

SIDE LETTER TO THE JANUARY 1, 2024 – JUNE 30, 2027 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SAN LUIS OBISPO AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 3523

The City of San Luis Obispo (hereinafter the “City”) and the International Association of Firefighters, Local 3523 (hereinafter the “Union”), jointly referred to as the “Parties”, agree to the listed terms and conditions of this Side Letter effective July 18, 2024. Except as modified by this Side Letter, all existing terms and conditions of the Memorandum of Understanding (MOU) shall remain unchanged.

**Article 21 – Overtime (Safety) shall be modified as follows:**

**A. GENERAL PROVISIONS CITY/CONTRACT OVERTIME**

1. Firefighters, Firefighter/Paramedics, Fire Engineers, and Fire Captains shall be eligible for ~~contract~~ overtime pay.
2. Employees assigned to 24-hour shift duty are assigned to work one hundred ninety-two (192) hours in a twenty-four (24) day work period and are eligible for overtime pay for all hours worked in excess of one hundred eighty-two (182) hours worked in the twenty-four (24) day pay cycle.
3. Safety employees assigned to a 40-hour work week will be eligible for overtime for all hours worked in excess of 40 in a seven-day work period.
4. All paid leave hours shall be counted as hours worked for purposes of calculating overtime including vacation, holiday, sick leave, workers compensation, and compensatory time off.
5. All ~~contract~~ overtime shall be authorized by the Fire Chief or designee prior to being compensated. All overtime shall be paid to the nearest quarter hour worked where no minimum is authorized.
6. ~~Contract~~ Overtime shall be paid in each pay period.

**B. ~~FLSA/STATUTORY OVERTIME~~**

1. ~~In accordance with section 207(k) of the Fair Labor Standards Act (FLSA), the City has declared a twenty-four-day work period for the purpose of calculating FLSA overtime. The FLSA work period is deemed to commence at 12:00 AM on the first day of the 24-day period and end at 11:59 PM on the 24<sup>th</sup> day of the twenty-four-day work period. FLSA overtime threshold for the twenty-four-day work period is 182 hours. This declaration is separate from and apart from the City’s contractual overtime obligations set forth in Section A of this Article.~~
2. ~~For the purpose of complying with FLSA overtime requirements, the City has adopted a dual calculation method whereby it calculates FLSA overtime in accordance with the requirements of the FLSA regular rate requirements and more specifically, 29 CFR section 778.109 and 778.110. This requires the payment of FLSA overtime for all hours actually worked by non-exempt employees in excess of 182 hours in a 24-day period. To the extent the City’s dual calculation method determines that FLSA overtime owed for the 24-day work period exceeds the amount of contract overtime paid for the same work period, the difference will be paid to the employee by way of an “FLSA Adjustment” in the following City pay period.~~

**B. COMPENSATION**

- a. All ~~contract~~ overtime as defined in Section A of this Article shall be paid in cash at one and one-half (1 1/2) times the employee’s base rate of pay, plus incentives, as defined in Section ~~E~~ D of this Article.
- b. ~~Separate and apart from the City’s contractual obligation to pay overtime in~~

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~~accordance with Section A of this Article, the City is obligated to calculate and pay, at a minimum, FLSA overtime based on the federally defined regular rate of pay which includes cash in lieu in compliance with the Flores vs. City of San Gabriel decision applicable to members of the Fire bargaining unit. This calculation will be administered in accordance with Section B of this Article.~~

**C. COMPENSATORY TIME OFF**

- a. Firefighters, Firefighter/Paramedics, Fire Engineers, and Fire Captains are not eligible to earn compensatory time off (CTO); however, employees may still have CTO available in their leave balance.
- b. Upon separation from employment or leaving the bargaining unit with the City, any accrued CTO will be paid out at the employee's hourly rate of pay, not including any incentives.

