



Memorandum of Understanding
between the
City of Burbank
and the
Burbank Police Officers'
Association

October 20, 2019 through June 30, 2021

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ARTICLE I
RIGHTS AND PLEDGES

A. RECOGNITION

Burbank Police Officers' Association (Association) is the recognized employee organization for all personnel ("employees") employed by the City of Burbank ("City") in the classifications of Police Officer, Police Detective, Police Sergeant and Police Lieutenant.

B. MUTUAL PLEDGE OF ACCORD

Inherent in the relationship between the City and its employees is the obligation of the City to deal justly and fairly with its employees and of the employees to cooperate with their fellow employees and the City in the performance of its public service obligation. In the interest of promoting and ensuring harmonious relations between the City and its employees, authorized representatives of the City and the Association have met and conferred in good faith, exchanging various proposals concerning wages and other terms and conditions of employment for the employee.

The authorized representatives of the City and the Association have reached an Understanding and Agreement as to changes in wages and certain other benefits for the affected employees which shall be submitted to the City Council of the City for approval and implementation of its terms and conditions by appropriate ordinance, resolution, or other lawful action.

C. NON-DISCRIMINATION

The provisions of this Agreement shall be applied equally to all employees without unlawful discrimination as to age, sex (gender), marital status, race, color, ancestry, religion, national origin, citizenship status, uniformed services member status, marital status, sexual orientation, gender identification, genetic characteristics, medical condition, Federal Medical Leave Act (FMLA)/California Family Rights Act (CFRA) eligibility, or any disability protected by state and federal law. Any violation of this provision by the City or Association shall be subject to immediate correction. (Affirmative Action Plan).

D. CITY RIGHTS

D.1. General

Responsibility for management of the City and direction of its work force is vested in City officials and department heads whose powers and duties are specified by law. The rights of the City include but are not limited to the exclusive right to: (1) determine the mission of its constituent departments, commissions and boards; (2) set standards of service; (3) determine the procedures and standards of selection for employment and promotion; (4) direct its employees; (5) take disciplinary action; (6) relieve its employees from duty because of lack

of work or for other legitimate reasons; (7) maintain the efficiency of governmental operations; (8) determine the methods, means and personnel by which government operations are to be conducted; (9) determine the allocation and content of job classifications; (10) take all necessary actions to carry out its mission in emergencies; and (11) exercise complete control and discretion over its organization and technology of performing its work.

D.2. Reserved Rights

The City shall have all other rights and prerogatives subject only to express restrictions on such rights as are provided in this Agreement.

E. ASSOCIATION RIGHTS

E.1. Association Access

Reasonable access to employee work locations shall be granted to Officers of the Association and its authorized representatives for the purpose of processing grievances or contacting members of the Association concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the consent of the City or its authorized representative. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements. (AP II-15) The City acknowledges that an employee is entitled to review the contents of their "official" file located in the Management Services Department at reasonable intervals. An employee may request a representative to assist him or her in reviewing said folder. A representative of the Management Services Department will remain present during the employee's review of the file. In addition, an employee is entitled to review the contents of the employee's "Departmental" personnel files by arranging an appointment with a representative of the Police Department.

E.2. Association Time

An aggregate of five hundred and twenty (520) hours per fiscal year shall be available for use by Board members subject to the following conditions:

E.2.a. The hours shall be utilized to attend meetings or conventions held by labor or police-oriented organizations and/or seminars or classes on labor or police-related subjects. Local Association meetings shall be included as a part of the utilized hours.

E.2.b. Use of any part of the five hundred and twenty (520) hours will be cleared through the office of the Police Chief with manpower availability being the only additional criteria utilized. The association will be prepared at all times to

account for the use of this time.

E.3. Pay for Association Business

Employees shall be granted time off without loss of pay to attend meetings of the Civil Service Board which are scheduled during the employees' regular working hours, if the employee is (1) president of an employee organization or the president's designee, if the president cannot attend; (2) present on official business before the Board including an appeal by the employee or representation of an employee by another for the purpose of appeal; or (3) present because, in the opinion of the Police Chief, the interests of the City are served by having the employee present. Employees shall request permission from the Police Chief to attend at least twenty four (24) hours prior to the meeting. Unless otherwise authorized, employees must return to work as soon as the business for which they are attending is completed. (AP II-5)

In addition, affected employees who are elected members of the Board of Directors of the BPOA, and who are on duty, shall be released from normal work duties to attend monthly Board of Director meetings. Release from normal duties will be cleared through the office of the Police Chief with manpower availability and on-going criminal case involvement being the only criteria utilized.

E.4. Bulletin Boards

Adequate space shall be made available to the BPOA on City bulletin boards throughout the City. The following types of notices, provided they are not of a political matter, commercial advertising or of a derogatory nature to the City, may be posted after they are signed and dated by an officer or representative of the Association: (1) notices of recreation or social affairs of the Association; (2) notices of Association election and appointments; and (3) notices of business meetings of the Association. Notices of any other type not listed above shall first be submitted to the City Manager's office 24 hours prior to posting. (AP II-9)

E.5. Meet and Confer

As set forth in California Government Code section 3505, the City and representatives from the union shall meet and confer in good faith regarding changes to wages, hours, and other terms of conditions of employment.

F. DUES DEDUCTION

The City shall deduct from Association members' bi-weekly earnings and remit monthly to the Association dues required of such employees as certified by a duly authorized representative of the Association. BPOA hereby certifies

that it has and will maintain individual employee authorizations. The City shall rely on representations made by BPOA regarding the authorization to make, revoke, cancel, or change deductions for employees represented by BPOA. All such dues deductions shall be authorized in writing to BPOA by the individual employee. In the event that an employee wishes to cancel, revoke, or change the dues deduction, such requests shall be directed in writing to BPOA, which shall promptly provide written notice to the City. The City shall stop or change dues upon receipt of the written notice. Dues deduction shall continue unless BPOA provides the City written notice of cancellation. Should there be a dispute regarding the deduction of dues, BPOA shall provide the City with a copy of the authorization(s) signed by the BPOA represented employee.

The City shall have no liability to collect Association dues for any month in which the employee, in his/her last full pay period, receives, after legal deductions, pay less than the amount of such dues. In addition, the Association shall indemnify and save or hold the City harmless from any liability resulting from any and all claims, demands, suits or other action arising from compliance with this section of the Article.

G. MODIFICATION CLAUSE

Any agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the City Council.

H. SAVINGS CLAUSE

If any term or provision of this MOU is found to be in conflict with any City, State, or Federal law, the parties agree to meet promptly, and as often as necessary, to expeditiously renegotiate this term or provision. All other terms and provisions of this MOU shall remain in full force and effect during the period of such negotiations and thereafter until their normal expiration date. The parties understand that many of the Employees covered by this Memorandum of Understanding may also be covered by the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 201 et seq. (FLSA). To the extent that any provision herein conflicts with the FLSA, employees covered by the FLSA shall receive benefits required thereunder and any additional benefits set forth herein if compatible with FLSA.

I. TERM OF AGREEMENT

This Agreement is effective October 20, 2019. The term of this Agreement shall continue in effect until the 30th day of June 2021.

ARTICLE II
PAY FOR TIME WORKED

A. HOURS OF WORK

A.1. Definition - Work Day/Week

Normally, a work day shall constitute eight (8) hours of work. The work week shall consist of five (5) consecutive work days followed by (2) consecutive days off.

A.2. 9/80 Work Schedule

The City has established a 9/80 work schedule, acceptable to the Association and to the Police Chief, in which an employee works nine (9) days/eighty (80) hours in a fourteen (14) calendar day period. This work schedule shall feature days off that are consecutive.

A.3. 3/12 Work Schedule

Patrol and the motor squad shall work a 3/12 work schedule.

A.3.a. PATROL

It is the intent of the parties to:

A.3.a.(1) Assure the schedule will not be designed for the purpose of reducing any existing level of benefit BPOA currently has.

A.3.a.(2) With command approval officers will be allowed to adjust their work schedules to work into court time.

A.3.a.(3) Seniority Benefit

No employee assigned to patrol, hired after November 24, 2004 will have the ability to pick their three shifts all at once as was the past practice upon entering the Top 15. Rather, they will select patrol shifts using the "2-1 method" as all other patrol officers select their shifts. Employees hired on or before November 24, 2004 will be known as being "grandfathered into the Top 15" and may continue the past practice.

There are three patrol deployments per year. Generally, January-April, May-August and September-December. The "2-1 method" refers to the number of shifts chosen within three deployments selected on a yearly basis.

Officers, in order of seniority, will select a shift (day shift, night shift, beginning of week or end of the week) in two of the three deployment periods. The selection of shifts will move to the next senior officer who selects in the same fashion. The process will continue until all officers have

selected a shift in two of the three deployments. Then the selection will return to the most senior officer, who will select a shift in the deployment the officer didn't select earlier in the process. The next senior officer will select in the same fashion and so on, until all shifts are selected.

By definition, as the process moves forward, fewer and fewer choices are available and less senior officer's default to less desirable shifts and/or deployment periods.

A.3.a.(4) Maintain the 3/12 schedule for patrol during the contract period with the following criteria (and base levels) to be utilized for evaluation of the schedule's effectiveness:

<u>OVERTIME HOURS</u>	<u>BASE LEVEL</u> (July-Dec 1994)
Total Overtime Hours	11,728.00
Continuation of Shift	1,139.3
Minimum Staffing Level	882.6
Court Appearances	1,541.8
Court Stand-By	4,976.3

<u>SICK USAGE</u>	<u>BASE LEVEL</u> (July 92 - Jan 93)
Total Sick Hours	6,020.7

<u>FIELD ACTIVITY</u>	<u>BASE LEVEL</u> (July 92- June 93)
Total Arrests	6,246.0
Total Cites	1,044.0

<u>RESPONSE TIME</u> *	<u>BASE LEVEL</u> (Jan - Dec 94)
Emergency	3 minutes, 24 seconds
Non-Emergency	18 minutes, 24 seconds

* All response times based on weighted averages.

A.3.a.(5) Return to the 9/80 schedule, upon agreement of the BPOA and the Police Chief, if patrol cannot maintain the established criteria set forth in **Article II. A.3.a.(5)**. Return to the 9/80 schedule due to patrol being unable to maintain the established criteria will not result in any additional compensation paid by the City to any affected employee or the BPOA.

A.3.b. MOTOR SQUAD

A.3.b.(1) Lieutenants, Detectives, or non-Motor Squad Police Officers in the Traffic Bureau will remain on the 4/10 work schedule as set forth in **Article II. A. 4.**

- A.3.b.(2) The Departments ability to make a temporary, non-disciplinary change in a limited-duty Officer's assignment or work schedule (shift, hours and/or days off) to maximize their contribution toward the Department's needs shall not be affected by this 3/12 schedule.
- A.3.b.(3) The high degree of scheduling flexibility which has been the prerogative of the Traffic Bureau Commander based on the needs of the Department will remain unchanged.
- A.3.b.(4) Payback days for each month will be scheduled by the Bureau Commander by the 15th of the previous month. Unless scheduled otherwise, payback days will be the 2nd Wednesday of the month for those working Thursday, Friday, and Saturday. It will be the Thursday immediately following the 2nd Wednesday for those working Monday, Tuesday, and Wednesday. Paybacks may be scheduled on a Sunday when Motor School training needs require the complete Unit training together, such as riot procedures or formation riding.
- A.3.b.(5) Monthly Motor School of eight hours or less will be scheduled by the Bureau Commander, and will include maintenance/cleaning of the motorcycles and all possible in-service training. Usually Motor Schools will be split and held for half of the Motor Squad during each of the two monthly payback days. Normal field strength should not be affected by Motor School, and Motor Officers not assigned to Motor School on a given day shall not go to the school site.
- A.3.b.(6) Motor Squad Work Schedule
Officers assigned to Motor Squad or officers who were on an employment list for the Motor Squad assignment on February 5, 2012, will be grandfathered into the 3/12 schedule, but all other newly assigned employees will work a 4/10 schedule. Officers assigned to Motor Squad will be able to take their motorcycles home unless the Police Chief determines that for just cause the officer should not take the motorcycle home. Such reasons shall be put in writing. Employees assigned to the Motor Squad may volunteer to work a 4/10 schedule but will also retain the right to return to the 3/12 schedule.

In the event that the City transfers or reduces the number of

officers assigned to the Motor Squad and, as a result, officers grandfathered into the 3/12 work schedule are transferred out of the Motor Squad, the officer grandfathered into the 3/12 work schedule will have the right to be transferred back to the Motor Squad, if and when a vacancy exists in the position from which the officer transferred and can remain on a 3/12 schedule.

If a Motor Squad employee voluntarily accepts an assignment outside the Traffic Bureau, that employee shall not have the right to return to the Motor Squad on a 3/12 work schedule.

Discontinue the 5/8 "School Schedule."

Maintain the 3/12 schedule for the motor squad with the following understanding:

A.3.b.(7).i.

The Motor Squad safety and riding skill levels must remain excellent, as determined by the Division Captain with significant input from the Bureau Lieutenant, Sergeants, and Motor Squad Field Training Officer. Failure to comply, as determined by the Division Captain, SHALL cancel the 3/12 Work Schedule for the Motor Squad.

A.3.b.(7).ii.

Staffing levels on each day shall be sufficient to handle the traffic needs of the City. If not, and if a reasonable schedule modification of the 3/12 Work Schedule cannot be identified, the 3/12 Work Schedule MAY be cancelled. Staffing inequities could result from changing demands for service in the City, or from a reduction in the number of officers assigned full-time to the Motor Squad.

A.3.b.(7).iii.

The Motor Squad average monthly sick usage per assigned officer shall remain generally equivalent to, or less than, that of Patrol Officers or the 3/12 Work Schedule MAY be cancelled.

A.3.b.(7).iv.

For those who have been grandfathered into the 3/12 schedule, the following sections shall apply: The Motor Squad handles many traffic enforcement and other special details, and primarily focuses on traffic enforcement during

all free time. Officers traditionally write citations for hazardous violations, in addition to making arrests and writing citations for equipment and parking violations. They also take traffic accident reports, assist Patrol on priority calls, and handle other details that detract from enforcement time. If in the opinion of the Division Captain, the 3/12 Work Schedule has a negative impact on the Motor Squad's primary function of traffic enforcement, the 3/12 Work Schedule MAY be cancelled.

A.3.b.(7).v.

It is the intent that the 3/12 Work Schedule will provide benefits to the affected employees and to the Department, without risking the safety of the employees. No non-safety condition imposed by this schedule is intended to force the cancellation of the 3/12 Work Schedule if the Division Captain feels that its benefits to the Department outweigh its disadvantages.

