 – Form. All grievances submitted pursuant to the provisions of this section must be submitted to the appropriate authority in writing, and must contain, as a minimum, the following information:

- A. The employee's name, title, department, division.
- B. The name of the individual or organization, if any, who is representing the employee in the processing of the grievance.
- C. The date that the grievance is being submitted.
- D. The nature of the grievance, including a statement of the specific rules, regulations, policies, procedures, ordinances, or resolutions, if any, which are alleged to have been violated, the date which the alleged violation occurred, and the specific decision/action that constituted the alleged violation.
- E. The facts relating to the action which gave rise to the grievance.
- F. Any and all relevant material that is appropriate to be considered in conjunction with the grievance.
- G. A statement of the remedy which the individual is seeking in response to the grievance.

Section 12.03 – Informal Grievance Procedure.

- A. Where appropriate, an attempt shall be made to resolve grievances in an informal manner, at the lowest level of supervision. This would involve the employee and/or his designated representative meeting with the employee's immediate supervisor, up to and including Sergeant, Lieutenant, Captain, or other appropriate level of supervision below Chief of Police.

- B. An employee who has a grievance must inform their supervisor of the nature of the grievance within twenty-one (21) calendar days of the action about which the employee is grieving, or within twenty-one (21) calendar days of the date that the employee became aware of the action giving rise to their grievance.

Section 12.04 – Formal Grievance Procedure.

- A. In those instances where a grievance has not been satisfactorily resolved through the informal grievance procedure, or in those instances where the employee's immediate supervisor is the Chief of Police, the employee may file a formal grievance pursuant to the provisions of this section.
- B. A grievance that has not been satisfactorily resolved through the informal grievance procedure shall be submitted to the Chief of Police or designee within twenty-one (21) calendar days after the employee has been informed of the response of the last supervisor in the informal grievance procedure. Failure to submit the grievance in a timely manner will constitute a withdrawal of the grievance.
- C. Grievances originating pursuant to this section shall be submitted to the Chief of Police or designee within twenty-one (21) calendar days of the action about which the employee is grieving, or within twenty-one (21) calendar days of the date that the employee became aware of the action giving rise to their grievance. Failure to submit the grievance in a timely manner constitutes withdrawal of the grievance.
- D. A grievance that is withdrawn, whether voluntarily or by virtue of failure to submit the grievance within the specified time frame, cannot be re-filed.
- E. Upon receiving the grievance, the Chief of Police or designee shall schedule a meeting with the employee and/or their designated representative within twenty-one (21) calendar days of receipt of the grievance. The Chief of Police or designee shall then respond to the employee's grievance in writing within twenty-one (21) calendar days after the meeting.
- F. If, in the opinion of the employee and the Chief of Police or designee, a meeting is not necessary, said meeting may be waived by mutual agreement.

Section 12.05 – Appeal to the City Manager.

- A. If the grievance is not satisfactorily resolved by the Chief of Police or designee, the employee may, in certain situations, submit the grievance to the City Manager or designee. Grievances submitted to the City Manager or designee must be submitted within twenty-one (21) calendar days after the employee has received the written response from the Chief of Police or designee. Failure to submit the grievance to the City Manager or designee in a timely manner will constitute withdrawal of the grievance.
- B. Appeal of a grievance to the City Manager or designee is not an automatic right, and may be initiated only under one or more of the following circumstances:

1. If the grievant is alleging an abuse of discretion on the part of the Chief of Police during the grievance process.
 2. If the remedy sought by the grievant is not within the authority of the Chief of Police to approve or implement.
- C. Grievances appealed to the City Manager or designee pursuant to this section shall include the following:
1. Copies of all written responses to the grievance from previous steps in the grievance process.
 2. If an abuse of discretion is alleged, specific information must be provided in support of such allegation to indicate how or in what manner the Chief of Police abused their discretion in connection with the grievance.
- D. Within twenty-one (21) calendar days after receipt of the grievance, the City Manager or designee shall notify the employee and/or his designated representative for one of the following purposes:
1. To schedule a meeting with regard to the grievance.
 2. To obtain or request additional information clarification with respect to the grievance.
 3. To inform the employee of the date by which a written response will be prepared, in the event a meeting is not necessary.
- E. In the event the City Manager designee deems it necessary to conduct a meeting with respect to the grievance, the City Manager or designee shall notify the employee of the date, time, and location of said meeting, as well as those individuals who will be present at the meeting.
- F. The City Manager or designee may conduct such activities as are necessary and appropriate to properly evaluate the substance of the employee's grievance.
- G. The City Manager or designee shall submit a written response to the employee within twenty-one (21) calendar days after completing their investigation of the grievance, or within twenty-one (21) calendar days after meeting with the employee, whichever is sooner.