**D. PAY INCENTIVES TO BE INCLUDED IN THE BASE RATE FOR OVERTIME: UNDER SECTION 21(A) AND SECTION 21(B) ABOVE:**

- Acting Pay
- Bilingual Pay
- Cash in Lieu (in compliance with Flores v. City of San Gabriel)
- Education Incentive
- Haz Mat Incentive
- Holiday Pay (quarterly cash out)
- Mobile Crisis Unit Incentive
- Paramedic Coordinator Incentive
- Paramedic Incentive
- Paramedic Field Training Officer Incentive
- Standby Pay
- Station 1 Captain Incentive
- Training Captain Incentive
- USAR Incentive
- Work out of Class (Temporary Promotion) Pay

**E. ELIMINATION OF DUAL CALCULATION**

- a. The City and the Association agree to eliminate the dual calculation of overtime effective as soon as administratively possible and agree to include cash in lieu into the overtime rate in compliance with the Flores v. City of San Gabriel decision.

**Article 22 – Overtime (Non-Safety) shall be modified as follows:**

**A. GENERAL PROVISIONS CITY/CONTRACT OVERTIME**

- a. ~~Contract e~~ Overtime for non-safety employees is defined as all hours worked by the employee in excess of forty (40) hours in the seven-day work period.
- b. All paid leave hours shall be counted as hours worked for purposes of calculating overtime to include vacation, holiday, sick leave, workers compensation, and compensatory time off (CTO).

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- c. All ~~contract~~ overtime shall be authorized by the Fire Chief or designee prior to being compensated. All overtime shall be paid to the nearest quarter hour worked where no minimum is authorized.
- d. ~~Contract~~ Overtime shall be paid in each pay period.

~~B. FLSA/STATUTORY OVERTIME~~

~~For the purpose of complying with the Fair Labor Standards Act (FLSA) overtime requirements under 29 USC Section 207(a), the City has adopted a dual calculation method whereby it calculates FLSA overtime based on all hours actually worked by overtime eligible employees in excess of 40 hours in the seven-day work period. To the extent the City's dual calculation method determines that FLSA overtime owed for the seven-day work period exceeds the amount of contract overtime paid for in the same seven-day work period, the difference will be paid to the employee by way of an "FLSA Adjustment" in the following City pay period.~~

B. COMPENSATION

1. All ~~contract~~ overtime as defined in Section A of this Article shall be paid in cash at one and one half (1 1/2) the employee's base rate of pay, plus incentives as defined in Section ~~E-D~~ of this Article, or in time off (CTO).
2. ~~Separate and apart from the City's contractual obligation to pay overtime in accordance with Section A of this Article, the City is obligated to calculate and pay, at a minimum, FLSA overtime based on the federally defined regular rate of pay which includes cash in lieu in compliance with the Flores vs. City of San Gabriel decision applicable to members of the Fire bargaining unit. This calculation will be administered in accordance with Section B of this Article.~~

C. COMPENSATORY TIME OFF (CTO)

1. All non-sworn personnel who earn contract overtime as defined in Section A of this Article may elect compensation in the form of time off (CTO). An employee may be compensated in cash at the rate of one and one-half (1 1/2) hours for each hour of overtime worked.
2. No Fire bargaining unit member hired on or before December 31, 2023, shall be eligible to accumulate and have current credit for more than 240 hours of CTO.
3. For all Fire bargaining unit members hired on or after January 1, 2024, the CTO limit shall be 100 hours. An employee may be compensated in CTO and maintain up to 100 hours of CTO in their CTO account during the calendar year. Accumulated CTO may be taken through December 31<sup>st</sup> of each calendar year. Accumulated CTO not taken by midnight December 31<sup>st</sup> shall be compensated in cash at an employee's hourly rate of pay, not including any incentives. Such compensation shall be paid the first full pay period of January of the following year.
4. Upon separation from employment or leaving the bargaining unit ~~with the City~~, any accrued CTO will be paid out at the employee's hourly rate of pay, not including any incentives.