- A.3.b.(8) Scenarios in which the Department can cancel the 3/12 Motor Officer Work Schedule are listed in **Article II.A.3.b.(8)**. If the 3/12 schedule is cancelled, the work schedule would revert to a 4/10, as listed in **Article II. A. 4**. The 4/10 schedule would require some of the Motor Officers to have split days off. Return to the 4/10 schedule due to any of the scenarios listed in **Article II.A.3.b.(8)** will not result in any additional compensation paid by the City to any affected employee or the BPOA.

A.4. 4/10 Work Schedule

The City and the Association Have implemented a 4/10 work schedule for Air, Canine, and Investigation assignments not on the 3/12 plan based on criteria established for each of the assignments for the duration of this agreement. It is the intent of the parties to:

- A.4.a. Establish the criteria for evaluating the effectiveness of the 4/10 work schedule by mutual agreement of the parties.
- A.4.b. Evaluate the assignments on the 4/10 schedule as separate entities. In the event one entity on the 4/10 schedule does not meet the criteria set forth, its removal from the 4/10 schedule shall not affect the other entities on the schedule.
- A.4.c. Return to the 9/80 schedule, upon agreement of the BPOA and the Police Chief, any entity that cannot maintain the established 4/10 criteria.

A.5. Lieutenants Schedule

The City shall assign Lieutenants to a 4/10 or 3/12 schedule based on available staffing, and on the needs of the organization. Lieutenants may flex their hours to address the personnel and operational needs of their watch, with the concurrence of their commanding officer.

The parties agree to meet yearly through the life of this agreement, to meet and discuss/consult on the impacts this schedule change for lieutenants from a 3/12 to a 4/10 and the actual ability lieutenants are being given to flex their hours.

B. ATTENDANCE

Employees shall be in attendance at their work during the regular hours of work and shall not absent themselves during working hours for any reason without the prior approval of the immediate supervisor except in the case of emergencies.

C. SALARY RANGE

C.1. Establishment of Salary Ranges

The salary range for employees in the classification of Police Officer contains ten steps within the range. The salary ranges for employees in the classifications of Police Sergeant and Police Lieutenant, and in the special assignment of Police Detective, contain 13 steps within the range.

There shall be a difference of two and one-half (2 ½) percent between steps.

C.2. Movement Within the Range

Affected employees below the top step of the salary range shall be considered for salary adjustment on an annual basis and may receive an adjustment of up to three (3) steps within a year. The Police Chief shall have the authority to grant step increases. Adjustments for affected employees in the classification of Police Officer shall be made effective on the anniversary of the employee's date of hire, except for the initial step increase which shall be made at six months of service if the employee's job performance at the six month period is satisfactory. Adjustments for affected employees in the classifications of Police Detective, Police Sergeant, and Police Lieutenant shall be made effective on the anniversary date of the employee's promotion. The Police Chief shall have the authority to grant salary adjustments more than once annually only to the extent that an employee not exceeds an increase of three steps within a one year period. Salary increases within the salary range shall be based upon satisfactory job performance. The standard adjustment for satisfactory job performance shall be two steps. In no instance will a step increase be granted unless an employee has demonstrated satisfactory performance in at least one of the employee's

last two evaluations.

C.3. Evaluations

All sworn personnel (“officers”) will receive performance evaluations on the anniversary of their hire date or of the promotional date, once per year. The performance evaluation shall be conducted on forms agreed upon between representatives of the City of Burbank and the Burbank Police Officers' Association. An officer’s supervisor shall evaluate the officer, subject to review and concurrence by the Police Chief. Salary increases shall only be given based upon a performance evaluation.

C.4. Denial of Step Increase

An employee who receives two consecutive overall unacceptable performance evaluation ratings shall not be advanced to the next salary step. The Police Chief may reduce the monthly salary of an employee by up to two steps in any twelve (12) month period on the basis of two consecutive overall unacceptable performance evaluation ratings. An employee who has had a step increase denied or salary reduced shall be reconsidered for a future step increase no sooner than six (6) months following the denial/reduction. Any increase shall be based upon satisfactory job performance.

C.5. Appeal

An employee who has had a step increase denied, may within ten calendar days of notification of the denial, request an informal hearing before the Police Chief and present evidence as to why the step increase should not be denied. The decision of the Police Chief shall be final. An employee whose salary is reduced shall have the right of appeal as outlined in Burbank Municipal Code Sections 2-1-515 and 2-1-516. (BMC 2-1-515 & 2-1-516)

C.6. Eligibility After Denial

Failure to receive a salary increase as herein provided shall not preclude any employee from thereafter receiving such increase. After failing to receive a step number salary increase as herein provided, any employee so affected shall receive such increase after he/she has been classified in his/her current step number for an additional six (6) months, providing it coincides with a satisfactory performance evaluation. In the event there is not a satisfactory performance evaluation, the employee shall be eligible for such increase yearly thereafter, subject however, to satisfactory performance evaluations.

C.7. Acceleration

An employee's step advancement may be accelerated subject to the following conditions:

C.7.a. The Police Chief in his written request for acceleration, certifies that the employee has performed his/her work in an

outstanding, meritorious manner, giving the reasons therefore, or certifies that the employee has regular full-time responsibilities of supervision whose rate of pay is equal to or less than one or more of his/her subordinates and that in making the request he/she has already exhausted the assignment resources which would have placed a senior supervisor over a senior subordinate; provided that for supervisory responsibilities, the acceleration will not result in a rate of pay which shall exceed the rate of pay of the next highest paid subordinate, other than those subordinates who are being paid at a "Y" rate in accordance with BMC 2-1-707, are on temporary service, or are being paid a salary differential to which the supervisor is not entitled. Requests for acceleration on the basis of supervisory/subordinate relationship shall be submitted to the City Manager through the Management Services Director and the Police Chief shall use such references as the class specifications and the most recent organization chart approved by the City Manager, or in cases where these are not conclusive, he/she shall include a written statement setting forth the duties and the place of the position in the department organization. The anniversary date of the supervisor whose salary is accelerated as herein provided shall not be changed by such acceleration. (BMC 2-1-705)

NOTE: "Y" rate is used to distinguish rates of pay established for an employee whenever the salary of the position that employee holds is lowered. This rating ensures that such change does not affect any individual and the employee will continue to receive his/her current salary. This "Y" designation is removed whenever the rate of pay for the position is increased to an amount which equals or exceeds the employee's current salary.

- C.7.b. At least six (6) months have elapsed after the employee's appointment to the classification. (BMC 2-1-705)
- C.7.c. Not more than two (2) salary steps are recommended. (BMC 2-1-705)
- C.7.d. The employee has had no previous step advancement acceleration during his/her employment in the particular classification. (BMC 2-1-705)
- C.7.e. The employee's seniority held in the step from which advanced is carried forward. (BMC 2-1-705)

C.8. Step Advancement in Salary Upon Promotion

For the purposes of step advancements only, when an employee is advanced from one title to another, the employee is to be advanced to the next higher base salary plus two steps. (BMC 2-1-704)

If there is a pay decrease associated with a promotion in rank, as calculated under C.8. above, the employee will receive the next highest step increase in the new rank upon promotion (this does not include assignment changes within the same rank).

C.9. Step Advancement on Promotion from Recruit to Officer

When a recruit is advanced to Police Officer, the effective date of his or her salary increase shall be the day of the recruit's graduation from the Academy.

D. RETIREMENT

D.1. PERS

D.1.a. The retirement benefit shall include Section 21363.2 (3% @ 50) formula. Pursuant to the Public Employees' Pension Form Act of 2013 (PEPRA), the 3% @ 50 formula is only applicable to employees identified by the California Public Employees' Retirement System (PERS) as Classic Members (generally employees who became PERS members prior to January 1, 2013).

Pursuant to PEPRA, the City is mandated to provide a 2.7% @ 57 PERS Retirement Formula to employees PERS identifies as New Members (generally employees who became PERS members on or after January 1, 2013).

D.1.b. One-Year Final Compensation

For employees hired on or before February 5, 2012, the retirement allowance of a PERS member shall be based on the 12 highest paid consecutive months under the plan. (Government Code Section 20042).

Three Year Final Compensation

For employees hired after February 5, 2012 (or as soon thereafter as practicable), the retirement allowance of a PERS member shall be based on the 36 highest paid consecutive months under the plan. (Government Code Section 20037).

D.1.c. Contributions toward PERS Retirement

Each Classic Member shall pay the full 9% employee share of PERS contributions, with state and federal income tax on the PERS member contribution deferred to the extent permitted by Internal Revenue Code, 26 USC Section

4.14(h)(2).

As required by Government Code Section 7522.30, New Members shall pay 50% of the normal cost, with state and federal income tax on the PERS member contribution deferred to the extent permitted by Internal Revenue Code, 26 USC Section 4.14(h)(2). Fifty percent of the normal cost is 12.75% at the time this contract is adopted.

The City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and for contribution credits (rebates) from PERS. During the life of this Agreement, earnings may accrue to the City by reason of a reduction of the City's contribution to PERS.

D.1.d. Each affected employee shall be obligated to contribute any increase in employee contributions that should hereafter result from any state or federal enactment or action which increases the total employee contribution rate above its current level of nine percent (9%) for Classic Members and 12.75% for New Members.

D.1.e. Amounts contributed by the City pursuant to this section shall be credited to the affected employee's PERS account as if made solely by the employee.

D.1.f. **Cost Sharing.** Classic Member employees will pay half the normal cost of their pensions, as determined annually by the CalPERS Actuarial Valuation Report, with a total employee contribution cap of 15.93%. The total employee contribution, including any cost sharing, will continue to be in effect beyond expiration of this MOU. The City and the BPOA agree to phase-in this additional employee contribution through the schedule below:

As soon as practical, but not earlier than October 20, 2019, each Classic Member employee shall contribute an amount equal to 4.50% of compensation earnable towards the employer PERS contribution, which is separate from, and in addition to, the 9% employee contribution described in **Section D.1.d.** above, for a total contribution of 13.50%.

Effective June 28, 2020, each Classic Member employee shall contribute an amount equal to 6.93%, which includes the 4.50% already being paid, of compensation earnable towards the employer PERS contribution, which is separate from, and in addition to, the 9% employee contribution described in

Section D.1.d. above, for a total contribution of 15.93%.

As soon as practical, the City will implement this section of this MOU by processing a PERS contract amendment for Cost Sharing, pursuant to Government Code Section 20516. As part of the PERS contract amendment process, PERS requires BPOA members, through secret ballot, to approve the amendment to the PERS contract. If BPOA members do not approve the PERS contract amendment, the City will implement the additional employee contribution set forth in this section as a post taxation deduction from the employees' pay.

D.2. Survivors Benefit

The retirement benefits include Level IV of 1959 Survivor Benefits under Section 21574 of the California Government Code and Post-Retirement Survivor Allowance to Continue After Remarriage under Section 21635.5 of the California Government Code.

E. SALARY

E.1. Adjustments

The salary levels for all positions will be increased effective October 20, 2019 by 7.5%.

The parties agree that there will be a payroll test run before final salaries are established.

E.1.a. The City and BPOA agree that a survey will be conducted for consideration in the next MOU negotiations in order to assess whether the salaries of BPOA members are competitive with the following agencies and in accordance with the following methodology. The parties understand that this survey is for informational purposes only and any implementation, in full or in part, will be subject to further negotiations.

E.1.a.(1) The Cities to be surveyed are as follows:

Anaheim	Long Beach
Garden Grove	Pasadena
Glendale	Santa Ana
Huntington Beach	Santa Monica
Inglewood	Torrance

E.1.a.(2) The following compensation and benefit elements will be surveyed to establish the percent that BPOA positions are above or below survey:

Salary

- *Longevity
Uniform Contribution
Advanced Post
- *Education Incentive
PERS Employee Contribution paid by City
- *Medical/Dental Contribution made by City
- *Deferred Compensation made by City

The PERS element will be calculated by multiplying the Cities' percentage that they contribute towards the employee's PERS rate times the subtotal of PERSable elements for that City in the survey. The City considers 3% @ 50 retirement benefit to be an industry standard and the cities PERS employer rate will not be considered in the survey. For the items above having an asterisk, the survey will compare the City of Burbank's employee population to the compensation provided by the cities surveyed to determine what the BPOA employee would receive if that employee was subject to the provisions of the compensation and benefits provided by the surveyed cities. This data is then averaged to determine the compensation for that element. If a city on the survey has an element but provides no compensation, this element will be calculated in the survey. In conducting the survey, if a city does not provide an element this element will be excluded from the calculation.

- E.1.a.(3) The survey will contain a column that indicates the amount of out-of-pocket medical/dental costs that BPOA employees would be liable for if the BPOA employees were subject to the medical/dental provisions of the cities surveyed. This data will be for informational purposes only.
- E.1.b. A salary survey shall be conducted of personnel employed at the top step exclusive of bonuses or incentives of the Police Officer, Police Sergeant and Lieutenant classifications. For purposes of this language the top step of Glendale shall be their merit step.
- E.1.c. An average of the total top step salaries for Police Officer, Sergeant and Lieutenant of the 10 (ten) survey cities will be derived. For survey and computation purposes, the City's top step shall in actuality equate to the ninth step.
- E.1.d. The average shall then be expressed as the City's top step salary total for Police Officer, Police Sergeant, and Police Lieutenant,

respectively.

- E.1.e. The survey range for the classification of Police Detective shall be midway between Police Officer and Police Sergeant.
- E.1.f. The calculation for the July 1 survey settlement will be made on September 1 regardless of the status of settlements in survey agencies by that date.
- E.1.g. In the event that a city or cities in the group surveyed significantly changes its allocation of salary and benefits, the parties to this agreement agree to meet and confer on the effect to be given these changes in the salary and benefits survey.

F. OVERTIME PAY

F.1. Policy

The Personnel Policy of the City of Burbank discourages overtime work. Overtime will not be permitted except in cases of emergency (as defined by the Police Chief) or when the public health, safety or welfare requires it. The Police Chief or his designee is responsible for giving prior approval of any overtime to be worked except in case of emergency, and shall make every effort to reschedule work to avoid overtime. Overtime usage will be reviewed by the City Manager or his or her designated representative to determine whether the authorized overtime was due to an emergency or that public health, safety or welfare required it. (AP II-12)

F.2. Definition of Overtime Work

Overtime work is work performed by an employee of the City in excess of the employee's regularly scheduled hours or on a holiday, or at times other than those normally required for their employment. In-service training shall not constitute overtime work to the extent that time spent in such training does not exceed the hours of work stipulations of the Fair Labor Standards Act. Code 7 time shall not constitute overtime.