Section 12.06 – Extension/Waiver of Time Limits. Any of the time limits contained in this article may be extended or waived in the interests of facilitating the processing of a grievance only upon mutual agreement of the grievant and the supervisory or management employee to whom the grievance is being submitted.

Section 12.07 – Conduct of Grievance Procedure.

- A. The employee may be represented by a person of their own choosing at any step in the grievance procedure.
- B. Employees shall be assured freedom from reprisal for utilizing the grievance procedure.

ARTICLE 13 - APPEALS OF DISCIPLINARY ACTIONS

Any employee subject to the provisions of this MOU shall have the right of appeal from any disciplinary action imposed on them, subject to the following conditions:

- A. Appeal of a disciplinary action must be filed with the supervisor of the employee who imposed the disciplinary action within twenty-one (21) calendar days of the date the disciplinary action was imposed.
- B. Appeal of a disciplinary action must be in writing, and must include, as a minimum, the following:
 - 1. If the employee is alleging a disagreement over facts, a statement regarding what facts, if any, are in dispute. If there is no dispute over the facts, the appeal should so state.
 - 2. If the employee is alleging abuse of discretion by the supervisor who imposed disciplinary action on them, a statement setting forth the manner in which the supervisor imposing the disciplinary action abused their discretion. Specifically, the statement must show that the supervisor has exceeded or acted without authority; that the employee was denied procedural due process; or that the disciplinary action imposed was not warranted by the facts of the situation.
 - 3. The remedy being sought by the employee.
- C. Upon receiving an appeal of a disciplinary action, the supervisor or Chief of Police or designee shall first determine whether or not the appeal complies with Article 13 A and 13 B. If not, the appeal shall be denied on the basis of one or more of the following:
 - 1. The appeal was not filed in a timely manner, pursuant to Article 13 A.
 - 2. The appeal does not allege a dispute over the facts, or abuse of discretion, pursuant to Article 13 B.
 - a. If the appeal complies with Article 13 A-B, the Chief of Police or designee shall take the necessary steps to determine the merits of the appeal. Included in such steps will be the opportunity for the employee and their designated representative to meet with the Chief of Police or designee, and to review all material on which the disciplinary action is based.

- b. Within five (5) working days after completing their review and investigation of the appeal, the Chief of Police or designee shall notify the employee in writing of their decision and the reasons.
- c. The decision of the Chief of Police or designee may be appealed to the City Manager or designee subject to the provisions contained in Article 13 A-B. Upon receiving such an appeal, the City Manager or designee shall proceed in the same manner as outlined for the Chief of Police or designee in Article 13.
- d. Within twenty-one (21) calendar days after completing the review and investigation of the appeal, the City Manager or designee shall notify the employee in writing of their decision and the reasons. The decision of the City Manager or designee shall be final, except as provided in Section 2.52.200 of the Fountain Valley Municipal Code.
- e. All constitutional and statutory due process rights shall be afforded to employees subject to disciplinary action, according to the severity of the disciplinary action imposed. The "Peace Officers Procedural Bill of Rights" and its protections shall apply to all proposed disciplinary and/or punitive action. Pre-disciplinary due process shall be afforded to employees who have been notified of proposed disciplinary action consisting of a one (1) day suspension without pay or greater disciplinary action.

ARTICLE 14 - APPEALS OF TESTING/SELECTION PROCEDURES

Sworn, non-management Police personnel who wish to appeal a testing/selection procedure, or the results thereof, shall forward their appeal through the chain-of-command to the City Manager or Human Resources Director. Appeals of testing/selection procedures cannot be filed until the testing/selection process is completed, and must be filed within fourteen (14) calendar days after the certification of the eligibility list. The FVPOA and all persons who took the test shall be notified of the date on which the eligible list is certified.

- A. An employee can only appeal a selection/testing procedure if the result of a successful appeal would place them on the eligible list or, if already on the list would change their position on this list. An individual appealing a testing/selection procedure must have been an applicant, or would have been but for the procedure being appealed.
- B. Upon receiving an appeal of a testing/selection procedure, the City Manager or designee shall investigate or cause to be investigated all relevant facts regarding the appeal, and shall make a determination which shall be final.
- C. If the City Manager or designee makes a determination sustaining the appeal, and such determination results in the invalidation of all or part of the testing/selection procedure, a new recruitment shall be initiated to fill the position.