D. PAY INCENTIVES TO BE INCLUDED IN THE BASE RATE FOR OVERTIME: UNDER SECTION 22(A) AND SECTION 22(B) ABOVE:

- Bilingual Pay
- Cash in Lieu (in compliance with Flores v. City of San Gabriel)
- Education Incentive

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- Haz Mat incentive
- Standby Pay
- Work out of Class (Work out of Grade) Pay

**E. ELIMINATION OF DUAL CALCULATION**

**b. The City and the Association agree to eliminate the dual calculation of overtime effective as soon as administratively possible and agree to include cash in lieu into the overtime rate in compliance with the Flores v. City of San Gabriel decision.**

**Article 31 – Insurance shall be modified as follows:**

**A. Health Flex Contribution**

Employees electing medical coverage in the City’s plans shall receive a health flex contribution, as defined by the Affordable Care Act (“ACA”) and shall purchase such coverage through the City’s Section 125 Plan “Cafeteria Plan”. If the health flex contribution is less than the cost of the medical plan, the employee shall have the opportunity to pay the difference between the health flex contribution and the premium cost on a pre-tax basis through the City’s Cafeteria Plan. If the premium cost for medical coverage is less than the health flex contribution, the employee shall not receive any unused health flex contribution in the form of cash or purchase additional benefits under the Cafeteria Plan. Part-time employees shall receive a prorated share of the health flex contribution. Effective the first paycheck in January 2024, the 2024 health flex contribution will be reset as outlined below:

<b>Level of Coverage</b>	<b>2024 Monthly Rate</b>
Employee Only	\$684
Employee Only “Legacy” *with no cash back option	\$892
Employee Plus One	\$1,368
Family	\$1,779

Employees hired prior to October 18, 2016, that elect employee-only medical coverage will receive the health flex contribution listed above for employee only “Legacy” coverage. If the premium cost for medical coverage is less than the health flex contribution, the employee shall not receive any unused health flex in the form of cash.

Effective for the, 2025, 2026, and 2027 premiums, the health flex contribution shall be modified by an amount equal to one half of the average percentage change of the most popular PPO and HMO plan across the City based on the current year plans. For example:

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if the most popular PPO and HMO year-to-year changes were +10% and +8% respectively, the health flex contribution would be increased by 4.5% ((10% + 8%) ÷ 2 = 9% x ½). If there is a net negative change, the City’s contribution will not change. The employee only “Legacy” amount will not adjust.

City agrees to continue its contribution to the health flex contribution for two (2) pay periods in the event that an employee has exhausted all paid time off and leave approved under the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), due to an employee's own illness, as verified by a medical professional. That is, the employee shall receive regular City health flex contribution for the first two (2) pay periods following the pay period in which the employee's accrued leave balances reach zero (0) or FMLA/CFRA protections due to the employee's own illness have been exhausted, whichever is a greater benefit.

B. CalPERS Health Benefit Program

The City has elected to participate in the CalPERS Health Benefit program. The City shall contribute an equal amount towards the cost of medical coverage under the Public Employee’s Medical and Hospital Care Act (PEMHCA) for both active employees and retirees. The City’s contribution toward coverage under PEMHCA shall be the statutory minimum contribution amount established by CalPERS on an annual basis. The City’s contribution will come out of that amount the City currently contributes to employees as part of the Cafeteria Plan provided to employees in their various MOU's. The cost of the City's participation in CalPERS will not require the City to expend additional funds toward health insurance beyond what is already provided for in the various bargaining agreements. In summary, this cost and any increases will be borne by the employees.

C. Conditional Opt-Out (Cash-in-Lieu)

Employees who, at initial enrollment or during the annual open enrollment period, complete an attestation form (as reasonable evidence) that they and all individuals for whom they expect to claim a personal exemption deduction (“Tax Family”) have alternative minimum essential coverage (other than coverage in the individual market and other than individual coverage through Covered California), will be allowed to receive cash-in-lieu of the health flex contribution and medical coverage through the City’s medical plans for themselves and their qualified dependents (Tax Family). The monthly conditional opt-out (Cash-in-Lieu) incentive is:

Opt-Out	\$200
“Legacy” Opt-Out	\$892 (hired prior to 10/18/2016)

The conditional opt-out incentive shall be paid in Cash-in-Lieu (taxable income) to the employee. The employee must notify the City within thirty (30) days of the loss of alternative minimum essential coverage. The conditional opt-out payment shall no longer be payable, if the employee and family members cease to be enrolled in alternative minimum essential coverage. The City must not and will not pay Cash-in-Lieu if the City knows or has reason to know that the employee or an individual in the employee’s Tax Family does not have the required alternative coverage. Employees on an unprotected (FMLA/CFRA) unpaid leave of absence will not be eligible to receive the conditional opt

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out payment.