- F.2.a. Compensation for travel and/or training time on a regularly scheduled work day shall be paid at the overtime rate should the travel and/or training time exceed the regularly scheduled work hours of the affected employee.
- F.2.b. Compensation for travel and/or training time on a scheduled day off shall not constitute overtime work to the extent that time spent in such training does not exceed the hours of work stipulations of the Fair Labor Standards Act.

The Department may elect to change an employee's regularly scheduled work hours to a 5/40 schedule in order to accommodate extended training. In this case, the employee would work an eight (8) hour day as regular work hours excluding

lunch periods.

F.3. Dispute as to Normal Hours of Employment

Any dispute or question of fact as to what time or times are normally required for the employment of any employee shall be decided by the City Manager and his/her decision shall exhaust administrative remedies.

F.4. Rate

Affected employees shall be paid overtime at 1½ times the hourly rate for the step in which they are employed, except employees who receive differential pay shall be paid 1½ times the hourly rate they are paid under Section G. (BMC 2-1-711).

F.5. Overtime - Call In or Preplanned Overtime

Except as provided for in Article II, Section K providing for flex time assignment, when an employee is called back to work after returning home, or is called or agrees to work during a time when he/she would normally be off duty, or is called or agrees to work on a shift to which he/she is not assigned, he/she shall be paid a minimum of four (4) hours of pay at the overtime rate even though he/she works less than four (4) hours. This includes pre-planned meetings or field/office work.

The employee's pay shall commence when he/she reports to the work location or goes into service in the City. Should an employee so called to work be recalled after having been released from work he/she will again be paid a minimum of four (4) hours of pay at the overtime rate provided he/she worked at least four (4) hours during the previous call to overtime duty, or two (2) hours had elapsed since the previous call to duty.

F.6. Overtime Pay - On Call For Court

Affected employees shall receive two (2) hours of straight time for the period from 8 a.m. to 12 noon, and two (2) hours of straight time for the period from 1 p.m. to 5 p.m. when the affected employee is placed on an "on-call" status for court on either a workday or day off, except for those employees actually working during the time the on-call subpoena is in effect.

F.6.a. Subpoenas

Affected employees (Officers) who are on court "On-Call" or "Must Appear" status for a City Attorney or District Attorney Subpoena and are not called off of the subpoena by 5 p.m. the prior day shall receive two (2) hours of straight time provided the employee (Officer) is not working a regularly scheduled, or an overtime assignment.

If an employee (Officer) is called off of a subpoena the same day, more than two hours prior to the court appearance time the employee (Officer) is entitled to two (2) hours of straight time. If the employee (Officer) is called off of a subpoena two hours or

less before the court appearance time the employee (Officer) is entitled to two (2) hours of overtime at time and one half.

F.6.b. Trailing Felony Case Subpoenas

The trial date will be clearly indicated on subpoenas for "trailing felony cases" and will be served in the normal fashion as an on-call subpoena. Officers will receive on-call pay from the new trial date until the case is adjudicated or continued to a date beyond the original ten (10) court day trailing period. Officers will be taken off no "on-call status" when there is a case disposition or re-calendar for a future date with a new subpoena. Officers will not be responsible for any on-call status until they have actually been served.

F.7. Time Off With Pay In Lieu Of Overtime

The Police Chief may, whenever he considers that the best interests of the City will be served, order that an employee may take time off work with pay in lieu of overtime pay. Time off with pay shall be given for a period equal to the appropriate overtime rate. Accrued in-lieu time shall be used by the employee within 30 days after it is earned, unless extended by the Police Chief. The Police Chief shall not permit any employee to accumulate in lieu time in excess of 200 hours beyond the end of a calendar year without the approval of the City Manager. Overtime earned working on jobs for which the City is reimbursed ("billable hours") are not eligible to be paid in time off in lieu of overtime payment. (AP II-12)

G. DIFFERENTIAL PAY

G.1. Definition

"Differential pay" shall mean the addition to the base salary of a City officer or employee determined by reference to assignment or certification. (BMC 2-1-710)

G.2. Entitlement Amount

Affected employees shall receive differential pay in such amount and under such terms and conditions as specified by this MOU. (BMC 2-1-710)

G.3. Special Assignment

The differential pay for affected employees on special assignment was modified as follows:

Pilot-in-Command (PIC)	8.2% of top step Officer per month
PIC with a commercial rating	11.3% of top step Officer per month
Helicopter Observer	2.3% of top step Officer per month
Motor Officer	7.9% of top step Officer per month
School Resource Officer	3.1% of top step Officer per month
Field Training Officer	
(Patrol/Motor/Aero-Bureau/K-9)	6.8% of top step Officer per month
Field Training Officer	3.4% of top step Officer per month

(not assigned a Trainee)

Special assignment pay is effective on the 1st day of such assignment.

(Side letter 5/24/07)

G.4. Assignment Surveys

If requested by BPOA in preparation for the next MOU negotiations, the City agrees to survey the following assignment differentials for consideration in order to assess whether the assignment differentials for BPOA members are competitive with the agencies listed in E.1.a.1. of this Article and in accordance with the following methodology. The parties understand that this survey is for informational purposes only and any implementation, in full or in part, will be subject to further negotiations.

G.4.a. The assignment differentials to be surveyed are as follows:

Helicopter Pilot, Observer, Motor Officer, and Field Training Officer, K-9, School Reserve Officer, Bi-lingual Bonus Pay, and Shooting Pay

G.4.b. This data is then averaged to determine the compensation for that element. If a city on the survey has an element but provides no compensation, this element will be calculated in the survey. When conducting the survey, if a city does not provide an element this element will be excluded from the calculation.

G.5. Detective

Unit employees assigned to a Detective position shall receive salary advancements in accordance with **Article II C.8**.

G.6. K-9 Duty

Unit employees who are assigned to K-9 duty receive additional compensation in the amount of twelve (12) hours of pay per month at time and one-half (1½). K-9 duty compensation is granted in recognition of the duties and responsibilities of the K-9 assignment including any time spent by the employee on or off duty in the care and maintenance of the assigned animal.

G.7. Shooting Pay

All affected employees shall shoot at least once each month. Employees may shoot as many times as desired, but no more than twice per month while on-duty and at City expense. Annual shooting pay will be computed by multiplying \$30.00 by the number of months the officer qualifies on the combat shoots, usually twelve.

G.8. Bilingual Bonus

Pursuant to the discretion of the Police Chief, a bonus of \$100 per month will be paid to qualified employees desiring to translate/speak a second language. Payment of the bonus will be subject to the following criteria:

G.8.a. Individuals desiring to receive the bonus must have their

proficiency in the second language evaluated in a method to be mutually agreed upon between the City and BPOA.

Employees in uniform patrol may be required to select their shifts in such a manner to allow utilization of their expertise on all shifts. Such shift selection shall be made on the basis of seniority.

There will be no cap on the number of personnel that are eligible for the bilingual bonus.

G.9 POST Pay

G.9.a. Effective October 20, 2019, Intermediate POST pay shall be paid at 6% of the top step of Police Officer. Advanced POST pay shall be paid at 10% of the top step of Police Officer pay. Supervisory POST pay shall be paid at 10% of the top step Sergeant pay. Management POST pay shall be paid at 16% of the top step of Police Lieutenant. Such pay shall commence on the pay period following the employee meeting the eligibility requirements for the POST certificate. The minimum specified standards shall be at least those prescribed by POST as of the date the employee completes the POST application form, which will be held by the department until all submission documents are obtained.

G.9.b. The City will pay any Lieutenant who does not possess a Management POST Certificate \$285 a month. These payments will be made monthly until the attainment of a Management POST Certificate. The payments will be paid cumulatively with the Advanced or Supervisory POST Certificate.

G.10. Education Differential

G.10.a. Officers, Detectives, Sergeants and Lieutenants possessing post-secondary degrees issued from an educational institution that is accredited by an agency recognized by the U.S. Department of Education shall be paid the following:

Associate's degree - \$192.50 per month
Bachelor's degree - \$302.50 per month
Master's degree - \$495 per month

G.11. Standby Pay

G.11.a. Employees required to be on standby and carry a paging device due to assignment shall be paid one (1) hour at the straight time rate per day on days which they are on-duty and two (2) hours at the straight time rate per day on days which they are off-duty. The City will have at least two (2) Detectives in addition to one (1) Traffic Investigator, on standby at all times.

G.11.b. In the Investigation Division one (1) supervisor will be assigned as standby. The standby supervisor will be rotated weekly among the two (2) Lieutenants and six (6) Sergeants in the Investigation Division. Employees do not have the option of opting out, but may trade.

H. WORKING OUT OF CLASS

H.1. Policy

It is the Policy of the City to pay employees for working out of class because of a temporary position vacancy. When a position becomes vacant, the Police Chief will first determine whether the position must be filled, whether the more responsible functions of the position can be assumed by the next higher level, or whether the balance of duties may be dispersed to a number of other positions. If it is not possible to accommodate the work load using the aforementioned, the Police Chief may recommend that an employee be assigned to work out of classification. (AP II-13)

H.2. Out of Class Pay

H.2.a. All affected employees when assigned to work out of classification in accordance with the policy outlined in **H.1. of this Article** shall be paid out of class pay beginning the 16th day of working out of class, when temporary assignment is in excess of 15 days. (AP II- 13)

H.2.b. Except for employees working out of class (WOC) as a Police Captain, all WOC assignments will be compensated in accordance with **Article II.C.8.** of this Memorandum of Understanding.

H.2.c. When WOC as a Police Captain, all affected employees will receive the bottom of the Police Captain range or 7.5% above their base range, whichever is higher. If this results in a salary beyond the top of the range, the employee will receive a flat 5% above their base range. Existing differentials/fringes and any new differentials/fringes, if applicable, are added on top of the new base salary. The Police Chief has the option of providing up to a 10% base salary adjustment for working out of class as a Police Captain.

H.3. Duration of Provisional Appointment

Upon the completion of the provisional appointment, employees shall be returned to their previous classifications, unless promoted in accordance with Civil Service Rules. If a provisional appointment results in a probationary/permanent appointment (without a return to the employee's previous classification) the employees' probationary period and salary raise date shall be calculated from the first day of the provisional appointment, not to exceed 12 months of provisional time. This does not affect the employee's seniority date for any other seniority based purpose.

I. POLICE OFFICER SPECIALTY ASSIGNMENTS

I.1. DUI Unit
As currently administered.

I.2. Gang Unit
As currently administered.

I.3. Mall Unit
As currently administered.

I.4. Special Enforcement Detail
As currently administered.

I.5. School Resource Officer
As currently administered.

I.6. Field Training Officer
Assignment shall be for the duration of a valid FTO list. Extensions may be granted by the Police Chief should an FTO receive overall "Outstanding" evaluations. FTO's who do not obtain the level of an overall "Outstanding" evaluation shall be required to re-test for the assignment when a list expires.

For the Patrol Bureau, the Police Chief or designee shall establish and maintain a list of qualified candidates for Field Training Officer and appoint FTO's on an as needed basis. The duration of appointment to FTO will be for a minimum of six months and shall not exceed two years, unless completion of formal training with a probationary officer, or completion of a Department training project is in the best interest of the Department. It is the intent of the Department to maintain a full time cadre of four Field Training Officers at full FTO pay, whether or not they are assigned a trainee. The Department may appoint as many as four additional FTO's with full FTO pay based on the needs of the Department. When any of the additional FTO's are not assigned a trainee they will receive 3.4% or one half the FTO differential pay. FTO's not assigned a trainee may be required to work with the Patrol Division Captain or the Training Unit to enhance the Department's training program. If a vacancy occurs within the full-time cadre of four FTO's the Chief or his designee shall appoint a replacement FTO from within the part time cadre, if possible. The following positions unaffected by this language include: COPS Bureau training officer and Traffic Bureau training officer.

I.7. Vice/Narcotics
Five (5) year maximum assignment excluding time assigned to special projects or task forces outside the Department (includes Civil Service Detective Classification). Special Task Force assignments shall be for a maximum of three (3) years. Extensions may be made for operational concerns.

I.8. Detective

The City shall select and assign officers to Detective. Assignments shall be for an indefinite period based on performance. All members of the bargaining unit with a minimum of three (3) years service with the Burbank Police Department, and currently in the Police Officer (830.1 PC) classification shall be eligible to participate in the selection for the Detective assignment. Although the Civil Service Rules may be utilized as a guideline for testing, there will be no requirement for the Department to adhere to the Civil Service Rules in filling this assignment. The Department will issue rules for the testing process for creating the assignment list in advance, which shall provide for a fair and competitive testing process. The process will include, but is not limited to a written test and an oral interview panel.

I.9. Helicopter

Assignment shall be for an indefinite period based on performance and safety factors.

I.10. K-9

Assignment shall be for an indefinite period based on performance and safety factors. Response time may be used as a factor during the selection process, but may not be used as a sole criteria for selection, nor as a means to disqualify applicants from the testing process.

I.11 Motors

Assignment shall be for an indefinite period based upon performance and safety factors.

I.12 Performance Criteria

I.12.a. To maintain any specialty assignment listed, officers shall maintain a "Satisfactory" performance rating in all critical performance "factors" listed in the Police Officer - Progress Review evaluation form adopted by the Department. Additionally, officers assigned to Field Training Officer, Detective (Non-Civil Service), K-9, Motor, and Helicopter positions will be required to maintain an "Above Standard" performance rating in those factors identified as "critical" performance areas designated on the Police Officer - Progress Review Specialty Assignments Addendum.

I.12.b. Should the performance of an Officer assigned to any Specialty Assignment listed fall below the minimum performance levels for that position, a Performance Improvement Plan shall be initiated before an Officer may be removed from an assignment. The development of a Performance Improvement Plan shall provide for sufficient time (minimum six (6) months) for the Officer to improve performance to minimum standards designated for the

position. An exception to the Performance Improvement Plan requirement prior to removal from a position is when an Officer's performance is judged to be Unacceptable". An "Unacceptable" performance rating in any critical factor may be utilized by management to immediately evaluate an Officer's continued assignment to the positions noted.

I.13. Safety Factors

The Helicopter, K-9, and Motor positions involve technical skills not required of other Specialty positions. Should these skills which are inherent to the safe operation or control of equipment deteriorate, and future training would not raise these skills to a satisfactory level, an Officer may be removed from these designated positions.

I.14. Training Periods

Ratings below minimum performance levels for Specialty Assignments at the termination of training periods (six (6) months) may be utilized by management to evaluate an Officer's continued assignment to any Specialty Assignment.

I.15. Appeals

The Burbank Police Officer's Association does not waive any member's right to appeal ratings which are perceived by the employee to be biased.