ARTICLE 15- MANAGEMENT RIGHTS

Except as otherwise specifically provided, the City has and retains the sole and exclusive rights and functions of management, including, but not limited to, the following:

- A. To determine the merits, necessity, nature or extent of services to be performed, as well as the right to determine and implement its public function and responsibility, and the mission of its constituent departments, commissions and boards; and to determine budgets and appropriations of funds and to set municipal fees and charges.
- B. To manage all facilities and operations of the City.
- C. To schedule working hours, allot, and assign work.
- D. To establish, modify or change work schedules or standards.
- E. To direct the working forces, including the right to hire, promote, or transfer any employee.
- F. To determine the location of all plants and facilities.
- G. To determine the layout and the machinery, equipment or materials to be used.
- H. To determine processes, techniques, methods and means of all operations, including changes or adjustments of any machinery or equipment.
- I. To determine the size and composition of the working force.
- J. To determine the policy and procedure affecting the selection or training of new employees.
- K. To establish, assess and implement employee performance standards, including, but not limited to, quality and quantity standards; the assessment of employee performances; and the procedures for said assessment.
- L. To control and determine the use and location of City's property, material, machinery and equipment.
- M. To schedule the operation of and to determine the number and duration of shifts.
- N. To determine measures to promote safety and to protect health and property.
- O. To transfer work from one job to another or from one plant or unit to another.
- P. To introduce new, improved or different methods of operations, or to change existing methods.

- Q. To relieve employees from duty for lack of work or for other reasons deemed legitimate by management.
- R. To reprimand, suspend, demote, discharge, or otherwise discipline employees for cause. The judgment of management shall govern except for an abuse of discretion.
- S. To establish and determine job classifications.
- T. To contract or subcontract construction, services, maintenance, distribution or any other work with outside public or private entities.
- U. To take such other and further action as may be necessary to organize and operate the City in the most efficient and economical manner for the best interest of the public it serves.

ARTICLE 16 - GENERAL PROVISIONS

Section 16.01 – Maintenance of Benefits. City and FVPOA acknowledge that this agreement represents an attempt to develop a comprehensive MOU addressing all wages, hours, benefits and terms and conditions of employment. To the extent that wages, hours, benefits, and/or terms and conditions of employment are not addressed in this agreement, it is understood that existing ordinances, resolutions and policies with the City govern matters pertaining to employer-employee relations, including but not limited to salaries, benefits, hours and other terms and conditions of employment, and the same are not affected by this agreement except as recommended herein.

Section 16.02 - Overpayment. Any employee determined by the City to have been overpaid shall be provided a detailed accounting of the asserted overpayment and shall be afforded the opportunity to make repayments according to a payment plan mutually agreeable to the City and the employee involved. If an agreeable payment plan cannot be achieved, the City reserves the right to recoup the payment by seeking a judgement against the employee.

Section 16.03 - Severability. In the event that any provision of this MOU is declared by a court of competent jurisdiction to be illegal or unenforceable, or is rendered void by virtue of statutory or legislative enactment, that provision of the MOU shall be null and void, but such nullification shall not affect any other provision of this MOU, which other provisions shall remain in full force and effect.

Section 16.04 - Term. The term of this MOU shall be July 1, 2024 through June 30, 2027.

Section 16.05 – Integration, Modification and Ratification. This MOU sets forth the entire agreement of the parties with respect to improvements or changes in the wages, hours, benefits and other terms and conditions of employment for the employees represented by the FVPOA for the term of this agreement. This MOU may be modified or amended only by written agreement between the parties hereto. This MOU shall be of no force and effect unless or until duly adopted, ratified and approved by the City Council

of the City of Fountain Valley or in the alternative the substantive provisions hereof are implemented by resolution of the City Council.

IN WITNESS WHEREOF, the parties hereto executed this Memorandum of Understanding on June 18, 2024.

APPROVED AS TO FORM:

FOUNTAIN VALLEY POLICE
OFFICERS' ASSOCIATION

By Laura Kalty
Laura Drottz Kalty, Attorney for the City

By Isaac Marquez
Isaac Marquez

CITY OF FOUNTAIN VALLEY
By Maggie Le

Maggie Le, City Manager

By Bill Hughes
Bill Hughes

By Robert Wexler
Robert M. Wexler
Attorney for the POA

EXHIBIT 1

ESTABLISHED SALARY RANGES

EFFECTIVE JULY 1, 2024
(PAYROLL PERIOD ENDING JULY 5, 2024)

