

**Draft Side-Letter Of Agreement/Addendum
Between
The City of Pacifica
and
Pacifica Fire Fighters Association
IAFF Local 2400**

OVERTIME

The City of Pacifica and IAFF Local 2400 engaged in good-faith negotiations regarding a successor MOU (2023-2025). During wage implementation, a discrepancy was discovered between explicit contract language regarding hours qualifying for overtime and departmental payroll reporting. Previous MOUS did not explicitly provide for “Contractual Overtime” (i.e. actual work performed on a Firefighter’s non-regularly scheduled shift.) The plain language of the MOU stated that overtime would only be paid in accordance with the Fair Labor Standards Act (“FLSA”)—including the definition of actual hours worked. However, Firefighters have received FLSA Overtime Pay for hours worked on non-regularly scheduled shifts regardless if they exceeded the FLSA required overtime hours threshold. This has resulted in additional overtime payments that are not required under the FLSA.

Due to the unique nature of a Pacifica Firefighter’s schedule and existing past practice within North County Fire Authority, the Parties recognize the need to clarify and establish overtime protocols moving forward. The Parties agree that the foregoing is above and beyond what is required to be paid under the FLSA and previous explicit language of the MOUS. To that end, the parties agree to the following side-letter, which will go into effective January 1, 2024, and be incorporated into the MOU as Section 8.2 henceforth:

8.2.

A. Contractual Overtime

Any time actually worked under proper authorization or suffered to be worked in excess of the number of **hours normally scheduled** shall be designated as overtime and shall be compensated at one and one half (1.5) times the Contractual Overtime Rate. Contractual Overtime shall only include the base hourly rate plus EMT Certification Pay, Paramedic Pay & Out-of-Class Pay (if applicable to that shift). It shall not include Holiday Pay, Education Pay, or any other pay unless duly negotiated during future contracts. All overtime shall be calculated to the nearest quarter (1/4) hour in favor of the unit represented employee. Such overtime compensation may be either in the form of a direct cash payment or in the form of compensatory time off to the extent permitted by applicable State or Federal law, at the discretion of the Fire Chief with due consideration of any preference expressed by the unit represented employee. Compensatory time off which accrues in excess of one-hundred and twenty (120) hours must be liquidated by monetary payment. Unit represented employees who terminate employment shall be paid for all compensatory time off accrued.

City agrees to continue the practice of allowing employees to trade work schedules, subject to the provisions of the Fair Labor Standards Act (FLSA) including 29 U.S.C. Section 207(p)(3), 29 C.F.R. Section 553.31, and the current MOU. Disputes regarding the impact of a trade or trades upon hours worked shall be resolved by reference to the records maintained by Department payroll.

29 U.S.C. Section 207(p)(3) states “If an individual who is employed in any capacity by a public agency which is a State, political subdivision of a State, or an interstate governmental agency, agrees, with the approval of the public agency and solely at the option of such individual, to substitute during scheduled work hours for another individual who is employed by such agency in the same capacity, the hours such employee worked as a substitute shall be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.”

B. FLSA Overtime

The Union and the City agree that the City has adopted a 7(k) exemption pursuant to the FLSA with a 24 work day period (182 hours). Except as otherwise specified in the MOU, all overtime shall be paid in accordance with the Fair Labor Standards Act (FLSA) and include all pay not excluded by 29 USC Section 207(e). This includes inter alia, Education Incentives, Holiday Pay, Health/Cash in Lieu, EMT Certification, Paramedic Pay, Out of Class Pay. Any authorized time actually worked in excess 182 hours shall be considered overtime and shall be compensable at the rate of one and one-half (1-1/2) times the unit represented employee’s regular straight-time rate of pay in accordance with the FLSA..

The term time worked shall be in accordance with the definition contained in the Fair Labor Standards Act—“to suffer or permit to work.” However, City will count time coded as Compensatory Time Off (“CTO”) as time toward FLSA overtime. Any other time in paid status, including but not limited to sick leave, vacation days, administrative leave or any other non-working paid status shall not count toward FLSA overtime. All overtime shall be calculated to the nearest quarter (1/4) hour in favor of the unit represented employee. Such overtime compensation may be either in the form of a direct cash payment or in the form of compensatory time off to the extent permitted by applicable State or Federal law, at the discretion of the Fire Chief with due consideration of any preference expressed by the unit represented employee.

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For the Local Union



Giorgio Lavezzo
San Mateo County Fire Fighters
IAFF Local 2400

Date: 12 / 12 / 2023

For the City



Kevin Woodhouse
City Manager

Date: 12 / 07 / 2023

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VIEWED

12 / 07 / 2023

15:31:24 UTC

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The document has been completed.