I.16. Rotation

Officers assigned to Specialty Assignment positions which automatically rotate after a specified period of time (i.e. DUI, Gang Unit, SED, SRO, Mall Unit, BMHET, CRO, Vice/Narcotics Detail), or Officers removed from Specialty Assignments for cause, may test for other rotating Specialty Assignments. However, they will not be eligible for appointment until one (1) year (365 days) from the date they left their previous rotating Specialty Assignment. An exception to this limitation will take place when there are no other applicants on a selection list who are available for an opening in any designated rotating Specialty Assignment. Officers being assigned from rotating Specialty Assignments to available positions in Field Training Officer (FTO), Detective, K-9, Motor, or Helicopter assignments are not affected by the one (1) year limitation.

Specialty Assignment positions have generally been rotated every three (3) years, and assignments in the Vice Narcotics Detail have been rotated every five (5) years. Extensions to the three (3) or five (5) year limitations may be granted to Specialty Assignments based on necessity as determined by the Chief of Police.

J. PERFORMANCE IMPROVEMENT PLAN/OVERTIME

Officers shall receive notice prior to placement on a Performance Improvement Plan either by entries on their comment card, or through their evaluation. An officer

who is placed on a Performance Improvement Plan may become ineligible to work optional overtime for the duration of the Performance Improvement Plan. A lieutenant or above shall notify the officer in writing, at least thirty days prior to placement on the PIP if ineligibility to work optional overtime will become a condition of the plan. This provision will provide the employee adequate opportunity to improve his or her performance before imposition of the PIP, in an effort to avoid implementation of the PIP.

K. FLEXIBLE DEPLOYMENT OF PERSONNEL

At the discretion of the Police Chief or designee and based on the safety of the community, efficient operations, or the operational or training needs of the Department, the Department may decide to flexibly deploy officers. During a flexible deployment, the Department may require an officer to begin or end his/her work shift up to three (3) hours before or after their normally scheduled starting time or ending time without additional compensation. If the total time an officer works exceeds those regularly scheduled, the officer will be compensated at the overtime rate for that additional time.

The safety of the community, efficient operations, or the operational or training needs of the Department may include, but are not limited to, a short-term, pre-planned event requiring additional law enforcement resources, a spontaneous community event requiring law enforcement presence/intervention, or an immediate law enforcement response to a critical public safety need. For short-term, pre-planned events officers shall receive a minimum of seven days' advance notice prior to flexible deployment. It is not the intent of the Department to routinely change working hours or to avoid considering other options including the use of overtime or redeployment of other personnel within the Department.

Those employees affected by a change in start time will generally be notified at least 24 hours in advance. If notification is made less than 12 hours in advance of their normally scheduled start time the employee will be compensated one and one half times in salary for the hours flexed.

ARTICLE III
PAY FOR TIME NOT WORKED

A. HOLIDAYS

A.1. Entitlement

City observed holidays shall be as follows:

January 1st, known as "New Year's Day"
Third Monday in January, known as "Martin Luther King Day"
Third Monday in February, known as "Washington's Day"
Last Monday in May, known as "Memorial Day"
July 4th, known as "Independence Day"
First Monday in September, known as "Labor Day"
November 11th, known as "Veterans Day"
Fourth Thursday in November, known as "Thanksgiving Day"
Friday after the fourth Thursday in November, known as the "Day after Thanksgiving"
December 25th, known as "Christmas Day"

A.2. Holiday Differential and Holidays Worked and Not Worked

Each unit member will receive a Holiday Differential as compensation for the holidays specified in III.A.1 on a bi-weekly basis regardless of whether or not the unit member is scheduled to work on a City observed holiday as part of their regular schedule. The differential will be based on ten (10) City observed holidays per year at a rate of nine (9) hours per holiday at straight time divided by 26 pay periods. Unit members shall not earn any additional holiday pay above and beyond this differential.

Unit members will be divided into two categories for purposes of City observed holidays and holiday work schedules: Holiday staff and Non-Holiday staff.

A.2.a. Holiday Staff

Holiday Staff shall consist of:

Employees assigned to Patrol, regardless of schedule, except as specified in Section A.2.c. below.

Employees assigned to Motors.

Lieutenants assigned to Traffic.

Employees assigned to K-9 Duty

Employees assigned to all aspects of air support.

Holiday Staff unit members are required to work their scheduled shifts, regardless of City observed holidays. When their shift falls on a City observed holiday, they will be paid at straight time for the hours worked that are within their scheduled shift. If they are directed by a Captain, or officer of higher rank, to work hours on a City observed holiday that are outside of their scheduled shift, Section A.2.d.1. shall apply.

A.2.b. Non-Holiday Staff

Non-Holiday staff shall consist of employees assigned to Administration, Support Services, Investigation, and Detectives.

Non-Holiday Staff unit members will not work on City observed holidays unless directed by a Captain, or officer of higher rank, in which case section A.2.d.2. shall apply.

A.2.c. Special Patrol Assignments

Unit members placed in special patrol assignments as identified by the City, including but not limited to the Burbank Mental Health Evaluation Team, Neighborhood Police Team, and Suspected Child Abuse Reporting Team, shall be designated as Holiday or Non-Holiday staff at the City's discretion. The designation of a special patrol assignment as Holiday or Non-Holiday shall occur prior to unit members being placed in the assignment and the designation as Holiday or Non-Holiday shall remain in place for the duration of the unit member's tenure in the assignment. The applicable MOU sections regarding Holiday staff shall apply to unit members in Special Patrol Assignments designated as Holiday staff, and the applicable MOU sections regarding Non-Holiday staff shall apply to unit members in Special Patrol Assignments designated as Non-Holiday staff.

Unit members in special patrol assignments upon the Council adoption of this agreement (i.e. January 26, 2016) will retain their existing Non-Holiday status until the completion of their assignment.

A.2.d. Overtime

A.2.d.1. Holiday Staff

If a unit member is directed by a Captain, or officer of higher rank, to work on a City observed holiday that falls outside of their scheduled shift, the unit member will receive overtime pay in accordance with Article II, Section F.

A.2.d.2. Non-Holiday Staff

If a unit member is directed by a Captain, or officer of higher rank, to work on a City observed holiday, the unit member will receive overtime pay in accordance with Article II, Section F.

A.3 Floating Holidays

Effective July 1, 2016, at the beginning of the pay period containing July 1 of each year, unit members will receive floating

holiday hours in accordance with their permanent work schedule on that date, as follows:

5/40 employees	16 hours
4/10 employees	20 hours
3/12 employees	24.66 hours

There will be no adjustment to the number of floating holiday hours granted due to an employee's work schedule change during the fiscal year. Employees may utilize the floating holiday hours for time off with prior approval by their supervisor. Up to 16 hours of any remaining unused floating holiday hours will be paid out to employees at the end of the fiscal year.

B. SICK LEAVE

B.1. Use

Sick leave shall not be considered as a right which an employee may use at his/her discretion. Sick leave is intended to provide protection against loss of earnings due to illness or injury, illness in the immediate family or for pre-approved medical or dental appointments. Sick leave may be granted by the Police Chief if an employee is disabled from a job incurred injury after exhausting his/her industrial accident leave. (AP II-19)

B.2. Notice

B.2.a. An employee taking sick leave because of personal illness or injury or illness in the immediate family, shall notify the Police Chief or his designated representative no later than one (1) hour prior to the beginning of his/her scheduled shift or watch. (AP II-19 & GO 140)

B.2.b. An employee taking sick leave for a medical appointment shall notify his/her supervisor not later than the work day prior to that appointment. (AP II-19)

B.3. Sick Leave Investigation

If an employee's sick leave usage shows an array of frequency, pattern or timing, e.g., "Friday-Monday, " that the Police Chief finds inconsistent to expected usage, he shall have an interview with the employee and his/her supervisor to determine if the actual circumstances justify further action. Further actions are:

B.3.a. Counsel the employee as to the purpose of sick leave, or to recommend or direct the employee to visit his/her personal physician, as appropriate.

B.3.b. The use of the Medical Documentation specified in III.C .

- B.3.c. Request a special medical evaluation. (See AP II-17)
- B.3.d. Direct personal visits by the employee's supervisor on subsequent absences.
- B.3.e. Other procedures the Police Chief considers appropriate. (AP II-19)
- B.4. Sick Leave Revoked

The City Manager shall revoke sick leave, if it is determined that the employee is not, in fact, sick or incapacitated from performing his/her duty, or if he/she has engaged in private or other public work while on such sick leave, or if it is determined that the employee is not in compliance with the provisions of **Section B.1** and **B.2.** of this Article.
- B.5. Sick Leave Without Pay

Sick leave without pay may be granted by the Police Chief after accumulated sick leave is exhausted. Application must include a physician's statement in writing showing the need and the duration. (AP II-19) The City's contribution toward an employee's flex plan and life insurance benefits shall continue at the normal rate for up to three months. (AP II-39)
- B.6. Sick Leave Accrual
 - B.6.a. An employee shall be entitled to one day of sick leave for each calendar month during which he/she is employed by the City with pay.
 - B.6.b. Employees absent without pay in excess of 40 hours in any one pay period shall not receive sick leave accrual for that same month.
 - B.6.c. In computing compensation payable for sick leave, the compensation paid shall be the amount the employee would earn during the sick leave period if working at his/her current rate of pay and work schedule without the inclusion of overtime earnings.
- B.7. Compensation for Accrued Sick Leave

If an employee with unused sick leave credit dies; resigns when eligible for retirement; resigns to enter a City elective office without a break in continuity of City service and serves in such office employment until retired under the City's retirement system; or is laid off because of the abolishment of his/her position or employment or because of absence of funds; he/she or his/her estate shall be entitled to receive 70% of the value of his/her accrued sick leave computed from his/her last base salary as an employee. Payment shall be made as soon as practicable following the occurrence of any of the foregoing events. This "cash out" shall be directed to the employees VEBA

account.

C. RETURN TO WORK

C.1. Medical Documentation

When an employee is absent more than five (5) consecutive work days on sick leave, the employee upon their return to work shall submit a signed document from their medical provider stating that the absence was medically necessary, and any work restrictions, if applicable. If the employee is given work restrictions by their medical provider upon their return to work, the employee will be referred to the City of Burbank's ADA Coordinator.

D. VACATION

D.1. Accrual

All full-time affected employees shall accrue vacation as follows:

D.1.a. 104 hours per year;

D.1.b. Upon the completion of five (5) years of continuous service, an additional calendar week shall be added to the allowance currently available and the annual allowance thereafter shall be 144 hours per year;

D.1.c. Upon completion of fifteen (15) years of continuous service, an additional calendar week shall be added to the allowance currently available and the annual allowance thereafter shall be 184 hours per year;

D.1.d. Vacation accrued in any current year may be taken in the year in which it is accrued with the consent of the Police Chief subject to such procedures and limitations as may be specified by the City Manager.

D.1.e. Employees absent without pay in excess of 40 hours in any one pay period shall not receive vacation accrual for that same pay period.

D.2. Vacation Accumulation

Total vacation accumulation shall be limited to the following amounts based on years of employment:

Through completion of five years – 312 hours

Five years through completion of fifteen years – 432 hours

Fifteen years and over – 552 hours

Once an employee reaches their accumulation limit, Vacation Leave will stop accruing until their balance falls below the limit.

D.3. Vacations - Termination of Employment

Upon resignation, death, or other termination of employment, all vacation accrued to the employee shall be granted and a cash settlement will be made.

D.4. Vacation Use

All vacations will be chosen within bureaus on the basis of rank and seniority. Seniority is defined as "date of appointment to rank." (GO 202) The Department is responsible for scheduling the vacations of City personnel so that the vacation absenteeism does not interfere with productivity. (AP II-16) Employees may utilize their accrued vacation time in minimum increments of one hour subject to prior approval of the Police Chief.

E. JURY SERVICE

E.1. Jury Summons

Employees receiving a "Jury Summons" shall notify their supervisors within one (1) working day, by presenting a copy of this document. Since the receipt of this notice indicates that no exemption or personal excuse has been granted, the employee will report to jury service as directed by the court. If the employee is unable to notify his/her supervisor of his/her jury summons, he/she should report to the Court as instructed and notify his/her supervisor at the earliest possible time. (AP II-20)

E.2. Reporting For Jury Service

Upon reporting for actual jury service, the employee shall notify the Jury supervisor that he/she is a City employee receiving paid jury leave, and file his/her Certificate of Jury Service (which he/she obtains from his/her department) with him/her. Upon completion of jury service, the employee shall obtain this form, completed by the Court, and present it to his/her Department. (AP II-20)

E.3. Compensation for Jury Duty

All employees will receive pay during time actually lost from work due to jury duty. Employees will be excused from night shift assignments if they are scheduled for jury duty on the following day, or the current day. The term regular pay means full pay for regularly scheduled work, which the employee would have received had he/she not been called to jury service, including shift premium or schedule differentials that would have resulted from regularly scheduled work. All time spent on jury leave must be accounted for. If an employee is excused from jury service on a normal workday, he/she is expected to report for work. Employees must account to their Departments for any time off for illness or other reasons, while on jury duty. Upon completion of jury service, the employee shall submit to the City Treasurer's Office the warrant for jury fees and mileage. The City Treasurer's Office shall cash the warrant and return to the employee that portion of the warrant covering mileage, and jury fees representing jury

service performed by the City employee on his/her regular day off. (AP II-20)

E.4. Return from Jury Duty

Upon returning from jury service, the employee shall submit the completed "Certification of Jury Service" to his/her Department, which will account for all regularly assigned workdays during which the employee was on jury duty. Regularly assigned workdays on which the employee did not report for work or for jury duty may not be paid unless covered by sick leave, vacation time, or accumulated overtime, as they would for a normal absence. (AP II-20)

F. **MATERNITY LEAVE**

F.1. Policy

Maternity Leave shall be subject to the City's **Administrative Procedure II-23** regarding Maternity Leave and **Administrative Procedure II-31** regarding Family Care and Medical Leave.

G. **LEAVE - DEATH IN FAMILY**

G.1. Policy

An employee shall be entitled to absent himself/herself from work in the event of the death of a member of his/her immediate family. The City Manager may, in his discretion, authorize pay for all or any portion not to exceed thirty (30) hours of such leave, provided a written request for such pay is filed.

G.2. Definition - Member of Family

For purpose of this rule the term "member of the immediate family" is limited to:

G.2.a. any relative by blood or marriage who is a member of the employee's household, and

G.2.b. parents, step-parents, spouse, children, step-children, brother, sister, grandparents, grandchildren, great grandparents, great grandchildren, son/daughter-in-law, father/mother-in-law, sister/brother in-law, grandparent in-laws, registered domestic partner, or responsible guardian or person who has acted in that capacity, regardless of place of residence.