CLASSIFICATION	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Police Corporal	\$8,071.76	\$8,475.35	\$8,899.12	\$9,344.07	\$9,811.28
Bi-weekly rate	\$3,725.43	\$3,911.70	\$4,107.29	\$4,312.65	\$4,528.28
Hourly Rate	\$46.5679	\$48.8963	\$51.3411	\$53.9081	\$56.6035
Police Officer	\$7,686.70	\$8,071.03	\$8,474.58	\$8,898.31	\$9,343.23
Bi-weekly rate	\$3,547.71	\$3,725.09	\$3,911.35	\$4,106.91	\$4,312.26
Hourly Rate	\$44.3464	\$46.5636	\$48.8919	\$51.3364	\$53.9033
Police Sergeant	\$9,921.80	\$10,417.89	\$10,938.78	\$11,485.72	\$12,060.01
Bi-weekly rate	\$4,579.29	\$4,808.26	\$5,048.67	\$5,301.10	\$5,566.16
Hourly Rate	\$57.2411	\$60.1033	\$63.1084	\$66.2638	\$69.5770

ESTABLISHED SALARY RANGES

**EFFECTIVE JULY 1, 2025
(PAYROLL PERIOD ENDING JULY 4, 2025)**

CLASSIFICATION	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Police Corporal	\$8,394.63	\$8,814.36	\$9,255.08	\$9,717.84	\$10,203.73
Bi-weekly rate	\$3,874.45	\$4,068.17	\$4,271.58	\$4,485.16	\$4,709.41
Hourly Rate	\$48.4306	\$50.8521	\$53.3948	\$56.0645	\$58.8676
Police Officer	\$7,994.16	\$8,393.87	\$8,813.57	\$9,254.24	\$9,716.96
Bi-weekly rate	\$3,689.61	\$3,874.09	\$4,067.80	\$4,271.19	\$4,484.75
Hourly Rate	\$46.1201	\$48.4261	\$50.8475	\$53.3899	\$56.0594
Police Sergeant	\$10,318.67	\$10,834.61	\$11,376.34	\$11,945.15	\$12,542.41
Bi-weekly rate	\$4,762.46	\$5,000.59	\$5,250.62	\$5,513.15	\$5,788.80
Hourly Rate	\$59.5308	\$62.5074	\$65.6328	\$68.9144	\$72.3600

ESTABLISHED SALARY RANGES

**EFFECTIVE JULY 1, 2026
(PAYROLL PERIOD ENDING JULY 3, 2026)**

CLASSIFICATION	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Police Corporal	\$8,730.42	\$9,166.94	\$9,625.29	\$10,106.55	\$10,611.88
Bi-weekly rate	\$4,029.42	\$4,230.89	\$4,442.44	\$4,664.56	\$4,897.79
Hourly Rate	\$50.3678	\$52.8861	\$55.5305	\$58.3070	\$61.2224
Police Officer	\$8,313.93	\$8,729.63	\$9,166.11	\$9,624.41	\$10,105.63
Bi-weekly rate	\$3,837.20	\$4,029.06	\$4,230.51	\$4,442.04	\$4,664.14
Hourly Rate	\$47.9650	\$50.3633	\$52.8814	\$55.5255	\$58.3018
Police Sergeant	\$10,731.42	\$11,267.99	\$11,831.39	\$12,422.96	\$13,044.11
Bi-weekly rate	\$4,952.96	\$5,200.61	\$5,460.64	\$5,733.67	\$6,020.36
Hourly Rate	\$61.9120	\$65.0076	\$68.2580	\$71.6709	\$75.2545

EXHIBIT 2**ILLEGAL/CONTROLLED SUBSTANCE SCREENING**

Section 1 - Promotional Selection Testing. Testing of a candidate selected for promotion for illegal/controlled substance screening will be conducted only through methods with proven reliability, with agreed-upon forensic standards, and in strict compliance with the appropriate medically accepted procedures for such tests under the general supervision of City physician.

Promoted employees shall not be subject to additional illegal/controlled substance screening during their probationary period unless the Chief of Police has reasonable suspicion to believe that the employee is under the influence of an impairing substance.

Section 2 - Probationary Employee Random Substance Screening. Upon the approval of the Chief of Police, random illegal/controlled substance screening shall be conducted on all new-hire probationary employees only through methods with proven reliability, with medically accepted forensic standards and in strict compliance with the appropriate procedures for such tests under the general supervision of the City physician.

A probationary employee shall be subject to a maximum of four (4) random tests during their probationary period.

Section 3 - Drug Screening Testing Procedures.

- A. The City physician will follow a controlled chain of custody with testing samples, as follows:
1. Samples taken will be sealed, signed by the donor, and held in a secure area until picked up.
 2. The custody of the sample will be documented as it moves through the testing process.
 3. The employee shall be notified of the results of the testing within three (3) working days of the screening.
- B. Employees whose initial test results are positive shall participate in a second verification test by the City physician, or shall submit an independent medical illegal/controlled substance screening report which has been prepared by a medical laboratory certified by the State of California and the Drug Enforcement Agency. The independent medical laboratory shall employ testing methods with proven reliability, with agreed upon forensic standards, and with strict chain of custody procedures.