Employees receiving the conditional opt-out amount will also be assessed \$16.00 per month to be placed in the Retiree Health Insurance Account. This account will be used to fund the City's contribution toward retiree premiums and the City's costs for the Public Employees' Contingency Reserve Fund and the Administrative Costs. However, there is no requirement that these funds be used exclusively for this purpose nor any guarantee that they will be sufficient to fund retiree health costs, although they will be used for negotiated employee benefits.

D. Dental and Vision Insurance/Dependent Coverage

Employee's participation in the City's dental and vision plans is optional. Employees who elect coverage shall pay the dental and/or vision premium by payroll deductions on a pre-tax basis through the City's Cafeteria Plan.

E. Long-Term Disability Insurance

Safety employees are covered for Long Term Disability Insurance through the Union's plan. All non-safety employees in this bargaining unit shall be covered under the City's Long Term Disability Insurance Program and it will be paid for by the City.

F. Life Insurance

Fire Battalion Chiefs:

Fire Battalion Chief's shall have term life insurance coverage in the amount of Thirty-Five Thousand Dollars (\$35,000). Ten Thousand Dollars (\$10,000) shall be paid by the employee through the City's Cafeteria Plan and Twenty-Five Thousand (\$25,000) shall be paid by the City. The Fire Battalion Chief's life insurance policy includes Accidental Death and Dismemberment coverage in the amount of Thirty-Five Thousand Dollars (\$35,000) paid by the City.

All Other Members of the Bargaining Unit:

All other members of the bargaining unit shall have term life insurance coverage in the amount of Ten Thousand (\$10,000) paid by the employee through the City's Cafeteria Plan. Accidental Death and Dismemberment coverage in the amount of Ten Thousand Dollars (\$10,000) shall be paid by the employee through the City's Cafeteria Plan.

G. Representation on a Medical Plan Review Committee

The Union shall actively participate in the Medical Plan Review Committee. Such committee shall review medical plans and may recommend alternative medical plans, including those offered by CalPERS.

H. Reservation of Rights

During the term of this Agreement, the City reserves the right to modify the terms of the Cafeteria plan and the use of health flex contribution and the conditional opt-out incentive should there be future mandates under the ACA, Cafeteria Plan rules, or the City's

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obligations under the ACA or other laws. Any action taken in accordance with this reservation of rights will be subject to the meet and confer process.

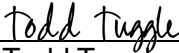
I. CalPERS Medical Administrative Fee

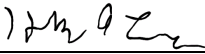
Effective as soon as administratively possible, the City will begin paying the CalPERS Medical Administrative Fee.

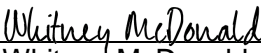
All terms and conditions of The International Association of Firefighters, Local 3523 Memorandum of Understanding not specifically modified herein shall remain in effect for the term of the agreement as specified above.

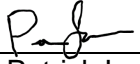
CITY OF SAN LUIS OBISPO

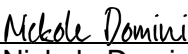
THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 3523

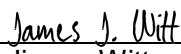
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7/10/2024 | 8:52 PM PDT  
Todd Tuggle,  
Fire Chief

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7/10/2024 | 8:50 AM PDT  
Howard A. Liberman,  
Labor Relations Consultant

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7/15/2024 | 4:04 PM PDT  
Whitney McDonald,  
Interim City Manager

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7/10/2024 | 11:35 AM PDT  
Patrick Larsen,  
Local 3523 President

DocuSigned by:  
  
7/15/2024 | 4:05 PM PDT  
Nickole Domini,  
Human Resources Director

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7/10/2024 | 8:55 AM PDT  
James J. Witt,  
Local 3523 Vice President