H. **INDUSTRIAL ACCIDENT LEAVE**

If an employee is compelled to be absent from duty on account of any injury or disease which comes under the State of California Workers' Compensation Insurance and Safety Act, he/she shall receive compensation from the City for each such accident as follows:

H.1. Compensation

The City will pay full salary for up to one (1) year cumulative for each injury.

After the one year period, temporary disability benefits are paid at the current statutory rate based upon 2/3 of the employee's wages.

H.2. Leave Supplement

The employee shall not be entitled to avail himself/herself of any sick leave or vacation benefits while he/she is receiving temporary disability indemnity under the provisions of the Workers' Compensation Insurance and Safety Act, except that in the discretion of the City Manager he/she may be permitted to take as much of his/her accumulated sick leave or his/her accumulated vacation as, when added to his/her temporary disability indemnity, will result in the payment to him/her of not more than 100 percent of his/her normal gross salary.

I. **MILITARY LEAVE OF ABSENCE**

An employee may be absent on paid military leave for 160 hours per fiscal year pursuant to Sections 395 through 395.8 of the Military and Veterans Code of California. An employee may be absent on unpaid military leave beyond 160 hours pursuant to said Code. The employee shall furnish to the Department satisfactory proof of his/her orders to report for duty and of his/her actual service pursuant to such orders. He/she shall be returned to City service thereafter as provided in said Code.

J. **EMERGENCY LEAVE**

An employee may be excused from work without loss of pay for emergencies or special circumstances not covered by this section. Such leave of absence may be granted by the Police Chief, not to exceed one (1) day. For longer periods of time, approval of the City Manager is required. Any emergency leaves of absence in excess of fifteen (15) days shall be brought to the attention of the Civil Service Board.

Emergency leave may be granted to employees in instances where actual or potential damage to an employee's personal residential property or personal belongings due to natural or civil disasters requires the employee's presence to protect, salvage or restore his/her property to a safe condition; death in the immediate family requires more than the three (3) days of death leave (not to exceed two (2) days of emergency leave); an employee is subpoenaed to appear in court as a witness; other emergencies or special circumstances not covered by Civil Service Rule XV requires an employee's absence from work. (AP II-21)

K. **RELIGIOUS HOLIDAY SERVICES**

Any employee who desires leave from work to attend religious holiday services may be excused by the Police Chief, or the City Manager, for not to exceed three (3) hours. This absence shall be leave without pay unless the employee chooses to use accrued vacation or in-lieu time. Unless the services of employees are required by public necessity or convenience, they shall be allowed to absent themselves as herein provided.

L. REST PERIODS

Employees will be provided two rest periods, consisting of fifteen minutes each, one during each half of a regular eight hour shift. Rest periods taken in the field should conform to this policy. No rest period will be permitted within the first or last hour of the shift unless approved by the immediate supervisor. (AP II-1 mod.) The rest periods for the 3/12 schedule will be mutually agreed to by the Police Chief, and the BPOA. They shall not be less than the current level.

M. TIME OFF FOR MUNICIPAL, COUNTY AND STATE ELECTIONS

Time off will be provided employees who, as registered voters, do not have time to vote before reporting for work or after finishing work. The employee shall notify the Police Chief two (2) days prior to the election of his/her need and reason for the time off. The employee may take as much time off as needed, whether it be at the beginning or the end of the day, yet will only be compensated for a maximum of two (2) hours of regular working time. (AP II-6)

N. TIME OFF FOR CIVIL SERVICE BOARD MEETINGS

Employees shall be granted time off without loss of pay to attend meetings of the Civil Service Board which are scheduled during the employee's regular working hours, in accordance with **Article 1, E.3.**

Employees may attend Civil Service meetings by notifying the Police Chief at least twenty-four (24) hours prior to the meeting. Unless otherwise authorized, the employee must return to work as soon as the business for which he/she is attending the meeting is complete. (AP II-5)

O. LEAVE POLICIES

O.1. Return at Expiration of Leave

Upon the expiration of any leave, other than a military leave, the employee shall be returned to the same class of position or to any position to which he/she had been eligible to transfer at the time his/her leave of absence was granted.

O.2 Return From Temporary Assignment

Upon the termination of a temporary assignment, a permanent employee shall be returned to his/her permanent position.

O.3. Refusal of Leaves of Absence

O.3.a. No leave of absence shall be granted, and if granted it shall be revoked, where the Civil Service Board determines, after investigation instituted upon its own motion or upon complaint of any resident of the City, that the request for such leave of absence was for any of the following purposes:

O.3.a.1. Of accepting private employment,

O.3.a.2. Of enabling employment of a temporary employee to the same position,

- O.3.a.3. Because of political pressure or other improper influence, or,
- O.3.a.4. For a purpose contrary to the good of the service.
- 0.3.b. The order revoking such leave of absence shall specify the effective date thereof and the employee shall be informed of the contents forthwith. The Police Chief may grant a leave of absence without pay for a maximum of five (5) continuous days. An employee desiring a leave of absence without pay for three (3) continuous days or more shall file a written request thereof on forms provided by the Management Services Department. The request shall state the title of his/her position and the name of the employing department, the beginning and ending dates of the desired leave of absence, and a full statement of the reasons supporting the request. The Police Chief's approval of a leave of absence without pay for a continuous period up to a maximum of sixteen (16) hours may be reported by noting on the time report.

P. FAMILY LEAVE

Family leave shall be subject to the City's Administrative Procedure **II-31** on Family Care and Medical Leave.

Q. SPECIAL RESPONSE TEAM ON-DUTY WORKOUT AGREEMENT

The following agreed upon criteria was established regarding the implementation of a procedure to allow SRT Tactical Team Members to workout on duty.

- Q.1. Only SRT Tactical Team members who complete the SRT Obstacle Course twice yearly qualify to participate.
- Q.2. SRT members will be given up to three hours a week of on-duty time to workout. Every attempt shall be made to fulfill this agreement, however, both sides agree that in certain emergency circumstances (e.g. major criminal investigations and/or major field emergencies, etc.) it may become necessary to cancel the workout and deploy the personnel to the field.
- Q.3. The member shall begin their shift on time at roll call. The member may be in workout clothing if the member begins their shift with the workout period.
- Q.4. The workout period may be at the beginning or end of the shift period. It may consist of three one-hour periods, two-1½ hour periods, etc., based upon an agreement between the individual and the Command Group.
- Q.5. At the end of the workout period, the individual shall be dressed and prepared for deployment in the field. The member does not receive one

hour to workout and one hour to prepare for their shift.

- Q.6. Code 7, or seven for ten, shall not be used in conjunction with the workout time. Each SRT member shall keep the desk advised of their whereabouts during the workout period. When the member leaves the station for a run, the member shall carry a pager in compliance with the BPOA MOU.
- Q.7. The workout time shall be documented on the Officer's Daily Log.

ARTICLE IV
SUPPLEMENTAL WAGE PAYMENTS

A. 125 FLEXIBLE BENEFITS

A.1. Monthly Contribution to Plan

A.1.a. The City will contribute the statutory minimum for employees and retirees under the Public Employees' Medical & Hospital Care Act (PEMHCA).

A.1.b. Active employees hired prior to January 1, 2008 will receive a base cafeteria amount of \$564.08 per month. The PEMHCA minimum is included in the base cafeteria amount.

A.1.c. Active employees hired on or after January 1, 2008 will receive a base cafeteria amount of \$350.00 per month. The PEMHCA minimum is included in the base cafeteria amount.

A.1.d. History of Bifurcated Base Cafeteria Amounts.
Effective July 1, 1997, the City will increase the §125 flex plan contribution by \$4.00, from \$560.08 to \$564.08 per month toward each eligible member of the unit hired prior to January 1, 2008. In exchange for this \$4.00 increase all affected employees will purchase and carry reliable pager or cellular phone while on duty or on call status. If assigned a city cellular phone and the employee does not have a pager, the employee shall maintain a separate personal cellular phone number. Pager or cellular numbers will be provided to the Department or Watch Commanders upon request. Any change in pager or cellular phone numbers will be reported immediately to the Watch Commander. All references to survey in this MOU are suspended for the duration of this agreement.

Employees hired on or after January 1, 2008 will receive a §125 flex plan contribution of \$350 per month. All such affected employees will purchase and carry reliable pager or cellular phone while on duty or on call status. If assigned a city cellular phone and the employee does not have a pager, the employee shall maintain a separate personal cellular phone number. Pager or cellular numbers will be provided to the Department or Watch Commander upon request. Any change in pager or cellular numbers will be reported immediately to the Watch Commander.

A.1.e. In addition to the §125 flex plan contribution as provided for in **Section A.1.a.** above, the City will make contributions towards the cost of medical premiums for eligible employees. These contributions, in combination with the §125 contributions in Section IV.A.1.a., will be equal to 90% of the Family PORAC

premium. However, the contributions will be for medical premium costs only.

**** FORMULA ****

90% of Family PORAC premium - (minus) monthly \$125 flex plan contribution as stated in Section A.1.a. above = Supplement Amount

Effective December 1, 2016, the above formula will cease to be in effect. In lieu of the above formula, the City will make contributions towards the cost of medical premiums for eligible employees that, in combination with the \$125 contributions in Section IV.A.1.a., will be equal to 90% of the premium for the PORAC plan option (one party, two party, or family) that corresponds to the plan option (one party, two party, or family) that each individual employee has selected for the CalPERS medical plan in which they are enrolled. The additional contributions provided under this section, that are over and above the \$125 contributions in Section IV.A.1.a., will be for medical premium costs only.

A.2. Eligibility for 125 Flex Plan Benefits

All employees must enroll in one of the PERS Health Program plans, unless they submit to the City both: 1) proof of health coverage, and 2) sign a health insurance waiver. Employees who fail to complete both requirements shall not be allowed to utilize their 125 flex plan contributions for any other eligible plans. Employees who meet both requirements shall be allowed to utilize their flex plan contributions for any of the eligible plans.

A.3. 125 Flex Benefit Contribution Reduction

The Burbank Police Officers' Association agrees to annually reduce the City's 125 flex benefit contribution in order to cover the cost of the following:

One and one-half percent (1.5%) of the affected employee's salary to be placed in a Voluntary Employees Benefits Association (VEBA) in the name of the affected employee.

B. DENTAL INSURANCE

Effective July 1, 2007 dental insurance, with comparable benefits to the Blue Cross - 2007 Blue 100 Dental Plan, will be provided for all employees. Any changes in the dental plan will be by mutual agreement between the BPOA and the City.

C. VISION INSURANCE

The City provides VSP vision coverage (or a comparable plan) for full-time employees. Coverage is for the employee only; additional coverage for dependents may be purchased on a voluntary basis.

D. DISABILITY INSURANCE

The Association agrees to provide disability insurance coverage for **all employees**. The City agrees to pay to BPOA nineteen dollars and fifty cents (\$19.50) per month for each employee to be used for disability insurance. The City will pay all allowable increases to the BPOA LTD premium rates as long as they do not exceed the City's LTD premium rates. The first annual payment will be due by August 1, 1995. Subsequent payments will be paid by August 1st of each fiscal year of this agreement. These August 1st payments will be payment for the previous fiscal year.

E. SAFETY EQUIPMENT

E.1. New Employees

New employees shall be provided with the following equipment at City expense:

- Service weapon
- Holster
- Belt and ammunition
- Magazine holders
- Handcuffs and case
- Baton
- Flashlight
- Ballistic Vest
- Baton Holder
- O.C. and Holder

E.2. Motor Duty

Affected employees assigned to motor duty shall be provided with the following equipment at City expense:

- Motor boots
- Motor breeches
- Plastic safety helmet
- Leather gloves

E.3. Helicopter Duty

Affected employees assigned to helicopter duty shall be provided with the following equipment at City expense:

- Flight boots
- Nomex fireproof coveralls or flight suit
- Nomex flight jacket
- Plastic aviation-type safety helmet
- Nomex flight gloves

E.4. Special Issue Equipment

The difference in cost between special issue equipment and normal issue equipment required by the City, such as shoes, shall be borne by the City.

E.5. Equipment Repair/Replacement

The City shall provide for the repair and/or replacement of the above equipment for all affected employees regardless of hire date when the equipment becomes unserviceable (lost, damaged, or worn out) during the course of normal duty. Expenses for the repair or replacement of the above equipment due to non-job-related causes shall be borne by the employee. The decision to repair or replace equipment shall be made by the Police Chief or his designee. Written authorization of the Police Chief or his designee must be obtained by the employee in advance before repair or replacement will be approved by the City.

F. UNIFORMS

E.1. Allowance

The City provides a Uniform Allowance in the amount of one thousand dollars (\$ 1000.00) per year for each affected employee. The allowance is paid twice yearly (reported to PERS on a bi-weekly basis) in increments of five hundred dollars (\$ 500.00), except in cases of newly hired lateral officers or recruit graduates or in case of emergency and with advance approval of the Police Chief or his designee. Uniform allowance for the first year will be advanced to all new lateral officers and recruit graduates. After the first year, lateral officers and recruit graduates will be paid uniform allowance twice yearly in accordance with Department policy. Employees absent from duty for a period of six (6) months or more shall receive clothing allowance only upon submittal of acceptable receipts.

F.2. Class B Uniforms

All employees will purchase a Class B uniform no later than sixty (60) days after the Uniform Committee finalizes the new uniform specifications.

F.3. Damage to Uniforms

The City may provide monetary reimbursement to affected employees whose uniforms are damaged as a result of on-duty incidents. Affected employees shall submit appropriate reports to their immediate supervisor. The decision to provide reimbursement shall be made by the Police Chief or his designee. Expenses for replacement of uniforms due to non-job related causes shall be borne by the employee. (GO 605)

F.4 Mandatory Uniform Day

The Chief will designate certain days as "Uniform Days." On those days all BPOA personnel shall wear their uniforms as designated by the chief as a show of Department unity.

G. POST TRAUMA COUNSELING

Affected employees involved in a traumatic incident shall participate in a minimum of one (1) post-trauma counseling session. The determination of the necessity of

this counseling shall be made by the Police Chief and Risk Management and their determination shall be final.

H. PHYSICAL EXAMINATION

As a condition of employment, unit members shall be required to undergo a physical examination every odd numbered calendar year beginning with the year 2017. The City will reimburse the employee for any costs associated with the physical examination not covered by his/her medical insurance. The unit member may choose their own physician to conduct the examination.

The City and the BPOA agree to meet and confer, as part of a Joint Labor/Management Committee, to come to agreement regarding an physical examination compliance form or another mechanism by which unit members can demonstrate their compliance with this section.