All verification testing, whether performed by the City physician, or the independent medical laboratory shall be conducted within twenty-four (24) hours of the notification to the employee of the results of the initial screening. The independent medical

illegal/controlled substance screening report shall be submitted to the Chief of Police within fifteen (15) calendar days of the verification testing.

- C. Employees whose final test results are positive, at the Chief of Police's discretion, may be required to enter and successfully complete an approved treatment program, or may be subject to disciplinary action up to and including termination. Any and all costs associated with a required treatment program shall be borne by the employee.
- D. Employees who are required to participate in an illegal/controlled substance screening shall be compensated for the actual time spent in the testing process.
- E. All information obtained in the course of examination, rehabilitation and treatment of employees with chemical dependency problems shall be protected as confidential medical information.

Section 4 - Chemical Dependency Aftercare. The City encourages rehabilitation when appropriate to the circumstances. The success of an individual's rehabilitation from chemical dependency is closely related to the continuation of treatment after initial assistance is provided. To that end, the following guidelines for aftercare are instituted:

- A. Employees returning to work following a chemical rehabilitation program shall participate in a back-to-work conference with his/her supervisor and the Chief of Police. The conference may be held in one (1) or two (2) sessions (one (1) at the treatment facility, one (1) at the work place); however, all of the above individuals must be present in at least one (1) of the sessions.
- B. A discharge summary shall be sent by the rehabilitation program to the Chief of Police.
- C. The aftercare program of the treating facility must be agreed to and followed by the returning employee.
- D. Following return to work, the employee shall participate in an aftercare program for a period of at least one (1) year, and shall be subject to illegal/controlled drug screening on a quarterly basis. As evidence of participation in the aftercare program, the aftercare agency shall send a quarterly report to the Chief of Police.
- E. After one (1) year of the aftercare program, there shall be a combined meeting of the same people identified above to evaluate the continued progress of recovery. The employee may request that a representative from the aftercare program be present during this evaluation meeting.

EXHIBIT 3**PHYSICAL FITNESS/WELLNESS PROGRAM**

Section 1 - Performance Testing. For the purposes of physical fitness testing, two (2) areas of physical ability will be evaluated:

- A. Cardiovascular fitness
- B. Body strength

The tests used in this program to evaluate fitness in these areas shall be:

A. Cardiovascular Fitness

1. Ten (10) minutes of cardio
2. Twenty (20) Jumping Jacks

B. Body Strength

1. Twenty (20) Push-ups
2. Twenty-five (25) Crunches
3. Twenty (20) Lunges

Section 2 - Cardiovascular Fitness. Cardiovascular endurance is the measurement of the rate at which a person can utilize metabolic reactions requiring oxygen to create energy.

Problems such as high blood pressure, heart and pulmonary congestion, obesity, etc., are the major contributors to premature retirement of Police Officers.

Testing for cardiovascular fitness is completed by the use of a lifecycle. The employee shall be required to ride the lifecycle for ten (10) minutes on the basic "Hill Profile Program."

Section 3 - Body Strength. Upper body strength contributes to the employee's ability to control suspects and other physical demands made on them in their work environment, while avoiding the possibility of injury. This test will be administered through the use of push-ups, crunches, and lunges.

A. Push-ups

The employee shall maintain their body in a prone position, supported by straight arms with hands resting on the ground, and with toes resting on the ground. The administrator shall place their fist on the ground below the employee's chest. The employee must keep their back straight at all times, and from the up position, lower themselves to the floor until their chest touches the administrator's hand. Once the employee touches the administrator's hand with their chest, the employee shall then

push themselves to the up position; attain, and repeat the process for the required number of times. The employee may rest in the up position.

B. Crunches

The employee shall begin by lying down on their back, knees bent, heels flat on the floor and arms folded across the chest. A partner shall hold the feet down. In the up position, the employee shall touch their elbows to their knees and then return to the lying position before starting the next sit-up. This is a continuous exercise, with no resting.

EXHIBIT 4

**PRE-EMPLOYMENT, POST-ACCIDENT, REASONABLE SUSPICION
AND RANDOM DRUG AND ALCOHOL TESTING FOR
SWORN, NON-MANAGEMENT POLICE PERSONNEL**

PURPOSE: To implement a policy for pre-employment, post-accident, reasonable suspicion and random drug and alcohol testing for sworn, non-management police personnel.

POLICY: The City of Fountain Valley and the Fountain Valley Police Officers Association reached agreement in the Memorandum of Understanding effective August 1, 2000 for a drug and alcohol testing program for sworn, non-management police personnel which would include post-accident, reasonable suspicion and random drug and alcohol testing in addition to the pre-employment drug testing which has been in place for many years. Effective August 1, 2001, the City will implement this Administrative Regulation. This policy sets forth the rights and obligations of covered employees. Employees covered by these new requirements should familiarize themselves with the provisions of this policy **BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF EMPLOYMENT.**

Employees covered by this Administrative Regulation should be aware that they are still required to comply with the provisions of the City's drug and alcohol policy - the Administrative Regulation regarding the Drug Free Workplace Act of 1988 which originally became effective on April 7, 1989. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in that Administrative Regulation.

A. **EMPLOYEE QUESTIONS:** Employees shall refer any questions regarding his/her rights and obligations under this policy to the Human Resources Department or his/her supervisor.

B. **COVERED EMPLOYEES:**

1. Employees in the following job classifications are "covered employees" and thus, are subject to all the provisions of this policy:
 - a. Police Officer including K-9 Police Officer
 - b. Corporal
 - c. Police Sergeant

C. **PROHIBITIONS:** The following conduct is prohibited and may result in discipline, up to and including termination:

1. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions while having an alcohol concentration level of greater than 0.01 or greater;
2. Working within four hours of using alcohol and/or marijuana;
3. Being on duty or operating a vehicle described above, while possessing alcohol and/or marijuana;
4. Consuming alcohol and/or marijuana while working;
5. Reporting for duty or remaining on duty when the employee used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle;
6. Reporting for duty or remaining on duty if the employee tests positive for controlled substances;
7. Refusing to submit to any alcohol or controlled substances test required by the Policy. A covered employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who tested 0.01 or greater on an alcohol test or tested positively on a controlled substances test;

A refusal to submit to an alcohol or controlled substances test required by the Policy includes, but is not limited to:

- a. A refusal to provide a urine sample for a drug test;
- b. An inability to provide a urine sample without a valid medical explanation;
- c. A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
- d. An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
- e. Tampering with or attempting to adulterate the urine specimen or collection procedure;
- f. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
- g. Leaving the scene of an accident without a valid reason as to why authorization from a supervisor or manager who shall determine whether to send the employee for a post-accident drug and/or alcohol test was not obtained.

8. Exceptions to Sections C1 through 7 would involve the performance of special assignments requiring on-duty personnel to consume alcohol. Refer to Fountain Valley Police Department General Order Section 1012.2 and 1012.21.
9. Consuming alcohol and/or marijuana during the eight hours immediately following an accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988. All employees covered by this Policy have previously been provided with a copy of the City's Drug Free Workplace Statement, and have signed an acknowledgement that they have read the Statement and agreed to comply with it.

D. CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES:

1. **Pre-Employment Testing:** All applicants for classifications which are covered by the DOT regulations (see "covered employees" above) as well as all employees who transfer from classifications which are not covered to classifications which are covered will be required to submit to pre-employment/pre-duty drug testing. Applicants will not be assigned to such a position if they do not pass the test.
2. **Post-Accident Testing:** Post-Accident drug and alcohol testing will be conducted on employees following an accident. Post-accident alcohol tests shall be administered as soon as possible and preferably within two (2) hours following an accident and, if not, within two (2) hours the reason why the test was not administered during this time frame will be documented. No test may be administered after eight hours. A post-accident drug test shall be conducted as soon as possible but within 32 hours following the accident. The City will provide the employee with transportation to the test site.

An accident occurs when as a result of an occurrence the accident results in one (1) or all of the following:

- a. Human fatality
- b. Bodily injury with immediate medical treatment away from the scene and a citation is issued to the driver
- c. Disabling damage to any motor vehicle requiring tow away and a citation is issued to the driver.

Note: If no citation is issued, each surviving driver who was performing safety-sensitive functions with respect to the vehicle will be tested if the accident involved the loss of human life.

3. **Random Testing:** The random pool will consist of all sworn officers employed by the Fountain Valley Police Department. Covered employees will be subject to random alcohol and drug testing as follows:

A random alcohol and/or marijuana drug test will be administered just prior to the employee working, while the employee is working, or just after the employee has stopped working. The City will subject at least 10% of the total number of covered employees to random alcohol testing per year.

A random drug test will be administered to at least 50% of the total number of covered employees per year. Some employees may be tested more than once in a year, while others are not tested at all, depending on the random selection.

On the date an employee is selected for random drug testing, his/her supervisor will ensure his/her duties are covered. The employee will receive a written notice immediately prior to the test that he/she has been randomly selected and will include directions where to report.