I. RETIREE MEDICAL

The City shall pay BPOA forty-five thousand dollars (\$45,000) per fiscal year of this MOU for the benefit of retirees, who retired prior to 1999. These payments are to be paid by August 1. These August 1st payments will be payment for the previous fiscal year. The BPOA will administer the application of this benefit for its retirees. The retirees are solely responsible for the tax treatment of any payments or reimbursements of such amounts to the retirees.

Effective February 5, 2012, the City will contribute \$27 per month per active employee to the individual employee's VEBA account. The City will continue with the \$45,000 retiree medical contribution pursuant to this subsection for distribution amongst retirees who retired prior to 1999. Those retirees will continue receiving the current monthly amount and such amount (effective January 1, 2012) shall remain unchanged. The City's \$45,000 contribution will diminish as individual retirees cease to draw funds. At that same time, the VEBA contribution to individual employee accounts will begin to increase. The amount of the increase will be established at the beginning of each fiscal year based on the amount the existing retiree medical pool (the original \$45,000 Agreement) diminishes the previous fiscal year. After all former bargaining unit members have left the retiree medical pool, the City shall no longer make that contribution to BPOA, as all dollars will have been diverted to the individual employee VEBA retiree medical accounts on a pro rata basis.

J. AFTER HOURS EDUCATION REIMBURSEMENT PROGRAM

All affected employees shall be entitled to annual after hours education reimbursement to a maximum of five thousand dollars (\$5000.00) at the rate of 75% of eligible fees. Eligible fees include tuition, tests (including instructional computer software or audio tapes required for class participation) and certain materials and fees for courses which are directly related to the employee's present position or promotion within the City. Costs for retained supplies such as paper, pens, pencils, and related supplies are not eligible for reimbursement. Educational expenses not reimbursed in the year in which they were incurred may be applied

for in the following year. In no event will the amount reimbursed to the entire bargaining unit exceed \$50,000 in any fiscal year. Such reimbursement shall be made in accordance with **Administrative Procedure II-3**.

K. MEDICARE

Affected employees hired April 1, 1986 and after must be covered under Medicare. Affected employees will have a deduction from their paycheck to cover the cost of Medicare. The deduction will be based on their gross salary. The deduction and salary requirements are determined by federal regulations. In the event that any or all of the provisions of Medicare are no longer applicable to local government due to legislation or judicial action(s), the benefit set forth in this section shall be declared null and void, and the City's requirement to provide this benefit shall cease. (Federal regulation)

L. CAR ALLOWANCE

The Lieutenants agree that they will use their personal cars on City business. Since the Lieutenants are not being compensated for the use of their own cars on the job, the City shall assume responsibility for "insurance coverage" during the periods of work in which the Lieutenants are engaged in City business using their own automobiles. In certain assignments, the Police Chief may determine that the use of a City car is occasionally required for specific duties (such as surveillance or pursuit).

M. WELFARE BENEFIT PLAN

A Welfare Benefit Plan for all BPOA employees has been established in accordance with Section 501(c) (9) (**Voluntary Employees Beneficiary Association**) of the Internal Revenue Code. The benefits to be provided by the PLAN shall include but are not limited to payment of/or reimbursement for costs associated with the following Post-retirement benefits: medical benefits as provided in Section 213 (d) of the Internal Revenue Code, and Life Benefits.

M.1. All employees shall participate in the PLAN. Contribution to the PLAN shall be one and one-half percent (1½%) of the current salary step for each member. Members shall have the equivalent dollar value deducted from the Flexible Benefit amount established in **Article IV.A**. The contribution shall be credited to each individual's PLAN account as delineated in the VEBA Trust Agreement. The balance of the Flexible Benefit amount shall be available for other authorized benefits as provided in this MOU.

M.2. The City may make additional contributions to an individual member's PLAN account from the following sources:

M.2.a. Annual conversion of a maximum of 30 hours or the lesser number of hours unused at the end of each calendar year at one half (½) cash value in compliance with current sick leave conversion rules.

M.2.b. 70% of the total value of unused accrued sick leave computed from the employee's last base salary upon retirement from the

City's retirement system, resignation when eligible for such retirement, resignation to enter a City elective office without a break in continuity of City service and serves in such office employment until retired under the City's retirement system, or upon lay off because of the abolishment of position or employment because of absence of funds. Sick leave earned prior to July 1, 1974, will be available for sick leave use only and will not have monetary value at the time of retirement or death.

- M.2.c. The City will contribute \$27 per month per active employee to the individual employee's VEBA account. Future additional amounts will be placed in active employees accounts pursuant to Section I of this article.

ARTICLE V
MISCELLANEOUS

A. PROBATIONARY PERIOD

A.1. Duration of Probationary Period

All original appointments of affected employees to positions in the Civil Service System shall be for a normal probationary period of twelve (12) months. All promotional appointments of affected employees to positions in the Civil Service System shall be for a normal probationary period of six (6) months. (BMC 2-1-512)

A.2. Evaluation of Probationary Employees

Evaluation of probationary employees should be completed at least by the end of the second, fifth, eighth, and eleventh months. (AP I-35)

A.3. Extension of Probation

The probationary period shall be regarded as part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his or her new position, and for rejecting any probationary employee whose performance does not meet the required standards of work. The Police Chief may recommend and, the City Manager may extend an employee's normal probationary period by a maximum of six (6) months in two (2) month increments.

A.4. Termination of Probationary Appointment

Probationary employees do not have property or vested rights to their position with the City. A probationary employee may be discharged or rejected at any time during the probationary period by the appointing power without cause and without right of appeal, unless discharge was for misconduct. In cases involving misconduct, the affected employee is entitled to a hearing to protect his/her liberty interests. Notification of rejection in writing shall be served on the probationer and a copy shall be filed with the Management Services Director. (BMC 2-1-512 & Public Safety Officers Procedure Bill of Rights)

A.5. Rejection and Reinstatement to Former Position

An employee rejected during the probationary period from a position to which he or she has been promoted, shall be reinstated to the position from which he or she was promoted, unless charges are filed and he/she is discharged as provided in this Article and the Civil Service Rules. (BMC 2-1-512)

A.6. Displacement by Reinstatement of Another to His/Her Former Position

Any employee, though he or she may have attained permanent status and who is displaced as a result of another employee's being returned to his or her former position under paragraph A.5 above or under this subsection, shall likewise be reinstated to his/her former position. If an employee so

affected has permanent status but no former position he or she shall be placed on the appropriate layoff list. Any employee who has permanent or probationary status and who is displaced or placed on layoff in accordance with this subsection, without fault or delinquency on his/her part, shall be reinstated to the position from which he/she was displaced if within three (3) years a vacancy should occur within that classification. (BMC 2-1-512).

A.7. One (1) Hour Response Time

The City and the Association agree that a one (1) hour response time is a reasonable requirement. The parties agree that employees hired after July 1, 1992, may be required to reside at a location from which they can report to work within one (1) hour. This requirement will not be imposed until six (6) months after the affected employees have completed their initial probationary period.

B. EMPLOYEE RELATIONS

B.1. Investigation of Complaints

The Department will receive, consider, and act on all complaints made by employees or members of the public against affected employees or practices in accordance with Government Code Section 3300 ET. All complaints setting out a "grievance" shall be processed in accordance with Article VII of this Memorandum or Understanding.

C. LAYOFF, DISPLACEMENT AND RECALL

C.1. Purpose

The purpose of this section is to provide a fair and equitable basis for the reduction of personnel when this becomes necessary in the department or in the total work force. In such circumstances, the City will make every effort to assist those employees who may be subject to layoff due to lack of work or similarly compelling reason. Assistance will be made available through utilizing existing vacancies to the fullest extent possible to relocate affected employees. In addition, contacts will be made with other employers to refer those employees who are unable to be placed in other City vacancies.

C.2. Seniority

C.2.a. Seniority is defined as the status attained by the length of service in employment for the City of Burbank.

C.2.b. Seniority shall accrue based on the most recent date of Civil Service employment. When an employee voluntarily terminates for a stated reason, except layoff, seniority shall cease and not be reinstated in the event of reemployment. Seniority shall be reinstated in the case of layoffs where the employee is recalled within three (3) years of date of layoff. Such seniority shall include credits for prior time worked only and will not include any time while on layoff.

C.2.c. Seniority shall be implemented in accordance with the provisions as set forth in this Article.

C.3. Layoff

C.3.a. Layoff of employees shall be determined by length of Civil Service with the City using the present date of hire except as otherwise provided in this section.

C.3.b. Except as outlined below in **sub-section C.4.d.**, layoffs should be effected within the department; general displacement of employees across departmental lines shall not be permitted.

C.3.c. An employee with unique skills or body of knowledge for the performance of his or her duties, as determined by the Police Chief with the concurrence of the City Manager, may be retained out of his or her seniority with the City as long as such employee has a minimum of two (2) years total employment. There shall be a limit of ten (10) employees, Citywide, who may be designated under this paragraph during any given layoff. Standards for defining retention of such employees shall be limited to:

C.3.c.(1) Special schooling provided or required by the City for an employee following his or her initial employment to fill a unique position or meet a specific program need where the schooling lasts for six (6) months or longer.

C.3.c.(2) Special experience provided or required by the City for a unique position or special program need where the experience requires at least one (1) year of training on the job.

C.3.c.(3) Possession of a unique craft, artistic endeavor or professional level skill not available in other City employees.

C.3.d. An employee who has been previously appointed to provisional status in a higher classification at time of layoff considerations shall revert back to his or her permanent classification for purposes of determining his or her layoff.

C.3.e. An employee in a probationary status as a result of a promotion within the Civil Service System cannot displace a permanent employee in the same classification at time of layoff.

- C.3.f. An employee may voluntarily request layoff in lieu of reassignment should his or her seniority be sufficient to be retained on the payroll.
- C.3.g. An employee on layoff shall be recalled to his or her previous classification based on the minimum qualification requirements, which existed at the time of his or her layoff.

C.4. Displacement

- C.4.a. Except as stated in **sub-section C.4.d.**, an employee whose position has been eliminated shall be permitted to transfer to a lower rank within the department. Date of appointment to permanent rank in their present classification shall govern who remains or who is displaced to the next lower rank. A higher ranking officer may only displace a lower ranking officer where the former employee has an earlier date of rank at the lower rank than the latter employee. On taking a lower classification, the employee shall be paid at the highest rate of the lower classification which is not greater than the rate earned prior to the displacement.
- C.4.b. In such instances as outlined in **sub-section C.4.a.** immediately preceding, employees must meet the minimum qualifications of the newly assigned position.
- C.4.c. Additionally, an employee must be medically fit to perform the duties of the newly assigned position.
- C.4.d. An employee displaced from a job because the position has been deleted or replaced by a higher classified employee with more seniority, shall be eligible to transfer to the same or lower title in another department, where the employee last served prior to his or her current assignment, if:
 - C.4.d.(1) he or she served in that title and in that department where a vacancy or employee with lesser seniority exists, and
 - C.4.d.(2) the department manager of the department to which the transfer is to be made approves such transfer if said department is any of the following: City Council, City Manager, City Attorney, or Management Services Department.
- C.4.e. An employee who is reduced in classification shall be returned to his or her previous higher classification and department when a vacancy occurs within a three (3) year period of the reduction. Such return will not require qualifying through testing or

placement on an employment list. Where the return involves returning to probationary status within six (6) months following demotion, the time spent in probationary status before the demotion occurred shall be applied toward permanent status.

- C.4.f. An employee in a provisional status in a higher classification shall be returned to his or her permanent classification prior to layoff in order to determine his or her availability for displacement or reassignment.
- C.4.g. Where three (3) or more employees exist in a classification within a department, the department shall not be required to lose more than fifty (50) percent of its employees in any given classification through displacement by higher classified, longer seniority employees.
- C.4.h. An employee with greater seniority than other employees in the same classification and department may request voluntary transfer or demotion to another position under the provisions of **Civil Service Rule IX, ¶ 1.B.**
- C.4.i. An employee designated by the City as a manager may or may not be reduced to a lower classification which would result in the employee having to work for another employee whom he or she formerly supervised when in a management position. (XIII)
- C.4.j. As used in this section, "higher classification" or similar phrases are synonymous and interchangeable.
- C.5. Procedure
 - C.5.a. Departments anticipating a possible reduction in staff shall notify the City Manager and the Management Services Director as soon as possible in order for appropriate action to be taken.
 - C.5.b. An immediate determination should be made as to which positions will be involved and the number of employees to be affected.
 - C.5.c. The Management Services Director shall determine what openings exist in the same and other departments so that affected employees may be considered for transfer prior to layoff.
 - C.5.d. Employees to be affected by a layoff will be given written notice thirty (30) calendar days in advance.
 - C.5.e. Efforts will begin immediately to relocate affected employees into comparable positions of responsibility and pay or lower rated

positions where practicable as outlined in **Section C.4**. First priority for filling open positions will be given to affected employees as opposed to other employees or job applicants under consideration.

C.6. Recall

The Management Services Director, upon approval by the City Manager, will establish and make available to affected employees a Recall List showing all employees on demotion or layoff status along with the date of appointment. In utilizing the list, the following shall apply:

C.6.a. Persons on the Recall List shall have absolute rights over regular employment, transfer or reinstatement lists.

C.6.b. Names shall be listed in the inverse order of their layoff or demotion according to seniority. An employee shall be recalled to his or her last classification or lower classified position in any department of the City should he or she be the most senior on the recall list or lists for the positions available. Should a lower classified position first become available and no recall list exists for such position, then the most senior employee on the recall list for the next higher classified position shall be recalled in accordance with **sub-section C.6.c.** of this Article.

C.6.c. Employees on the Recall List will hold reinstatement rights for a period of three (3) years from date of layoff and be considered for openings as they arise if they are determined to be medically fit.

C.6.d. Upon reinstatement, the employee will receive his or her old salary step or, if in a lower classification, the step nearest to, but not exceeding the old classification. In addition, if recalled within three (3) years of layoff, previous seniority will be reinstated less any time spent on layoff.

C.6.e. If an employee is recalled from layoff and had been (1) serving in a probationary status and (2) never in a permanent status in the Civil Service system, then his or her past seniority shall not be reinstated for purposes of satisfying the probationary period unless recalled to the former position within six (6) months following the layoff.

C.6.f. An employee on layoff status shall be responsible for keeping the City's Management Services Department aware of the most current address and telephone number for purposes of contact at time of recall. Absences from the home for over two (2) weeks should also be reported if the employee on layoff desires to safeguard against being passed over should notice of recall be given. On notifying employees of recall, the City of Burbank shall

send notice by certified mail and the employee shall have fourteen (14) calendar days to respond from receipt of such notice. Where the employee fails to respond, the City shall contact the next most senior employee on the Recall List, and the same procedures shall apply. Failure of an employee to respond to notices sent as a result of three (3) opportunities during the permitted recall period shall cause removal of his or her name from the said list. In addition, employees must be available to return to work within two (2) weeks of receiving the above stated notification.