4. **Reasonable Suspicion Testing:** Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, such as bloodshot/watery eyes, slurring, or alcohol on the breath. The supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test.

The reasonable suspicion alcohol test will be administered within two hours of the observation and the City will provide transportation to the testing site. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight (8) hours following the observation.

To ensure that the supervisors are trained to make reasonable suspicion determination, supervisors vested with the authority to demand a reasonable suspicion drug and alcohol test will attend at least one hour of training on alcohol misuse and at least one (1) hour of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

5. **Return to Duty/Follow-up Testing:** A covered employee who has violated any of the prohibitions of this policy (see Section C) must submit to a return to duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentration of 0.01 or less or a verified negative result on a controlled substances test. In addition, because studies have shown that the relapse rate is highest during the first year of recovery, the employee will be subject to follow-up testing which is separate from the random testing obligation. The employee will be subject to at least six (6) unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation.

E. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL:

1. **Alcohol Testing:** Alcohol testing will be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration. Non-EBT devices may be used for initial screening tests.

A screening test will be conducted first. If the result is an alcohol concentration level of 0.01 or less, the test is considered a negative test. If the alcohol concentration level is greater than 0.01, a second confirmation test will be conducted.

The procedures which will be utilized by the lab for collection and testing of the specimen are attached to this policy.

2. **Drug Testing:** Drug testing will be conducted pursuant to the procedures attached to this policy.
 - a. The urine specimen will be split into two bottles labeled as "primary" and "split" specimen. Both bottles will be sent to the lab;
 - b. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours after notification of the results to request that the split specimen be analyzed by a different certified lab;
 - c. The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine; the urine sample will be tested for marijuana only in cases of post-accident, random (just prior or after work) and/or reasonable suspicion testing.
 - d. If the test is positive for one or more of the drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis;
 - e. All drug test results will be reviewed and interpreted by a physician before they are reported to the employee and then to the City Human Resources Office;
3. With all positive drug tests, the physician (a.k.a. medical review officer) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City Human Resources Office as "negative."

- F. **REFUSAL TO SUBMIT TO AN ALCOHOL AND/OR DRUG TEST:** A covered employee who refuses to submit to any required drug/alcohol testing will be treated in the same manner as an employee who tested greater than 0.01 on an alcohol test or tested positively on a controlled substances test.

- G. CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST:** A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination.

If a covered employee is not terminated, the employee:

1. Must be removed from performing any safety work;
 2. Must submit to an examination by a substance abuse professional. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment for his/her alcohol or drug abuse. The City is not required to pay for this treatment;
 3. May not be returned to his/her former safety position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) which indicates an alcohol concentration level of 0.01 or less or a negative result on a controlled substance test;
 4. Will be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety position. (See Section F(5) above.)
- H. INFORMATION CONCERNING THE EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES AND AVAILABLE METHODS OF INTERVENTION:** Attached to this Policy are Fact Sheets, addressing the effects of alcohol and the various controlled substances which are tested for under this Policy.
- I. EMPLOYEE ASSISTANCE PROGRAM:** You should also be aware that the City has established an Employee Assistance Program to help employees who need assistance with alcohol and controlled substance abuse. The provisions of the employee assistance program are attached to this policy.

EXHIBIT 5

LAYOFF POLICY

1. **Statement of Intent:** Whenever in the judgment of the City Manager it becomes necessary, the City Manager may, with the approval of the City Council, abolish any position or employment. The employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal.

Seniority shall be observed in effecting such reduction in personnel pursuant to state law, the Personnel Rules and Regulations, and Municipal Code Section 2.52.120. Layoffs shall be made within classes of positions. All temporary or provisional employees, in the affected class or classes, shall be laid off prior to the layoff of any probationary or permanent employee. Probationary employees in the affected class shall be laid off prior to permanent employees.

2. **Notification:** Employees to be laid off shall be given, whenever possible, at least fourteen (14) calendar days' prior notice. The City may choose to give the employee who shall be laid off up to fourteen (14) days' severance pay in lieu of the fourteen (14) calendar days' notice.
3. **Definitions:** The terms used in these rules shall have the meanings as defined below:

Employee: An individual employed on a full-time basis by the City of Fountain Valley. Excluded are part-time employees, volunteers, independent contractors, etc.

Departments: Comprised of:

- City Manager's Office
- City Clerk
- Community Development
- Community Services
- Finance
- Fire
- Information Technology
- Police
- Public Works
- Human Resources

Permanent Status: A regular employee in the competitive service who has successfully completed the probationary period and has been retained as hereafter provided in these rules.

Seniority: Seniority, in terms of layoff, includes all periods of full-time service at or above the classification level where layoff is to occur. Seniority time shall include time served on military leave of absence, approved or authorized by law, at or above, the classification where layoff is to occur.

Order of Layoff: In accordance with Fountain Valley Municipal Code Section 2.52.120 Abolishment of Positions, layoff shall be made within classes of positions within each Department or Division as defined above. Temporary, provisional, and probationary employees in the affected job classifications shall be laid off prior to permanent employees.

Bumping: An employee notified of layoff and bumping rights can only bump down to a position he/she previously held permanent status in with the City.

4. Procedure:

Vacancy and Demotion: Except as otherwise provided, whenever there is a reduction in the work force, the Human Resources Director shall first demote to a vacancy, if any, in a lower class for which the employee who is the latest to be laid off previously held permanent status with the City. All persons so demoted shall have their names placed on the re-employment list.

Determination of Need for Layoff: The determination of need for layoff will be made by the City. Classifications to be affected and the number of employees included will be determined by the City.

Temporary or Provisional Appointments: Temporary or provisional appointments shall be laid off according to the needs of the service as determined by the appointing authority.

Probationary Employees: Probationary employees shall be laid off according to the needs of the service as determined by the appointing authority. If an employee in an affected classification is a probationary appointment, that employee will be selected to be laid off, subject to bumping and re-employment rights, as applicable.

Layoff Procedure: The layoff determination will be based upon the most recently hired employee in the affected class who, e, has the least seniority in or above the class and will be the first to be laid off. The employee in the affected class with the least seniority within that class will be laid off, subject to bumping and re-employment rights, as applicable.

Prior to the establishment of the seniority list for the affected class, the City Manager or his/her designee shall provide affected employees with a copy. If the employee disagrees with the effective date used on the seniority list, he/she may provide any supporting documentation to the City Manager, or his/her designee, within five (5) calendar days after the list is published for consideration.

The seniority list will then be established for the affected class for determination of layoff. The decision of the City Manager, or his/her designee, shall be final and not subject to appeal including the grievance process.

5. Employee Bumping Rights: An employee laid off from a particular classification may "bump" into a lower classification for which he/she has held permanent status in

the position previously with the City within their current Department or Division. After an employee is informed of an impending layoff or "bump down," he/she must inform the Human Resources Director or his/her designee in writing within five (5) working days of receipt of notice of layoff of his/her intent to take the option of the layoff or the "bump down." If the Human Resources Director or his/her designee does not receive the written request to "bump down" within the timeframe established, he/she will be laid off without the right to appeal.

If an employee "bumps down" to a class which then creates an overage in that class, the aforementioned bumping rights process will be repeated. The "bumped down" employee shall be subject to further "bumping" depending on his/her seniority.

Employees retreating to a lower or similar class shall be placed at the salary step representing the least loss of pay. In no case, shall the salary be increased above that received in the class from which the employee was laid off.

If an employee does not have "bumping rights" because he/she has not held permanent status in a lower position with the City Department or Division, he/she will be laid off and placed on the re-employment list.

6. **Re-Employment Rights:** The names of probationary and regular employees who have been laid off shall be placed on an appropriate re-employment list for classes, which in the opinion of the Human Resources Director, requires basically the same qualifications and duties and responsibilities of those of the class of positions from which layoff was made and will be placed in the order of their seniority. Such list shall be used by every Department Director or Division Manager when a vacancy arises in the same or lower class of position before certification is made from an eligible list. Such names shall remain thereon for a period of one year. The City Manager, in his sole discretion, may extend the re-employment list for an additional year for a maximum re-employment list of two (2) years.

Persons who refuse re-employment shall be dropped from the list. Persons re-employed in a lower class or on a temporary basis, shall be continued on the list for the higher position for one (1) year.

Persons who qualify for re-employment but do not respond to written notification to the last known address within the time period specified shall have their names removed from the re-employment list. It is the employee's responsibility to provide the Human Resources Department with a current mailing address.

Persons selected for re-employment shall be subject to any or all of the following: Background investigation, polygraph, psychological examination and medical examination. To be re-employed, the person must pass the re-employment testing process. If it is determined that a person selected for re-employment is no longer suited for employment as a peace officer due to a felony conviction or other offense that disqualifies him/her from employment as a peace officer, he/she will not be re-employed and shall not have any right to appeal the City's determination.

Re-hired employees' reinstatement will be subject to Section 907 of the Personnel Rules and Regulations. Specifically, reinstated employees shall be subject to the probationary period prescribed for the class. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on the specific written approval of the Human Resources Director at the time of reinstatement.

Reappointments after termination will be considered as new employment.

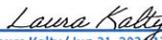
Effective on September 1, 2009.

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