C.7. Benefit Considerations

- C.7.a. For layoffs under thirty (30) days, all benefits will be retained except for pro rata reduction in the retirement plan and reduction of seniority for days on layoff.
- C.7.b. For layoffs of thirty (30) days up to three (3) years, there is no accrual of seniority, vacation, sick leave or other benefits for the period of the layoff. Sick leave and vacation benefits not previously paid the employee at the time of layoff shall be paid at the end of the first month of layoff unless at the time of layoff, an employee elects to leave all sick leave and vacation credits on account and have such credits reinstated upon recall. If the employee elects to leave all sick leave and vacation credits on accounts, such employee, or his or her heirs, representatives or assigns, may, at any time within three (3) years after the effective date of such employee's layoff, demand payment for such benefits in such sum or sums as would otherwise have been payable at time of layoff, without interest. The City shall have up to thirty (30) days to make such payment after time of demand. Failure to demand such payment during such three (3) year period and one (1) year thereafter shall constitute a waiver thereof. Payments of the cash value of accrued sick leave and vacation credits shall terminate all further obligations by the City to reinstate such past credits should the employee be returned to work.
- C.7.c. For layoffs of three (3) years or more, recall privileges cease at three (3) years.
- C.7.d. Any employee recalled following a layoff shall be entitled to receive at least the same level of benefits which he or she was receiving at the time the layoff occurred, provided, however, any reduction or increase in benefits for all employees in the recalled employee's represented group during the layoff period shall apply to the recalled employee.

D. NEPOTISM POLICY

Provisions regarding nepotism are located in the City's Administrative Procedures, II-53 Employment of Relatives.

E. WELLNESS PROGRAM

The City and BPOA agree to meet, as part of a Joint Labor/Management Committee, during the life of this contract to review and discuss options for BPOA represented employees' participation in a Citywide wellness program.

ARTICLE VI
DISCIPLINARY ACTION

A. STATEMENT/LIMITATIONS

Employees of the City with permanent civil service status shall be assured of fair and consistent treatment and no arbitrary actions will be taken for disciplinary time off or termination of any employee without just cause and due process.

Any person holding a position or employment in the Civil Service System shall be subject to suspension without pay by the appointing power, but such suspensions shall not exceed a total of ninety (90) days in any fiscal year; provided, however, any person suspended without pay shall have the right of appeal in the manner provided by this Article. (BMC 2-1-514)

Neither the provisions of this section nor this Article shall apply to reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure or as part of a general curtailment program. (BMC 2-1-515)

B. REASONS FOR SUSPENSION, DEMOTION, OR DISMISSAL

Suspension, demotion, or dismissal of an employee may be accomplished for any one or more of the following reasons:

- B.1. Violation of any official regulation or order or failure to obey any proper direction made and given by a superior, or failure to comply with any condition of employment or to maintain any necessary qualification in the course of municipal employment;
- B.2. Neglect of duty;
- B.3. Unjustified failure or refusal to properly perform the duties assigned;
- B.4. Carelessness in the discharge of assigned duties;
- B.5. Conduct of a disgraceful or scandalous nature;
- B.6. Malfeasance in office or employment;
- B.7. Conviction or forfeiture of bail for any job-related misdemeanor involving moral turpitude, or any felony;
- B.8. Having one's privilege to operate a motor vehicle on the public highway in the State of California suspended or revoked by the Department of Motor Vehicles where a driver's license is required for the performance of one's job;
- B.9. One (1) or more days unauthorized absence;
- B.10. Repeated tardiness;

- B.11. Inability to establish and maintain proper working relationships with fellow officers or employees;
- B.12. Reporting for duty, or being on duty, under the influence of alcohol, drugs or any combination thereof; or rendering oneself unfit to perform fully one's duties for reasons attributable to, or produced by, indulgence in alcohol, drugs, or any combination thereof;
- B.13. Absence from the job during the working hours without permission;
- B.14. Unauthorized use of City tools, equipment or property;
- B.15. Abuse or negligence in the care or operation of City tools, equipment or property;
- B.16. Use of sick leave for unauthorized purposes;
- B.17. Conduct unbecoming a public officer or employee;
- B.18. Receiving gratuities or any personal favor in exchange for the performance or for the non-performance of an assigned duty;
- B.19. Discussion of confidential City business or information with unauthorized persons;
- B.20. Willful refusal to respond to an official call in an emergency;
- B.21. Willfully making any false statements, certificates, or reports or in any manner committing or attempting fraud;
- B.22. Violation of administrative rules and regulations;
- B.23. Illegal possession or use of drugs or narcotics;
- B.24. Incompetency or inefficiency in the performance of required duties;
- B.25. Discrimination against, or harassment of, co-workers or the public based on race, religion, national origin, sex, age, handicap, or other unlawful consideration. (XI)
- B.26. Consuming alcoholic beverages or illegal drugs during work hours, including lunch and rest periods.

C. ORAL OR WRITTEN REPRIMAND PROCEDURES/APPEALS

- C.1. Written reprimands shall be preceded by a written or oral notice to the employee of the time, date and reasons for an informal hearing two (2)

calendar days prior to the hearing. This notice shall include specific and factual charges as enumerated in Section B of this Article.

- C.2. All pre-disciplinary meetings relating to oral or written reprimands shall be held before the division commander (Police Captain or Police Administrator) who proposed the discipline. Testimony of witnesses shall not be allowed at pre-disciplinary meetings.
- C.3. When the oral or written reprimand is upheld by a division commander, any person may appeal to the Office of the Chief of Police (Chief or Deputy Chief). If the Deputy Chief proposes the discipline and conducts the pre-disciplinary meeting, the appeal shall be to the Chief of Police. The decision of the Office of the Chief of Police is final and there shall be no further administrative appeals for an oral or written reprimand. (Side letter 2/3/07)
- C.4. Neither the BPOA or the individual member shall have the right to appeal oral or written reprimands to either arbitration or the Civil Service Board.

D. MINOR DISCIPLINE PROCEDURES/APPEALS

- D.1. Minor discipline shall be all discipline administered where the punishment imposed is a suspension from work for not more than three (3) work periods or equivalent discipline.
- D.2. Minor discipline shall be preceded by a written or oral notice to the employee of the time, date and reasons for an informal hearing two (2) calendar days prior to the hearing. This notice shall include specific and factual charges as enumerated in Section B of this Article.
- D.3. All pre-disciplinary meetings shall be held before the division commander (Police Captain or Police Administrator) who proposed the discipline. Testimony of witnesses shall not be allowed at pre-disciplinary meetings for minor disciplines. (Side letter 2/3/07)
- D.4. The division commander shall document what occurs at the meeting including the problem, significant facts and the results. A copy will be given to the affected employee, as well as placed in the employee's personnel file, except that no employee shall have any comment adverse to his/her interest entered in his/her personnel file, or any other file used for any personnel purposes by his/her employer, without the affected employee having first read and signed the instrument containing the adverse comment indicating he/she is aware of such comment, except that such entry may be made if after reading such instrument the affected employee refuses to sign it. Should an employee refuse to sign, the fact shall be noted on that document, and signed or initialed by the officer making the notation.
- D.5. If, during the course of the hearing, it becomes apparent that more than minor discipline is in order, the division commander shall terminate the

hearing and then proceed in accordance with the procedure set forth below for major discipline. The employee will be informed as to why the hearing is being terminated.

- D.6. The division commander may decide on the facts and render a decision at the immediate conclusion of the hearing or advise the employee in writing within four (4) calendar days.
- D.7. When the minor discipline is upheld by a division commander, any person may select an arbitrator to hear their appeal pursuant to the process provided for in Section E.7. of this Article. The decision of the arbitrator shall be solely advisory in nature and may be verbal or in writing. The arbitrator in these proceedings shall have the same authority and jurisdiction as provided in Section E.10. of this Article.
- D.8. The appeal hearing and disposition of the appeal shall be informal, the object being to settle the appeal promptly by the parties. The parties shall have the right to offer evidence by witnesses at the hearing subject to the discretion of the arbitrator.
- D.9. The arbitrator may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action imposed to be greater than a four day suspension.
- D.10. The arbitrator's decision shall be rendered within five (5) working days of after the hearing. Provided, however, the parties may mutually agree to extend the time in which the judgment may be rendered. The arbitrator's decision shall be forwarded to the City Manager, who shall review it and make the final decision within fifteen (15) working days of its receipt.
- D.11. The arbitrator's authority shall be limited to deciding the issues submitted by the parties. The arbitrator shall have no jurisdiction or authority to add to, delete from, or modify any written provisions of any Memorandum of Understanding.
- D.12. All costs for the service of the arbitrator, including but not limited to, per diem expenses, travel and subsistence expenses, a transcript, and court reporter (if there is one) will be borne equally by the parties. If the BPOA Board does not authorize a request for mediation or arbitration and is not representing the employee in the matter, then BPOA will not be responsible for sharing the cost with the City.

E. MAJOR DISCIPLINE PROCEDURES/APPEALS

- E.1. Major discipline shall be all discipline administered where the punishment imposed may result in suspension without pay of more than three (3) work periods or equivalent or in the dismissal or demotion of the employee.

- E.2.. Major discipline shall be preceded by a notice served on the employee ten (10) calendar days prior to a pre-disciplinary hearing. The notice shall contain the time, date and place of the hearing and shall also contain a brief statement of all charges against the employee. An earlier date may be established if the employee agrees, or with department approval, the date may be extended by five (5) calendar days.
- E.3. In major disciplinary matters the statement of charges shall be specific and factual and enumerate violations of **Section B** of this Article.
- E.4. In major disciplinary matters, the employee's rights include presenting testimony and evidence, inspection of City evidence, and representation by BPOA or an attorney. A full trial type evidentiary hearing is not required in pre-disciplinary hearings.
- E.5. The Police Chief, or his designee, shall preside at major disciplinary hearings. The Police Chief, or his designee, shall document the significant occurrences at the hearing including facts, violations, brief summary of key testimony, attendees, etc. A copy will be placed in the employee's personnel file and the employee will be given a copy. The person conducting the hearing may decide on the facts and render a decision at the immediate conclusion of the hearing or advise the employee in writing within four (4) calendar days.
- E.6. When a major discipline is upheld by the Police Chief or his designee, the BPOA or the individual unit member may file a written request for arbitration to the Management Services Director within fifteen (15) working days after the employee receives the final notice.
- E. 7. The BPOA or the individual member and the Management Services Director shall attempt to mutually agree upon an arbitrator. If they cannot agree, they shall strike names from the panel of arbitrators below until one name remains. [NOTE: The parties reserve the right to incorporate additional, mutually agreed upon, arbitrators to this panel at any time.] The final arbitrator's name remaining on the list shall arbitrate the dispute. The order of striking shall be determined by a coin toss. The arbitrator shall be notified of his or her selection by a joint letter from the parties requesting that he or she set a time and place for the hearing, subject to the availability of the City and Union representatives.

**** PANEL OF ARBITRATORS ****

Sara Adler	Michael Prihar	Walter Daugherty
Norman Brand	Joe Gentile	
Charles Askin	Mark Burstein	
Buddy Cohn	Philip Tamoush	
Additional Arbitrators TBD		

- E.8. Ten (10) days prior to the hearing by an arbitrator, representatives of the parties shall meet and prepare a submission statement setting forth the issues to be submitted to the arbitrator and exchange evidentiary documents. In the event the parties cannot jointly agree on a submission statement then at the hearing each party shall present to the arbitrator its own submission statement in which case the arbitrator shall determine the issues to be resolved.
- E.9. If there is a dispute between the parties as to the question of whether an issue can be arbitrated, that question shall be submitted separately to the arbitrator for resolution prior to addressing the merits of the grievance.
- E.10. The arbitrator shall have all the authority provided in California Code of Civil Procedure Sections 1282 to 1284.3, except Section 1283.05 shall not apply to any arbitration held pursuant to this Memorandum of Understanding. The arbitrator shall have jurisdiction over all aspects of the arbitration including evidentiary rulings and discovery requests. Any party aggrieved by any evidentiary rulings or discovery orders may raise those issues as part of any appeal of the arbitrator's final decision after the arbitration via the administrative writ proceeding before the Superior Court.
- E.11. Discovery shall be conducted between the parties in an informal way as provided below:
- E.11.a. The party seeking information requests must do so in writing to the other party's representative designated to handle and expedite such requests.
- E.11.b. A party who receives an information request shall respond within five (5) working days by supplying the information requested or requesting additional time to provide the information, the need for more specificity concerning the request, or its decision not to comply with the request. If a party refuses any request for information, specific reasons for the refusal shall be stated.
- E.11.c. If a party requires more specifics; the requesting party shall provide it in writing within three (3) working days. Following the receipt of the more specified request the receiving party shall:
- i) provide the information sought by the requesting party within five (5) working days, or
 - ii) inform the requesting party of its decision not to provide the information sought within five (5) working days.
- E.11.d. It is understood that a party is under no obligation to provide information that may be protected by the Federal or State

Constitution or Federal or State statutes. In the event that information is sought which might involve the release of "confidential" information (home address, medical condition, etc.) a party may offer to provide the information sought in redacted form.

- E.11.e. If the receiving party believes that a request is unduly burdensome or does not exist in the form sought by the requesting party it shall inform the requesting party of such during the initial five (5) day period after receiving the request for information and discuss the problem with the requesting party's designated representative. The requesting party may agree to accept the information sought in the form in which the other has it, or press its original claim.
- E.11.f. If the parties are unable to agree on what information (if any) is to be provided and/or in what form within the required period, the requesting party shall request the assistance of the arbitrator to obtain the information sought. The arbitrator may issue a subpoena duces tecum, to compel release of the information sought. Any party receiving a subpoena duces tecum issued by the arbitrator shall provide the requesting party with the information required by subpoena within five (5) days of the receipt of the subpoena or shall seek court review within that time. No arbitration shall proceed to hearing until such time as the receiving party has produced the information sought by the requesting party or it obtains an order to the effect that the requesting party is not entitled to the information it has sought.
- E.12. The decision of an arbitrator resulting from any arbitration of grievances hereunder shall not add to, subtract from, or otherwise modify the terms and conditions of this Memorandum of Understanding. The decision of the arbitrator shall be solely advisory in nature. The arbitrator's written award shall be submitted within thirty (30) calendar days from the last day of the hearing. The arbitrator's decision shall be forwarded to the City Manager, who shall review the award and make the final decision within thirty (30) working days of its receipt.
- E.13. Employee called as witnesses during the course of the arbitration hearing shall be released for that purpose without loss of compensation or benefits. Witnesses will be subject to subpoena issued by the arbitrator, at the request of either the BPOA, the individual member, or the City, and enforceable by the City.
- E.14. The fee and expenses of the arbitrator and the cost of a written transcript, including the cost of the court reporter, shall be borne equally by the parties. If the BPOA Board does not authorize a request for mediation or

arbitration and is not representing the employee in the matter, then BPOA will not be responsible for sharing the cost with the City.

- E.15. Any permanent employee in the Civil Service System who has been demoted, dismissed or reduced in pay, shall be subject to the disciplinary procedures set forth in this Article and shall not be subject to the jurisdiction of the Civil Service Board. The procedures in this Article are exclusive and in no event shall the State Personal Employee Relations Board (PERB) have any jurisdiction regarding disciplinary actions by the City. Appeals of final decisions by the City Manager shall be made pursuant to the Code of Civil Procedure Sections 1094.5 and 1094.6.

F. MEDIATION

Prior to requesting a post disciplinary hearing, BPOA, the individual member, or the City may request that a discipline be submitted to mediation subject to the provisions of **Article VII Section D.** of this MOU.

G. EMERGENCY DISCIPLINARY SITUATIONS

- G.1. Emergency disciplinary situations exist when the continuation on the job by the employee shall constitute an immediate adverse effect on the function of the department.
- G.2. In such situations the employee may be placed upon suspension with pay for a period of time no more than ten (10) calendar days from the employee's receipt of notice of the hearing, unless otherwise approved by the City Manager.
- G.3. At the discretion of the Police Chief, the employee may not be permitted to come to his/her regular place of employment or may be assigned a task where the department's function is not jeopardized by his/her presence.

ARTICLE VII
GRIEVANCE PROCEDURE

A. STATEMENT/LIMITATIONS

The purpose of the grievance procedure is to establish channels of communications between employees, supervisors, and management. The City encourages any employee having a grievance related to working conditions to informally discuss the matter with his or her immediate supervisor without undue delay. The informal discussion need not be reduced to writing and no records need be kept. The purpose of informal discussion is to settle grievances fairly and as quickly as possible. The employee may be represented by himself or herself, by the BPOA, or by counsel.

No grievance shall be considered and/or processed unless it is submitted within fifteen (15) working days after the employee concerned has become aware or should have become aware, through the use of reasonable diligence, of the occurrence of the event giving rise to the alleged grievance. If a grievance is not presented within the time limits set forth above, it shall be considered waived. If a grievance is not appealed to the next step within the specified time limit or any mutually agreed extension thereof, it shall be considered settled on the basis of the Department's last answer. If the Department does not answer a grievance or an appeal thereof within the specified time limits, the Union and/or the employee may elect to treat the grievance as denied at that step and immediately appeal to the next step of the grievance procedure. The time limit(s) in each step may be extended by mutual written agreement of the City and the Union representative and/or the employee involved in each step. The term working days as used in this Article shall mean the days Mondays through Fridays inclusive and excludes Saturdays, Sundays, holidays and/or other days on which City Hall is closed.

B. DEFINITIONS

B.1. Grievance - The term "grievance" shall be defined as a "dispute or difference of opinion raised by an employee, a group of employees (with respect to a single common issue), or the BPOA covered by this Memorandum of Understanding (MOU) involving the meaning, interpretation or application of the provisions of this MOU." An impasse in meeting and conferring cannot be grieved.

B.2. Immediate Supervisor - Immediate supervisor is defined as the employee's closest superior whose position has been designated as Supervisory or Management by the City.

C. PROCEDURE

C.1. Step One

If an employee feels that he/she has a grievance, then he or she shall, within ten (10) working days of the incident or condition giving rise to the grievance or within ten (10) working days of the time when he or she should have reasonably been aware of the grievance, contact his or her immediate

supervisor to informally discuss the matter. The Supervisor should thoroughly discuss the grievance with the employee, endeavoring to reach a mutual understanding on the matter. If employee's grievance concerns the immediate supervisor and cannot be resolved through informal discussion, the employee may request an informal meeting with the next level of supervision and his/her immediate supervisor. The immediate supervisor shall respond verbally within five (5) working days.

C.2. Step Two

If an employee's grievance cannot be satisfactorily resolved through informal discussion with his/her immediate supervisor, the employee may submit to the division commander within ten (10) working days of the informal response a written statement which shall set forth in detail: the exact incident or condition as to which the grievance is made and the remedy requested by the employee. Copies of grievances at this step must be simultaneously submitted to the Management Services Director. The division commander shall have five (5) working days to meet with the employee. The division commander shall inform the employee and/or the BPOA in writing of his or her decision within five (5) working days after the meeting. The division commander shall include findings relating to the incident or condition as to which the inquiry is made and the action taken or to be taken or the reasons for the refusal to act.

C.3. Step Three

If the grievance cannot be satisfactorily resolved at the second step, the employee may submit a written request to the Police Chief within ten (10) working days of the response from the division commander. At this level, the employee through the BPOA may, at time of submittal of the grievance revise the written grievance to include additional conditions and/or additional requests, as long as such corrections do not substantially cause the City to be faced with a new grievance. The Police Chief or his or her designee will meet with the employee within five (5) working days of the request. The Police Chief or designee will inform the employee and the BPOA in writing of his or her decision within five (5) working days of the meeting.

C.4. Waiver of Steps by Mutual Assent

Any of the preceding steps may be waived by mutual assent, in writing, of the Department, the Management Services Director and the aggrieved employee or his or her representative.

C.5. Step Four

If the grievance cannot be successfully resolved at the third step, it may be forwarded in writing to the Management Services Department within fifteen (15) days of the Police Chief's response to schedule the matter for mediation or an arbitration hearing. The grievance provisions and the Civil Service Appeals procedure are mutually exclusive and no relief shall be

available under the Civil Service Appeals process on matters covered by this Article with the exception of matters related to discrimination and sexual harassment.

D. MEDIATION

D.1. Initiation of Mediation

Prior to requesting arbitration for a grievance, the BPOA, the individual member, or the City may request that the grievance be submitted to mediation, pursuant to the provisions of this section of the MOU. If, both the BPOA or the individual member, and the City agree, the matter may be submitted to mediation.

D.2. Appointment of Mediator

The parties shall request a State mediator to resolve the issue. Prior to accepting an appointment, the prospective mediator shall disclose any circumstance likely to create a presumption of bias or prevent a prompt meeting with the parties. The mediator shall fix the date and the time of each mediation session. The mediation shall be held in the City of Burbank.

D.3. Identification of Matters in Dispute

At least ten (10) days prior to the first scheduled mediation session, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, the parties may mutually exchange such memoranda. At the first session, the parties will be expected to produce all information reasonably required for the mediator to understand the issues presented. The mediator may require any party to supplement such information.

D.4. Authority of Mediator

The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. The mediator shall, however, interpret and apply the rules of this Article insofar as they relate to the mediator's duties and responsibilities. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided that the parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice shall be made by the mediator or the parties, as the mediator shall determine. The mediator is authorized to end the mediation whenever, in the judgment of the mediator, further efforts at mediation would not contribute to a resolution of the dispute between the parties.

D.5. Confidentiality

Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the mediator. The mediator shall not divulge confidential information disclosed to a mediator

by the parties or by witnesses in the course of the mediation. All records, reports, or other documents received by a mediator while serving in that capacity shall be confidential, and shall not be subject to discovery or release, except as provided for in Section D.6. of this Article. The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum. Matters discussed in mediation shall be considered confidential and privileged to the maximum extent of California law. The parties shall maintain the confidentiality of the mediation and shall not rely on or introduce as evidence in any arbitral, judicial, or other proceeding:

D.5.a. Views expressed or suggestions made by another party with respect to a possible settlement of the dispute;

D.5.b. Admissions made by another party in the course of the mediation proceedings;

D.5.c. Proposals made or views expressed by the mediator; or

D.5.d. The fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

D.6. Written Agreement

A written agreement reached by the parties in the course of the mediation is admissible in any subsequent proceeding to enforce its terms. However, there shall be no stenographic record of the mediation process.

D.7. Termination of Mediation

The mediation shall be terminated:

D.7.a. By the execution of a settlement agreement by the parties;

D.7.b. By a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or

D.7.c. By a written declaration of a party or parties to the effect that the mediation proceedings are terminated.

D.8. Exclusion of Liability

The mediator is not a necessary party in judicial proceedings relating to the mediation. The mediator shall not be liable to any party for any act or omission in connection with any mediation conducted under these rules.

D.9. Expenses

The party producing any witness shall pay that witness' expenses. All other expenses of the mediation (including required traveling and other expenses of the mediator and the cost of any proofs or expert advice produced at the direct request of the mediator) shall be borne equally by the parties unless

they agree otherwise. If the BPOA Board does not authorize a request for mediation or arbitration and is not representing the employee in the matter, then BPOA will not be responsible for sharing the cost with the City.

E. ARBITRATION

E.1. The BPOA or the individual member, and the Management Services Director, shall attempt to mutually agree upon an arbitrator. If they cannot agree, they shall strike names from the panel of arbitrators below until one name remains. [NOTE: The parties reserve the right to incorporate additional, mutually agreed upon, arbitrators to this panel at any time.] The final arbitrator’s name remaining on the list shall arbitrate the dispute. The order of striking shall be determined by a coin toss. The arbitrator shall be notified of his or her selection by a joint letter from the parties requesting that he or she set a time and place for the hearing, subject to the availability of the City and Union representatives.

**** PANEL OF ARBITRATORS ****

- | | | |
|----------------------------|----------------|------------------|
| Sara Adler | Michael Prihar | |
| Norman Brand | Joe Gentile | Walter Daugherty |
| Charles Askin | Mark Burstein | |
| Buddy Cohn | Philip Tamoush | |
| Additional Arbitrators TBD | | |

E.2. Ten (10) days prior to the hearing by an arbitrator, representatives of the parties shall meet and prepare a submission statement setting forth the issues to be submitted to the arbitrator and exchange evidentiary documents. In the event the parties cannot jointly agree on a submission statement then at the hearing each party shall present to the arbitrator its own submission statement in which case the arbitrator shall determine the issues to be resolved.

E.3. If there is a dispute between the parties as to the question of whether an issue can be arbitrated, that question shall be submitted separately to the arbitrator for resolution prior to addressing the merits of the grievance.

E.4. The arbitrator shall have all the authority provided in California Code of Civil Procedure Sections 1282 to 1284.3, except Section 1283.05 shall not apply to any arbitration held pursuant to this Memorandum of Understanding. The arbitrator shall have jurisdiction over all aspects of the arbitration including evidentiary rulings and discovery requests. Any party aggrieved by any evidentiary rulings or discovery orders may raise those issues as part of any appeal of the arbitrator’s final decision after the arbitration via the administrative writ proceeding before the Superior Court.

E.5. Discovery shall be conducted between the parties in an informal way as provided below:

- E.5.a. The party seeking information requests must do so in writing to the other party's representative designated to handle and expedite such requests.
- E.5.b. A party who receives an information request shall respond within five (5) working days by supplying the information requested or requesting additional time to provide the information, the need for more specificity concerning the request, or its decision not to comply with the request. If a party refuses any request for information, specific reasons for the refusal shall be stated.
- E.5.c. If a party requires more specification, the requesting party shall provide it in writing within three (3) working days. Following the receipt of the more specified request the receiving party shall:
- i) provide the information sought by the requesting party within five (5) working days or
 - ii) inform the requesting party of its decision not to provide the information sought within five (5) working days.
- E.5.d. It is understood that a party is under no obligation to provide information that may be protected by the Federal or State Constitution or Federal or State statutes. In the event that information is sought which might involve the release of "confidential" information (home address, medical condition, etc.) a party may offer to provide the information sought in redacted form.
- E.5.e. If the receiving party believes that a request is unduly burdensome or does not exist in the form sought by the requesting party, it shall inform the requesting party of such during the initial five (5) day period after receiving the request for information and discuss the problem with the requesting party's designated representative. The requesting party may agree to accept the information sought in the form in which the other has it, or press its original claim.
- E.5.f. If the parties are unable to agree on what information (if any) is to be provided and/or in what form within the required period, the requesting party shall request the assistance of the arbitrator to obtain the information sought. The arbitrator may issue a subpoena duces tecum, to compel release of the information sought. Any party receiving a subpoena duces tecum issued by the arbitrator shall provide the requesting party with the information required by subpoena within five (5)

days of the receipt of the subpoena or shall seek court review within that time. No arbitration shall proceed to hearing until such time as the receiving party has produced the information sought by the requesting party or it obtains an order to the effect that the requesting party is not entitled to the information it has sought.

- E.6. The decision of an arbitrator resulting from any arbitration of grievances hereunder shall not add to, subtract from, or otherwise modify the terms and conditions of this memorandum of understanding. The decision of the arbitrator shall be solely advisory in nature. The arbitrator's written award shall be submitted within thirty (30) calendar days from the last day of the hearing. The arbitrator's decision shall be forwarded to the City Manager, who shall review the award and make the final decision within thirty (30) working days of its receipt.
- E.7. Employee called as witnesses during the course of the arbitration hearing shall be released for that purpose without loss of compensation or benefits. Witnesses will be subject to subpoena issued by the arbitrator, at the request of either the BPOA, the individual member or the City, and enforceable by the City.
- E.8. The fee and expenses of the arbitrator and the cost of a written transcript, including the cost of the court reporter, shall be borne equally by the parties. If the BPOA Board does not authorize a request for mediation or arbitration and is not representing the employee in the matter, then BPOA will not be responsible for sharing the cost with the City.

In witness whereof, the parties hereto have caused their authorized representatives to execute this Memorandum of Understanding on this date to be effective the 20th day of October 2019, and as provided herein.

**ON BEHALF OF THE
CITY OF BURBANK:**



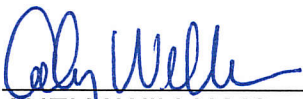
JUSTIN HESS
City Manager



BETSY McCLINTON
Management Services Director




SARAB S KHALSA
Human Resources Manager




ANELY WILLIAMS
Senior Administrative Analyst

**ON BEHALF OF THE BURBANK
POLICE OFFICERS' ASSOCIATION:**



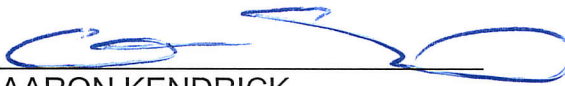
JJ PUGLISI
President



CAMERON MENCURI
Vice President



CLAUDIO LOSACCO
Past President



AARON KENDRICK
Treasurer

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